

# Marine on St Croix Zoning Code

## Table of Contents

- Division 100. General Provisions ..... 3
  - Section 101.Application ..... 3
  - Section 102.Administration..... 4
  - Section 103.Interpretation..... 4
  - Section 104.Nonconformities ..... 5
- Division 200. Definitions ..... 7
  - Section 201.Applicability..... 7
  - Section 202.General Definitions ..... 7
  - Section 203.Use Definitions ..... 16
- Division 300. General Zoning Provisions ..... 21
  - Section 301.Establishment of Districts..... 21
  - Section 302.General Provisions for Districts ..... 22
  - Section 303.General Building Requirements ..... 23
  - Section 304.General Yard Requirements ..... 24
- Division 400. Zoning Districts ..... 26
  - Section 401.Zoning Districts Outside of the Lower St. Croix River District ..... 26
  - Section 402.Lower St. Croix River District ..... 44
  - Section 403.Floodplain Overlay District ..... 61
- Division 500. Use-Specific Standards ..... 61
  - Section 501.Principal Use Standards..... 61
  - Section 502.Accessory Use Standards ..... 89
- Division 600. Development Standards ..... 97
  - Section 601.Performance Standards..... 97
  - Section 602.Outdoor Lighting ..... 98
  - Section 603.Traffic, Parking, Access, Loading..... 99
  - Section 604.Fencing ..... 104
  - Section 605.Screening..... 105
  - Section 606.Landscaping..... 106
  - Section 607.Tree and Woodland Preservation..... 106
  - Section 608.Grading and Drainage ..... 107
  - Section 609.Wetland Preservation..... 111
- Division 700. Signage ..... 111

Section 701.General Requirements .....	111
Section 702.Prohibited Signs .....	111
Section 703.Permitted Signs .....	112
Section 704.Pre-Existing Non-Conforming Signs.....	112
Division 800. Procedures & Enforcement .....	112
Section 801.Common Procedures.....	112
Section 802.Building Permit.....	116
Section 803.Site Plan.....	116
Section 804.Conditional Use Permit (CUP) .....	117
Section 805.Interim Use Permit (IUP) .....	119
Section 806.Variance.....	120
Section 807.Zoning Amendment.....	121
Section 808.Planned Unit Development (PUD) .....	122
Section 809.Enforcement.....	125

## **DIVISION 100. GENERAL PROVISIONS**

### **Section 101. Application**

#### **§ 101.1. Title**

This Ordinance shall be known, cited, and referred to as the Marine on St. Croix Zoning Ordinance, except as referred to herein, where it shall be known as “this Ordinance.”

#### **§ 101.2. Intent and Purpose**

This Ordinance is adopted for the purpose of:

1. Protecting the public health, safety, comfort, convenience, and general welfare.
2. Protecting and preserving economically viable agricultural land.
3. Promoting orderly development of the residential, commercial, industrial, recreational, and public areas.
4. Conserving the natural scenic and historic beauty and attractiveness of the city.
5. Conserving and developing natural resources in the city.
6. Providing for the compatibility of different land uses and the most appropriate use of land throughout the city.
7. Minimizing environmental degradation and pollution.

#### **§ 101.3. Authority**

1. This Ordinance is enacted pursuant to the authority granted by the Municipal Planning Act, Minnesota Statutes, Section 462.351 to 462.363.
2. Whenever applicable county, state, or federal laws or rules referenced in this Ordinance have been amended or superseded, this Ordinance shall also be considered amended accordingly.

#### **§ 101.4. Effective Date/Enactment**

1. This Ordinance shall take effect and be in force from and after its passage and publication of Summary Resolution No. 02082024-02, according to law, passed by the City Council of Marine on St. Croix this 8<sup>th</sup> day of February, 2024. Publication: 14<sup>th</sup> day of February, 2024.
2. This Ordinance hereby supersedes and replaces in its entirety, the Zoning Ordinance of the Marine on St. Croix, Minnesota Code on the effective date hereof.

#### **§ 101.5. Abrogation and Greater Restrictions**

It is not intended by this Ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued pursuant to law. However, whenever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

#### **§ 101.6. Separability**

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

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

2. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular property, building, or structure, such judgment shall not affect other property, buildings, or structures.

### **§ 101.7. Severability**

It is hereby declared to be the intention of the 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, invalid or unenforceable, such unconstitutionality, invalidity, or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance.

## **Section 102. Administration**

### **§ 102.1. Zoning Administration Staff**

1. The City Council of Marine on St. Croix shall appoint and/or contract for the services of Zoning Administration Staff whose term of office shall terminate at the pleasure of the City Council. The Zoning Administration Staff, or their designee(s), shall enforce this Ordinance and shall perform the following duties:
  - A. Issue building and other permits and make and maintain records thereof.
  - B. Conduct inspections of locations of buildings and uses of land to determine compliance with the terms of this Ordinance.
  - C. Maintain permanent and current records of this Ordinance, including but not limited to all maps, amendments, conditional uses, variances, appeals, and applications therefore.
  - D. Receive, file, and forward all applications for appeals, variances, conditional uses, or other matters to the designated official bodies.
  - E. Institute, in the name of the City, any appropriate actions or proceedings against a violator as provided for in this Ordinance.
  - F. The Zoning Administration Staff shall have the power to enter, at reasonable times with notice when possible, upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this Ordinance.

### **§ 102.2. Duties of the Planning Commission in Zoning Administration**

The Planning Commission shall provide assistance to the City Council and Zoning Administration Staff in the administration of this Ordinance as specified in City Code Section 2.02 subdivisions 5 and 6. The recommendations of the Planning Commission shall be advisory in nature.

## **Section 103. Interpretation**

### **§ 103.1. Relationship to Comprehensive Plan**

It is the policy of the City of Marine on St. Croix that the enforcement, amendment, and administration of this Ordinance be accomplished with due consideration of the recommendations contained in the City Comprehensive Plan as developed and amended from time to time by the Planning Commission and City Council of the City. The City Comprehensive Plan is the guiding document for zoning.

### **§ 103.2. Conflicting Regulations or Provisions**

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements. Wherever this Ordinance imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or ordinances, the provisions of this Ordinance shall govern except as otherwise provided in state statutes or rules.

### **§ 103.3. Use of Graphics, Illustrations, Figures, Photos, and Cross-References**

1. Graphics, illustrations, figures, and photos are provided for illustrative purposes only and shall not be construed as regulations. Where a conflict may occur between the text and any graphic, illustration, figure, or photo, the text shall control.
2. In some instances, cross-references between chapters, divisions, sections, and subsections are provided that include the chapter, division, section, or subsection number along with the name of the reference. Where a conflict may occur between the given cross-reference number and name, the name shall control.

### **§ 103.4. Rules of Construction**

The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:

1. The word “shall” is mandatory, and the word “may” is permissive.
2. Whenever a word or term defined hereinafter appears in the text of this Ordinance, its meaning shall be construed as set forth in such definition.
3. In any instance where a gender specific pronoun is used, it is gender neutral.
4. Unless otherwise specifically indicated, list of items or examples that use terms such as including, such as, or similar language are intended to provide examples and not to be exhaustive lists of all possibilities.
5. Whenever a reference is made to an ordinance, statute, regulation, or document, that reference shall be construed as referring to the most recent edition of such unless otherwise expressly stated.
6. Words and phrases not otherwise defined in this Ordinance shall be construed according to the common and approved usage of American English.
7. All measured distances expressed in feet shall be to the nearest tenth of a foot.

## **Section 104. Nonconformities**

### **§ 104.1. Purpose and Intent**

It is the purpose and intent of this Section to:

1. Allow nonconforming structures, uses, site characteristics, and lots to continue to exist and be put to reasonable and productive use;
2. Encourage such nonconformities to be brought into compliance when reasonable to do so;
3. Establish the requirements under which nonconformities may be operated and maintained;
4. Diminish the impacts of nonconformities on adjacent properties by limiting the expansion of nonconformities; and
5. Comply with Minnesota Statutes Section 462.357, Subd. 1e Nonconformities.

## **§ 104.2. Substandard Structures and Lots**

Substandard structures and lots within the Lower St. Croix River District shall be regulated by the provisions in Section 402.1.

## **§ 104.3. Continuation Rights**

1. Pursuant to Minnesota Statutes Section 462.357, Subd. 1e, any legal nonconforming structure or use shall not be enlarged but may be continued with any necessary approvals, including through repair, structural alteration, replacement, restoration, maintenance, and improvement, except as hereinafter specified.
2. No nonconforming structure shall be moved to any other part of the parcel of land upon which the same was constructed at the time of passage of this Ordinance unless the movement shall bring the nonconformity into compliance with the requirements of this Ordinance.

## **§ 104.4. Maintenance and Alterations**

1. Normal maintenance of a building or other structure containing or related to a legal nonconforming use is permitted, including necessary non-structural repairs and incidental alterations which do not extend or intensify the non-conforming use, provided:
  - A. The alterations do not expand the foundation and/or building volume, unless specifically allowed by this Ordinance;
  - B. The alterations do not increase the building occupancy capacity or parking demand; and
  - C. The alteration does not increase the nonconformity of the building or use.
2. Alterations may be made to a building or other lawful nonconforming residential units when they will improve the livability thereof, provided they will not increase the number of dwelling units or size or volume of the building.

## **§ 104.5. Restoration**

1. Any legal, non-conforming structure which has been damaged by fire or other peril to the extent of more than 50% of its fair market value, as determined by the County Assessor, shall not be restored, except in conformity with the regulations of this Ordinance, and as specifically provided in Provision 2 below.
2. Except as otherwise provided by this Ordinance or state statutes, any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this Ordinance, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:
  - A. The nonconformity or occupancy is discontinued for a period of more than one year.
  - B. The nonconforming use or building is destroyed by fire or other peril to the extent of greater than 50% of its estimated market value, as indicated in the records of the County Assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged.
3. Any subsequent use or structure not meeting the standards established in Provisions 1 and 2 of this Subsection shall be only occupied in a conforming manner.

## § 104.6. Change in Use

1. A lawful nonconforming use of a structure or parcel of land may be changed to lessen the nonconformity of use. Once a nonconforming structure or parcel of land has been changed, it shall not thereafter be so altered to increase the nonconformity.
2. When any lawful nonconforming use of a structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to any nonconforming use.

## § 104.7. Abandonment

A non-conforming use of a structure or land which has been discontinued for a period of one (1) year shall not be reestablished, and any future use or structure shall be in conformity with the regulations of this Ordinance.

## § 104.8. Inspection

The Zoning Administration Staff may make an annual inspection of known nonconforming uses and report to the City Council within 60 days. Zoning Administration Staff and Planning Commissioners may enter upon or in the premises at reasonable hours for inspection purposes.

## DIVISION 200. DEFINITIONS

### Section 201. Applicability

1. For the purposes of this Ordinance, the following words and phrases listed herein shall have the meanings respectively ascribed to them by this Division unless the context clearly indicates or requires a different meaning.
2. Definitions directly related to the Lower St. Croix River Zoning District can be found in Section 402.1.

### Section 202. General Definitions

#### § 202.1. A

1. **Abandonment.** To intentionally discontinue the use of property or activity for a period of 12 months or more without the intent to resume.
2. **Abutting.** Contiguous to, or being separated by a common border.
3. **Accessory structure.** A structure subordinate to a principal structure, located on the same lot.
4. **Agricultural land.** Land actively used for the purposes of farming operations through crops, plants and/or livestock.
5. **Alley.** An unnamed public right-of-way which provides secondary access to the rear or side yard of abutting properties.
6. **Amendment.** A change in the wording, context or substance of this title or zoning map.
7. **Annexation.** The legal act or process of incorporating land to an existing community.
8. **Applicant.** The owner, their agent or person(s) having legal control, ownership and/or interest in land for which the provisions of this Ordinance are being considered or reviewed for approval.

## § 202.2. B

1. **Basement.** A portion of a building located partly underground and having half or more of its floor-to-ceiling height below the average grade.
2. **Block.** An area of land entirely bounded by streets.
3. **Building.** Any structure having a roof supported by walls which may provide shelter or enclosure of persons, animals, chattel, or property of any kind, and when said structures are divided by party walls without openings, each portion of such building so separated shall be deemed to be a separate building.
4. **Building code.** Refers to the Building Code adopted by the City including the Minnesota State Building Code, established pursuant to Minnesota Statutes 16B.59 to 16B.75, and specified chapters of the Uniform Building Code.
5. **Building envelope.** The boundaries on a lot within which all construction requiring a building permit may occur.
6. **Building line.** A line at grade level which represents the exterior foundation or wall surface of a building from which horizontal setback distances are measured.
7. **Building height.** The overall vertical distance of a building to be measured at grade level to the highest point of the roof - the cornice of a flat roof, to the deck line of a mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch type roof, to the mean distance of the highest gable on a pitched or hip roof.

## § 202.3. C

1. **Centerline.** The midpoint of the street or right-of-way.
2. **Channel.** A natural or artificial depression of perceptible extent with a definite bed and banks to confine and conduct flowing water either continuously or periodically.
3. **City Council.** The governing body of the City of Marine on St. Croix.
4. **Cluster; Cluster development; Neighborhood cluster.** A grouping of residential or other structures arranged with the expressed intent of preserving open spaces and natural resources for community use, establishing a sense of community among residents, and reducing the costs and impact of infrastructure development and service delivery.
5. **Comprehensive Plan or policies.** A compilation of goals, policy statements, standards, programs, and maps for guiding the physical, social, and economic development, both public and private, of the county and its environs, as defined in the Minnesota City Planning Act, and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.
6. **Commissioner.** The Commissioner of the Department of Natural Resources.
7. **Curb level.** The grade elevation established by the City Council of the curb in front of the center of the building. Where no curb level has been established, the engineering staff shall determine a curb level or its equivalent for the purpose of this Ordinance.

## § 202.4. D

1. **Deck.** A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached to a structure and at any point extending above the ground.



2. **Deed restriction.** A restriction on the use of a lot or parcel of land that is set forth in the deed and recorded with the county register of deeds, binding on subsequent owners and is sometimes known as a restrictive covenant.
3. **Density.** The number of dwelling units permitted per acre of land.
4. **Drainage.** Surface water runoff.
5. **Dwelling.** A building or portion thereof designed exclusively for residential occupancy.
6. **Dwelling unit.** One (1) or more rooms constituting all or part of a dwelling which are occupied exclusively as living quarters for sleeping, cooking, and sanitation.

#### § 202.5. E

1. **Easement.** A grant by a property owner for the use of a strip of land for the purpose of constructing and maintaining streets, trails, sidewalks, drives, and/or utilities, including but not limited to sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainage ways and gas lines.
2. **Encroachment.** Any structure or object of any kind (with exception of utilities and public road signs), which is placed, located or maintained in, on, under over any portion of the right-of-way.

#### § 202.6. F

1. **Family.** An individual or two (2) or more persons related by blood, marriage, domestic partnership, adoption, foster care, or living together in a dwelling unit, exclusive of domestic service.
2. **Farm.** A platted or unplatted tract of land containing approximately more than 10 acres, or two (2) or more abutting parcels under the same ownership having a total area of more than 10 acres on which crops and often livestock are raised for a principal or major source of income. Such farms may include dwelling and accessory buildings and structures necessary to the operation of the farm.
3. **Farm, hobby.** A platted or unplatted tract of land generally consisting of 10 or less acres in size with a house and accessory buildings on which crops and often livestock are raised but not as a principal or major source of income. A hobby farm shall not qualify for exemptions provided in this Ordinance for farms.
4. **Fence.** Any partition, structure, wall, or gate erected as a divider marker, barrier or enclosure and located along the boundary or within the required yard.
5. **Flood Related Definitions:**
  - A. **Flood.** A temporary rise in stream flow or stage that results in inundation of the areas adjacent to the channel.
  - B. **Flood Frequency.** The average frequency, statistically determined, for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
  - C. **Flood Fringe.** That portion of the floodplain outside of the floodway which has been or hereafter may be covered by the regional flood.
  - D. **Floodplain.** The areas adjoining a watercourse which have been or hereafter may be covered by the regional flood.
  - E. **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.

- F. **Floodway.** The channel of the watercourse and those portions of the adjoining flood plains which are reasonably required to carry and discharge the regional flood.
  - G. **Regional Flood.** A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval.
  - H. **Regulatory Flood Protection Elevation.** A point not less than one foot above the water surface profile associated with the regional flood plus any increases in flood heights attributable to encroachments on the floodplain. It is the elevation to which uses regulated by this ordinance are required to be elevated or flood-proofed.
- 6. **Floor plan.** A graphic representation of the anticipated utilization of the floor area within a building or structure but not necessarily as detailed as construction plans.
  - 7. **Frontage.** That boundary of a lot which abuts an existing or dedicated public street.

**§ 202.7. G**

- 1. **Garage, private.** An accessory building or accessory portion of the principal building, including carports, which is intended for and used to store the private passenger vehicles of the residence.

**§ 202.8. H**

- 1. **Homeowners Association (HOA).** An incorporated nonprofit organization operating under recorded land agreements through which (a) each lot owner is automatically a member; and (b) each lot is automatically subject to a proportionate share of the expenses for the organization's activities such as maintain common property.

**§ 202.9. I**

- 1. **Impervious surface.** A constructed hard surface that prevents or retards entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development, including rooftops; decks; sidewalks; patios; swimming pools; parking lots; concrete, asphalt, or gravel driveways; and other similar surfaces.

**§ 202.10. J**

**§ 202.11. K**

**§ 202.12. L**

- 1. **Land alteration.** The alteration of land by depositing or moving material so as to alter the grade.
- 2. **Landscaping.** Plantings such as trees, grass, and shrubs.
- 3. **Lot.** A parcel or portion of land designated by subdivision, plat, metes and bounds, or other means and separated from other parcels or portions by description as on a subdivision or record of survey map, for the purpose of sale, lease, or separate use thereof.
  - A. **Lot of record.** Any lot which is one unit of a plat heretofore duly approved and filed, or one unit of an Auditor's Subdivision or a Registered Land Survey that has been recorded in the office of the County-Recorder for Washington County, Minnesota, prior to the effective date of this Ordinance.
  - B. **Lot, corner.** A lot situated at the junction of, and abutting on two (2) or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed 135 degrees.

- C. **Lot, interior.** A lot, other than a corner lot, including through lots.
  - D. **Lot, nonconforming.** A lot lawfully established prior to the effective date of this Ordinance, or subsequent amendments to it, which fails to meet requirements for lot area, and/or width, depth, lot frontage, or other requirements.
  - E. **Lot, through.** A lot which has a pair of opposite lot lines abutting two substantially parallel streets, and which is not a corner lot. On a through lot, both street lines shall be front lines for applying this Ordinance.
4. **Lot area.** The area of a lot in a horizontal plane bounded by the lot lines.
  5. **Lot width.** The maximum horizontal distance between the side lot lines of a lot measured at the required front setback line and at the required setback from the ordinary high water level of adjoining lake, river, or tributary for a riparian lot.

#### § 202.13. M

1. **Metes and bounds.** A method of property description by means of their direction and distance from an easily identifiable point.
2. **Micro unit.** A mobile residential dwelling providing permanent housing within a sacred community.

#### § 202.14. N

1. **Neighborhood.** A district, or area, distinguishable by some identifiable-feature or point of reference, in which people live in close proximity to one another.
2. **Nonconforming.** A condition on a property that legally does not conform to one or more of the current regulations applicable upon the effective date of adoption of this code, previous codes, text amendments or rezonings.
  - A. **Illegal nonconforming.** A condition on a property that does not conform to or one or more of the current regulations applicable upon the effective date of adoption of this code, previous codes, text amendments, or rezonings due to misunderstanding or negligence.
  - B. **Nonconforming structure.** A structure that was legally conforming at the time it was established but which does not comply with the current regulations.
  - C. **Nonconforming use.** A use that was legally conforming at the time it was establish but which does not comply with the current regulations.

#### § 202.15. O

1. **Obstruction.** Any building or structure or part thereof which is located so as to intrude upon any open space required by this Ordinance.
2. **Official map(s).** Any map officially adopted by the City Council.
3. **Off-street loading space.** A space accessible from a street, alley, or driveway for the use of trucks or other vehicles while loading or unloading merchandise or materials.
4. **Off-street parking space.** A suitably surfaced and permanently maintained area either within or outside of a building of sufficient size to store one (1) standard automobile.
5. **Open space.** The undeveloped portion of a property providing areas clear of obstructions other than natural vegetation, or structures directly related to the use and enjoyment of these spaces. Open spaces may include view sheds, natural habitats, places for neighborhood recreation, and pedestrian corridors.

- A. **Natural habitat.** Contiguous, connected areas preserved or restored in their natural condition, where indigenous plants and animals live.
  - B. **Neighborhood recreation.** Specific areas, such as playground parks, greens, and commons, spatially defined and maintained for human recreational activity.
  - C. **Pedestrian corridors.** Linear areas for pedestrian travel between open spaces or places of destination, such as walking trails and bicycle paths.
  - D. **Viewshed.** A directional view or vista of an open space from a specified location.
6. **Ordinary high-water mark.** A mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The ordinary high-water mark is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. In areas where the ordinary high-water mark is not evident, setbacks shall be measured from the stream bank of the following water bodies that have permanent flow or open water: the main channel, adjoining side channels, backwaters, and sloughs.
  7. **Outlot.** A parcel of land having a legal description which has specific deed restrictions regarding use and types of permitted construction.
  8. **Owner.** Any person(s) who, alone or with others, has title or interest in any building, property, dwelling, dwelling unit or portion thereof, with or without accompanying actual possession thereof, including any person who as tenant, agent, executor, administrator, trustee, or guardian of an estate has charge, care, control of any dwelling or dwelling unit.

#### § 202.16. P

1. **Person.** The term “person” shall extend and be applied to associations, clubs, societies, firms, partnerships, and bodies politic and corporate as well as to individuals. For the purpose of imposing penalties or fines for violation of any section of this Ordinance and whenever the term “person” is used in such section for which a penalty is imposed, the term shall include partners or members of an association, and as to corporations shall include its officers, agents or members who are responsible for any such violation.
2. **Permanent.** Designed, constructed, or intended to last for more than 12 months.
3. **Planning Commission.** The Planning commission of Marine on St. Croix, except when otherwise designated.
4. **Pole building.** Any structure possessing any or all of the following characteristics: a structural system consisting of poles set into grade or on individual footings; a foundation which is non-continuous; a metal cladding without sheathing on three (3) or more sides of the structure; a floor which is non-impervious.
5. **Prefabricated home.** A non-mobile housing unit, the walls, floors, and ceilings of which are constructed at a central factory and transported to a building site where final construction is completed, permanently affixing the unit to the site.
6. **Property line.** The legal boundary of a parcel of property which may also coincide with a right-of-way line of a road, cart way, and the like.
  - A. **Property line, front.** That boundary of a lot which abuts an existing or dedicated public street, and in the case of a corner lot, it shall be the shortest dimension on a public street. If the dimensions of a corner lot are equal, the front line shall be designated by the owner and filed with the County Recorder.

- B. **Property line, rear.** That boundary of a lot which is opposite the front lot line. If the rear line is less than 10 feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line 10 feet in length within the lot, parallel to and at the maximum distance from the front lot line.
- C. **Property line, side.** Any boundary of a lot which is not a front lot line or a rear lot line.
- 7. **Public land.** Land owned or operated by municipal, school district, county, state, or other governmental units.
- 8. **Public water.** Any waters of the state which serve a beneficial public purpose as defined in Minnesota Statutes, section 105.37, subdivision 6.

**§ 202.17. Q**

**§ 202.18. R**

- 1. **Registered land survey.** A survey map of registered land designed to simplify a complicated metes and bounds description, designating the same into a tract or tracts of a Registered Land Survey Number.
- 2. **Roadway, public.** State, county, municipal, and township roads and highways which serve or are designed to serve flows of traffic between communities or other traffic-generating areas.

**§ 202.19. S**

- 1. **Scenic easement.** An interest in land, less than fee title, that limits the use of the land for the purpose of protecting the scenic, recreational, and natural characteristics of the area. Unless otherwise expressly and specifically provided by mutual agreement of the parties, the easement shall be perpetually held for the benefit of the people of Minnesota; specifically enforceable by its holder or any beneficiary; and binding on the holder of the servient estate, their heirs, successors, or assigns. Unless specifically provided by the parties, no such easement shall give the holder or any beneficiary the right to enter on the land except for enforcement of the easement.
- 2. **Screening.** A method of visually shielding a nearby use, structure, or lot from external view by fencing walls, berms, or densely planted vegetation.
- 3. **Sedimentation.** Solid particulate matter that is either suspended in water or transported from its site of origin by water, wind or gravity as a result of erosion.
- 4. **Setback.** The minimum horizontal distance between a structure and a street, right-of-way easement, property line, ordinary high water mark, or other structures on a lot.
  - A. **Setback, corner side.** The minimum horizontal distance between a structure and a side lot line separating a corner lot from a street.
  - B. **Setback, front.** The minimum horizontal distance between the closest edge of a structure and the front property line.
  - C. **Setback, interior side.** The minimum horizontal distance between the closest edge of a structure and a side lot line separating lots from one another.
  - D. **Setback, rear.** The minimum horizontal distance between the closest edge of a structure and the rear property line.
- 5. **Sewage.** Sewage is any water-carried waste, exclusive of footing and roof drainage of any residence, industry, agriculture or commercial establishment, whether treated or untreated and

includes the liquid wastes produced by bathing, laundry and culinary operation, and from toilets and floor drains. Raw sewage is sewage which has not been subjected to any treatment process.

6. **Sign Related Definitions:**
  - A. **Sign.** An external communication device to identify, describe, display, or illustrate through graphics, symbols or written language. A sign may be affixed to, directly or indirectly upon a building, structure or land which conveys a message in view of the general public.
  - B. **Sign area.** The entire area within a continuous perimeter enclosing the limits of the sign displayed, including sign frame or border.
  - C. **Sign, illuminated.** A sign lighted by or exposed to artificial light by means of on, around, inside, or directed toward the sign.
  - D. **Sign, flashing.** An illuminated sign which has a light source that has intermittent intensity or color while the sign is in use.
  - E. **Sign, monument.** A permanent sign, wider than it is tall, which is mounted on the ground and which is often accompanied by landscaping.
  - F. **Sign, nonconforming.** A lawfully erected and maintained sign prior to the adoption of this Ordinance that does not meet current requirements or standards.
  - G. **Sign, temporary.** Any sign intended to be erected or displayed for a limited period of time.
  - H. **Sign, warning.** A sign which warns the public of a danger or hazard in the immediate vicinity and is not intended for advertising.
7. **Significant tree.** Any healthy tree measuring a minimum of eight (8) inches or more in diameter measured at a point four and one-half (4.5) feet above the ground for deciduous trees or eight (8) feet in height for coniferous trees. Invasive trees are not considered significant.
8. **Site plan.** Detailed plan for the development and intended use of a particular piece of land.
9. **Slope.** Angle of ascent or descent as defined by a Certified or Registered Survey.
10. **Slope, steep.** Lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.
11. **Street.** A public right-of-way which affords primary means of access to abutting property, and shall also include avenue, highway, road, or way.
  - A. **Street, collector.** A street which serves or is designed to serve as a traffic-way for a neighborhood or as a feeder to a major road.
  - B. **Street, cul-de-sac.** A street with a single common ingress and egress and with a turnaround at the end.
  - C. **Street, arterial.** A street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.
  - D. **Street, local.** A street intended to serve primarily as an access to abutting properties.
12. **Street pavement.** The wearing or exposed surface of the roadway used by vehicular traffic.
13. **Street width.** The width of the street pavement, measured at right angles to the centerline of the street.
14. **Structural alteration.** Any change, other than incidental repairs which would prolong the life of the supporting members of a building, such as bearing walls, columns, beams, girders, or foundations.

15. **Structure.** Any building or appurtenance, and anything constructed, the use of which requires more or less permanent location on the ground, or attached to something having a permanent location on the ground.
16. **Structure, open air.** Open sided structure such as gazebo or deck.
17. **Subdivision.** The division or re-division of a lot, tract, or parcel of land into two (2) or more lots.

#### § 202.20. T

1. **Toxic or hazardous waste.** Waste materials, as defined in State and Federal laws, including but not limited to poisons, pesticides, herbicides, acids, caustics, pathological wastes, radioactive materials, flammable or explosive materials and similar harmful chemicals and wastes which require special handling and must be disposed of in a manner prescribed by State and Federal governments which conserves the environment and protects the public health and safety.

#### § 202.21. U

1. **Use.** The purpose or activity for which the land and/or building thereon is designated, arranged, or intended for which it is occupied, utilized or maintained.
  - A. **Use, accessory.** A use subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.
  - B. **Use, principal.** The main use of land or building distinguished from subordinate or accessory uses. A "principal use" may be either permitted, permitted with standards, conditional, or interim.

#### § 202.22. V

1. **Variance.** A modification or variation of the provisions of this Ordinance as applied to a specific piece of property.
2. **Vegetative cutting.** The cutting, pruning, removal, or killing of trees or shrubs.
3. **Vehicle class.** Vehicle weight classes 1-8 as defined by the Federal Highway Administration.

#### § 202.23. W

1. **Watercourse.** A channel in which a flow of water occurs either continuously or intermittently. The term applies to either natural or artificially constructed channels.
2. **Wetland.** Land which has been delineated by Washington County Conservation District or conforms to their definitions.
3. **Wooded area.** Land characterized by dense and extensive tree cover.

#### § 202.24. X

#### § 202.25. Y

1. **Yard.** An open space on a parcel which is unoccupied and unobstructed from its lowest level to the sky except as permitted in this Ordinance.
  - A. **Yard, front.** A yard extending along the full width of the front property line between side property lines and lying between the front property line and the nearest line of the principal building.

- B. **Yard, rear.** A yard extending across the full width of the rear property line between side property lines and lying between the rear property line and the nearest line of the principal building.
- C. **Yard, side.** The yard extending along a side lot line between the front and rear yards lying between the side property line and the nearest line of the principal building.

**§ 202.26. Z**

- 1. **Zoning Administration Staff.** The duly appointed person(s) charged with enforcement of this Ordinance.
- 2. **Zoning amendment.** A change authorized by the city either in the allowed use within a district or in the boundaries of a district.
- 3. **Zoning district.** An area or areas within the limits of the city for which the regulations and requirements governing use are uniform.
- 4. **Zoning map.** The map or maps incorporated into this Ordinance as part thereof, geographically depicting the zoning districts in Marine on St. Croix.

**Section 203. Use Definitions**

**§ 203.1. A**

- 1. **Adult use.** Adult uses include adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult steam room/bath-house/sauna facilities, adult companionship establishments, adult rap/conversation parlors, adult health/sports clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios, and other premises, enterprises, establishments, businesses, or places open to some or all members of the public at or in which there is an emphasis on the presentation, display, depiction, or description of “specified sexual activities” or “specified anatomical “areas” which are capable of being seen by members of the public. Activities classified as obscene as defined by Minnesota Statutes section 617.241 are not lawful and are not included in the definition of adult uses.
- 2. **Adult use, accessory.** The offering of goods and/or services which are classified as adult uses, but which are offered on a limited scale and which are incidental to the primary activity and goods and/or services offered by the establishment.
- 3. **Agriculture.** The use of land for the growing and/or production of field crops, livestock, and livestock products for the production of income, including but not limited to the following:
  - A. Field crops/orchards, including: barley, soy beans, corn, hay, oats, potatoes, rye, sorghum, sunflowers, fruit growing, tree farms, not including retail nurseries, and garden centers.
  - B. Livestock including: dairy and beef cattle, goats, horses, sheep, hogs, Poultry, game birds and other animals including dogs, ponies, deer, rabbits and mink.
  - C. Livestock products, including: milk, butter, cheese, eggs, meat, fur, and honey.
- 4. **Accessory living space.** Habitable living space clearly subordinate and accessory to a single unit dwelling, consisting of a bedroom area and either a kitchen and cooking facilities or a bathroom.
- 5. **Antenna.** Any structure or device used for the purpose of collecting or radiating electromagnetic waves including but not limited to directional antennas such as panels, microwave dishes, satellite dishes, and omni-directional antennas such as whip antennas.



6. **Auto service station.** An establishment used to supply motor fuels and lubricants, and the replacement or installation of vehicle parts and accessories.

### § 203.2. B

1. **Bulk storage (liquid).** The bulk storage of oil, gasoline, liquid fertilizer, chemicals, and similar liquids.
2. **Business, office.** An establishment used primarily for conducting the predominantly administrative or clerical service affairs of a business, profession, service, industry or government, or like activity.
3. **Business, retail.** An establishment engaged in the display and sale of products produced off-site directly to consumers within a building or portion of a building excluding any exterior display and sales.
4. **Business, service.** An establishment that provides useful labor, maintenance, repair, and activities incidental to business production or distribution.
5. **Business, manufacturing.** Any use which includes the compounding, processing, packaging, treatment, or assembly of products and materials.

### § 203.3. C

1. **Cannabis cultivation.** A use involving the licensed growing and harvesting of cannabis.
2. **Cannabis manufacturing.** An establishment or use of land which involves the compounding, processing, packaging, wholesaling, testing, or treatment of cannabis products.
3. **Cannabis retail business.** A licensed establishment where cannabis flowers, immature cannabis plants and seedlings, and related products as allowed by law are sold to individual consumers who are at least 21 years of age.
4. **Cannabis transportation or delivery.** The transportation of cannabis products from one type of cannabis business to another or to the end consumer.
5. **Carport.** An automobile shelter having one (1) or more open sides.
6. **Cemetery.** Land used or intended to be used for the burial of the animal or human dead and dedicated for cemetery purposes, including crematories, mausoleums, columbaria, chapels and mortuaries if operated in connection with and within the boundaries of such cemetery.
7. **Child care center.** A state-licensed facility other than a private residence that provides for the care of children during only part of a 24-hour day. This term includes nursery schools, preschools, day care facilities, and other similar uses but excludes public and private schools or any facility offering care of individuals for a full 24-hour period.
8. **Commercial animal boarding.** Any structure or premises where animals are temporarily or permanently boarded for a fee, including animal day care or spa facilities.
  - A. **Corral.** A relatively confined enclosure for the exercising, showing, training, etc. of animal; the more intensive use precluding the growth of significant areas of grasses or other nutrients.
  - B. **Horse boarding.** Those uses commonly associated with the raising, maintaining, and training-of horses for riding, racing, or breeding. This shall also apply to cattle, mules, donkeys and llamas.

- C.  **kennel, commercial.** Any place where more than three (3) dogs over three (3) months of age are kept, and where the business of selling, boarding, breeding, showing, or grooming of dogs or other animals is conducted, with the exception of veterinary clinics.
- D.  **Pasture.** An area used by animals for feeding on grasses growing on site, the animals commonly occupying the area without constraints other than peripheral fences.
- 9.  **Commercial mixed use.** Two (2) or more compatible land uses housed within the same building or on the same property, one of which is commercial.
- 10.  **Conservancy.** The practice or implementation of policies for the protection and preservation of the natural character of lands for their value to scenic enjoyment, wildlife, water and soil conservation, flood plain management, forestry, and other such purposes.
- 11.  **Contractor shop.** A company that provides labor, maintenance, repair, and activities incidental to business production or distribution where the service is provided at the customer’s location, including building, plumbing, heating, electrical, painting, landscaping, and other uses of similar character but not including storage yards.

**§ 203.4. D**

- 1.  **Day care facility.** A licensed facility serving 12 or fewer persons on a regular basis, for any part of a 24-hour day.
- 2.  **Day care, group family.** A facility within a residence serving 14 or fewer children on a regular basis, for any part of a 24-hour day.
- 3.  **Dwelling, single unit detached.** The use of a parcel of land for living accommodations including or intending to include a detached building containing one (1) dwelling unit. This definition includes individual manufactured homes located outside of a manufactured home park.

**§ 203.5. E**

- 1.  **Essential services.** Overhead or underground electrical, gas, steam, or water transmission or distribution systems and structures or collection, communication supply or disposal systems, and structures used by public utilities or governmental departments or commission as are required for the protection of the public health, safety, or general welfare, including towers, poles wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes and accessories connection therewith but not including buildings. For the purpose of this ordinance, the word “buildings” does include “structures” for essential services. Essential services shall not include waste facilities or personal wireless service antennas, cell towers or support structures.

**§ 203.6. F**

**§ 203.7. G**

**§ 203.8. H**

- 1.  **Home occupation.** Any gainful occupation or profession engaged in by the occupant of a dwelling in the dwelling or accessory building may include professional offices, minor repair services, photo or art studios, salons, crafts, or similar uses. This use does not include remote work.
- 2.  **Horticulture.** The practice of garden cultivation and management.

### § 203.9. I

### § 203.10. J

### § 203.11. K

1. **Keeping of chickens.** The long-term raising, care, and maintenance of chickens.

### § 203.12. L

1. **Library.** A facility in which literary, musical, artistic, or reference materials including but not limited to books, manuscripts, computers, recordings, or films are kept for use by or loan to patrons of the facility, but which are not normally offered for sale.
2. **Lower potency hemp edible manufacturing.** A use which involves the compounding, processing, packaging, wholesaling, or treatment of lower-potency hemp edible products.
3. **Lower potency hemp edible retail business.** A licensed establishment where lower-potency hemp edible products are sold to individual consumers who are at least 21 years of age.

### § 203.13. M

1. **Manufactured home.** 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 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 which the manufacturer voluntarily filed a certification required by the Secretary of the United States Department of Housing and Urban Development and which complies with the standards established under §§ 155.001et seq. and §§ 155.020et seq.
2. **Municipal government and utility building.** Any building used by the City of Marine on St. Croix.

### § 203.14. N

### § 203.15. O

1. **Open and outdoor storage.** The storage of personal or business property for a period greater than 24 hours outside of an enclosed building.
2. **Outdoor dining area.** A specified outdoor area for dining which is accessory to a principal restaurant or tavern use.
3. **Outdoor sales.** Any land used or occupied for the sale of retail merchandise or services outside of a permanent structure.

### § 203.16. P

1. **Park, playground, or open space.** An area of land and its related accessory structures developed and maintained for both active and passive recreational pursuits, including tot-lots, playgrounds, neighborhood parks, play fields, and special purpose areas.
2. **Place of worship.** A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.
3. **Planned unit development (PUD).** A development of land characterized by a unified site design which may include a variety of land uses and structures. Development standards may be altered

by negotiation and agreement between the developer and the municipality, except that land uses and densities shall be consistent with those permitted by the Comprehensive Plan.

**§ 203.17. Q**

**§ 203.18. R**

1. **Recreational equipment.** Play apparatus such as swing sets and slides, sandboxes, poles for nets, unoccupied boats and trailers not exceeding 20 feet in length, picnic tables, lawn chairs, barbecue stands, and similar equipment or structures but not including tree houses, swimming pools, playhouses exceeding twenty-five square feet of floor area, or sheds utilized for storage of equipment.
2. **Residential care facility.** An in-home residential facility licensed by the state which provides primarily nonmedical care to individuals who are in need of personal assistance to manage the activities of daily life or for the protection of the individual.
3. **Restaurant or tavern.** A building with facilities for the preparation and serving of food and drink and where meals are regularly served at tables to the general public.

**§ 203.19. S**

1. **Sacred community.** A residential settlement established on or contiguous to the grounds of a religious institution's primary worship location primarily for the purpose of providing permanent housing for chronically homeless persons, extremely low-income persons, and designated volunteers.
2. **Seasonal produce stand.** Any building or structure existing or erected which is used principally for agricultural purposes, with the exception of dwelling units.
3. **School.** A public or private institution, together with its accessory buildings and uses, for learning with either a kindergarten, elementary, or secondary curriculum with buildings, equipment, courses of study, class schedules, enrollment of pupils and staff meeting the standards established by the state.
4. **Solar energy system.** An active solar energy system that collects or stores solar energy and transforms solar energy into another form of energy or transfers heat from a collector to another medium using mechanical, electrical, thermal, or chemical means.
  - A. **Solar energy system, building integrated.** Energy systems directly associated with a building and which utilize direct sunlight to produce energy.
  - B. **Solar energy system, ground mounted.** Energy systems with infrastructure separate from a building which utilize direct sunlight to produce energy.
5. **Small wireless facility.** A wireless facility that meets both of the following qualifications:
  - A. Each antenna is located inside an enclosure of no more than six cubic feet in volume or could fit within such an enclosure; and
  - B. All other wireless equipment associated with the small wireless facility provided such equipment is, in aggregate, no more than 28 cubic feet in volume, not including electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment.

**§ 203.20. T**

1. **Tavern.** A building with facilities for the serving of alcoholic beverages.
2. **Telecommunication tower facility.** A tower and its appurtenant devices including, but not limited to antennae, buildings, fences, gates, and related equipment.
3. **Transportation or freight terminal.** A building or area in which freight brought by truck is assembled and/or temporarily stored for re-routing or re-shipment. The terminal facility may also include storage and/or parking areas for truck tractor and/or trailer units.

**§ 203.21. U**

**§ 203.22. V**

**§ 203.23. W**

1. **Warehouse.** The indoor storage of materials, equipment, or products. This use does not include self-storage facilities.

**§ 203.24. X**

**§ 203.25. Y**

**§ 203.26. Z**

**DIVISION 300. GENERAL ZONING PROVISIONS**

**Section 301. Establishment of Districts**

**§ 301.1. Zoning Districts**

The City has established zoning districts to assist in carrying out the intents and purposes of the Comprehensive Plan including protecting the public health, safety, convenience, and general welfare. For purposes of this ordinance, Marine on St. Croix is hereby divided into the following Zoning Districts:

1. Single Family Rural (SFR)
2. Single Family Urban (SFU)
3. Limited Industry (LI)
4. Neighborhood Service Overlay
5. Lower St. Croix River
  - A. St. Croix Rural Residential (SC-RR)
  - B. St. Croix Urban Residential (SC-UR)
  - C. Village Center (SC-VC)
6. Planned Unit Development (PUD)
7. Floodplain Overlay (FP)

**§ 301.2. Official Zoning Map**

1. The effective date of the Official Zoning Map is February 14, 2024. This map hereby supersedes and replaces in its entirety the former zoning map for the City of Marine on St. Croix on the effective date hereof.

2. The location and boundaries of the districts established by this Ordinance are set forth on the Zoning Map, which is hereby incorporated as part of this Ordinance and is on file at Marine on St. Croix City Hall. It shall be the responsibility of the Zoning Administration Staff to maintain and update this map and the amendments to such map shall be recorded on such map within 30 days after official adoption of the zoning amendments.
3. Zoning updates since February 14, 2024:
  - A. To be inserted as needed

### **§ 301.3. District Boundaries**

1. The district boundaries shall be determined by measurement from and as shown on the Zoning Map, and in case of any questions as to the interpretation of such boundary lines, the City Council serving as the Board of Adjustment shall interpret the map according to the reasonable intent of this Ordinance.
2. Where uncertainty exists as to the boundaries of districts as shown on the Zoning Map, the following rules shall apply:
  - A. Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines.
  - B. Boundaries indicated as approximately following platted lot lines shall be construed to follow such lot lines.
  - C. Boundaries indicated as approximately following city boundaries shall be construed as following municipal boundaries.
  - D. Boundaries indicated as following shorelines shall be construed to follow such shorelines and, in the event of change in the shoreline, shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines.
  - E. Boundaries indicated as parallel to or extensions of features indicated in the preceding shall be so construed. Distances not specifically indicated on the Zoning Map shall be the scale of the map.
3. Whenever any street, alley, easement, or public way is vacated by official action, the zoning district abutting the centerline of the said vacated area shall not be affected by such proceeding.

### **§ 301.4. Annexation**

When land is proposed to be annexed to Marine on St. Croix, a public hearing shall be held by the Planning Commission to discuss the proposed permanent zoning of said land. The results of the hearing, along with a recommendation, shall be presented to the City Council. In the event of annexation proceedings becoming final before the permanent zoning is determined, the annexed area shall be placed in the most restrictive district, and such classification shall be considered an interim step pending permanent classification.

## **Section 302. General Provisions for Districts**

### **§ 302.1. General Standards**

1. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum required by this Ordinance.

2. Except as otherwise specifically provided in this Ordinance, no structure shall be erected, converted, enlarged, reconstructed, or altered, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with this Ordinance.
3. Unless otherwise approved by the City Council, no more than one principal structure shall be located on a lot.

## **Section 303. General Building Requirements**

### **§ 303.1. Dwelling Unit Restriction**

1. No garage, tent, trailer, or accessory structure shall at any time be used as a permanent residence unless the requirements for accessory living space as specified in Section 502.1 are met.
2. A temporary residence shall be allowed for a maximum period of one (1) year and shall only be used in the event of repair or rebuilding of a principal structure.
3. The basement portion of a finished dwelling may be used for normal eating and sleeping purposes provided it is properly damp-proofed, has suitable fire protection and exits, and is otherwise approved by the Zoning Administration Staff.

### **§ 303.2. Building and Structure Height**

1. No building or structure shall exceed the maximum building height of the applicable zoning districts.
2. The building height limits established herein for zoning districts shall not apply to the following exceptions:
  - A. Belfries.
  - B. Chimneys or flues.
  - C. Church spires.
  - D. Cupolas and domes which do not contain usable space.
  - E. Farm buildings.
  - F. Flag poles mounted on a building.
  - G. Parapet walls extending not more than three (3) feet above the limiting height of the building.
  - H. Necessary mechanical and electrical appurtenances.
  - I. Solar panels and related solar infrastructure may exceed the height limit by not more than 12 inches above the roof peak.

### **§ 303.3. Private Sewer Systems**

The standards as found in the current Marine on St. Croix Sewer Use Ordinance shall apply to all individual and communal septic systems.

### **§ 303.4. Relocating Structures**

1. Every licensed house mover shall, in each and every instance, before raising, holding up, or moving any building, obtain a permit thereafter from the City.

2. An application for such permit shall designate the lot on which the house is to be located, the dimensions of the lot and the proposed location of the structure on the lot along with setback distances.
3. Zoning Administration Staff shall review the structure relocation permit application and shall approve or disapprove the permit.
4. No permit to move a building shall be issued unless and until the following conditions are fully complied with and approved by the City:
  - A. The building to be moved must comply in all respects with the State Building Code and this Ordinance.
  - B. The lot on which the building is to be located must meet all the minimum dimensional requirements of the zoning district in which it is located.
  - C. The building must be placed on the lot so as to meet all the front, side, and rear yard setback requirements as set forth in this Ordinance.
5. Electrical Correction Requirements
  - A. In every case in which a permit shall be issued as herein provided, for the removal required or the displacement of any overhead electrical or other wires, it shall be the duty of the person, association, or corporation owning, operating, or controlling such wires to effect the removal thereof authorized by such permit.
  - B. The person to whom said permit shall have been issued shall notify the person, association, or corporation owning, operating, or controlling said wire to remove or displace the same to facilitate the removal of said building, and shall at the same time provide to said person, association, or corporation the properly issued permit authorizing the removal of said wires sufficiently to allow the passage of said building along the street over which said wires are suspended.
  - C. Any expense incurred or to be incurred in the moving, removing, or displacing of such wire shall be paid for by the person who makes application for said permit.

## **Section 304. General Yard Requirements**

### **§ 304.1. Minimum Lot Requirements**

1. Lots become eligible for development provided they meet the lot size requirements of their respective zoning district and can satisfy the provisions of this Ordinance.
2. All lots or parcels shall have direct adequate physical access for emergency vehicles along the frontage of the lot or parcel from either an existing dedicated public roadway, or an existing private roadway approved by the City Council.
3. All lots providing on-site septic systems shall conform to the minimum standards of Washington County.

### **§ 304.2. Permitted Encroachments**

No part of any use or structure shall encroach into any required yard setback except as permitted below:

1. Posts
2. Off-street open parking spaces
3. Flues

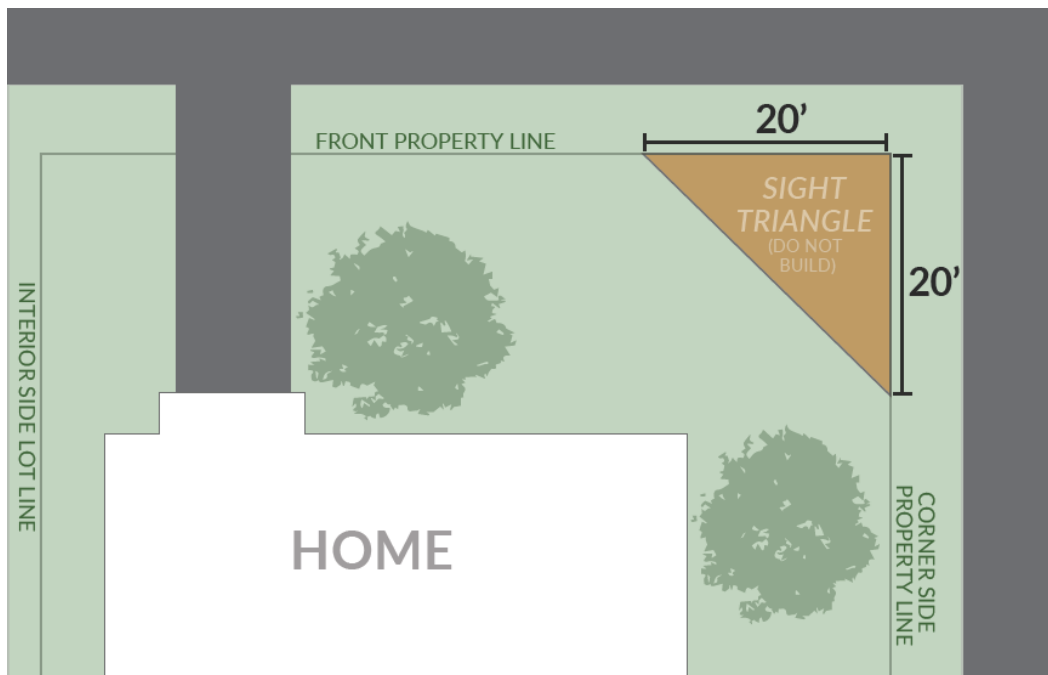


4. Belt course
5. Leaders
6. Sills
7. Lintels
8. Cornices
9. Eaves
10. Gutters
11. Awnings
12. Ornamental features
13. Open fire escapes
14. Sidewalks and fences
15. All other similar devices incidental and appurtenant to the structure except as hereinafter provided.

**§ 304.3. Sight Visibility Triangle Setback**

1. On corner lots, nothing shall be placed or allowed to grow between the heights of two (2) feet and eight (8) feet above the street centerline grade, within the sight visibility triangle setback in a manner that may interfere with traffic or pedestrian visibility along a public right-of-way.
2. The sight triangle is defined as follows: beginning at the intersection of the projected property lines of two intersecting streets, thence 20 feet along one property line, thence diagonally to a point 20 feet from the point of beginning on the other property line, thence to the point of beginning.

Figure 3.1. Sight Triangle



#### **§ 304.4. Exterior Storage**

Except as specifically authorized by this Ordinance, all materials and equipment shall be stored within structures, or fully screened so as not to be visible from adjoining properties. This provision does not apply to:

1. Laundry drying and recreational equipment;
2. Construction and landscaping materials and equipment currently being used on any premises with an open building permit;
3. Agricultural equipment and materials, if these are used or intended for use on the premises; and
4. Off-street parking of passenger automobiles and pick-up trucks of Classes 1-3. Class 4-8 vehicles may be parked on-site temporarily for the purposes of loading, unloading, or rendering a service. One (1) Class 4-8 vehicle may be parked outdoors on a residential property with the approval of an interim use permit.

#### **§ 304.5. Land Suitability**

1. Land Suitability. No land shall be subdivided which is found by the City Council to be unsuitable by reason of flooding, inadequate drainage, soil and rock, formations with severe limitations for development, severe erosion potential, unfavorable topography inadequate water supply or sewer disposal capabilities or any other feature is likely to be harmful to the health, safety, or welfare of residents of the City. The City Council in applying the provisions of this section shall, in writing, cite the particular features upon which it bases its conclusions that the land is not suitable for the proposed use and afford the subdivider an opportunity to present evidence regarding such suitability at a public hearing. Thereafter, the City Council may affirm, modify, or withdraw its determination of unsuitability.

### **DIVISION 400. ZONING DISTRICTS**

#### **Section 401. Zoning Districts Outside of the Lower St. Croix River District**

##### **§ 401.1. Application**

1. The restrictions, regulations, standards, and guidelines for land use and development in this Section shall apply to the following zoning districts within the City:
  - A. Single Family Rural (SFR)
  - B. Single Family Urban (SFU)
  - C. Limited Industrial (LI)

##### **§ 401.2. District Purposes**

1. The following statements specify the intents of the zoning districts established to regulate areas of the City considered appropriate for each use:
  - A. Single Family Rural (SFR).
    - I. The purpose of the SFR District is to encourage rural residential development to be clustered in a pattern which satisfies the following planning objectives:
      - a. Preservation of contiguous common open spaces for scenic enjoyment, recreational use, and rural identity.

- b. Creation of cohesive neighborhoods in order to establish local identity and community interaction.
  - c. Physical integration of neighborhoods, open spaces, and places of destination in order to establish municipal identity and community interaction.
  - d. To implement the Comprehensive Plan objectives and policies with regard to rural area residential development, natural resource, preservation, and public service delivery.
- II. The diagrams included in this Section are provided to demonstrate graphically the purpose of the SFR District, its performance standards, and strategies by which the intended development pattern described by this Ordinance may be achieved.
  - III. The City of Marine on St. Croix is prepared to encourage and support new development planned in compliance with the performance standards described by this Ordinance.
- B. Single Family Urban (SFU). The purpose of the SFU District is to allow continued urban residential development and to fill in older, platted areas of the city, but at densities which will minimize demands for urban services.
  - C. Limited Industrial (LI). The purpose of the LI District is to provide for compact, limited industries, and industrial uses that may suitably be located in areas of relatively close proximity to non-industrial development. As such, industries that pose problems of pollution, noise, vibration, etc. are restricted from this district. All limited industrial uses must be supported with on-site individual or communal sewer treatment systems and private wells.

### **§ 401.3. Uses**

1. Tables 4.1 and 4.2 list land uses and indicate whether they are permitted, permitted with standards, conditional, interim, or prohibited. The tables also include references as to whether additional use-specific standards are applicable to each use.
2. The following shall be referenced when using Tables 4.1 and 4.2:
  - A. Permitted Use: A “P” indicates that a use is allowed by right, subject to compliance with all other applicable provisions of this Ordinance.
  - B. Permitted with Standards Use: A “PS” indicates that a use is allowed when standards identified in Division 500 Use-Specific Standards are met. Uses permitted with standards are also subject to all other applicable provisions of this Ordinance. Any request to vary from the standards set forth for a PS use shall be processed as a variance.
  - C. Conditional Use: A “C” indicates that a use is allowed only if a conditional use permit is issued by the city after compliance with the procedure and requirements set forth in Section 804 Conditional Use Permit (CUP). Conditional uses are also subject to all other applicable provisions of this Ordinance.
  - D. Interim Use: An “I” indicates that a use may be allowed for a limited period of time if an interim use permit is issued by the city after compliance with the procedure and requirements set forth in Section 805 Interim Use Permit (IUP). Interim uses are also subject to all other applicable provisions of this Ordinance.
  - E. Prohibited Use: A blank cell in the use table indicates that the land use is prohibited in that zoning district.

3. In any district, whenever a use is neither specifically listed nor described, the use shall be considered prohibited. The Zoning Administration Staff may determine if a proposed use is consistent by type, intensity, physical characteristics, style, size, and purpose with any use listed in Tables 4.1 and 4.2.
  - A. If found to be consistent with a listed use, the proposed use shall be treated the same as the listed use.
  - B. If the proposed use is not found to be consistent with any listed use, the Council, Planning Commission, or property owner may request an amendment to this Chapter to provide for the proposed use.

Table 4.1 Principal Uses in SFR, SFU, and LI Districts

Principal Use	Zoning District			Use Standards Reference
	SFR	SFU	LI	
<b>Residential Uses</b>				
Dwelling, single unit detached	P	P		
Dwelling, manufactured home	P	P		
Residential care facility, (6 or fewer persons)	P	P		
<b>Public/Institutional Uses</b>				
Cemetery	P	C		
Day care facility	P	P		
Municipal government and utility building	P	C	C	
Park, playground, or open space	P	PS		See Section 501
Place of worship	C			See Section 501
School	C	P		See Section 501
<b>Commercial</b>				
Business, office			P	
Business, retail			P	
Business, service			P	
Cannabis retail business			PS	See Chapter 32
Lower potency hemp edible retail business			PS	See Chapter 32
<b>Industrial</b>				
Business, manufacturing			P	
Cannabis manufacturing			P	
Contractor shop			P	
Lower potency hemp edible manufacturing			P	

Principal Use	Zoning District			Use Standards Reference
	SFR	SFU	LI	
Public utility building			P	
Public vehicle garage			P	
Railroad storage and switching yards and rail lines			C	
Warehouse			P	
<b>Agriculture and Open Space</b>				
Agriculture	C	C		See Section 501
Cannabis cultivation, indoor			I	See Section 501
Cannabis cultivation, outdoor	I			See Section 501
Conservancy	P	P	P	
Commercial animal boarding	C			See Section 501
<b>Utilities and Transportation</b>				
Cannabis transportation and delivery			P	
Essential services	P	P	P	
Small wireless facility	C	C	C	See Section 501
Telecommunication tower facility	C	C	C	See Section 501
Transportation or freight terminal			P	
<b>Miscellaneous</b>				
Planned unit development (PUD)	C	C		See Section 501

Table 4.2 Accessory Uses in SFR, SFU, and LI Districts

Accessory Use	Zoning District			Use Standards Reference
	SFR	SFU	LI	
Accessory living space	C	C		See Subsection 502.1
Accessory structure	PS	PS	PS	See Subsection 502.2
Accessory structure for residential purposes	C	C		See Subsection 502.3
Antenna	C	C	C	See Subsection 502.5
Bulk storage (liquid)			C	See Subsection 502.6
Carport	P			
Commercial animal boarding	PS			See Section 501

Accessory Use	Zoning District			Use Standards Reference
	SFR	SFU	LI	
Day care, group family	P	P		See Subsection 502.7
Gardening and other horticulture use	P	P	P	
Home occupation	PS	PS		See Subsection 502.8
Keeping of chickens	PS	PS		See Subsection 502.9
Maintenance, facility, and storage buildings owned and operated by property associations on lots without a principal structure	C	C		
Off street loading space			P	
Off street parking space	P	P	P	
Open and outdoor storage			C	See Subsection 502.10
Recreational equipment	P	P		
Recreational vehicle and equipment storage	PS	PS		See Subsection 502.12
Sacred community	PS			See Subsection 502.13
Seasonal produce stand	C			See Subsection 502.14
Solar energy system	PS	PS	PS	See Subsection 502.15
Uses customarily associated with and incidental to a principal use	P	P	P	

#### § 401.4. Dimensional Standards

##### 1. Lot Dimensions

A. Table 4.3 establishes the minimum lot area and lot width requirements for each zoning district.

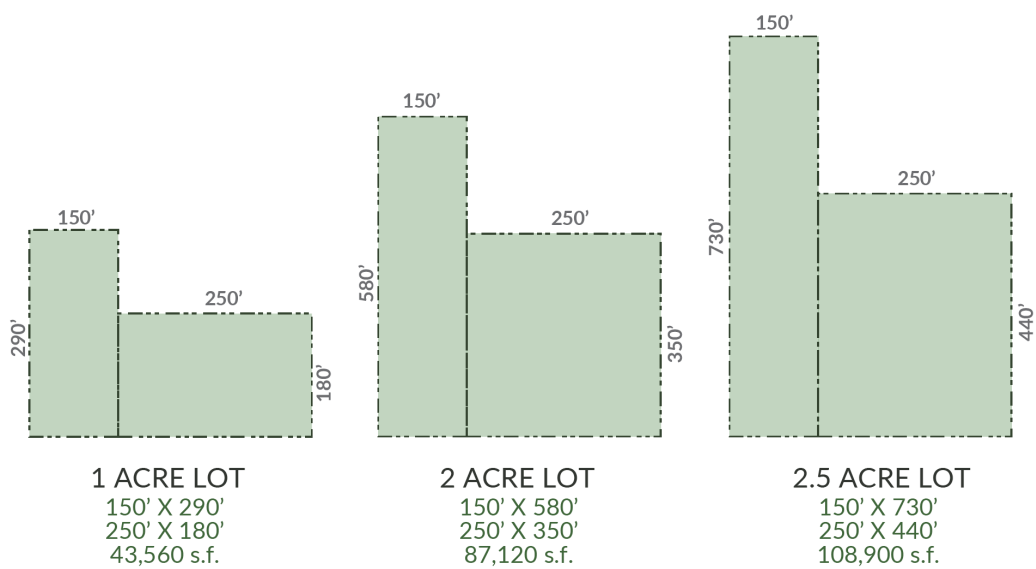
Table 4.3. Lot Dimension Table

Zoning District	Minimum Lot Area	Minimum Lot Width
SFR <sup>1</sup>	5 acres	250 ft.
SFU	30,000 sq. ft.	100 ft.
LI	N/A	N/A

<sup>1</sup> The City encourages clustering of lots within the SFR District. Clustered lots shall have a lot area between 1 and 5 acres and a lot width between 150 feet and 250 feet. Larger lots for agricultural use, farms, hobby farms, or horse boarding may be approved by conditional use permit. See Figure 4.1 for lot size

examples. If clustering is not used, then lots shall meet the minimum lot area and lot width as stated in this table.

Figure 4.1. Lot area to lot width comparisons for one (1) acre, two (2) acre, and two and one half (2.5) acre lots, using rectangular lot configurations.



2. Site Dimensions

- A. All site dimension standards listed in this Section are subject to the exemptions listed in Section 304 General Yard Requirements.
- B. Table 4.4 establishes the minimum site dimension standards for each zoning district.

Table 4.4. Site and Height Dimension Table

	Minimum Setback (ft.)	

Zoning District	Road ROW	Interior Side	Corner Side	Rear	Maximum Height (ft.)
SFR	State Highway: 50 County Road: 40 City Street: 40 min, 80 max	20	40	50	35
SFU	30 <sup>1</sup>	10	30	25	35
LI <sup>2</sup>	100	15	100	30	45
<p><sup>1</sup> An average setback may be used in a block where two (2) or more residences have been erected facing the same street. In that case, the setback for the remaining lots in that block fronting on the same street shall be determined by using the average setback of the existing residences.</p> <p><sup>2</sup> No building shall be located within 50 feet of any rear lot line abutting a lot in any residential or agricultural district.</p>					

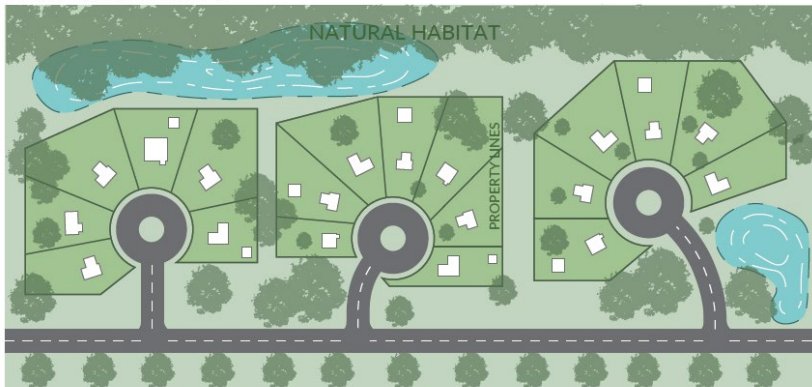
**§ 401.5. SFR District Standards**

1. Density.
  - A. The maximum permitted density within the district shall be one (1) lot per five (5) acres. In order to calculate the maximum permissible number of lots within a tract, the total gross tract acreage is multiplied by 0.20 and the result, if a fraction, is rounded down to the nearest whole number.
  - B. All development within SFR Zoning Districts shall be subject to planning for cluster development, as defined in Division 200 Definitions. See Figure 4.2.
2. Neighborhood Configuration.
  - A. It is the intention of the SFR District to promote neighborhood development which offers a variety of lot sizes, configurations, topography, and affordability. Evaluation and subdivision approval by the City Council shall be subject to demonstration by the applicant that the proposed development plan provides a cohesive neighborhood(s) in a site design appropriate to the location of common open spaces.
  - B. Development of neighborhood clusters is encouraged in locations which minimize the visual impact of the development on the landscape to the greatest extent reasonably possible.
  - C. In order to establish a cohesive neighborhood unit, residential lots shall be located in a neighborhood cluster. A neighborhood cluster shall include a minimum of five (5) lots or 25 percent of the allowable number of lots on the parcel to be subdivided, whichever is greater. An efficiency of land utilization and community development should be encouraged by maximizing the number of lots in any one cluster development, while adhering to the underlying density and open space requirements of this Ordinance.

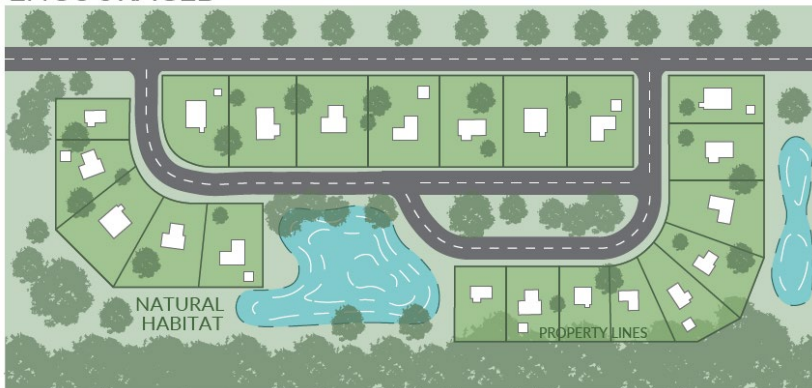


Figure 4.2. Examples of development patterns which are discouraged and encouraged in the SFR District.

DISCOURAGED



ENCOURAGED



- D. A neighborhood cluster shall be oriented toward an identifiable feature which all residential units share in common. See Figures 4.3 through 4.6. Neighborhood identity may be established by one or more of the following features:
- I. Viewshed. The lots of a neighborhood may be arranged such that a majority of the principal structures will take visual advantage of a field, wetland, woods, lake, stream, or other open space which could be described as a viewshed.
  - II. Physical Amenity. The lots of a neighborhood may be arranged such that a majority of the principal structures will face a green, playground, ball field, rock out cropping, stand of trees, place of worship, school, or other physical feature unique to that particular neighborhood.
  - III. Streetscape. The lots may be arranged such that the principal structures will face a streetscape enhanced with landscaping, street trees, boulevards, medians, or other landscaping techniques appropriate to the City's street design standards.

Figure 4.3. An example neighborhood cluster oriented toward a viewshed or a physical amenity.

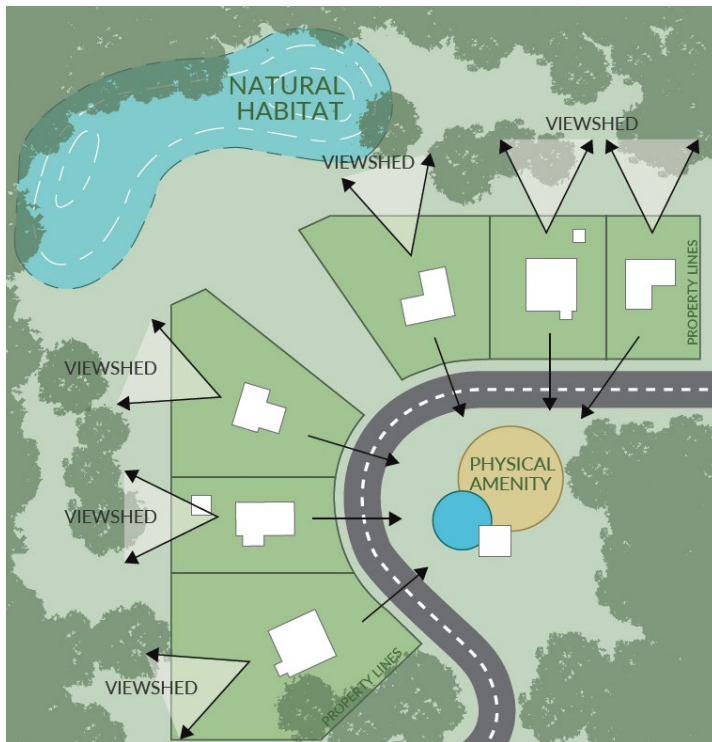


Figure 4.4. An example neighborhood cluster oriented toward common green space and streetscape.

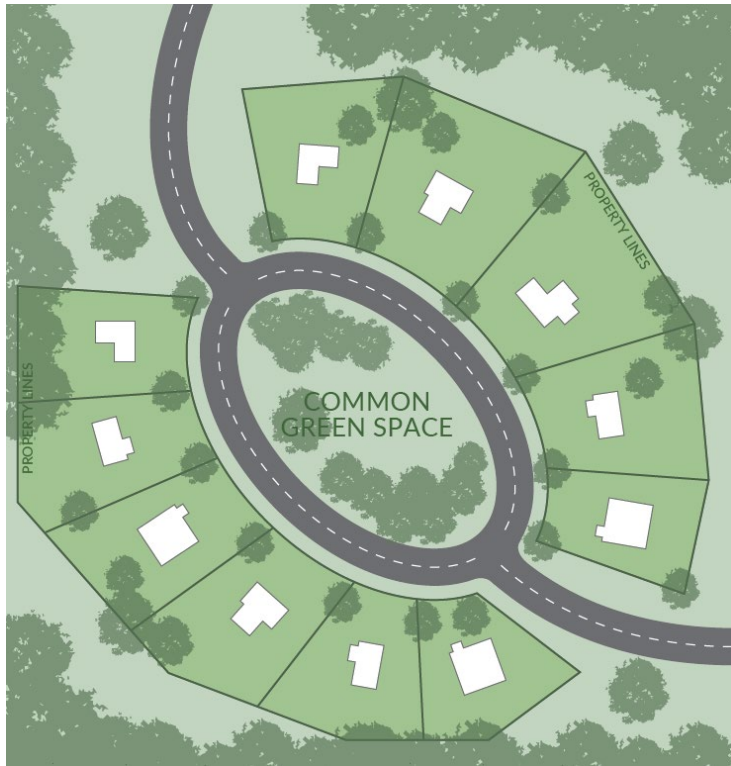


Figure 4.5. An example neighborhood cluster oriented toward a corner park or green streetscape.

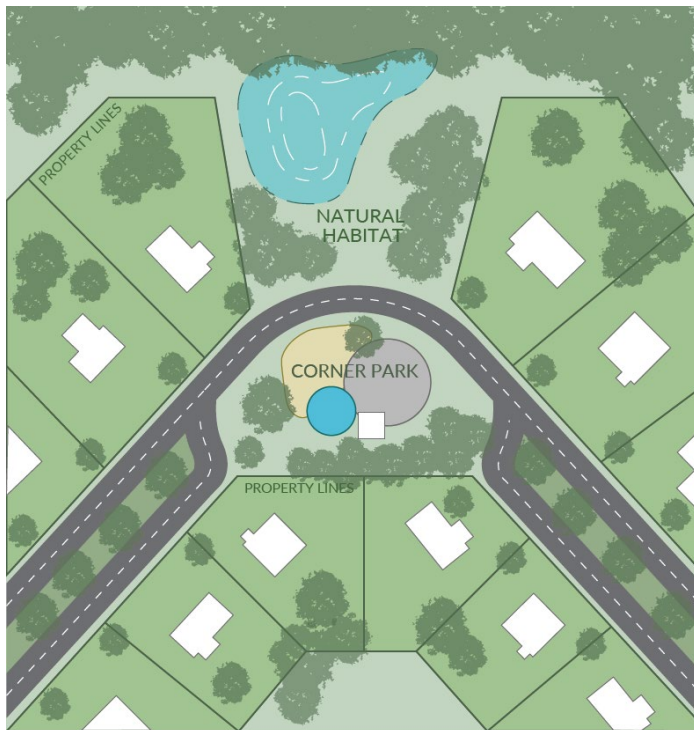
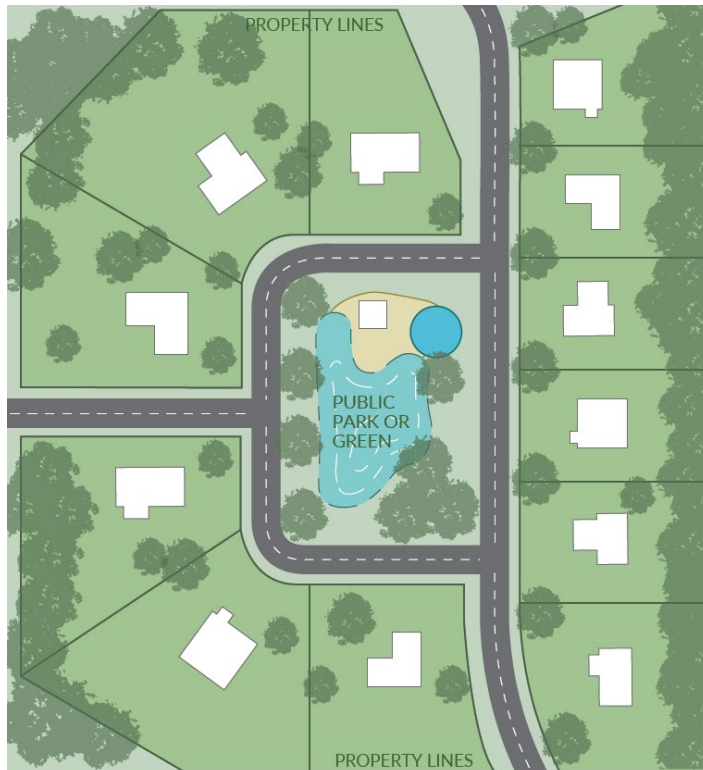
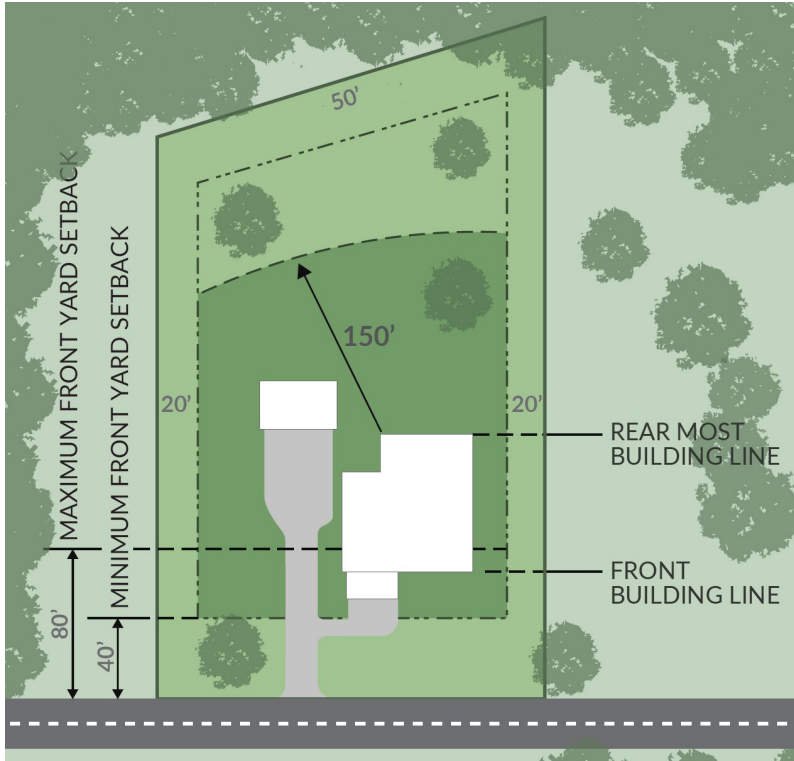


Figure 4.6. An example neighborhood cluster oriented toward a park or green at an intersection.



- E. The principal and accessory structures on private lots, as well as the structures of neighborhood recreation open spaces, are encouraged to convey a particular architectural style through use of similar building components, materials, roof pitches, landscaping, and/or other construction techniques.
- F. Building Envelope Regulations
  - I. The principal structure shall dictate the area and location of the building envelope (see Figure 4.7 Building Envelope).
  - II. The building envelope consists of an area bounded by the front and side yard setbacks and within 150 feet from the rear-most building line of the principal structure.
  - III. Building envelopes shall not encroach on viewsheds, ridge lines, slopes in excess of 18 percent, wetlands, wetland transition areas, and floodplains.
  - IV. Detached accessory buildings exceeding 100 square feet in area shall be located:
    - a. Within the building envelope
    - b. Behind the rear-most building line of the principal structure
    - c. Within the side and rear setbacks identified in Provision 401.4.2.
  - V. Detached accessory buildings less than 100 square feet in floor area may be located outside the building envelope, behind the principal building, and within the required setback distances.
  - VI. Septic drainfields and water wells may be located outside the building envelope, but within the setback distances described in Provision 401.4.2.

Figure 4.7. Building Envelope



G. Driveways

- I. Driveways may be located outside the building envelope.
- II. Paving shall be required in areas where the driveway grade is in excess of six (6) percent.

H. Landscaping and Lawns

- I. On individual lots, existing native vegetation shall be preserved to the extent reasonably possible.
- II. The use of native species shall be encouraged where landscaping enhancement is proposed.
- III. The location and siting of structures shall be done in accordance with Section 607 Tree and Woodland Preservation.

3. Open Space Standards.

A. It is the intention of this Ordinance to promote common open space development which provides a unified landscape for the use and enjoyment of the neighborhood community. Evaluation and subdivision approval by the City Council shall be subject to demonstration by the applicant that the proposed development plan provides common open spaces in a site design appropriate to the location of building lots.

B. Area Regulations.

- I. A minimum of 50 percent of land subdivided for development shall be dedicated to open space consisting of natural habitat, neighborhood recreation, and/or pedestrian corridor open space, as defined in Section 202 General Definitions. See Figure 4.8 Open Space.
- II. All designated open space shall be platted as outlot parcels held as open space in perpetuity in accordance with Provision F Ownership and Management below.



- III. Each open space outlot shall be classified as natural habitat, neighborhood recreation, or pedestrian corridor open space as shown in Figure 4.9, and shall conform to the type of use, location criteria, and deed restrictions of that classification.

Figure 4.8 Open Space

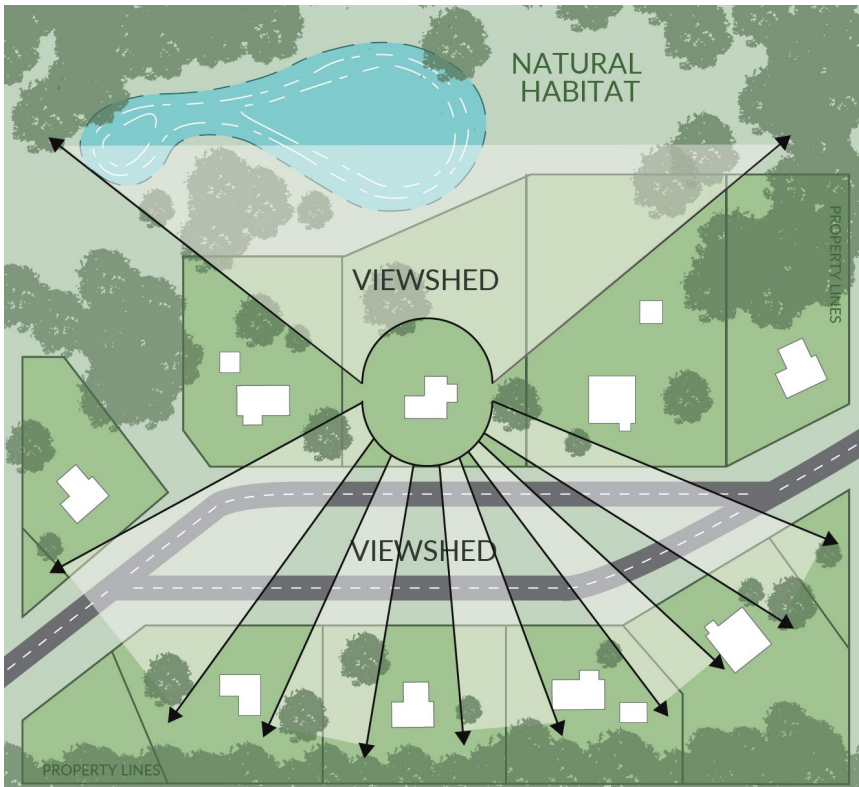


Figure 4.9. Natural habitat, pedestrian corridor and neighborhood recreation open spaces are located on the development site according to their type of use.



- C. Location Criteria. Open space outlets shall be located on the development site according to the following locational criteria:
- I. Viewsheds. The open space outlots shall preserve the maximum quantity of viewshed open space for the anticipated homesite lots on the development tracts. See Figure 4.10.
  - II. Natural Habitat. The development shall preserve the maximum quantity of natural habitat open spaces in a contiguous, connected configuration. Natural habitat open spaces may include, but are not limited to fields, wetlands, slopes, bluffs, dense woods, lakes, ponds, streams, shorelands, and other environmentally sensitive areas.
  - III. Pedestrian Corridors. The development shall locate pedestrian corridor open spaces in strategic places such that larger open space outlots and designated places of destination both on the development tract and adjacent tracts are connected with one another. Pedestrian corridor open spaces may include, but are not limited to established regional trails, local pathways, paved walkways, and shorelines. Pedestrian corridor outlots shall be a minimum of 20 feet in width.
  - IV. Neighborhood Recreation. The development shall locate neighborhood recreation open spaces such that they are an integral part of the neighborhood of surrounding homesites, at an elevation appropriate to their intended recreational use, defined by coherent boundaries, and accessible to all neighborhood residents. Neighborhood recreation open spaces may include, but are not limited to greens, commons, playgrounds, ball fields, gardens, or other recreational areas.

Figure 4.10. Viewsheds are directional open space vistas from a homesite and between tree stands and other neighborhood buildings.

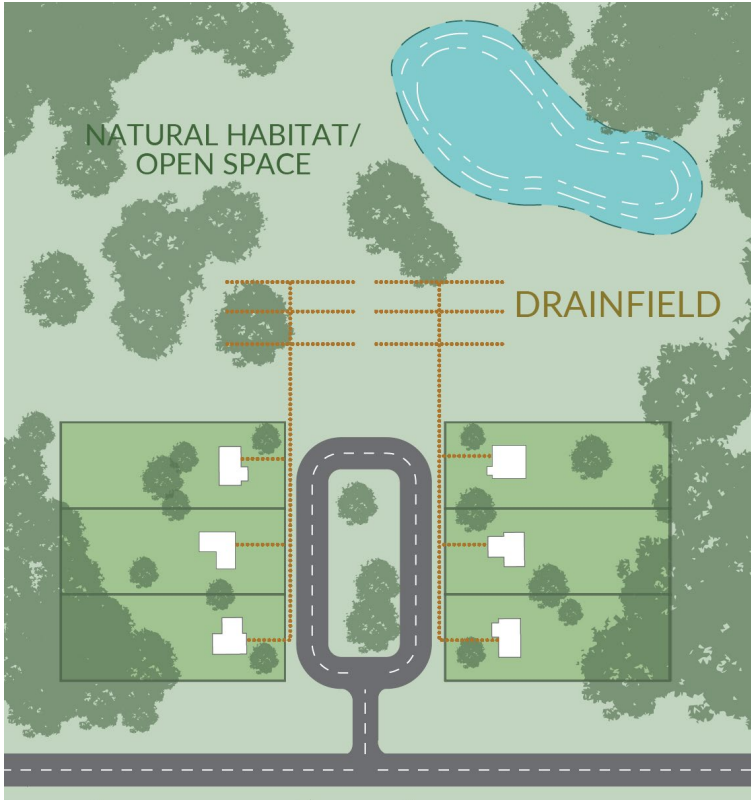


4. Roadways.
  - A. All new roadways shall be constructed and maintained in compliance with Section 705 of the Subdivision Ordinance for the City of Marine on St. Croix.
  - B. Local streets should be so planned as to discourage their use for regional traffic. Streets shall connect with one another. Dead-end streets are prohibited, and cul-de-sacs shall be permitted only where topography or other physical conditions justify their use.
5. Storm Water Management. Storm water management techniques shall be consistent with Section 608 Grading and Drainage with the following additions:
  - A. All retention basins shall resemble natural ponds to the maximum extent possible.
  - B. Basin landscaping shall include indigenous plants and landscaping materials.
6. Utilities.
  - A. All new subdivisions may be platted to accommodate homesite lots with either individual or communal septic systems.
  - B. All septic systems shall conform to the performance standards of the Marine on St. Croix Sewer Use Ordinance No. 72.
  - C. A certified inspector designated by the City shall review all subdivision proposals for suitability of platted lots to accommodate individual and/or communal septic systems that include back-up drain fields.
  - D. Communal domestic sewage treatment systems may be used as an alternative to individual sewage treatment systems. See Figure 4.11.



- E. Communal drainfields shall be installed at two times capacities of all homes sharing the system and sufficient area for a back-up drain field shall be reserved.
- F. Communal septic systems may have all or a portion of their required drainfields in natural habitat open spaces provided:
  - I. The ground cover is restored to its natural condition after installation.
  - II. Recreational uses are prohibited above or within 50 feet of their installation.
- G. All homesite lots shall accommodate an on-site or an approved communal water well.
- H. All utility, power, and cable service lines shall be installed below grade unless permitted otherwise by the City Council upon evaluation of demonstrated hardship.

Figure 4.11. Communal septic systems may have all or a portion of their required drainfields in natural habitat open spaces.



7. Homeowners Association. A homeowners association shall be established with bylaws and deed restrictions which include, but are not limited to, the following:
  - A. To provide maintenance for open spaces owned in common.
  - B. To provide maintenance for shared private facilities.
  - C. To establish and maintain architectural guidelines for principal structures, accessory structures, and structures built on open space outlots.
  - D. Accessibility. Open spaces shall be accessible to pedestrians at no less than 1,200-foot intervals along public roadways. Where necessary, pedestrian access corridor outlots between private lots shall be at least 20 feet in width.
  - E. Deed Restrictions. Each open space outlot shall conform to the deed restrictions associated with its open space classification.
    - I. Natural habitat open spaces shall be considered conservation easements and are for the responsible use and enjoyment of adults and children. Construction in these areas shall be limited to trails (paved or unpaved), open air structures, bridges, benches, bird houses, wood fencing, and communal drainfields.
    - II. Pedestrian corridor open spaces shall be used for pedestrian, bicycle, and/or equestrian travel. Except for maintenance vehicles, motorized vehicles shall be prohibited. Construction in these areas shall be limited to gravel or paved pathways, wood fencing, and landscape planting.
    - III. Neighborhood recreation open spaces shall be used for active or passive recreational purposes, including gardening. Construction in these areas shall be limited to gravel or

paved walkways, open air structures, bird houses, bridges, garden storage sheds no larger than 120 square feet, wood fencing, landscape planting, play equipment, outdoor furniture, and facilities for active recreation.

- IV. Habitable structures shall not be permitted in any open space outlot.
- F. Ownership and Management. Each designated open space outlot shall be owned and managed as set forth below, subject to City Council approval.
  - I. Open space may be owned in common by the property owners of the subdivision. In the case where at least one (1) outlot of open space is held in common ownership, a homeowner association shall be established for that subdivision and membership in the association by all property owners in the subdivision shall be mandatory. Management shall be the responsibility of that subdivision's homeowner association.
  - II. Open space may be deeded to an established land trust. Management shall be the responsibility of the land trust. Maintenance may be performed by the neighborhood homeowner association, through written agreement between the association and the land trust.
  - III. Open space may be deeded to the City of Marine on St. Croix at the discretion of the City Council. Management shall be the responsibility of the City.
  - IV. Open Space may be protected by establishing conservation restrictions in perpetuity in favor of the City as provided in Minnesota Statutes 84.64-84.65. Unless the document establishing the restrictions specifically provides to the contrary, the City shall have no responsibility for the maintenance or management of the area subject to the restrictions. The form and content of the deed or other instrument establishing the restrictions must be approved by the City prior to the execution and delivery thereof. Notwithstanding any provision of this Ordinance to the contrary, the City may, in cases where conservation restrictions are utilized to meet open space dedication requirements of this ordinance, waive the requirement that the area subject to the restrictions be platted as a separate outlot.

#### **§ 401.6. Neighborhood Service Overlay District**

- 1. Purpose. This district is created for the purpose of preserving congruent and compatible uses in the Single Family Urban District and for the following additional purposes:
  - A. To provide that land and buildings which have been historically integrated in and providing service directly to the residents of the adjoining neighborhood continue to be put to compatible uses; and
  - B. To avoid disruption to longstanding development patterns and neighborhood uses.
- 2. Uses. The following uses are the only permitted uses within the Neighborhood Service Overlay District and shall meet all applicable use-specific standards in Division 500:
  - A. Principal Uses
    - I. Dwelling, single-unit detached
    - II. Government buildings and structures, including police and fire stations, public works facilities
    - III. Park, playground, or open space
    - IV. Place of worship

- V. School
- B. Accessory Uses
  - I. Accessory structure
  - II. Home occupation
  - III. Gardening and other horticultural use
  - IV. Recreational equipment
- 3. The dimensional standards established in Section 401.4 Dimensional Standards for the SFU District shall apply.
- 4. Parking of Class 4-8 vehicles on public streets is permitted within this district.

## Section 402. Lower St. Croix River District

### § 402.1. Generally

#### 1. Intent and Purpose

This district is created for the purpose of protecting the natural resources and natural scenic values of land within the boundaries of the Lower St. Croix Riverway and for the following additional purposes:

- A. Designating suitable land use districts: along the bluffland and shoreland of the Lower St. Croix River.
  - B. Regulating lot sizes, and the length of bluffland and water frontage suitable for building sites.
  - C. Regulating the setback of structures and sanitary waste treatment facilities from blufflines to protect the existing and/or natural scenic values, vegetation, soils, water, and bedrock from disruption by man-made structures or facilities.
  - D. Regulating the setback of structures and sanitary waste treatment facilities from shorelines to protect the natural scenic value, floodplain, and water quality.
  - E. Regulating alterations of the natural vegetation and topography.
  - F. Conserving and protecting the natural scenic values and resources of the river valley and maintaining a high standard of environmental quality to comply with Minnesota Department of Natural Resources Standards and Criteria for the Lower St. Croix National Scenic Riverway (Minn. R. 6115.0351-0550).
  - G. Preserving the historic character, values, and significance represented in the City of Marine on St. Croix.
2. Definitions. The following definitions apply within the Lower St. Croix River District. Any terms not defined within this section shall have the meaning ascribed to them in Division 200 Definitions unless the context clearly indicates or requires a different meaning.
- A. **Appurtenance.** A structure subordinate to and serving the principal structure on the same lot and customarily incidental thereto such as garages, decks, patios, essential services, signs, docks, and stairways and lifts, except that appurtenance does not include private water supply and sewage and waste disposal systems below the ground.
  - B. **Bluffline.** A line along the top of a natural slope connecting the points at which the slope, proceeding away from the river or adjoining watershed channel, becomes less than 12 percent; except that bluffline does not include the tops of slopes not visible from the river assuming no vegetation cover or the tops of slopes associated with minor undulations,

provided that the construction and presence of any proposed structure near the tops of such slopes will not cause erosion and that the structure will not be visible from the river or any watercourse tributary to the river. The location of the bluffline for any particular property shall be certified by a registered land surveyor or the Zoning Administration Staff. More than one bluffline may be encountered proceeding away from the river or adjoining watershed channel. All setbacks required herein shall be applicable to each bluffline.

- C. **Building line.** A line measured across the width of the lot at that point where the principal structure is placed in accordance with setback provisions.
- D. **Dwelling unit.** A residential accommodation which is arranged, designed, used, or intended for use exclusively as living quarters for one family.
- E. **Lot, substandard.** A lot or parcel of land for which a deed has been recorded in the office of the Washington County Recorder upon or prior to the effective date of this Ordinance which does not meet the minimum lot area, structure setbacks, or other dimensional standards of this Ordinance.
- F. **Marina.** An area of concentrated small craft mooring, when ancillary facilities may be provided for some or all of such services as fueling, sewage pump out, boat launching, boat repair, and boat storage; except that marina does not mean temporary docks associated with riparian residential development if the mooring area is of a size not to exceed the resource limitations of the site and the needs of the residents of the development.
- G. **Nonconforming use.** Any use of land established before May 1, 1974 which does not conform to the use restrictions of a particular zoning district. This should not be confused with substandard dimensions of a conforming use.
- H. **Planned cluster development.** A pattern of subdivision development which places dwelling units into compact groupings while providing a network of commonly owned or dedicated open space.
- I. **Riverway boundary.** A legally described line delineating the landward extent of the Saint Croix Riverway.
- J. **Saint Croix riverway.** All lands and public waters within the riverway boundary subject to the Standards and Criteria for the Lower St. Croix National Scenic Riverway in Minnesota.
- K. **Saint Croix riverway ordinance.** Saint Croix riverway ordinance. a set of rules and any amendments thereto, adopted by a local unit of government in accordance with the standards and criteria for the Lower Saint Croix National Scenic Riverway, which regulates the use of land within any particular rural or urban district.
- L. **Screening.** The presence of vegetation or topography which makes any structure on any property visually inconspicuous in summer months as viewed from the river.
- M. **Setback.** The minimum horizontal distance between any part of a structure and the ordinary high water level (OHW) or a bluffline.
- N. **Slope.** All lands between the ordinary high water level (OHW) and the riverway boundary having an angle of ascent or descent of more than twelve (12) percent from the horizontal.
- O. **Structure.** Any building or appurtenance thereto, except transmission services.
- P. **Substandard structure.** Any structure established before May 1, 1974 which is permitted within a particular zoning district but does not meet the structure setbacks or other dimensional standards of this ordinance.

- Q. **Transmission services.** Electric power, telephone, and telegraph lines, cables, and conduits that are used to transport large blocks of power, convey intelligence, or transport material between two points. In the case of electrical power, this will generally mean 69 kilovolts or more. For mains or pipelines, this means those conduits used to transport large amounts of gas, liquids, or solids in suspension. This should not be confused with distribution lines, cables, and conduits used to provide power, water, gas, or other essential services to utility company customers.
  - R. **Variance.** Any modification or variation of the dimensional standards of a Saint Croix Riverway ordinance where it is determined that, because of hardships, strict enforcement of the ordinance is impractical.
  - S. **Visually inconspicuous.** Difficult to see or not readily noticeable in summer months as viewed from the river.
3. Nonconforming Uses
    - A. All prohibited uses which were in existence prior to May 1, 1974 are considered nonconforming uses and shall not be enlarged or expanded.
  4. Substandard Structures
    - A. All structures on lots within the Lower St. Croix River zoning district that were in existence prior to May 1, 1974 which do not meet the structure setbacks or other dimensional standards of this Section shall be considered substandard.
    - B. Substandard structures shall be allowed to continue. The following exceptions to the setback standards contained in this Section for existing substandard structures are allowed, provided in no instance shall the extent to which any structure violating a setback standard be increased.
      - I. An extension, enlargement, or alteration of an existing substandard structure may be permitted on the side of the structure facing away from the river and/or bluffline.
      - II. An extension, enlargement, or alteration of an existing substandard structure may be permitted laterally on the side of the structure facing toward the river and/or bluffline, provided that such improvement is visually inconspicuous in summer months as viewed from the river.
      - III. Exterior decks attached to the structure may be permitted to extend laterally at the same setback as the substandard structure if such deck is visually inconspicuous in summer months as viewed from the river and provided the deck has no roof or building foundation.
      - IV. Substandard structures which do not meet the bluffline and/or OHW setbacks shall not be raised in elevation or roofline, except in floodplain areas and then only to protect the structure.
      - V. If a structure needs to be replaced due to destruction, deterioration, or obsolescence, such replacement shall comply with the dimensional standards of this Section unless a variance following the procedures in Section 806 is approved.
  5. Substandard Lots
    - A. A lot or parcel of land for which a deed has been recorded in the Office of the Washington County Recorder on or prior to May 1, 1974, is deemed a buildable lot without variances provided all of the following criteria are met:

- I. The lot has frontage on a maintained public right-of-way, maintained by Washington County or other unit of government, or frontage on a private road established and of record in the Office of the Washington County Recorder prior to May 1, 1974;
  - II. It can be demonstrated that a proper and adequate sewage disposal system can be installed; and
  - III. The pre-existing lot area dimensions meet or exceed 60 percent of the requirements for a new lot in the same district.
- B. If in a group of contiguous lots under a single ownership, any individual lot does not meet the minimum requirements of this Ordinance, such individual lot cannot be considered as a separate parcel of land for purposes of development, but must be combined with adjacent lots under the same ownership so that the combination of lots will equal one (1) or more parcels of land, each meeting the minimum requirements of this Ordinance.

**§ 402.2. Subdistricts**

- 1. Application. The provisions of this Section shall apply to the following subdistricts:
  - A. St. Croix – Rural Residential District (SC-RR)
  - B. St. Croix – Urban Residential District (SC-UR)
  - C. St. Croix – Village Center District (SC-VC)
- 2. District Boundaries
  - A. The boundaries of the Lower St. Croix Riverway include all of the land riverward of the legally described boundary line in the official copy of the Lower St. Croix National Scenic Riverway Master Plan and as shown on the map designated as the City of Marine on St. Croix official zoning map.
  - B. The boundaries of the Lower St. Croix River District include all of the areas as shown on the City of Marine on St. Croix official zoning map on file with the City Zoning Administration Staff.
- 3. Uses
  - A. Tables 4.5 and 4.6 list land uses and indicate whether they are permitted, permitted with standards, conditional, interim, or prohibited. The tables also include references as to whether additional use-specific standards are applicable to each use.
  - B. The following shall be referenced when using Tables 4.5 and 4.6:
    - I. Permitted Use: A “P” indicates that a use is allowed by right, subject to compliance with all other applicable provisions of this Ordinance.
    - II. Permitted with Standards Use: A “PS” indicates that a use is allowed when standards identified in Division 500 are met. Uses permitted with standards are also subject to all other applicable provisions of this Ordinance. Any request to vary from the standards set forth for a PS use shall be processed as a variance.
    - III. Conditional Use: A “C” indicates that a use is allowed only if a conditional use permit is issued by the city after compliance with the procedure and requirements set forth in Section 402.2 (F). Conditional uses are also subject to all other applicable provisions of this Ordinance.
    - IV. Interim Use: An “I” indicates that a use may be allowed for a limited period of time if an interim use permit is issued by the city after compliance with the procedure and

requirements set forth in Section 402.2 (G). Interim uses are also subject to all other applicable provisions of this Ordinance.

- V. Prohibited Use: A blank cell in the use table indicates that the land use is prohibited in that zoning district.
- C. In any district, whenever a use is neither specifically listed nor described, the use shall be considered prohibited. The Zoning Administration Staff may determine if a proposed use is consistent by type, intensity, physical characteristics, style, size, and purpose with any use listed in Tables 4.5 and 4.6.
  - I. If found to be consistent with a listed use, the proposed use shall be treated the same as the listed use.
  - II. If the proposed use is not found to be consistent with any listed use, the Council, Planning Commission, or property owner may request an amendment to this Chapter to provide for the proposed use.

Table 4.5 Principal Uses in SC-RR, SC-UR, and SC-VC Districts

Principal Use	Zoning District			Use Standards Reference
	SC-RR	SC-UR	SC-VC	
<b>Residential Uses</b>				
Dwelling, single unit detached	P	P		
Residential care facility, (6 or fewer persons)	P	P		
Commercial mixed use			C	See Section 501
<b>Public/Institutional Uses</b>				
Child care center			C	
Library			P	
Municipal government and utility buildings	C	C	P	
Park, playground, or open space	P	PS	P	See Section 501
Place of worship	C	C	P	See Section 501
School			C	
<b>Commercial</b>				
Adult use			C	See Section 501
Auto service station			C	See Section 501
Business, office			P	
Business, retail			P	
Business, service			P	



Principal Use	Zoning District			Use Standards Reference
	SC-RR	SC-UR	SC-VC	
Cannabis retail business			I	See Chapter 32
Lower potency hemp edible retail business			I	See Chapter 32
Existing restaurant or tavern		P	P	
Restaurant or tavern			P	
<b>Agriculture and Open Space</b>				
Agriculture	C	C		See Section 501
Cannabis cultivation, outdoor	I			See Section 501
Conservancy	P	P	P	
<b>Utilities and Transportation</b>				
Essential services	P	P	P	
Small wireless facility	C	C	C	See Section 501
Telecommunication tower facility	C	C	C	See Section 501
<b>Miscellaneous</b>				
Planned cluster development	C			See Subsection 402.3.6

Table 4.6 Accessory Uses in SC-RR, SC-UR, and SC-VC Districts

Accessory Use	Zoning District			Use Standards Reference
	SC-RR	SC-UR	SC-VC	
Accessory living space		C		See Subsection 502.1
Accessory structure	PS	PS	PS	See Subsection 502.2
Adult use			C	See Section 501
Animal boarding	PS			See Subsection 502.4
Antenna	C	C	C	See Subsection 502.5
Day care, group family	C	C		See Subsection 502.7
Gardening and other horticulture use	P	P	P	
Home occupation	C	C		See Subsection 502.8
Off street loading space			P	
Off street parking space	P	P	P	
Open and outdoor storage			C	See Subsection 502.10

Accessory Use	Zoning District			Use Standards Reference
	SC-RR	SC-UR	SC-VC	
Outdoor dining area		C	C	
Outdoor sales			C	See Subsection 502.11
Recreational equipment	P	P		
Sacred community	C	C	C	See Subsection 502.13
Seasonal produce stand	PS			See Subsection 502.14
Solar energy system	C	C	C	See Subsection 502.15
Use customarily associated with and incidental to the permitted uses	P	P	P	

D. Conditional Uses

- I. In addition to the applicable use specific standards listed in Division 500, every conditional use shall meet the following standards:
  - a. The use is consistent with the City’s Comprehensive Plan and the intent of the City Code.
  - b. The use is compatible with the existing land uses in the surrounding area.
  - c. A parking layout shall be included with the site plan to demonstrate that the required off-street parking for the use will be met.
  - d. A landscaping plan for the site is illustrated which minimizes the visual impact of the project as viewed from the river.
  - e. An on-site grading and surface water run-off plan for the site which minimizes soil erosion and degradation of surface water quality.
  - f. The project requires no alteration or fill of shoreline, bluffland, or floodway.
  - g. In sewerred areas, public sewer will service the project.
  - h. No lighted or flashing signs shall face riverward.

E. Interim Uses

- I. At the discretion of the City Council, any listed principal or accessory use may be granted as an Interim Use Permit (IUP). See the standards for granting Interim Uses in Section 805.

F. Prohibited Uses. The following uses are prohibited:

- I. New or expanded marinas
- II. Outdoor sales lots as a principal use
- III. All uses not authorized in the City’s Saint Croix Riverway ordinance

4. St. Croix – Rural Residential District (SC-RR)

- A. Purpose. The purpose of this district is to set forth standards for rural residential development consistent with the purpose and intent of the Lower St. Croix River District described in Section 507.1.

B. Lot Standards

- I. All lots shall be a minimum of 2.5 acres in area above the OHW.
- II. The minimum lot width for any lot as measured at the building setback line is 200 feet.
- III. The minimum lot width for any lot as measured at the waterline is 200 feet.
- IV. Any lots in the SC-RR district shall be capable of supporting a standard septic treatment system as required in the Marine on St. Croix Sewer Use Ordinance No. 72.

C. Site Standards

- I. Table 4.7 outlines the minimum setbacks, height, and impervious surface requirements for the SC-RR district.

Table 4.7. SC-RR Site Standards

Site Dimension		Requirement
Setbacks (min.)	Front	State Hwy: 50 ft. County Road: 40 ft. City Street: 40 ft.
	Side, interior	20 ft.
	Side, corner	40 ft.
	Rear	50 ft.
	OHW	Structures <sup>1</sup> : 200 ft. On-site sewage treatment system: 200 ft. Controlled vegetative cutting pursuant to Subsection 402.3: 200 ft.
	Bluffline	Structures <sup>1</sup> : 100 ft. On-site sewage treatment system: 40 ft. Controlled vegetative cutting pursuant to Subsection 402.3: 40 ft.
Maximum building height		35 ft.
Maximum impervious surface		20% of the total lot area or 0.5 acre, whichever is less
<sup>1</sup> Seasonal docks, stairways, and lifts are exempt from the OHW and bluffline setback requirements as stated in MN Rules 6105.0380 subpart 5.		

II. Exceptions to the minimum dimensional requirements:

- a. On vacant shoreline lots where adjoining lots contain principal buildings within 200 feet of the OHW, any new principal building may be set back the average setback of the existing principal buildings plus at least 40 feet. This exception shall apply only to substandard lots which do not meet the minimum lot width requirements of Section 402.1(4)(B).

b. In the SC-RR district, structure setback from the bluffline may be located within the 40-100 foot range from the bluffline if the natural appearance of the shoreline, slope, and bluffline is preserved, and only by the granting of a variance in accordance with the procedures of this Ordinance. In the event that such a variance is necessary, the following items shall be conditions of the variance.

- i. The existing drainage patterns shall not be disturbed.
- ii. All construction and grading excavations or disruption of the natural ground cover due to the on-site construction shall be re-sodded or seeded within 180 days of the date of issuance of the building permit.

III. To the greatest extent possible, vegetation over six (6) inches in diameter shall not be removed. No structures, septic tanks, or soil absorption systems shall be placed or grading done on any slopes greater than 12 percent of vertical rise. The physical alteration of slopes shall not be permitted for the purpose of overcoming this limitation.

IV. No structures shall be placed in any floodway.

D. Shoreland Visibility

I. Color of Structures. The exterior color of new structures, including roofs, shall be of earth or summer vegetation tones, unless completely screened from the river during all seasons of the year.

II. The structure shall be visually inconspicuous as viewed from the river during summer months.

III. Stairways and lifts enabling access to the river from steep slopes shall be visually inconspicuous as viewed from the river during summer months.

IV. Only signs which are necessary for public health and safety or which designate areas available or not available for public use shall be allowed within the required OHWL setback.

5. St. Croix – Urban Residential District (SC-UR)

A. Purpose. The purpose of this district is to set forth standards for urban residential development within the Lower St. Croix River District.

B. Lot Standards

I. Lots shall be a minimum of one (1) acre in area above the OHW.

II. The minimum lot width for any lot as measured at the building setback line is 150 feet.

III. The minimum lot width for any lot as measured at the waterline is 150 feet.

IV. Any lots in the SC-UR district shall be capable of supporting a standard septic treatment system as required in the Marine on St. Croix Sewer Use Ordinance No. 72.

C. Site Standards

I. Table 4.8 outlines the minimum setbacks, height, and impervious surface requirements for the SC-UR district.

Table 4.8. SC-UR Site Standards

Site Dimension		Requirement
Setbacks (min.)	Front	30 ft.
	Side	10 ft. for lots with width less than 95 ft. 20 ft. for lots with width 95 ft. or greater
	Rear	25 ft.
	OHW	Structures <sup>1</sup> : 100 ft. On-site sewage treatment system: 100 ft. Controlled vegetative cutting pursuant to Subsection 402.3: 100 ft.
	Bluffline	Structures <sup>1</sup> : 40 ft. On-site sewage treatment system: 40 ft. Controlled vegetative cutting pursuant to Subsection 402.3: 40 ft.
Maximum building height		35 ft.
Maximum impervious surface		20% of the total lot area or 8,700 sq. ft., whichever is less
<sup>1</sup> Seasonal docks, stairways, and lifts are exempt from the OHW and bluffline setback requirements as stated in MN Rules 6105.0380 subpart 5.		

II. Exceptions to the minimum dimensional requirements:

- a. On shoreline lots where adjoining lots contain principal buildings within 100 feet of the OHW, any new principal building may be set back the average setback of the existing principal buildings plus at least 40 feet. This exception shall apply only to substandard lots which do not meet the minimum lot width requirements of Section 402.1.4.B.

III. No structures, septic tanks, or soil absorption systems shall be placed or grading done on any slopes greater than 12 percent of vertical rise. The physical alteration of slopes shall not be permitted for the purpose of overcoming this limitation.

IV. No structures shall be placed in any floodway.

D. Shoreland Visibility.

- I. Color of Structures. The exterior color of new structures, including roofs, shall be earth or summer vegetation tones, unless completely screened from the river during all seasons of the year.
- II. The structure shall be visually inconspicuous as viewed from the river during summer months.
- III. Stairways and lifts enabling access to the river from steep slopes shall be visually inconspicuous.

- IV. Only signs which are necessary for public health and safety or which designate areas available or not available for public use shall be allowed within the required OHWL setback.
6. St. Croix – Village Center District (SC-VC)
- A. Purpose. The purpose of this district is to provide a commercial center for the City and to:
    - I. Maintain commercial activities as the primary role of the Village Center District.
    - II. Have the Village Center serve as the social, cultural and commercial center of the City.
    - III. Promote the Village Center area as the historic center of the City.
    - IV. Allow non-street level residential uses as a supporting use to commercial activities, so long as such uses do not interfere with the commercial uses allowed in the zoning district.
  - B. Lot Standards
    - I. There is no minimum area for lots in the SC-VC district.
    - II. The minimum lot width for any lot as measured at the building setback line is 75 feet.
    - III. The minimum lot width for any lot as measured at the waterline is 75 feet.
    - IV. Any lots in the SC-VC district shall be capable of supporting a standard septic treatment system as required in the Marine on St. Croix Sewer Use Ordinance No. 72.
  - C. Site Standards
    - I. Table 4.9 outlines the minimum setbacks, height, and impervious surface requirements for the SC-VC district.

Table 4.9. SC-VC Site Standards

Site Dimension		Requirement
Setbacks (min.)	Front	0 ft.
	Side	0 ft.
	Rear	0 ft.
	OHW	Structures <sup>1</sup> : 100 ft. On-site sewage treatment system: 100 ft. Controlled vegetative cutting pursuant to Subsection 402.3: 100 ft.
	Bluffline	Structures <sup>1</sup> : 40 ft. On-site sewage treatment system: 40 ft. Controlled vegetative cutting pursuant to Subsection 402.3: 40 ft.
Maximum building height		45 ft.
<sup>1</sup> Seasonal docks, stairways, and lifts are exempt from the OHW and bluffline setback requirements as stated in MN Rules 6105.0380 subpart 5.		

- II. Impervious surface
  - a. Impervious surface coverage of lots developed after June 1, 2001 shall not exceed 75 percent.
  - b. Impervious surface coverage of riparian lots developed after February 14, 2024 shall not exceed 20 percent.
  - c. Lots of record that have been developed up to 100 percent of impervious surface coverage on or before June 1, 2001 shall be considered legally conforming structures/lots.
  - d. Impervious surface may be allowed to exceed 75 percent of the lot upon approval of a conditional use permit provided the measures are taken for the treatment of stormwater runoff and/or prevention of stormwater from directly entering a public water. Measures may include, but are not limited to, the following:
    - i. Install sedimentation basins, debris basins, desilting basins, or silt traps.
    - ii. Install debris guards and microsilt basins on storm sewer inlets.
    - iii. Use oil skimming devices or sump catch basins.
    - iv. Direct drainage into pervious, grasses, yards through site grading, use of gutters and downspouts.
    - v. Construct sidewalks and driveways of partially pervious raised materials such as decking which has natural earth or other previous material beneath or between the planking.
    - vi. Use grading and construction techniques which encourage rapid infiltration, e.g. sand and gravel under impervious materials with adjacent infiltration swales graded to lead into them.
    - vii. Install berms, water bars, or terraces which temporarily detain water before dispersing it into pervious area.
- III. Exceptions to the minimum dimensional requirements:
  - a. On shoreline lots where adjoining lots contain principal buildings within 100 feet of the OHW, any new principal building may be set back the average setback of said adjacent structures plus at least 40 feet. This exception shall apply only to substandard lots which do not meet the minimum lot width requirements of Section 402.1.4.B.
- IV. No structures, septic tanks, or soil absorption systems shall be placed or grading done on any slopes greater than 12 percent of vertical rise. The physical alteration of slopes shall not be permitted for the purpose of overcoming this limitation.
- V. No structures shall be placed in any floodway.
- D. District Performance Standards
  - I. Color of Structures. The exterior color of new structures visible from the river, including roofs, shall be of earth or summer vegetation tones. If completely screened from the river, colors historic to the village of Marine are encouraged.

**§ 402.3. Development Standards**

- 1. Site Preservation. The following standards and criteria are provided to preserve vegetative and topographical screening and to retard runoff, soil erosion, and nutrient loss.

A. Vegetative Cutting

- I. Permit Required. On land within 200 feet of the OHW in rural districts, within 100 feet of the OHW in urban districts, or within 40 feet landward of blufflines and on slopes greater than 12 percent in all districts, cutting of live trees or shrubs is subject to a vegetative cutting permit from the Zoning Administrator. The following activities may be allowed subject to approval by the Zoning Administrator and the standards as shown in Provision III below:
  - a. Cutting, including height reduction pruning, of any trees less than six (6) inches in diameter at a height of four and one-half (4.5) feet above ground;
  - b. The removal of diseased, noxious, or hazardous trees or shrubs, when their removal is in the public interest;
  - c. Cutting for the maintenance of transportation or utility rights-of-way.
- II. No Permit Required. A vegetative cutting permit is not required for the following activities, provided they still meet the standards as shown in Provision III below:
  - a. Clearing the minimum necessary for a validly permitted structure, septic system, roadway, and parking areas.
  - b. Maintenance pruning on a particular parcel or in transportation or utility rights-of-way.
  - c. Clearing on land that is not within 200 feet of the OHW in rural districts, within 100 feet of the OHW in urban districts, on slopes greater than 12 percent or within 40 feet landward of blufflines, provided the vegetation to be cleared is not screening any structure from view from the river.
- III. Standards for Vegetation Removal. The following vegetation management standards apply for all vegetative cutting activities:
  - a. The essential character, quality, and density of existing growth is preserved and continuous canopy cover is maintained;
  - b. Vegetation that is screening any structure from view of the river shall not be removed or pruned, unless the cutting involves diseased, dead, noxious, or hazardous trees and shrubs as provided in Provision I above.
  - c. As a condition of approval, the Zoning Administrator may require a vegetation restoration plan meeting the standards in Provision V below.
- IV. Vegetation Cutting Violations. Where a violation of the vegetative cutting standards in this section have been documented, the property owner shall be subject to a vegetation restoration plan meeting the standards in Provision V below.
- V. Standards for Vegetation Restoration.
  - a. Vegetation restorations, when required, must be accompanied by a restoration plan approved by the Zoning Administrator.
  - b. Restorations must utilize native plant species for replacement. Near shore or highly erodible locations are to be planted with a mix of deep-rooted woody and herbaceous vegetation with a high stem-density, and if applicable, resilient to fluctuations in water levels.
  - c. Any removal of woody trees must be replaced consistent with the replacement standards in Table 4.10 below. Applicant must detail scheduled maintenance over



the next three years in the restoration plan, and is subject to restoration for noncompliance or unsuccessful restorations.

- d. Restoration is subject to inspection by the Zoning Administrator and Washington Conservation District to make a finding that tree survival/growth and integrity and inherent stability of the existing landscape will be maintained.

Table 4.10. Tree Replacement

<b>Diameter of Existing Tree Removed (at 4.5 feet above ground)</b>	<b>Number of Replacement Trees (minimum of two caliper inches each)</b>
Between six (6) inches and 12 inches	3
Between 12 inches and 18 inches	4
Between 18 and 24 inches	5
Greater than 24 inches	7

**B. Grading and Filling**

- I. Grading, filling, excavating or otherwise changing the topography landward of the OHW shall not be conducted without a grading permit from the City’s Zoning Administration Staff. A grading permit may be issued only if:
  - a. Slopes greater than 12 percent are not altered where erosion and visual scars may result.
  - b. Earth moving, erosion, vegetative cutting, drainage, filling of wetlands, and the destruction of natural amenities is minimized,
  - c. The smallest amount of ground is exposed for as short a time as feasible.
  - d. During construction, temporary ground cover such as mulch is used and permanent ground cover such as woody vegetation is planted upon completion.
  - e. Methods to prevent erosion and trap sediment are employed and
  - f. Fill is stabilized to accepted engineering standards.
- II. A separate grading and filling permit is not required for grading, filling or excavating the minimum area necessary for a structure, sewage disposal system, private road or parking area undertaken pursuant to a validly issued building permit, however the standards and criteria in this Provision shall be required as conditions of the building permit.

**2. Sewage Disposal**

- A. Any premises intended for human occupancy must be provided with an adequate method of sewage disposal. Public or municipal collection and treatment facilities must be used where available and where feasible. Where public or municipal facilities are not available, all on-site individual sewer disposal systems shall conform to the Marine on St. Croix Sewer Use Ordinance No. 72. A septic tank drainfield system shall be the only acceptable system for installation unless it can be demonstrated that this system is not feasible on the particular lot in question and it can be demonstrated that the system being proposed as an alternative will not cause a pollution problem.

- B. No person, firm, or corporation shall install, alter, repair, or extend any individual sewer disposal system without first obtaining a permit therefore from the City's Zoning Administration Staff for the specific installation, alteration, repair, or extension.
- 3. Alterations in Public Waters. Changing the course, current, or cross-section of public waters shall require state and federal permits as specified in Minnesota Rules Chapters 6115.0150 to 6115.0280 before any local permits may be issued.
- 4. Transmission Services. A permit from the Commissioner of Natural Resources is required pursuant to Minnesota Statutes, Sections 84.415 or 103G.245 before transmission services may cross state owned lands or public waters and transmission services shall be in accordance with Minnesota Rules Chapter 6135.0100 to 6135.1800.
- 5. Public Roads. A permit from the Commissioner of Natural Resources is required before construction, reconstruction, removal or abandonment of any road or railroad crossing of public waters within the Riverway. Said permit shall be in accordance with the Natural Resources Regulations including Minnesota Statutes, Section 103G.245 and Minnesota Rules, part 6105.0200.
- 6. Planned Cluster Development. A planned cluster development may be allowed when the proposed clustering provides a better means of preserving agricultural land, open space, woods, scenic views, wetlands, and other features of the natural environment than traditional subdivision development. The following standards shall be met for any planned cluster development:
  - A. The number of dwelling units allowed shall not exceed 50 percent more than the total number of dwelling units allowed if the development was based on the minimum lot size requirements for a single-family residential subdivision;
  - B. Open space is preserved, including at least 50 percent of the length of shoreland or bluffland frontage as viewed from the river on which the placement of structures is otherwise permitted in part 6105.0380;
  - C. Temporary docks, if allowed, shall be centralized and of a size not to exceed the needs of the residents of the development;
  - D. Central sewage facilities, if allowed, shall meet the applicable standards, criteria, or rules of the Minnesota Department of Health, the Minnesota Pollution Control Agency, and any applicable local government regulations; and
  - E. The provisions otherwise set forth in parts 6105.0360 to 6105.0440 shall apply to all planned cluster developments.

**§ 402.4. Application Procedures**

- 1. Administrative Procedure. In addition to the applicable administrative procedures set forth in the Zoning Ordinance of the City, the following procedures shall be implemented with respect to land within the Lower St. Croix River District.
  - A. A public hearing shall be held by the local authority for all zoning district amendments, conditional use permits, subdivisions, and variances.
  - B. No less than 20 days prior to the public hearing, the Zoning Administrator shall send notice and copies of the applicant's information as specified to the following agencies for review and comment:
    - I. Department of Natural Resources.

- II. City Planning Commission.
- III. Regional Planning Commission.
- C. The applicant for any permit requiring a public hearing shall submit to the City Council at least 30 days prior to such hearing an abstractor's certificate showing the names and addresses of all property owners within 250 feet of the affected property in all areas or a list of names and addresses of all property owners within 250 feet of the affected property that is acceptable to the City's Zoning Administration Staff.
- D. Notice of the purpose, time, and place of any such public hearing shall be mailed to all property owners and the elected officials listed in Provision B above by the local authority at least 10 days prior to the date of the hearing.
- E. Before any zoning district or ordinance amendment becomes final, the City of Marine on St. Croix shall forward the decision to the Commissioner of Natural Resources. The Commissioner of Natural Resources shall certify in writing that the proposed action complies with the intent of the Wild and Scenic Rivers Act and the Master Plan for the Lower St. Croix River in the manner specified in Department of Natural Resources Regulations, including Minnesota Rules Chapter 6105.0351 to 6105.0550.
- F. The City of Marine on St. Croix shall forward to the Department of Natural Resources all decisions on all conditional use permits, variances and subdivisions within 10 days of final action thereof.
- 2. Preliminary Plans
  - A. All subdivisions shall comply with the Marine on St. Croix Subdivision Regulations.
- 3. Variances. See Section 806.
- 4. Application Submittal Requirements. The applicant shall submit sufficient copies of the following information, if appropriate, and additional information as requested, to the local authority 30 days prior to the public hearing on the application for an amendment, conditional use, variance, or subdivision.
  - A. Plat of survey showing the property, location, boundaries, dimensions, elevations, blufflines, utility and roadway corridors, the OHW, floodway, and floodplain.
  - B. The most recent aerial photo of the property lines drawn in.
  - C. Location of existing and proposed structures including height and setback dimensions.
  - D. Location of existing and proposed alterations of vegetation and topography.
  - E. Adjoining water-oriented uses.
  - F. Suitability of the area for on-site waste disposal. Type, size, and location of the system shall be indicated. If a public or municipal wastewater collection and treatment system is to be utilized, the applicant must submit a written agreement from the municipality or sanitary authority indicating that the system has the capacity to handle the development.
  - G. Water supply system.
  - H. An estimate of permanent and transient residents.
- 5. Review Criteria. When considering a proposal or zoning amendment within the St. Croix River District, the City Council shall address the following items in making its decision:
  - A. The preservation of the scenic and recreational resources of the St. Croix Riverway, especially in regard to the view from and use of the river.

- B. The maintenance of safe and healthful conditions.
  - C. The prevention and control of water pollution.
  - D. The location of the site with respect to floodways, floodplains, slopes, and blufflines.
  - E. The erosion potential of the site based on degree and direction of slope, soil type, and vegetation cover.
  - F. The potential impact on game and fish habitat.
  - G. The location of the site with respect to existing or future access roads.
  - H. The amount of waste to be generated and the adequacy of the proposed disposal systems.
  - I. The anticipated demand for police, fire, medical, and school services and facilities.
  - J. The compatibility of the proposed development with uses on adjacent land.
6. Permit Process and Review Authority. Table 4.11 below indicates the reviewing authority and process for all permit applications within the Lower St. Croix River District:

Table 4.11. Permit Process and Review Authority

Permit Type	Zoning District		
	SC-UR	SC-RR	SC-VC
Building Permits	LP	LP	LA-FD
Septic Permits	LP	LP	LP
Grading Permits	LP	LP	LP
Tree Cutting Permits	LP	LP	LP
Conditional Use Permits	PH-FD	PH-FD	PH-FD
Amendments to Ordinance	PH-CC	PH-CC	PH-CC
Amendments to District Boundary	PH-CC	PH-CC	PH-CC
Plats and Cluster Developments	PH-WA-FD	PH-WA-FD	PH-WA-FD
Variances	PH-CC	PH-CC	PH-CC

**LP** = Permit issued by the local authority in accordance with this Ordinance and all other local permit requirements  
**CC** = Certification by the Commissioner of Natural Resources prior to final, local approval  
**PH** = Public hearing necessary by the local authority giving 20 days' notice of meeting to the Commissioner of Natural Resources and other agencies listed in Section 402.4.1 of this Ordinance  
**FD** = Local authority forwards any decisions to the Commission of Natural Resources within 10 days after taking final action  
**WA** = The Commission of Natural Resources may submit, after notice of public hearing and before the local authority gives preliminary approval, a written review of the project  
**LA** = Application for permit review by the City Planning Commission and City Council  
**NA** = Not Applicable

**Section 403. Floodplain Overlay District**

See City Code Chapter 21 Flood Plain Management for regulations pertaining to this district.

**DIVISION 500. USE-SPECIFIC STANDARDS**

**Section 501. Principal Use Standards**

**§ 501.1. Adult Use**

- 1. See City Code Chapter 25 Adult Uses.

**§ 501.2. Agriculture**

- 1. All farms in existence upon the effective date of this Ordinance shall be a permitted use where the operator may conduct a farming operation. All regulations contained in this Section shall apply to all changes of the farming operation which will cause all or part of the area to become more intensively used or more urban in character.
- 2. A maximum number of farm animals per acre of farmland shall be allowed as specified in Table 5.1 below:

Table 5.1. Number of Animals Allowed

Animals	Number/Acre <sup>1</sup>
Horses	1/2
Cattle, mules, donkeys, llama	1/2
Goats, sheep, swine	2/1
Turkeys, ducks, geese, chicken <sup>2</sup> , rabbits	5/1
Other animals as permitted by the City Council upon evaluation of size, required habitat, and ratio per acre of animals for the specific lot.	
<sup>1</sup> Farmland acreage for the purpose of this computation shall not include or encroach on slopes in excess of 18%, wetlands, wetland buffers, and floodplains.	
<sup>2</sup> On lots less than 5 acres, the maximum number of chickens allowed on a property shall be determined by Section 5.02 Chickens on Parcels less than 5 Acres.	

- 3. All stables, structures, or other facilities for housing animals shall be located a minimum distance of 200 feet from any property line, and all corral areas shall be located a minimum distance of 100 feet from any property line.

**§ 501.3. Auto Service Station**

- 1. All structures and grounds shall be maintained in an orderly, clean, and safe manner.
- 2. Setbacks.
  - A. The principal structure shall be set back at least 35 feet from the street right-of-way.
  - B. All structures shall be set back at least 25 feet from adjoining residential property and at least 10 feet from adjoining commercial property.

3. Architecture. The station should be of a type that is reasonably compatible with the surroundings.
4. Vehicles. No vehicles shall be parked on the premises other than those utilized by employees or awaiting service. No vehicle shall be parked or be awaiting service longer than 15 days.
5. Exterior Storage.
  - A. Exterior storage besides vehicles shall be limited to service equipment and items offered for sale on pump islands.
  - B. Exterior storage of items offered for sale shall meet setback requirements and shall be located in containers such as the racks, metal trays, and similar structures designed to display merchandise.
6. Outdoor Displays.
  - A. The storage of tires, batteries, and other such items for sale outside the building shall be controlled. Such items shall be displayed in specially designed containers and be limited to one (1) or two (2) areas well back from the street right-of-way line.
  - B. Junk cars, empty cans, and other unsightly materials shall not be permitted in an area subject to public view and shall be screened as required in Provision 7 below.
7. Screening.
  - A. The auto service use and all associated equipment, exterior storage, discarded parts, refuse, and debris shall be screened as specified in Section 605 Screening. If the auto service use abuts a park or open space, the corresponding side of the auto service use shall be screened from view.
8. Conditional Uses. Business activities not listed in the definition of service stations in this Ordinance are not permitted on the premises of a service station unless a conditional use permit is obtained specifically for such business. Such activities include, but are not limited to, the following:
  - A. Automatic car and truck wash.
  - B. Rental of vehicles, equipment or trailers.
  - C. General retail sales.

**§ 501.4. Cannabis Cultivation**

1. All cultivation operations shall ensure all associated odors cannot be detected by a person with a normal sense of smell at the property line. Enhanced ventilation systems designed to prevent detection of cannabis or hemp odor from any adjoining use, parcel, public or private street and/or right-of-way, park, or building unit, shall be installed and maintained.
2. All lighting shall be shielded and angled in such a way as to prevent light from spilling outside of the boundaries of the parcel(s) or premises or directly focusing on any surrounding uses.
3. Noise produced by a cannabis cultivation business shall not be audible at the property line, except for normal car and pedestrian activity.
4. Security measures to both deter and prevent unauthorized entrance into areas containing cannabis or cannabis products shall be implemented and maintained as shown on a City-approved security plan.
5. All cannabis cultivation operations shall adhere to the size limitations specified in Minnesota Statutes Chapter 342.

### **§ 501.5. Commercial Animal Boarding**

1. Any commercial animal boarding facility shall obtain a license with the City as specified in City Code Section 5.01 Dogs, Licensing and Other Provisions.
2. If the boarding use serves farm animals such as horses, cattle, and donkeys, the number of allowable animals per site shall be determined by the calculation in Subsection 501.2 Agriculture.
3. Pasturing and grazing of horses is permitted to occur up to the property boundaries.
4. All stables, structures, or other facilities for housing animals shall be located a minimum distance of 200 feet from any property line, and all corral areas shall be located a minimum distance of 100 feet from any property line.
5. In addition to the standard submittal requirements for a CUP, an application for a principal commercial animal boarding facility shall include the following:
  - A. A plan for the storage and removal of manure and control of odors from the operation.
  - B. Traffic and parking plan.
  - C. Lighting plan.
  - D. A schedule of planned operations.
  - E. Hours of operation.
  - F. A summary of noise producing activities and a plan to dissipate the noise by screening or otherwise.
  - G. Fencing and building plans showing setbacks from adjoining properties, roads, and buildings on and off the site
  - H. An erosion control and storm water runoff management plan.
  - I. Such other and further information as required by the City to evaluate the effect of the use or public health, safety, and welfare.

### **§ 501.6. Commercial Mixed Use**

1. Residential uses shall not be located on the first floor (street level), or the basement level of the building.
2. Residential uses shall have a separate entrance/exit from the commercial entrance/exit.

### **§ 501.7. Park, Playground, or Open Space**

1. Within the SFU and SC-UR districts, any park, playground, or open space shall meet the following standards:
  - A. The use is available to the public.
  - B. The site can be accessed by a City street either directly or via a maintained trail.

### **§ 501.8. Place of Worship and School**

1. Principal structures shall be set back 40 feet from all side property lines.

### **§ 501.9. Planned Unit Development (PUD)**

1. Purposes
  - A. The purposes of this Subsection are:

- I. To encourage a more creative and efficient development of land and its improvements than is possible under the more restrictive application of zoning requirements such as lot sizes and building setbacks;
  - II. To more efficiently utilize parcels of land in residential districts with unusual building characteristics due to sub-soil conditions, elevation of the water table, or relative location or shape of the parcel;
  - III. To meet the standards and purposes of the Comprehensive Plan for Marine on St. Croix and preserve the health, safety, and welfare of the citizens of Marine on St. Croix;
  - IV. To ensure concentration of open space into more useable areas and a preservation of the natural resources of the site; and
  - V. To facilitate the efficient provision of streets and public utilities.
2. Permitted Uses
    - A. Permitted, permitted with standards, conditional, and interim uses described within the applicable residential zoning district are allowed within a PUD.
3. General Requirements
    - A. Density
      - I. In the planned unit development, the overall density for residential developments shall be consistent with the Comprehensive Plan, except that a bonus of one (1) additional unit for each eight (8) units shall be allowed as a bonus to encourage PUDs.
      - II. Overall density shall be calculated by dividing the net acreage of the project area by the required lot area per dwelling unit which is required in the district in which the planned unit development is located. Net acreage is defined as the project area less the land area dedicated for public streets. The project area includes all the land within the planned unit development which is allocated for residential uses or common open space.
      - III. Individual buildings or lots within a PUD may exceed the allowable density, provided that density for the entire PUD does not exceed the permitted standards. Dwelling units or sites may be clustered into one (1) or more groups in order to preserve and protect natural resource areas such as wetlands, woodlands, steep slopes, prairies, meadows, productive agricultural land, and scenic views.
    - B. The plan for the proposed project shall conform to the requirements of the zoning district within which the land is located except as modified by the PUD.
      - I. The applicant shall state precisely the unusual characteristics of the site for purposes of justifying the granting of a conditional use permit.
      - II. The lot area of any one (1) lot as required within the zoning district shall not be reduced by more than two-thirds (2/3).
      - III. That land which is set aside as unsuitable for development shall be clearly indicated on the plan.
    - C. Tract Requirements
      - I. The tract of land for which a project is proposed and a permit requested shall not be less than five (5) acres.
      - II. The tract under consideration shall be under single ownership or control.



- III. The tract shall be at least four (4) times the standard minimum lot size or density of the base zoning district.
- D. Common Open Space
  - I. The amount of open space required within a PUD shall be dictated by the underlying zoning district for the project and the City's Subdivision Ordinance.
  - II. No open area may be accepted as common open space under the provisions of this Ordinance unless it meets the following standards:
    - a. The location, shape, and character of the common open space shall be suitable for the planned development.
    - b. Common open space shall be used for amenity or recreational purposes. The uses authorized for the common open space must be appropriate to the scale and character of the planned development, considering its size, density, expected population, topography, and the number and type of dwellings to be developed.
    - c. Common open space shall be suitably improved for its intended use. Common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvements which are permitted in the common open space shall be appropriate to the uses which are authorized for the common open space and must conserve and enhance the amenities of the common open space having regard to its topography and unimproved condition.
  - III. All land to be conveyed as common open space shall be conveyed under one of the following options:
    - a. Open space may be deeded to an established land trust or the City of Marine on St. Croix.
      - i. If deeded to a land trust, management of the common open space shall be the responsibility of the land trust. Maintenance may be performed by the neighborhood homeowner association through written agreement between the association and the land trust.
      - ii. If deeded to the City, management of the common open space shall be the responsibility of the City.
    - b. Open space may be owned in common by the property owners of the subdivision.
      - i. In the case where at least one outlot of open space is held in common ownership, an owners association or similar organization shall be established for that subdivision.
      - ii. Membership in the association by all property owners in the subdivision shall be mandatory.
      - iii. Management of the common open space shall be the responsibility of that subdivision's association. Plans and documents shall be submitted to the City which explain:
        - (1) Ownership and membership requirements
        - (2) Organization of the Association
        - (3) Time at which the developer turns the Association over to the unit owners.
        - (4) Approximate monthly or yearly association fee for unit owners.

- (5) Specific listing of items owned in common including such items as roads, recreation facilities, parking, common open space grounds, and utilities.
- c. Open space may be protected by establishing conservation restrictions in perpetuity in favor of the City as provided in Minnesota Statutes 84.64-84.65.
  - i. Unless the document establishing the restrictions specifically provides to the contrary, the City shall have no responsibility for the maintenance or management of the area subject to the restrictions.
  - ii. The form and content of the deed or other instrument establishing the restrictions must be approved by the City prior to the execution and delivery thereof.
  - iii. Notwithstanding any provision of this Ordinance to the contrary, the City may, in cases where conservation restrictions are utilized to meet open space dedication requirements of this Ordinance, waive the requirement that the area subject to the restrictions be platted as a separate outlot.

**§ 501.10. Small Wireless Facility**

- 1. Findings, Purpose, and Intent.
  - A. To provide for the health, safety, and welfare of its citizens, and to ensure the integrity of its streets and the appropriate use of the rights-of-way, the city strives to keep its rights-of-way in a state of good repair and free from unnecessary encumbrances.
  - B. This Subsection imposes reasonable regulation on the placement and maintenance of facilities and equipment currently within its rights-of-way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies. Under this Subsection, persons excavating and obstructing the rights-of-way will bear financial responsibility for their work. Finally, this Subsection provides for recovery of out-of-pocket and projected costs from persons using the public rights-of-way.
  - C. This Subsection shall be interpreted consistently with Minnesota Statutes, sections 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086 (the "Act") and the other laws governing applicable rights of the city and users of the right-of-way. This Subsection shall also be interpreted consistent with Minn. R. 7819.0050–7819.9950 and Minn. R., ch. 7560 where possible. To the extent any provision of this Subsection cannot be interpreted consistently with the Minnesota Rules, that interpretation most consistent with the Act and other applicable statutory and case law is intended. This Subsection shall not be interpreted to limit the regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety, and welfare of the public.
- 2. Election to Manage the Public Rights-of-way
  - A. Pursuant to the authority granted to the city under state and federal statutory, administrative and common law, the city hereby elects, pursuant to Minn. Stat. 237.163 subd. 2(b), to manage rights-of-way within its jurisdiction.
- 3. Definitions
  - A. **Abandoned facility.** A facility no longer in service or physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries service. A facility is not abandoned unless declared so by the right-of-way user.

- B. **Applicant.** Any person requesting permission to excavate, obstruct, or otherwise place facilities in a right-of-way.
- C. **Collocate or collocation.** To install, mount, maintain, modify, operate, or replace a small wireless facility on, under, within, or adjacent to an existing wireless support structure or utility pole that is owned privately, or by the city or other governmental unit.
- D. **Commission.** The State of Minnesota Public Utilities Commission.
- E. **Construction performance bond.** Any of the following forms of security provided at permittee's option:
  - I. Individual project bond;
  - II. Cash deposit;
  - III. Security of a form listed or approved under Minn. Stat. § 15.73, subd. 3;
  - IV. Letter of Credit, in a form acceptable to the city;
  - V. Self-insurance, in a form acceptable to the city;
  - VI. A blanket bond for projects within the city, or other form of construction bond, for a time specified and in a form acceptable to the city.
- F. **Degradation.** A decrease in the useful life of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation or disturbance did not occur.
- G. **Degradation cost.** Subject to Minn. R. 7819.1100, means the cost to achieve a level of restoration, as determined by the city at the time the permit is issued, not to exceed the maximum restoration shown in plates 1 to 13, set forth in Minn. R., parts 7819.9900 to 7819.9950.
- H. **Degradation fee.** The estimated fee established at the time of permitting by the city to recover costs associated with the decrease in the useful life of the right-of-way caused by the excavation, and which equals the degradation cost.
- I. **Department.** The department of planning and/or public works of the city.
- J. **Director.** The clerk and/or public works of the city, or her or his designee.
- K. **Delay penalty.** The penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching, or restoration as established by permit.
- L. **Emergency.** A condition that:
  - I. Poses a danger to life or health, or of a significant loss of property; or
  - II. Requires immediate repair or replacement of facilities in order to restore service to a customer.
- M. **Equipment.** Any tangible asset used to install, repair, or maintain facilities in any right-of-way.
- N. **Excavate.** To dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.
- O. **Excavation permit.** The permit which, pursuant to this chapter, must be obtained before a person may excavate in a right-of-way. An Excavation permit allows the holder to excavate that part of the right-of-way described in such permit.

- P. **Excavation permit fee.** Money paid to the city by an applicant to cover the costs as provided in Provision 13 below.
- Q. **Facility or facilities.** Any tangible asset in the right-of-way used to provide Utility or Telecommunications Service.
- R. **Five-Year project plan.** Shows projects adopted by the city for construction within the next five (5) years.
- S. **Local representative.** A local person or persons, or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this chapter.
- T. **Management costs.** The actual costs the city incurs in managing its rights-of-way, including such costs, if incurred, as those associated with registering applicants; issuing, processing, and verifying right-of-way or small wireless facility permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user facilities during right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way or small wireless facility permits. Management costs do not include payment by a telecommunications right-of-way user for the use of the right-of-way, unreasonable fees of a third-party contractor used by the city including fees tied to or based on customer counts, access lines, or revenues generated by the right-of-way or for the city, the fees and cost of litigation relating to the interpretation Minn. Stat. §§ 237.162 or 237.163; or any ordinance enacted under those sections, or the city fees and costs related to appeals taken pursuant to Section 1.31 of this chapter.
- U. **Obstruct.** To place any tangible object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way, or so as to hinder maintenance of any city asset.
- V. **Obstruction permit.** The permit which, pursuant to this chapter, must be obtained before a person may obstruct a right-of-way, allowing the holder to hinder free and open passage over the specified portion of that right-of-way, for the duration specified therein.
- W. **Obstruction permit fee.** Money paid to the city by a permittee to cover the costs as provided in Provision 13 below.
- X. **Patch or patching.** A method of pavement replacement that is temporary in nature. A patch consists of (1) the compaction of the subbase and aggregate base, and (2) the replacement, in kind, of the existing pavement for a minimum of two feet beyond the edges of the excavation in all directions. A patch is considered full restoration only when the pavement is included in the city's five-year project plan.
- Y. **Pavement.** Any type of improved surface that is within the public right-of-way and that is paved or otherwise constructed with bituminous, concrete, aggregate, or gravel.
- Z. **Permit.** Has the meaning given "right-of-way permit" in this ordinance.
- AA. **Permittee.** Any person to whom a permit to excavate or obstruct a right-of-way has been granted by the city under this chapter.
- BB. **Registrant.** Any person who (1) has or seeks to have its equipment or facilities located in any right-of-way, or (2) in any way occupies or uses, or seeks to occupy or use, the right-of-way or place its facilities or equipment in the right-of-way.

- CC. **Restore or restoration.** The process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition and life expectancy that existed before excavation.
- DD. **Restoration cost.** The amount of money paid to the city by a permittee to achieve the level of restoration according to plates 1 to 13 of Minnesota Public Utilities Commission rules.
- EE. **Public right-of-way or Right-of-way.** The area on, below, or above a public roadway, highway, street, cartway, bicycle lane, or public sidewalk in which the city has an interest, including other dedicated rights-of-way for travel purposes and utility easements of the city. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other non-wire telecommunications or broadcast service.
- FF. **Right-of-way permit.** Either the excavation permit, the obstruction permit, the small cell permit or any combination thereof depending on the context, required by this chapter.
- GG. **Right-of-way user.**
- I. A telecommunications right-of-way user as defined by Minn. Stat., § 237.162, subd. 4; or
  - II. A person owning or controlling a facility in the right-of-way that is used or intended to be used for providing utility service, and who has a right under law, franchise, or ordinance to use the public right-of-way.
- HH. **Service or Utility service.** Includes (1) those services provided by a public utility as defined in Minn. Stat. 216B.02, subds. 4 and 6; (2) services of a telecommunications right-of-way user, including transporting of voice or data information; (3) services of a cable communications systems as defined in Minn. Stat. ch. 238; (4) natural gas or electric energy or telecommunications services provided by the city; (5) services provided by a cooperative electric association organized under Minn. Stat., ch. 308A; and (6) water, and sewer, including service laterals, steam, cooling, or heating services.
- II. **Service lateral.** An underground facility that is used to transmit, distribute or furnish (gas, electricity, communications, or water from a common source to an end-use customer. A service lateral is also an underground facility that is used in the removal of wastewater from a customer's premises.
- JJ. **Supplementary application.** An application made to excavate or obstruct more of the right-of-way than allowed in, or to extend, a permit that had already been issued.
- KK. **Temporary surface.** The compaction of subbase and aggregate base and replacement, in kind, of the existing pavement only to the edges of the excavation. It is temporary in nature except when the replacement is of pavement included in the city's two-year plan, in which case it is considered full restoration.
- LL. **Trench.** An excavation in the pavement, with the excavation having a length equal to or greater than the width of the pavement.
- MM. **Telecommunications right-of-way user.** A person owning or controlling a facility in the right-of-way, or seeking to own or control a facility in the right-of-way that is used or is intended to be used for providing wireless service, or transporting telecommunication or other voice or data information. For purposes of this chapter, a cable communication system defined and regulated under Minn. Stat. ch. 238, and telecommunication activities related to providing natural gas or electric energy services, a public utility as defined in Minn. Stat. § 216B.02, a municipality, a municipal gas or power agency organized under Minn. Stat. ch. 453 and 453A, or a cooperative electric association organized under Minn. Stat. ch. 308A,

are not telecommunications right-of-way users for purposes of this chapter except to the extent such entity is offering wireless service.

**NN. Two-year project plan.** Shows projects adopted by the city for construction within the next two (2) years.

**OO. Utility pole.** A pole that is used in whole or in part to facilitate telecommunications or electric service.

**PP. Wireless facility.** Equipment at a fixed location that enables the provision of wireless services between user equipment and a wireless service network, including equipment associated with wireless service, a radio transceiver, antenna, coaxial or fiber-optic cable, regular and backup power supplies, and a small wireless facility, but not including wireless support structures, wireline backhaul facilities, or cables between utility poles or wireless support structures, or not otherwise immediately adjacent to and directly associated with a specific antenna.

**QQ. Wireless service.** Any service using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or by means of a mobile device, that is provided using wireless facilities. Wireless service does not include services regulated under Title VI of the Communications Act of 1934, as amended, including cable service.

**RR. Wireless support structure.** A new or existing structure in a right-of-way designed to support or capable of supporting small wireless facilities, as reasonably determined by the city.

4. Administration.

A. The director is the principal city official appointed by the City Manager and/or Council or Commission responsible for the administration of the rights-of-way, right-of-way permits, and the ordinances related thereto. The director may delegate any or all of the duties hereunder.

5. Utility Coordination Committee.

A. The city may create an advisory utility coordination committee. Participation on the committee is voluntary. It will be composed of any registrants that wish to assist the city in obtaining information and, by making recommendations regarding use of the right-of-way, and to improve the process of performing construction work therein. The city may determine the size of such committee and shall appoint members from a list of registrants that have expressed a desire to assist the city.

6. Registration and Right-of-way Occupancy.

A. Registration. Each person authorized to occupy or use, or seeks to occupy or use, the right-of-way or place any equipment or facilities in or on the right-of-way, including persons with installation and maintenance responsibilities by lease, sublease, or assignment, must register with the city. Registration will consist of providing application information.

B. Registration Prior to Work. No person may construct, install, repair, remove, relocate, or perform any other work on, or use any facilities or any part thereof, in any right-of-way without first being registered with the city.

C. Exceptions. Nothing herein shall be construed to repeal or amend the provisions of a city ordinance permitting persons to plant or maintain boulevard plantings or gardens (including raingardens) in the area of the right-of-way between their property and the street curb. Persons planting or maintaining boulevard plantings or gardens shall not be deemed to use

or occupy the right-of-way, and shall not be required to obtain any permits or satisfy any other requirements for planting or maintaining such boulevard plantings or gardens under this chapter. However, nothing herein relieves a person from complying with the provisions of the Minn. Stat. Ch. 216D, Gopher One Call Law.

7. Registration Information.

- A. Information Required. Registration shall be requested on an application form produced by the City. The information provided to the city at the time of registration shall include, but not be limited to:
- I. Each registrant's name, Gopher One-Call registration certificate number, address and email address, if applicable, and telephone and facsimile numbers.
  - II. The name, address, and email address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.
  - III. A certificate of insurance or self-insurance:
    - a. Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the state of Minnesota, or a form of self-insurance acceptable to the city;
    - b. Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the:
      - i. Use and occupancy of the right-of-way by the registrant, its officers, agents, employees, and permittees, and
      - ii. Placement and use of facilities and equipment in the right-of-way by the registrant, its officers, agents, employees, and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities, and collapse of property;
    - c. Naming the city as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all such coverages;
    - d. Requiring that the city be notified 30 days in advance of cancellation of the policy or material modification of a coverage term; and
    - e. Indicating comprehensive liability coverage, automobile liability coverage, workers' compensation and umbrella coverage established by the city in amounts sufficient to protect the city and the public and to carry out the purposes and policies of this chapter.
    - f. The city may require a copy of the actual insurance policies.
    - g. If the person is a corporation, a copy of the certificate is required to be filed under state law as recorded and certified to by the secretary of state.
    - h. A copy of the person's order granting a certificate of authority from the Minnesota Public Utilities Commission or other authorization or approval from the applicable state or federal agency to lawfully operate, where the person is lawfully required to have such authorization or approval from said commission or other state or federal agency.

- IV. Any other information deemed necessary by the City Engineer deemed necessary to adequately protect the health, safety, and welfare of the city.
  - B. Notice of Changes. The registrant shall keep all of the information listed above current at all times by providing to the city information as to changes within 15 days following the date on which the registrant has knowledge of any change.
8. Reporting Obligations
- A. Operations. Each registrant shall, at the time of registration and by January 1 of each year, file a construction and major maintenance plan for underground facilities with the city. Such plan shall be submitted using a format designated by the city and shall contain the information determined by the city to be necessary to facilitate the coordination and reduction in the frequency of excavations and obstructions of rights-of-way.
    - I. The plan shall include, but not be limited to, the following information:
      - a. The locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year (in this section, a “next-year project”); and
      - b. To the extent known, the tentative locations and estimated beginning and ending dates for all projects contemplated for the five years following the next calendar year (in this section, a “five-year project”).
    - II. The term “project” in this section shall include both next-year projects and five-year projects.
    - III. By January 1 of each year, the city will have available for inspection in the city’s office a composite list of all projects of which the city has been informed of the annual plans. All registrants are responsible for keeping themselves informed of the current status of this list.
    - IV. Thereafter, by February 1, each registrant may change any project in its list of next-year projects, and must notify the city and all other registrants of all such changes in said list. Notwithstanding the foregoing, a registrant may at any time join in a next-year project of another registrant listed by the other registrant.
  - B. Additional Next-Year Projects. Notwithstanding the foregoing, the city will not deny an application for a right-of-way permit for failure to include a project in a plan submitted to the city if the registrant has used commercially reasonable efforts to anticipate and plan for the project.
9. Permit Requirement.
- A. Permit Required. Except as otherwise provided in this code, no person may obstruct or excavate any right-of-way, or install or place facilities in the right-of-way, without first having obtained the appropriate right-of-way permit from the city to do so.
    - I. Excavation Permit. An excavation permit is required by a registrant to excavate that part of the right-of-way described in such permit and to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein.
    - II. Obstruction Permit. An obstruction permit is required by a registrant to hinder free and open passage over the specified portion of right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. An



obstruction permit is not required if a person already possesses a valid excavation permit for the same project.

- III. Small Wireless Facility Permit. A small wireless facility permit is required by a registrant to erect or install a wireless support structure, to collocate a small wireless facility, or to otherwise install a small wireless facility in the specified portion or the right-of-way, to the extent specified therein, provided that such permit shall remain in effect for the length of time the facility is in use, unless lawfully revoked.
- B. Permit Extensions. No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless:
  - I. Such person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and
  - II. A new permit or permit extension is granted.
- C. Delay Penalty. In accordance with Minn. Rule 7819.1000 subp. 3 and notwithstanding Provision 9.B above, the city shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by City Council resolution.
- D. Permit Display. Permits issued under this chapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the city.

#### 10. Permit Applications.

Application for a permit is made to the city on forms approved by the City Engineer or the City Engineer's designee. Right-of-way permit applications shall contain, and will be considered complete only upon compliance with, the requirements of the following provisions:

- A. Registration with the city pursuant to this Subsection.
- B. Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities and all other information deemed relevant by the City Engineer.
- C. Payment of money due the city for:
  - I. permit fees, estimated restoration costs, and other management costs;
  - II. prior obstructions or excavations;
  - III. any undisputed loss, damage, or expense suffered by the city because of applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the city;
  - IV. franchise fees or other charges, if applicable.
- D. Payment of disputed amounts due the city by posting security or depositing in an escrow account an amount equal to at least 110 percent of the amount owing.
- E. Posting an additional or larger construction performance bond for additional facilities when applicant requests an excavation permit to install additional facilities and the city deems the existing construction performance bond inadequate under applicable standards.

#### 11. Issuance of Permit; Conditions.

- A. Permit Issuance. If the applicant has satisfied the requirements of this chapter, the city shall issue a permit.
- B. Conditions. The city may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use. In addition, a permittee shall comply with all requirements of local, state, and federal laws, including but not limited to Minn. Stat. §§ 216D.01 - .09 (Gopher One Call Excavation Notice System) and Minn. R., ch. 7560.
- C. Small Wireless Facility Conditions. In addition to subdivision 2, the erection or installation of a wireless support structure, the collocation of a small wireless facility, or other installation of a small wireless facility in the right-of-way, shall be subject to the following conditions:
  - I. A small wireless facility shall only be collocated on the particular wireless support structure, under those attachment specifications, and at the height indicated in the applicable permit application.
  - II. No new wireless support structure installed within the right-of-way shall exceed 50 feet in height without the city's written authorization, provided that the city may impose a lower height limit in the applicable permit to protect the public health, safety and welfare or to protect the right-of-way and its current use, and further provided that a registrant may replace an existing wireless support structure exceeding 50 feet in height with a structure of the same height subject to such conditions or requirements as may be imposed in the applicable permit.
  - III. No wireless facility may extend more than 10 feet above its wireless support structure.
  - IV. Where an applicant proposes to install a new wireless support structure in the right-of-way, the city will impose separation requirements of 150 feet between such structure and any existing wireless support structure or other poles or facilities in and around the right-of-way.
  - V. All facilities and support structures shall use design, materials, colors, textures, screening, and landscaping to blend in within the surrounding natural setting and built environment. All facilities shall be designed to minimize the visual impact and, in the sole discretion of the Town, appear to be compatible with the surroundings.
  - VI. Where an applicant proposes collocation on a decorative wireless support structure, sign or other structure not intended to support small wireless facilities, such equipment shall be consistent with the City's aesthetic standards regarding small wireless facilities and/or wireless equipment as adopted by the City Engineer. Such standards shall ensure that wireless equipment is installed with a stealth design and that equipment does not detract from the character of the area in which it is installed. In addition, the City Engineer shall adopt standards that ensure city assets can continue to effectively perform their intended function. Standards shall be made available with the application required for a small cell permit.
  - VII. Where an applicant proposes to replace a wireless support structure, the city may impose reasonable restocking, replacement, or relocation requirements on the replacement of such structure.
  - VIII. A permit will be deemed void if the approved equipment is not installed within one year of issuance of the permit.

- D. Small Wireless Facility Agreement. In accordance with all state and federal laws and FCC Orders, a small wireless facility shall only be collocated on a small wireless support structure owned or controlled by the city, or any other city asset in the right-of-way, after the applicant has executed a standard small wireless facility collocation agreement with the city. The standard collocation agreement may require payment of the following:
  - I. Up to \$150 per year for rent to collocate on the city structure.
  - II. \$25 per year for maintenance associated with the collocation;
  - III. A monthly fee for electrical service as follows:
    - a. \$73 per radio node less than or equal to 100 maximum watts;
    - b. \$182 per radio node over 100 maximum watts; or
    - c. The actual costs of electricity, if the actual cost exceeds the foregoing.
- E. The standard collocation agreement shall be in addition to, and not in lieu of, the required small wireless facility permit, provided, however, that the applicant shall not be additionally required to obtain a license or franchise in order to collocate. Issuance of a small wireless facility permit does not supersede, alter or affect any then-existing agreement between the city and applicant.

12. Action on Small Wireless Facility Permit Applications.

- A. Deadline for Action. The city shall approve or deny a small wireless facility permit application within 60 days for a collocation on an existing or replaced facility, and 90 days for a new facility after filing of such application or within any timeline established by state law. The small wireless facility permit, and any associated building permit application, shall be deemed approved if the city fails to approve or deny the application within the review periods established in this section.
- B. Consolidated Applications. An applicant may file a consolidated small wireless facility permit application addressing the proposed collocation of up to 15 small wireless facilities, or a greater number if agreed to by a local government unit, provided that all small wireless facilities in the application:
  - I. are located within a two (2) mile radius;
  - II. consist of substantially similar equipment; and
  - III. are to be placed on similar types of wireless support structures.
- C. In rendering a decision on a consolidated permit application, the city may approve some small wireless facilities and deny others, but may not use denial of one or more permits as a basis to deny all small wireless facilities in the application.
- D. Tolling of Deadline. The deadline for action on a small wireless facility permit application may be tolled if:
  - I. The city receives applications from one or more applicants seeking approval of permits for more than 30 small wireless facilities within a seven (7) day period. In such case, the city may extend the deadline for all such applications by 30 days by informing the affected applicants in writing of such extension.
  - II. The applicant fails to submit all required documents or information and the city provides written notice of incompleteness to the applicant within 30 days of receipt the application. Upon submission of additional documents or information, the city shall have ten days to notify the applicant in writing of any still-missing information.

III. The city and a small wireless facility applicant agree in writing to toll the review period.

13. Permit Fees.

- A. Minn. Rule 7819.1000 establishes requirements for establishing fees.
- B. Excavation Permit Fee. The city shall impose an excavation permit fee in an amount sufficient to recover the following costs:
  - I. the city management costs;
  - II. degradation costs, if applicable.
- C. Obstruction Permit Fee. The city shall impose an obstruction permit fee in an amount sufficient to recover the city management costs.
- D. Small Wireless Facility Permit Fee. The city shall impose a small wireless facility permit fee in an amount sufficient to recover:
  - I. management costs, and;
  - II. city engineering, make-ready, and construction costs associated with collocation of small wireless facilities.
- E. Payment of Permit Fees. No excavation permit, obstruction permit, or small cell permit shall be issued without payment of all required fees. The city may allow applicant to pay such fees within 30 days of billing.
- F. Non Refundable. Permit fees that were paid for a permit that the city has revoked for a breach as stated in Provision 23 below are not refundable.
- G. Application to Franchises. Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

14. Right-of-way Patching and Restoration.

- A. Timing. The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited as unseasonal or unreasonable under Provision 17 below.
- B. Patch and Restoration. Permittee shall patch its own work. The city may choose either to have the permittee restore the right-of-way or to restore the right-of-way itself.
  - I. City Restoration. If the city restores the right-of-way, permittee shall pay the costs thereof within 30 days of billing. If, following such restoration, the pavement settles due to permittee's improper backfilling, the permittee shall pay to the city, within 30 days of billing, all costs associated with correcting the defective work.
  - II. Permittee Restoration. If the permittee restores the right-of-way itself, it shall at the time of application for an excavation permit post a construction performance bond in accordance with the provisions of Minn. Rule 7819.3000.
  - III. Degradation Fee in Lieu of Restoration. In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.

- C. Standards. The permittee shall perform excavation, backfilling, patching, and landscaping restoration according to the standards and with the materials specified by the city and shall comply with Minn. Rule 7819.1100.
- D. Duty to Correct Defects. The permittee shall correct defects in patching or restoration performed by permittee or its agents. The permittee upon notification from the city, shall correct all restoration work to the extent necessary, using the method required by the city. Said work shall be completed within five (5) calendar days of the receipt of the notice from the city, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonable or unreasonable under Provision 17 below.
- E. Failure to Restore. If the permittee fails to restore the right-of-way in the manner and to the condition required by the city, or fails to satisfactorily and timely complete all restoration required by the city, the city at its option may do such work. In that event the permittee shall pay to the city, within 30 days of billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the city may exercise its rights under the construction performance bond.

15. Joint Applications.

- A. Joint application. Registrants may jointly apply for permits to excavate or obstruct the right-of-way at the same place and time.
- B. Shared fees. Registrants who apply for permits for the same obstruction or excavation, which the city does not perform, may share in the payment of the obstruction or excavation permit fee. In order to obtain a joint permit, registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.
- C. With city projects. Registrants who join in a scheduled obstruction or excavation performed by the city, whether or not it is a joint application by two or more registrants or a single application, are not required to pay the excavation or obstruction and degradation portions of the permit fee, but a permit would still be required.

16. Supplementary Applications.

- A. Limitation on Area. A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area:
  - I. Make application for a permit extension and pay any additional fees required thereby, and
  - II. Be granted a new permit or permit extension.
- B. Limitation on Dates. A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be submitted before the permit end date.

17. Other Obligations.

- A. Compliance with Other Laws. Obtaining a right-of-way permit does not relieve permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the city or other applicable rule, law or regulation. A permittee shall comply with all requirements of local, state and federal laws, including but not limited to Minn. Stat. §§ 216D.01-.09 (Gopher One Call Excavation Notice System) and Minn. R., ch. 7560. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.
  - B. Prohibited Work. Except in an emergency, and with the approval of the city, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.
  - C. Interference with Right-of-way. A permittee shall not so obstruct a right-of-way that the natural free and clear passage of water through the gutters or other waterways shall be interfered with. Private vehicles of those doing work in the right-of-way may not be parked within or next to a permit area, unless parked in conformance with city parking regulations. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit.
  - D. Trenchless excavation. As a condition of all applicable permits, permittees employing trenchless excavation methods, including but not limited to Horizontal Directional Drilling, shall follow all requirements set forth in Minn. Stat. Ch. 216D and Minn. R., Ch. 7560 and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the director.
18. Denial or Revocation of Permit.
- A. Reasons for Denial. The city may deny a permit for failure to meet the requirements and conditions of this chapter or if the city determines that the denial is necessary to protect the health, safety, and welfare of the public or when necessary to protect the right-of-way and its current use and any city asset or facility.
  - B. Procedural Requirements. The denial or revocation of a permit must be made in writing and must document the basis for the denial. The city must notify the applicant or right-of-way user in writing within three business days of the decision to deny or revoke a permit. If an application is denied, the right-of-way user may address the reasons for denial identified by the city and resubmit its application. If the application is resubmitted within 30 days of receipt of the notice of denial, no additional application fee shall be imposed. The city must approve or deny the resubmitted application within 30 days after submission.
19. Installation Requirements.
- A. The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minn. R. 7819.1100 and 7819.5000 and other applicable local requirements, in so far as they are not inconsistent with the Minn. Stat., §§ 237.162 and 237.163. Installation of service laterals shall be performed in accordance with Minn. R., ch 7560 and these ordinances. Service lateral installation is further subject to those requirements and conditions set forth by the city in the applicable permits and/or agreements referenced in Provision 23.B below.
20. Inspection.

- A. Notice of Completion. When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance Minn. Rule 7819.1300 or other as built documentation as deemed necessary by the city engineer.
- B. Site Inspection. Permittee shall make the work site available to the city and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.
- C. Authority of Director.
  - I. At the time of inspection, the director may order the immediate cessation of any work which poses a serious threat to the life, health, safety, or well-being of the public.
  - II. The director may issue an order to the permittee for any work that does not conform to the terms of the permit or other applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within 10 days after issuance of the order, the permittee shall present proof to the director that the violation has been corrected. If such proof has not been presented within the required time, the director may revoke the permit pursuant to Provision 23 below.

21. Work Done Without a Permit.

- A. Emergency Situations.
  - I. Each registrant shall immediately notify the director of any event regarding its facilities that it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. Excavators' notification to Gopher State One Call regarding an emergency situation does not fulfill this requirement. Within two (2) business days after the occurrence of the emergency, the registrant shall apply for the necessary permits, pay the fees associated therewith, and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for the actions it took in response to the emergency.
  - II. If the city becomes aware of an emergency regarding a registrant's facilities, the city will attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. In any event, the city may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.
- B. Non-Emergency Situations. Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit and, as a penalty, pay double the normal fee for said permit, pay double all the other fees required by the city code, deposit with the city the fees necessary to correct any damage to the right-of-way, and comply with all of the requirements of this chapter.

22. Supplementary Notification.

- A. If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, permittee shall notify the city of the accurate information as soon as this information is known.

23. Revocation of Permits.

- A. Substantial Breach. The city reserves its right, as provided herein, to revoke any right-of-way permit without a fee refund, if there is a substantial breach of the terms and conditions of

any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by permittee shall include, but shall not be limited to, the following:

- I. The violation of any material provision of the right-of-way permit.
  - II. An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens.
  - III. Any material misrepresentation of fact in the application for a right-of-way permit.
  - IV. The failure to complete the work in a timely manner, unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittee's control.
  - V. The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to Provision 20 above.
- B. Written Notice of Breach. If the city determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation, or any condition of the permit, the city shall make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the city, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.
- C. Response to Notice of Breach. Within 24 hours of receiving notification of the breach, permittee shall provide the city with a plan, acceptable to the city, that will cure the breach. Permittee's failure to so contact the city, or permittee's failure to timely submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit.
- D. Reimbursement of city costs. If a permit is revoked, the permittee shall also reimburse the city for the city's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

#### 24. Mapping Data.

- A. Information Required. Each registrant and permittee shall provide mapping information required by the city in accordance with Minn. R. 7819.4000 and 7819.4100. Within 90 days following completion of any work pursuant to a permit, the permittee shall provide the director accurate maps and drawings certifying the "as-built" location of all equipment installed, owned, and maintained by the permittee. Such maps and drawings shall include the horizontal and vertical location of all facilities and equipment and shall be provided consistent with the city's electronic mapping system, when practical or as a condition imposed by the director. Failure to provide maps and drawings pursuant to this subsection shall be grounds for revoking the permit holder's registration.
- B. Service Laterals. All permits issued for the installation or repair of service laterals, other than minor repairs as defined in Minn. R. 7560.0150, subp. 2, shall require the permittee's use of appropriate means of establishing the horizontal locations of installed service laterals and the service lateral vertical locations in those cases where the director reasonably requires it. Permittees or their subcontractors shall submit to the director evidence satisfactory to the director of the installed service lateral locations. Compliance with this Provision and with applicable Gopher State One Call law and Minnesota Rules governing service laterals installed after Dec. 31, 2005, shall be a condition of any city approval necessary for:



- I. Payments to contractors working on a public improvement project, including those under Minn. Stat. ch. 429, and
  - II. City approval under development agreements or other subdivision or site plan approval under Minn. Stat. ch. 462. The director shall reasonably determine the appropriate method of providing such information to the city. Failure to provide prompt and accurate information on the service laterals installed may result in the revocation of the permit issued for the work or future permits to the offending permittee or its subcontractors.
25. Location and Relocation of Facilities.
- A. Placement, location, and relocation of facilities must comply with the Act, with other applicable law, with other applicable standards adopted by the city engineer, and with Minn. R. 7819.3100, 7819.5000, and 7819.5100, to the extent the rules do not limit authority otherwise available to cities. For separation distance required between new support structures and existing support structures or other utility poles see Provision 11.C above.
  - B. Corridors.
    - I. The city may assign a specific area within the right-of-way, or any particular segment thereof as may be necessary, for each type of facility that is or, pursuant to current technology, the city expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the city involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue.
    - II. Any registrant who has facilities in the right-of-way in a position at variance with the corridors established by the city shall, no later than at the time of the next reconstruction or excavation of the area where the facilities are located, move the facilities to the assigned position within the right-of-way, unless this requirement is waived by the city for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, customer service needs, and hardship to the registrant.
  - C. Nuisance. The city may exercise any remedies or rights it has at law or in equity, including, but not limited to, abating the nuisance or taking possession of the facilities and restoring the right-of-way to a useable condition.
  - D. Limitation of Space. To protect the health, safety, and welfare of the public, or when necessary to protect the right-of-way and its current use, the city shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making such decisions, the city shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future city plans for public improvements and development projects which have been determined to be in the public interest.
26. Pre-Excavation Facilities Location.
- A. In addition to complying with the requirements of Minn. Stat. 216D.01-.09 ("One Call Excavation Notice System") before the start date of any right-of-way excavation, each registrant who has facilities or equipment in the area to be excavated shall mark the horizontal and vertical placement of all said facilities. Any registrant whose facilities are less than 20 inches below a concrete or asphalt surface shall notify and work closely with the

excavation contractor to establish the exact location of its facilities and the best procedure for excavation.

27. Damage to Other Facilities.

- A. When the city does work in the right-of-way and finds it necessary to maintain, support, or move a registrant's facilities to protect it, the city shall notify the local representative as early as is reasonably possible. The costs associated therewith will be billed to that registrant and must be paid within 30 days from the date of billing. Each registrant shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damage. Each registrant shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the city's response to an emergency occasioned by that registrant's facilities.

28. Right-of-way Vacation.

- A. Reservation of right. If the city vacates a right-of-way that contains the facilities of a registrant, the registrant's rights in the vacated right-of-way are governed by Minn. R. 7819.3200.

29. Indemnification and Liability

- A. By registering with the city, or by accepting a permit under this chapter, a registrant or permittee agrees to defend and indemnify the city in accordance with the provisions of Minn. Rule 7819.1250.

30. Abandoned and Unusable Facilities.

- A. Discontinued Operations. A registrant who has determined to discontinue all or a portion of its operations in the city must provide information satisfactory to the city that the registrant's obligations for its facilities in the right-of-way under this chapter have been lawfully assumed by another registrant.
- B. Removal. Any registrant who has abandoned facilities in any right-of-way shall remove it from that right-of-way within one year if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the city.

31. Appeal.

- A. A right-of-way user that: (1) has been denied registration; (2) has been denied a permit; (3) has had a permit revoked; (4) believes that the fees imposed are not in conformity with Minn. Stat. § 237.163, subd. 6; or (5) disputes a determination of the director regarding Provision 24.B above may have the denial, revocation, fee imposition, or decision reviewed, upon written request, by the City Council.
- B. The City Council shall act on a timely written request at its next regularly scheduled meeting, provided the right-of-way user has submitted its appeal with sufficient time to include the appeal as a regular agenda item.
- C. A decision by the City Council affirming the denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

32. Reservation of Regulatory and Police Powers

- A. A permittee's rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinances as necessary to protect the health, safety, and welfare of the public.

## § 501.11. Telecommunication Tower Facility

### 1. Intent and Purpose

- A. The natural setting and historic context of the City of Marine on St. Croix (“the City”) are among its most valuable assets. The City is located on the St. Croix National Scenic Riverway, a unit of the National Park System, established by the Wild and Scenic Rivers Act in 1968. It is also home to William O’Brien State Park. Compromising these assets risks undermining the very characteristics responsible for our economic vitality and future potential. Protecting these assets will require that location and design of tower facilities be sensitive to, and in scale and harmony with, the aesthetics and community of the City. These regulations provide standards for the proper placement and design of tower facilities in order to ensure their compatibility with surrounding aesthetics and development.
- B. These regulations establish predictable and balanced regulations that protect the public, health, safety, and general welfare of the City, and are intended to:
  - I. Facilitate the provision of telecommunications services and facilities including commercial wireless telecommunication services in the City
  - II. Minimize adverse visual effects of towers through careful design and siting standards;
  - III. Avoid potential damage to adjacent properties from tower or antenna failure and weather-related occurrences through structural standards, careful siting, and setback requirements;
  - IV. Encourage the use of existing towers and buildings to accommodate commercial wireless telecommunication service antennas in order to minimize the number of towers needed to adequately serve the community.
- C. The Telecommunication Act of 1996 affirms local government’s right to control the siting, construction, and modification of cellular and other wireless telecommunication facilities. The permitting process in this Ordinance does not discriminate among providers of functionally equivalent services and does not prohibit the provision of personal wireless services.
- D. Leasing of public buildings, publicly-owned structures, public lands, and/or rights- of-way for the purposes of locating wireless telecommunication services facilities and/or equipment is encouraged. In cases where a facility is proposed on City property, specific locations and compensation to the City may be negotiated in lease agreements between the City and the provider on a case- by-case basis, and shall be subject to all the requirements contained in this Ordinance. Such agreements would not provide exclusive arrangements that could prohibit access by other providers to the negotiated site(s) or limit competition, and encourage the opportunity to “co-locate” (sharing of facilities) with other providers.

### 2. Applicability

- A. This Subsection shall not apply to small cell wireless facilities located within the right-of-way. Standards for small cell wireless facilities can be found in Subsection 501.10 Small Wireless Facility.
- B. It shall be unlawful for any person to erect, construct, or place any new Tower Facility without first receiving appropriate permits from the City. Tower Facilities must comply with all local, state and federal regulations. It shall be unlawful to structurally alter, modify, transform, add to, or change in any way, an existing tower structure without first receiving

permits from the City. Addition or modification of antennas and transmission lines on existing towers shall not require a permit.

- C. Amateur Radio – The provisions contained herein shall not govern any privately owned tower, or the installation of any antenna that is under 70 feet in height or operated by a federally licensed amateur radio station operator, or is used exclusively as a receive-only antenna.
- D. All rules and regulations of applicable state and federal laws and agencies shall be met and complied with, to include the FCC, FAA, and all state and federal RF safety standards.
- E. A general building permit is required for the tower and supporting facilities.

### 3. Definitions

- A. **Antenna:** Any structure or device used for the purpose of collecting or radiating electromagnetic waves including but not limited to directional antennas such as panels, microwave dishes, satellite dishes, and omni-directional antennas such as whip antennas.
- B. **Co-Location.** The placement of wireless telecommunication antenna by two or more service providers on a tower, building or structure.
- C. **Guyed Tower.** A tower that is supported, in whole or in part, by wires and ground anchors.
- D. **Monopole.** A type of tower mount that is self-supporting through a single shaft usually constructed of wood, metal or concrete.
- E. **Search Ring.** An area in which a wireless provider is able to locate an antenna of a defined height which will provide the wireless service providers desired coverage.
- F. **Tower.** Any pole, wire, structure or combination thereof, including support lines, cables, wires, braces and masts intended primarily for the purpose of mounting antenna or to serve as an antenna.
- G. **Tower Facility(ies).** A tower and its appurtenant devices including, but not limited to antennae, buildings, fences, gates and related equipment.
- H. **Total Height.** The distance between the ground level at the base of a structure and its tallest vertical extension including any attachment thereon.

### 4. Tower Design

- A. Proposed or modified towers and antennas shall meet the following design requirements:
  - I. Towers and their antennas shall be certified by a qualified and licensed professional engineer to conform to applicable state and national structural building standards.
  - II. Towers shall be monopoles, self-supporting or guyed towers.
- B. Tower Painting – Towers shall comply with FAA requirements.
- C. Tower Lighting – No tower shall be lighted unless FAA rules require lighting. All towers shall use only red incandescent lights. No strobe lights, red or white, will be allowed.

### 5. Tower Setbacks

- A. Towers and all accessory structures or buildings shall conform to the following minimum setback requirements, unless an exception may be applied under Provision 12.A below. at the discretion of the Planning Commission:
  - I. Towers shall be setback from all property lines an amount equal to the height of the structure;

- II. Guy wires for towers shall meet the structure setback of the underlying zoning district.
6. Co-Location Requirements
- A. All commercial wireless telecommunication towers erected, constructed, or located within the City shall comply with the following requirements:
    - I. Documentation of the area to be served including a search ring for the antenna location. A narrative describing a search ring for the request, with not less than a two (2) mile radius clearly explaining why the site was selected, what existing structures were available and why they are not suitable as locations or co-locations. RF propagation and coverage maps further showing the proposed service area may also be requested by City staff.
    - II. Documentation that the communications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within the search ring of the service area due to one or more of the following reasons:
      - a. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot reasonably be reinforced, modified, or replaced to accommodate planned equipment at a reasonable cost;
      - b. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer or qualified radio frequency engineer and the interference cannot be prevented at a reasonable cost;
      - c. Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer; or
      - d. Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.
    - III. Any proposed tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and at a minimum one other array of antennas for co-location.
    - IV. An agreement stating that the applicant and tower owner commit to co-location at reasonable market prices within 90 days. Any prohibition or unreasonable obstruction of additional users on a tower shall be considered a violation of the permit and this Ordinance.
    - V. The agreement shall also include a statement that any unused or abandoned tower shall be removed by the tower owner and/or applicant within 12 months of the tower being vacated. Said agreement shall be signed by the applicant and the property owner and shall be attached to and become a part of the permit.
7. Tower, Area Fencing and Landscaping Requirements
- A. Tower base, equipment and buildings accessory to a tower shall:
    - I. Be architecturally designed to blend in with the surrounding environment and shall meet the height and setback limitations as established within the respective zoning district unless otherwise excepted.

- II. Tower base, equipment and buildings shall be fenced in by a six (6) foot security fence. Tower base, equipment and buildings shall be screened from view by suitable fencing-slats or vegetation which will be at least six (6) feet in height within four (4) years of tower construction except where a design of other, non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood. The screening plan shall also comply with Section 605 Screening. The screening tower plan shall be approved by the City Planning Commission.
  - B. The anchor point for the guy wires shall be fenced. The fence shall extend at least 10 feet around the anchor point or guy base to ensure public safety.
- 8. Abandoned or Unused Towers
  - A. Abandoned or unused towers and associated facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the City Council. In the event that a tower is not removed within the 12 months of the cessation of operations at a site, the revocation of permit applies under Provision 18 below, and tower and associated facilities may be removed by the City and the costs of removal assessed against the permittee and tower owner in accordance with that section.
  - B. The City may require the owner or operator of any tower to post adequate security, in form acceptable to the City, toward the costs of removal of any tower and site restoration.
- 9. Signs and Advertising
  - A. The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.
- 10. Noise
  - A. The noise levels associated with any tower facility shall conform to the Minnesota Pollution Control Agency noise level requirements as listed in MN Rules Chapter 7030.
- 11. Application Requirement
  - A. The City Planning Commission and City Council may contract with an independent technical expert to review applicant materials and/or to determine if additional information is necessary. The tower facility applicant shall pay the cost of such review and/or independent analysis. In addition to the general requirements for conditional use permit applications in Section 804 Conditional Use Permit of the City Zoning Ordinance; all applications for new towers must also include the following:
    - I. Site plan(s) drawn to a scale, specifying the location of the tower facility, support structures, transmission buildings and/or other accessory structures & uses, accesses, parking areas, fences, signs, lighting, landscaped areas and all adjacent land uses within 350 feet of the tower facility, including all support structures and security fencing.
    - II. Map showing the search radius for the antenna location and the proposed broadcast coverage obtained by the tower facility, including a narrative describing a search radius of not less than two (2) miles for the requested site, clearly explaining why the site was selected, locating all existing tower facilities, and identifying all other structures that may be potential co-location sites.
    - III. Screening plan in accordance with Section 605 Screening.
    - IV. Series of photo-simulated pictures of the proposed-to-be-constructed tower in a digital format. The pictures shall include a picture of the tower from nearest road, picture of base of tower only showing the bottom 20 feet, picture of the compound area, and

picture of each of the guy points, if a guy tower is proposed. The pictures shall also include photo-simulations of any view-shed points from which the tower will impede.

- V. A signed lease on behalf of a carrier that once the tower is constructed the carrier will be leasing the tower within one (1) year after completion.
- VI. A copy of a pre-FAA determination or a document that the proposed tower facility has not been found to be a hazard to air navigation under Part 77, Federal Aviation Regulations, or that no compliance with Part 77 is required, and the reasons therefore.
- VII. Documentation shall be provided prior to the issuance of a land use permit demonstrating that the approved tower has been designed in compliance with a qualified engineer licensed by the State of Minnesota.

## 12. Factors Considered in Granting Conditional Use Permits

- A. The City Planning Commission shall consider the following factors in addition to any normally prescribed conditional use factors listed in this Ordinance, in determining whether to issue a conditional use permit. The Planning Commission may evaluate each of these criteria on a site-by-site basis with varying levels of preference in determining how the goals of this Ordinance are best served:
  - I. Height of the proposed tower facility.
  - II. Capacity of the tower structure for additional antenna equipment to accommodate expansion, or to allow for co-location of other provider's equipment.
  - III. Proximity of the tower to residential structures.
  - IV. Nature of uses on adjacent and nearby properties and integration with those.
  - V. Surrounding topography.
  - VI. Present and surrounding tree coverage and foliage.
  - VII. Design and siting of the tower, with particular reference to design characteristics and location that have the effect of reducing or eliminating visual obtrusiveness.
  - VIII. Proposed ingress and egress.
  - IX. Availability of suitable existing towers and other structures as discussed in other sections of this Ordinance.
  - X. Level of adherence to the provisions set forth in Provision 1 above and any current or later adopted tower policy statement or design guidelines.
  - XI. Criteria for granting conditional use permits in Subsection 804.3 Review Criteria of this Ordinance.

## 13. Restrictions

- A. The following restrictions apply, unless approval is granted at the discretion of the City Council:
  - I. Towers shall be setback from all property lines an amount equal to the height of the structure unless a letter is provided by a licensed engineer that states the engineered fall-zone of the tower. If a sufficient letter is provided, the setback distance may be reduced by an amount sufficient to maintain the stated fall-zone of the tower.
  - II. No tower shall be over a total of 199 feet in height or within one (1) mile of another tower regardless of municipal boundaries.

- III. A proposal for a new wireless service tower shall not be approved unless it can be shown by the applicant that the telecommunication equipment planned for the proposed tower cannot be accommodated:
    - a. On an existing tower or structure; or
    - b. On a tower that has been permitted by the City (even though it may not yet be constructed); or
    - c. On a tower whose application for a conditional use permit is currently pending before the City.
  - IV. No tower over 35 feet in height shall be located within 500 feet of any residential dwelling other than the dwelling on the parcel on which the tower is to be located.
  - V. No tower over 35 feet in height shall be located closer than one-quarter (1/4) mile to the outside boundary of an existing or proposed municipal or county park.
  - VI. No tower over 35 feet shall be erected in an area one-half (1/2) mile west of the centerline of State Highway 95 to one (1) mile east of the centerline of State Highway 95 or one-quarter (1/4) mile from any boundary of a State Park or DNR or NPS designated or protected area, unless it can be demonstrated through visual impact demonstration that the tower will be stealth designed and visually inconspicuous as viewed from the road or area boundary on a year-round basis.
  - VII. Temporary mobile cell sites may be permitted at the discretion of the City Council in limited circumstances where a mobile cell site is necessary to provide service while a permanent tower is under construction. The use of temporary mobile cell sites in this scenario is limited to 30 days. They are also permitted in the case of equipment failure, equipment testing, or in the case of an emergency situation as authorized by the County Sheriff. Use of temporary mobile cell sites for testing purposes shall be limited to 24 hours; use of temporary mobile cell sites for equipment failure or in the case of emergency situations shall be limited to a term of 30 days. These limits can be extended by the City Council.
  - VIII. Permanent platforms or structures, exclusive of antennas, other than those necessary for safety purposes or for tower maintenance are prohibited.
  - IX. No antenna or tower shall have lights, reflectors, flashers, daytime strobes, steady night time red lights or other illuminating devices affixed or attached to it unless required by the FAA or FCC.
  - X. No advertising or identification signs shall be placed on towers or antennas.
14. Time Limit on Tower Construction
- A. Construction of an approved tower including all accessory structures, including footings and foundations, must be completed within one (1) year following the date of the permit, extendable for another year by the City Council. All landscaping must be installed within the first growing season immediately following construction.
15. Effect of the Ordinance on Existing Tower Facilities
- A. Tower facilities and antennas in all zoning districts and in existence as of October 14, 2021 that do not conform to or comply with this Ordinance are subject to the following provisions:



- I. Towers may continue in use for the purpose now used and as now existing, but may not be replaced or structurally altered without complying in all respects with the provisions contained herein.
  - II. If a nonconforming tower is hereafter damaged or destroyed due to any reason or cause whatsoever, the tower may be repaired and restored to its former use, location, and physical dimensions upon obtaining a land use permit if the cost of repairing the tower to its former use, location, and physical dimensions would be less than 50 percent of the cost to build a new conforming tower.
16. Term of Permit
- A. A conditional use permit will remain in effect so long as the conditions contained within the permit are met.
17. Revocation of Permit
- A. The grounds for revocation of a conditional use permit shall be based on a finding that:
    - I. The permittee has failed to comply with the conditions of approval imposed;
    - II. The facility has not been properly maintained, or
    - III. The facility is no longer in use providing wireless communication services to City residents and businesses and has not been in use for the previous 12 months.
  - B. In the event of revocation of a permit, the tower and all accessory structures must be removed and the site restored to its original condition within 120 days. Failure to do so will result in the City completing the removal and site restoration and the City's cost shall, where the City is not the property owner, be assessed against the property and collected as a real estate tax. Where the City is the owner of the property on which the tower stands, the costs will be assessed against the permittee and tower owner.
18. Enforcement
- A. This Ordinance is adopted by reference pursuant to the provisions of Minnesota Statutes Chapter 394. It is declared unlawful for any person to violate any of the terms or conditions of this Ordinance. Violation thereof shall be a misdemeanor.
  - B. In the event of a violation or a threatened violation of this Ordinance, the City, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, or abate such violations or threatened violations. The City may and is empowered to issue cease and desist orders to halt the progress of any on-going violation. When the work has been stopped by the City for any valid reason whatsoever, it shall not again be resumed until the reason for the work stoppage has been completely satisfied and the cease-and-desist order lifted.
  - C. Any person with proper standing, may institute mandamus proceedings in the District Court to compel specific performance by the proper official or officials of any duty required by this Ordinance.

**Section 502. Accessory Use Standards**

**§ 502.1. Accessory Living Space**

- 1. Permits. In addition to an application form and fee, applications for a conditional use permit to allow accessory living space shall include the following materials:
  - A. Legal description of the property location and proof of ownership.

- B. Plans, drawn to scale, indicating existing and proposed floor plans and access to both the principal unit and the accessory unit.
  - C. Site plan depicting parking availability.
2. General Requirements. All accessory living spaces shall comply with the following requirements:
- A. The accessory living space shall be clearly subordinate to the principal use of the lot as a single unit detached dwelling.
  - B. Accessory living space may include the following:
    - I. A bathroom or a kitchen/cooking facilities;
    - II. A living room; and
    - III. No more than one (1) bedroom.
  - C. Accessory living space shall be between 400 and 800 square feet in floor area. Common area shared by the principal dwelling and the accessory living space shall be considered part of the principal dwelling and shall not be included in the calculation of accessory living space floor area.
  - D. A maximum of one (1) accessory living space may exist per lot.
  - E. The property shall be owner occupied at the time of application and the building and property shall remain in single ownership and title and shall only have one (1) street address.
  - F. Two (2) parking spaces shall be provided for each accessory living space.
  - G. No separate driveway or curb cut shall be permitted for the accessory living space.
3. Requirements for Accessory Living Space Within a Principal Dwelling. In addition to the general requirements of Provision 2 above, the following requirements shall apply to accessory living spaces established within a single unit dwelling:
- A. A separate exterior entrance may be permitted. Any exterior alterations or expansion shall be constructed of similar size, color, and type of materials as the principal dwelling.
  - B. The principal dwelling and accessory living space shall share an internal doorway connection between the units.
  - C. Both the principal dwelling and the accessory living space shall share a single utility connection to electricity, potable water or domestic sewage treatment system (either ISTS or municipal sewer).
4. Requirements for Accessory Living Spaces Within an Accessory Structure. In addition to the general requirements of Provision 2 above, the following requirements shall be applied to accessory living spaces established within accessory structures:
- A. The accessory living space shall be counted against the permitted accessory structure floor area for the specific lot.
  - B. Water Supply. The applicant shall provide construction details for providing potable water from a private wells or public water system.
  - C. Sanitary Sewer. The applicant shall provide construction details for connecting to an individual sewage treatment system (ISTS). The property owner shall demonstrate that the ISTS has sufficient capacity to accommodate the sewer flows from the accessory living space. Where municipal sewer is available, the accessory structure shall share a single sewer connection with the principal dwelling.

5. Revocation. The City Council may revoke a conditional use permit if the permittee fails to comply with the conditions attached to the issuance of the permit or otherwise fails to comply with the provisions of this section. Prior to revocation, the City Council shall conduct a hearing preceded by 10 days mail notice to the permittee.

## **§ 502.2. Accessory Structure**

1. Purpose. The standards of this section are intended to lessen the visual impact of accessory structures from adjacent properties and the public right-of-way and ensure that accessory structures are aesthetically and architecturally compatible with the principal structure on the property.
2. In All Districts
  - A. No accessory structure shall be constructed or developed on a lot prior to construction of the principal structure.
    - I. In the SFR and SFU zoning districts, an accessory structure may be allowed by a conditional use permit on property without a principal structure for any homeowner's association, organization, or non-individual property owner.
    - B. In addition to the standards below, an accessory structure may be located within the required rear yard setback provided that the lot is not a through lot and said accessory structure does not occupy more than 25 percent of the required rear yard.
3. In Residential Districts
  - A. Area
    - I. Within the SFU and SC-UR Zoning Districts, accessory structures shall meet the following building size standards:
      - a. The sum total of square footage of attached garages and all detached accessory structures for non-farm or non-agricultural purposes shall be limited to 1,450 square feet of foundation area.
      - b. No individual detached accessory structure shall exceed 750 square feet of foundation area.
      - c. No attached garage shall exceed 75 percent of the foundation area of the principal structure or 750 square feet of foundation area, whichever is less.
    - II. Within the SFR and SC-RR Zoning Districts, accessory structures shall meet the following building size standards:
      - a. The sum total square footage of attached garages and all detached accessory structures for non-farm or non-agricultural purposes shall be limited to 2,400 square feet of foundation area.
      - b. No individual detached accessory structure shall exceed 1,500 square feet in foundation area.
      - c. No attached garage shall exceed 75 percent of the foundation area of the principal building or 1,500 square feet of foundation area, whichever is less.
  - B. Placement
    - I. Detached accessory structures shall be set back at least five (5) feet from the rear lot line.

- II. Accessory structures in the SFU, SC-RR, and SC-UR districts shall be set back at least 10 feet from any side property line.
- III. Accessory structures in the SFR District shall be set back at least 20 feet from any side property line.
- IV. No detached accessory structure shall be located nearer the front property line than the principal structure on the lot, except by administrative permit subject to all of the following conditions:
  - a. The front yard location is necessary to mitigate a physical feature, lake or stream frontage, topography, tree preservation, lot narrowness, and/or other conditions unique to the lot that prevents an accessory structure from being located behind the front building line of the principal structure.
  - b. The maximum size of the accessory structure is 750 square feet in foundation area or 75 percent of the principal structure foundation size, whichever is less.
  - c. The accessory structure is oriented with respect to the street so that any garage door faces a side or rear lot line.
- V. Detached garage
  - a. When a detached garage is oriented so as to face onto a public street, it shall be at least 35 feet from the front property line.
  - b. Detached garages that receive direct access from a rear alley shall be set back 20 feet from the rear lot line.
- C. Structure Height
  - I. No accessory structure shall exceed the height of the principal structure.
  - II. No access door or other opening shall exceed a height of 10 feet.
- D. Architectural Standards
  - I. For accessory structures with non-farm or non-agricultural purposes, the choice of the exterior building materials, color, roof line, and architectural style shall be similar and complementary to the principal structure.
  - II. A concrete slab or other suitable foundation is required.
  - III. Pole buildings are prohibited in all districts except for those used for farm or agricultural purposes.
- 4. In Village Center and Limited Industry Districts
  - A. Accessory structures may be located any place to the rear of the principal building, subject to the building code and fire code regulations.
  - B. No accessory structure shall exceed the height of the principal building except by conditional use permit.

**§ 502.3. Accessory Structure for Residential Purposes**

- 1. Use of an accessory structure for residential purposes where there is a sewer hook-up provided that:
  - A. The facility is used by the occupants of the principal structure as an extension of their residential use of that structure;
  - B. The facility does not contain both bathroom and kitchen facilities;

- C. The facility is located in a permanent structure; and
- D. The facility is not sold or rented separately from the principal structure.

#### § 502.4. Animal Boarding

- 1. Boarding of five (5) or fewer farm animals owned by the resident is permitted. This shall include horses, cattle, mules, donkeys, llamas, and other similar animals.
- 2. Two (2) additional animals owned by the resident shall be permitted provided that the animals are less than one (1) year in age.
- 3. Standard setback requirements shall apply to fences and accessory structures.

#### § 502.5. Antenna

- 1. Regulations pertaining to small cell wireless facilities located within the right-of-way are found in Subsection 501.10 Small Wireless Facility.
- 2. Definitions
  - A. **Accessory and/or secondary use:** Those antenna including radio and television receiving antennas, satellite dishes, television receive only (TVROs) two (2) meters or less in diameter, short-wave radio dispatching antennas, or those necessary for the operation of electronic equipment such as radio receivers, ham radio transmitters and television receivers that are customary and incidental to allowed principal uses within the various zoning districts of the City.
  - B. **Personal wireless service:** A device consisting of metal, carbon fiber, or other electromagnetically conductive rods or elements, usually arranged in a circular array on a single supporting pole or other structure, and used for the transmission and reception of wireless communication radio waves including cellular, personal communication service (PCS), enhanced specialized mobilized radio (ESMR), paging and similar services and including the support structure thereof.
  - C. **Public utility microwave:** A parabolic dish or cornucopia shaped electromagnetically reflective or conductive element used for the transmission and/or reception of point to point UHF or VHF radio waves in wireless telephone communications, and including the support structure thereof.
  - D. **Radio and television, broadcast transmitting:** A wire, set of wires, metal or carbon fiber rod or other electromagnetic element used to transmit public or commercial broadcast radio, or television programming, and including the support structure thereof.
  - E. **Radio and television receiving:** A wire, set of wires, metal or carbon fiber element(s), other than satellite dish antennas, used to receive radio, television, or electromagnetic waves, and including the support structure thereof.
  - F. **Satellite dish:** A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device is used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition shall include, but not be limited to, what are commonly referred to as satellite earth stations, TVROs (television, receive only) and satellite microwave antennas and the support structure thereof.
  - G. **Satellite dish height:** The height of the antenna or dish measured vertically from the highest point of the antenna or dish when positioned for operation, to the top of the foundation which supports the antenna.

- H. **Short-wave radio transmitting and receiving:** A wire, set of wires or a device, consisting of a metal, carbon fiber, or other electromagnetically conductive element used for the transmission and reception of radio waves used for short-wave radio communications, and including the support structure thereof.
  - I. **Support structure:** Any building or other structure other than a tower which is intended to be used for location of antennas.
  - J. **Temporary mobile:** Any mobile tower, pole, or structure located on a trailer, vehicle, or temporary platform intended primarily for the purpose of mounting an antenna or similar apparatus for personal wireless services, also commonly referred to as Cellular on Wheels (COW).
  - K. **Tower:** A self-supporting lattice, guyed or monopole structure constructed from grade which supports personal wireless service antennas. The term tower shall not include amateur radio operators' equipment, as licensed by the FCC.
3. Antennas and satellite dishes accessory to the principal structure shall not be subject to the height limitations of the SFR District provided:
- A. Antenna structures attached to the principal structure shall not extend more than 15 feet above the roof line.
  - B. Detached antenna structures shall be set back from property lines a distance of one foot for every one foot of height, and have a maximum 35-foot height.
  - C. Detached antenna structures shall be located within the building envelope defined in Section 401.5.2.F.

**§ 502.6. Bulk Storage (Liquid)**

- 1. The City Council may require the development of diking around said tanks.
- 2. Diking shall be suitably sealed and shall hold a leakage capacity equal to 115 percent of the tank capacity.

**§ 502.7. Day Care, Group Family**

- 1. The facility shall be in compliance with Minnesota Department of Human Services, chapter 9502, licensing of day care facilities.

**§ 502.8. Home Occupation**

- 1. Purpose. The regulation of home occupations within residential structures is intended to ensure that the occupational use is clearly accessory or secondary to the principal dwelling use and that compatibility with surrounding residential uses is maintained.
- 2. The following activities or those deemed to be similar by Zoning Administration Staff shall be prohibited from being home occupations:
  - A. Dispatch businesses
  - B. Firearm training/instruction
  - C. Large volume sales
  - D. Uses which require disposal of biohazardous waste
  - E. Repair or painting of vehicles/trailers/equipment
  - F. Machine shop

3. General Home Occupation Requirements. The following standards shall apply to all home occupations:
  - A. The home occupation shall be conducted entirely within the principal structure or within a permitted accessory structure.
  - B. The home occupation shall not exceed 355 square feet of the gross floor of a dwelling or the total gross floor area of a single accessory building.
  - C. The home occupation shall not adversely change the character of the neighborhood in which it is located, including but not limited to:
    - I. The home occupation shall not produce light, noise, odor, vibration, or electrical interference that will in any way have an objectionable effect upon adjacent or nearby properties.
    - II. The home occupation shall not significantly alter the traffic pattern of the neighborhood. The traffic pattern generated by the home occupation shall only involve vehicles of the type that typically service single unit dwellings and shall constitute neither a nuisance nor a safety hazard.
    - III. The home occupation shall not require interior or exterior alterations or involve mechanical or electrical equipment not customarily found in a home.
    - IV. The home occupation shall not include the operation of mechanical or electrical equipment if the operation of such equipment produces noise, odor, vibration, or electrical interference that interferes unreasonably with the desired quiet residential environment of the neighborhood or endangers the health and safety of neighborhood.
    - V. The home occupation shall not include outdoor storage of equipment, machinery, inventory, tools, or any other item used in connection with the business, except for parking of business vehicles of classes 1-3. Class 4-8 vehicles may be parked temporarily on site for the purposes of loading, unloading, or rendering a service.
    - VI. No exterior display or signs shall be visible from outside the building in which a home occupation is operated.
  - D. Sufficient off-street parking shall be provided for the home occupation. On-street parking attributed to the home occupation shall be prohibited.
  - E. Premises used for home occupations shall conform to the Uniform Building Code and Fire Code.
4. Requirements for Permitted Home Occupations.
  - A. No person other than those who live on the premises shall be employed.
  - B. Direct sales shall be prohibited on the premises except as may be conducted through the use of the U.S. Mail, commercial delivery services by a vehicle no larger than a step van, or by telephone or internet sales.
5. Requirements for Interim Use Home Occupations. Home occupations which exceed the requirements in Provision 4 above shall require an interim use permit and shall comply with the following requirements:
  - A. The home occupation shall meet all standards listed in Provision 3, above.
  - B. Home occupations shall be owned and operated by the owner/occupant of the residence. The home occupation may allow up to two (2) employees other than those living on the premises.

- C. Product production, service, and sales may be permitted
- D. Home occupations allowing retail sales shall meet the following conditions:
  - I. No articles for sale shall be displayed so as to be visible from any street.
  - II. The home occupation shall not generate more than two (2) additional vehicles at any one time.

**§ 502.9. Keeping of Chickens**

- 1. See City Code Section 5.02 Chickens on Parcels Less than 5 Acres.

**§ 502.10. Open and Outdoor Storage**

- 1. The storage area shall be fenced to delineate the limits of the storage area.
- 2. The storage area shall not exceed 30 percent of the total area of the site.
- 3. The storage area shall be screened from view of abutting residential uses and public rights-of-way as specified in Subsection 605.1 Screening Required.
- 4. Outdoor storage shall not exceed the height of the provided fencing or screening.
- 5. Surfacing. The sales area shall be grassed or surfaced to control dust and mud and to provide a clean, attractive, and usable surface.
- 6. The storage area shall not take up parking space or loading space as required for conformity to this Ordinance.

**§ 502.11. Outdoor Sales**

- 1. Area Limit. Outdoor sales or rental is limited to 30 percent of the gross floor area of the principal structure.
- 2. Outside sales areas shall be fenced or screened from view of neighboring residential uses or abutting residential zoning districts in compliance with Section 605 Screening.
- 3. Surfacing. The sales area shall be grassed or surfaced to control dust and mud and to provide a clean, attractive, and usable surface.

**§ 502.12. Recreational Vehicle and Equipment Storage**

- 1. Storage of boats and unoccupied trailers less than 20 feet in length is permissible if stored in the rear yard more than 10 feet from any property line. Seasonal storage of boats and boat trailers in excess of 20 feet in length may be allowed provided the following conditions are met:
  - A. The boat and trailer belong to the property owner of the premises where the boat is stored.
  - B. Seasonal storage shall not exceed nine (9) consecutive months.
  - C. The boat and/or trailer shall not exceed 24 feet in length.
  - D. The boat and/or trailer shall not be stored in the required front yard setback except within a driveway.

**§ 502.13. Sacred Community**

- 1. Any sacred settlement shall meet the standards found in Minnesota Statutes §327.30.

**§ 502.14. Seasonal Produce Stand**

- 1. All produce sold at the stand shall be grown within the city limits.



2. Only temporary, unenclosed display facilities shall be used to exhibit produce items.
3. Adequate off-street parking is provided and no parking related to produce sales occurs in the public right-of-way.
4. Signs:
  - A. Shall be located on the private property of the farm owner/operator and shall be located no more than 100 feet from the point of sale.
  - B. Shall be located no closer than 15 feet from any lot line.
  - C. Shall be limited to no more than two (2) signs together totaling no more than 16 square feet.
  - D. Shall be removed when the sales operation is closed for the season.

### **§ 502.15. Solar Energy System**

1. Types of Systems
  - A. Within the SC-RR, SC-UR, and SC-VC districts, only building integrated solar shall be allowed.
  - B. Within the SFR, SFU, and LI districts, both building-integrated and ground-mounted solar energy systems are allowed and must be installed with appropriate plantings.
2. Required solar fencing shall be aesthetically consistent with agricultural or deer type fencing.
3. Solar installations shall not have direct glare impact onto streets, patios, dwellings, and structures on neighboring lots.

## **DIVISION 600. DEVELOPMENT STANDARDS**

### **Section 601. Performance Standards**

#### **§ 601.1. Noise**

1. Noises emanating from any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Rules Chapter 7030.

#### **§ 601.2. Vibration**

1. The following vibrations are prohibited:
  - A. Any vibration discernible beyond a property line to the human sense of feeling for three (3) minutes or more duration in any one (1) hour.
  - B. Any vibration resulting in any combination of amplitudes and frequencies beyond the safe range of the most current standards of the United States Bureau of Mines on any structure.

#### **§ 601.3. Toxic Matter**

1. No use shall discharge any toxic or noxious matter in such concentration as to be detrimental to or endanger the public health, safety, comfort, or welfare or cause injury or damage to property or business. For the purpose of this Ordinance, the regulations and standards adopted by the Minnesota Pollution Control Agency shall be employed.

#### **§ 601.4. Air Pollution**

1. Any use shall be so operated as to control the emission of smoke or particulate matter to the degree that it is not detrimental or an endangerment to the public health, safety, comfort, or

general welfare of the public. For the purpose of this Ordinance, the regulations and standards adopted by the Minnesota Pollution Control Agency shall be employed.

#### **§ 601.5. Refuse**

1. All refuse within the city be handled in accordance with the standards in this subsection as well as the standards for garbage and rubbish in Chapter 6 of the City Code.
2. In all districts, all waste material as defined in Chapter 6 of the City Code, with the exception of crop residue shall be kept in an enclosed building or properly contained in a closed container designed for such purposes on the owner's property. The owner of vacant land shall be responsible for keeping such land free of refuse.
3. Passenger vehicles and trucks in an inoperative state parked outdoors in residential districts for seven (7) or more days shall be fully screened; inoperative shall mean incapable of movement under their own power and in need of repairs or junk yard.
4. All exterior storage not included as a permitted accessory use, or included as part of a conditional use permit, or otherwise permitted by provisions of this Ordinance, shall be considered as refuse.
5. In the SC-VC District, all waste material, debris, refuse, recycling, yard waste or garbage shall be kept in a screened and/or enclosed structure constructed of materials consistent with the principal structure.
6. In all districts, containers must be enclosed, screened, or completely hidden from view.
7. A temporary exception will be made for dumpsters during construction.

#### **§ 601.6. Miscellaneous Nuisances**

1. No person may store or keep any vehicle of a type requiring a license to operate on public roadways without a current license attached thereto, whether such vehicle be dismantled or not, outside of an enclosed building in residential or agricultural districts.
2. The following are declared to be nuisances affecting public health or safety:
  - A. The effluent from any cesspool, septic tank, drainfield or human sewage disposal system discharging upon the surface of the ground, or dumping the contents thereof at any place except as authorized.
  - B. The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances.

#### **Section 602. Outdoor Lighting**

1. All outdoor lighting shall be installed in conformance with the provisions of this Ordinance and applicable sections of the Building and Energy Codes.
2. The following are exempt from the standards in this Section:
  - A. Publicly controlled or maintained street lighting and warning, emergency, or traffic signals;
  - B. Lighting required by federal, state, county, or city ordinances and regulations;
  - C. Lighting for public monuments, statues, flagpoles, or other similar elements, provided that any spotlight used for this purpose is shielded from adjacent properties;
  - D. Lighting specified or identified in a specific permit;

- E. Temporary outdoor lighting used for civic events, performance areas, outdoor events, and construction sites;
  - F. Lighting for public outdoor recreation uses;
  - G. Seasonal lighting and related holiday decorations; and
  - H. Solar landscape lights.
3. In all districts, outdoor lighting shall be arranged or controlled so as to deflect light away from any adjoining property or public right-of-way.
    - A. Any light or combination of lights which cast light on a public street shall not exceed one (1) foot candle (meter reading) as measured from the centerline of said street.
    - B. Any light or combination of lights which cast light on residential property shall not exceed 0.4 foot candles (meter reading) as measured from said property.
    - C. Bare incandescent light bulbs shall not be permitted in view of adjacent property or any public right-of-way.
  4. All fixtures shall be fully shielded and fully cutoff such that no light is emitted upward toward the sky.
  5. The height of pole-mounted fixtures shall be held to a maximum of 25 feet above grade.
  6. Outdoor lighting on any property shall be turned off or dimmed at 11:00pm or one (1) hour after the close of business, whichever is later. After such time total outdoor brightness (lumens) shall be reduced by at least 50 percent unless light levels need to be maintained due to traffic or safety concerns.
  7. Lighting controlled by a motion sensor shall be adjusted to dim or turn off within 10 minutes of detecting last motion, unless located at the main entry.

### **Section 603. Traffic, Parking, Access, Loading**

#### **§ 603.1. Traffic Control**

1. The traffic generated by any use shall be channelized and controlled in a manner that will avoid:
  - A. Congestion on the public streets,
  - B. Traffic hazards, and
  - C. Excessive traffic through residential areas, particularly truck traffic.
2. Internal traffic shall be so regulated as to ensure its safe and orderly flow.
3. Traffic into and out of business areas shall in all cases be forward moving with no backing into streets.

#### **§ 603.2. Driveways**

1. Permit Required.
  - A. No person shall construct a driveway or make a major alteration of a driveway in any area of the City without first obtaining a permit from Zoning Administration Staff or the appropriate jurisdiction.
  - B. The application for a permit shall be submitted Zoning Administration Staff. Staff may require that the application be accompanied by plans and specifications for the work.

- C. The application shall be accompanied by the fee as set by the City Council. If determined necessary by Zoning Administration Staff, a security deposit equal to or less than the estimated cost of the work shall be required.
  - D. Driveways within rights-of-way or easements owned by the County or State that are being constructed or modified shall be reviewed by the agency with roadway authority. All required permits shall be obtained and all conditions of approval satisfied.
2. Standards and Guidelines. Zoning Administration Staff shall grant a permit upon finding the work will comply with the following standards and guidelines:
- A. Number
    - I. The number and types of driveways onto collector or arterial streets may be controlled and limited in the interests of public safety and efficient traffic flow.
    - II. On lots less than 75 feet in width, no more than one (1) driveway per lot shall intersect a street.
  - B. Materials. That portion of the driveway which traverses the public street right-of-way shall be constructed of materials as follows:
    - I. If the driveway intersects a concrete street or a concrete curb and gutter, then the apron, new gutter, and the lesser of the first 50 feet of the length of the driveway or the portion of the driveway between the street and the property line shall be concrete.
    - II. If the driveway intersects a bituminous roadway without concrete curb and gutter, then the lesser of the first 50 feet of the length of the driveway or the portion of the driveway between the roadway and the property line shall be concrete, bituminous, or other material approved by Zoning Administration Staff.
  - C. Location
    - I. The minimum distance between the driveway and the nearest return of the intersection of two (2) streets shall be 50 feet as measured at the curb line of the street.
      - a. Driveways accessing arterial streets as shown in the City's Comprehensive Plan shall be located a minimum of 75 feet from any intersection. This shall not apply to lots within the SFU District.
    - II. The minimum distance between adjoining driveways shall be 15 feet as measured at the curb line of the street.
    - III. Driveways shall not be placed closer than five (5) feet to any side or rear lot line.
    - IV. Driveways shall intersect public roadways at approximately a 90 degree or right angle to the highway pavement.
  - D. Width
    - I. Driveways to principal structures shall be constructed and maintained to a width and base material depth sufficient to support access by emergency vehicles.
    - II. All driveways shall be a minimum of 12 feet wide, with brush and overhanging branches cleared to a minimum height of 12 feet above the ground.
    - III. The maximum driveway width at the curb line of the street and at the property boundary line shall be 30 feet exclusive of returns.
  - E. Slope. All driveways shall be constructed with a minimum grade as approved by Zoning Administration Staff.

- F. All driveways more than 200 feet in length shall require a conditional use permit and shall meet the following standards:
    - I. Passing lanes shall be constructed and maintained to the same standards as required for the driveway.
    - II. Each passing lane shall be at least 60 feet in length, and the combined width of the driveway and the passing lane shall be at least 18 feet for the entire 60-foot length.
    - III. Natural sight lines for traffic and pedestrian visibility shall be kept open.
    - IV. The design shall be maintained to accommodate year-round emergency vehicle access.
  - G. Private Driveways Serving Multiple Lots
    - I. Owners using a private driveway shall be responsible for the entire cost of constructing and maintaining such driveway.
    - II. The City shall have no liability for the failure to provide emergency services or delays in providing emergency services to properties serviced by private driveways where such failure or delay is partly or wholly the result of the design, construction or maintenance of the driveway.
    - III. A privately owned, developed, and/or maintained driveway for the purpose of direct lot access may cross undeveloped right-of-way with City approval. This private drive shall not become a public street unless constructed to City street design standards and formally accepted by the City at the property owners' cost.
  - H. Zoning Administration Staff may adopt additional standards as to the design, materials, and installation of driveways to be located on the right-of-way of streets.
  - I. Zoning Administration Staff may grant exceptions to the standards and guidelines of this Subsection in order to allow reasonable access to property, provided that such exceptions do not result in conditions hazardous to vehicular and pedestrian traffic.
3. Final Inspection. After all construction and clean-up has been completed, the permit holder shall notify the Building Inspector and request final inspection and acceptance of the work.
  4. Penalty. A violation of this chapter shall be punishable by a fine of not to exceed \$1,000 or Imprisonment for not to exceed 90 days, or both.

**§ 603.3. Parking**

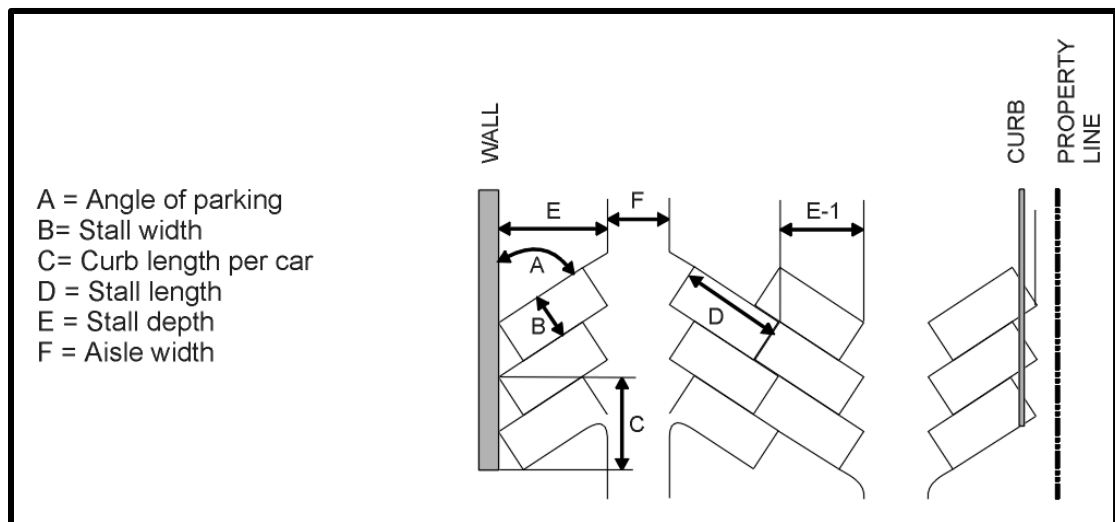
1. Location. All accessory off-street parking facilities required herein shall be located as follows:
  - A. Spaces accessory to one- and two-unit dwellings on the same lot as the principal use served.
  - B. Spaces accessory to uses located in a business, within 800 feet of a main entrance to the principal building served.
  - C. No off-street parking area containing more than four (4) parking spaces shall be located closer than five (5) feet to an adjacent lot zoned or used for residential purposes.
2. General Provisions.
  - A. Parking Space Size. Except as provided in Provision B below, each parking space shall be not less than nine feet wide and 19 feet in length exclusive of access aisles, and each space shall be served adequately by access aisles.
  - B. Parking Stall Standards. Except in the case of single unit, two unit, and townhouse dwellings, parking areas and their aisles shall be developed in accordance with the following standards:

Table 6.1. Parking Stall Standards

Angle of Parking	Stall Width	Curb Length Per Car	Stall Length	Stall Depth Wall to Aisle	Stall Depth Inter-lock to Aisle	Aisle One Way	Width Two Way
90 degree	9'0"	8'9"	19'0" 18'0"*	19'0" 18'0"*	19'0" 18'0"*	24'0"	24'0"
75 degree	9'0"	9'0"	19'0" 18'0"*	20'3" 19'3"*	19'5" 18'5"*	20'11"	23'0"
60 degree	9'0"	10'0"	19'0" 18'0"*	20'3" 19'2"*	19'5" 18'6"*	18'6"	22'0"
45 degree	9'0"	12'3"	19'0" 18'0"*	18'5" 17'9"*	17'3" 16'6"*	13'0"	22'0"
0 degree	9'0"	22'0"	22'0'	8'0"	8'0"	12'0"	24'0"

\* The parking lot dimensions may be reduced upon submission and prior City Council approval of a comprehensive snow removal site plan. The snow removal site plan shall be contractual in nature, signed by the property owner and filed with the Zoning Administration Staff. The reduction shall not be allowed until the conditions of this section are met.

Figure 6.1. Parking Stall Measurements



- C. Control of off-street parking facilities. When required accessory off-street parking facilities are provided elsewhere than on the lot in which the principal use served is located, they shall be in the same ownership or control, either by deed or long-term lease, as the property

- occupied by such principal use, and the owner of the principal use shall file a recordable document with the City Council requiring the owner and his or her heirs and assigns to maintain the required number of off street spaces during the existence of said principal use.
- D. Use of parking area. Required off-street parking space in any District shall not be utilized for open storage of goods or for the storage of vehicles which are inoperable or for sale or rent.
  - E. Disability Accessible Parking. Disability accessible parking spaces shall be provided as applicable pursuant to ADA requirements.
4. Design and Maintenance of Off-Street Parking Areas
- A. Parking Areas shall be designed so as to provide adequate means of access to a public alley or street. Such driveway access shall not exceed 30 feet in width and shall be so located as to cause the least interference with traffic movement.
  - B. Signs. No signs shall be located in any parking area except as necessary for orderly operation of traffic movement, including signs related to accessibility, and such signs shall not be a part of the permitted advertising space.
  - C. Curbing or Landscaping. All open off-street parking areas designed to have head-in parking along the property line shall provide a bumper curb not less than five (5) feet from the side property line or a guard of normal bumper height not less than three (3) feet from the side property line.
  - D. Maintenance of off-street parking space. It shall be the joint and several responsibility of the operator and owner of the principal use, uses, and/or building to maintain, in a neat and adequate manner, the parking space, accessways, landscaping, and required fences.
5. Truck Parking in Residential Areas.
- A. No Class 4-8 motor vehicle or commercially licensed trailer shall be parked or stored in a residential district on a public street except when loading, unloading, or rendering a service.
  - B. Recreational vehicles and pickup trucks are not restricted by the terms of this provision.
6. Minimum Off Street Parking Spaces Required

Table 6.2. Parking Spaces Required

Use	Minimum Number of Spaces Required
Automobile service station	2 spaces plus 4 spaces for each service stall
Business or professional office	1 space for each 200 square feet of gross floor area
Industrial manufacturing, warehouse, storage, handling of bulk goods	1 space for each 2,000 square feet of gross floor area
Medical or dental clinic	5 spaces per doctor or dentist, plus 1 space per 200 square feet of gross floor area
One- and two-unit dwellings	2 spaces per dwelling unit
Place of worship, theater, auditorium, or other place of assembly	1 space for each 3 seats or for each 5 feet of pew length based upon maximum design capacity
Residential care facility	1 space per 3 client rooms

Use	Minimum Number of Spaces Required
Restaurant or tavern	1 space for each 3 seats based on capacity design
Retail or service business	1 space for each 200 square feet of gross floor area
School	1 space for each 4 students based on design capacity, plus 1 additional space for each classroom
Multi-use buildings	Parking requirements shall be provided in accordance with the parking requirements of each use
Other Uses	Off-street parking requirements for uses not specifically mentioned herein shall be determined on an individual basis by the City Council. Factors to be considered in such determination shall include (without limitation) national parking standards, parking standards for similar businesses or land uses, size of building, type of use, number of employees, expected volume and turnover of customer traffic, and expected frequency and number of delivery or service vehicles.

## Section 604. Fencing

### § 604.1. Boundary Line Fencing

1. All boundary line fences shall be entirely located upon the property of the person, firm, or corporation constructing, or causing the construction of such fence unless the owner of the property adjoining agrees, in writing, that such fence may be erected on the division line of the respective properties.
2. The Zoning Administration Staff may require anyone wishing to construct a fence to establish the boundary lines of the subject property with a survey made by any Registered Land Surveyor.
3. In all districts, all fences shall be maintained so as not to be unsightly or present harmful health or safety conditions.

### § 604.2. Fence Height

1. Fences shall not exceed six (6) feet in height in residential districts.
2. Fences shall not exceed eight (8) feet in height in commercial and industrial districts.
3. Deer fences
  - A. Deer fences may be constructed up to 10 feet in height provided that the fence, including any supports other than naturally occurring trees,
    - I. Exceeds 80 percent open area;
    - II. Is constructed of earth tone colors; and
    - III. Is set back from street lot lines a minimum of five (5) feet.



- B. Banners, streamers, reflectors, or other moving adjuncts are permitted for a maximum of 21 days per year.
- 4. Fences exceeding these height standards shall require a conditional use permit.

## **Section 605. Screening**

### **§ 605.1. Screening Required**

- 1. Where any non-residential use is adjacent to property zoned or developed for residential use, the owner of such commercial or industrial premises shall provide screening along the boundary of the residential property.
- 2. Screening shall also be provided where a non-residential use is located across the street from a residential zone, but not on that side of a business or industry considered to be the front.
- 3. All open, off-street parking areas of four (4) or more spaces shall be screened from abutting or surrounding residential districts.
- 4. All exterior storage shall be screened, with the following exceptions:
  - A. Merchandise being displayed for sale;
  - B. Materials and equipment presently being used for construction on the premises, removed within 30 days of the issuance of a Certificate of Occupancy; and
  - C. Merchandise located on service station pump islands.
- 5. The screening shall be placed along property lines or in case of screening along a street, five (5) feet from the street right-of-way.
- 6. All required screening shall be maintained by the property owner in perpetuity.

### **§ 605.2. Screening Materials**

All the screening specifically required by this Ordinance shall consist of a green belt planting strip and/or fence as provided for below:

- 1. Green Belts
  - A. A green belt planting strip shall consist of evergreen trees and/or deciduous trees and large shrubs.
  - B. This planting strip shall contain no structures.
  - C. Such planting strips shall be designed to provide visual screening of at least 80 percent opacity to a minimum height of six (6) feet at installation.
  - D. Earth mounding or berms may be used in conjunction with vegetation but shall not be used to achieve more than three (3) feet of the required screen.
  - E. The planting plan and type of plantings shall require the approval of the Zoning Administration Staff.
- 2. Fencing
  - A. A screening fence shall be constructed of masonry, brick, wood, steel, or other similar materials approved by Zoning Administration Staff.
  - B. Such fence shall provide a screening effect up to at least 80 percent opacity and not exceed eight (8) feet in height or be less than six (6) feet in height.

- C. The design and materials used in constructing a screening fence shall be subject to the approval of the Zoning Administration Staff.

### **Section 606. Landscaping**

1. In all urban districts, all developed uses shall provide a landscaped yard along all streets.
  - A. Except for driveways, the yard shall extend along the entire frontage of the lot, and along both streets in the case of a corner lot.
  - B. Such yard shall have a depth of at least 10 feet.
  - C. This yard shall be kept clear of all structures, storage, and off-street parking.
2. In all districts, all required landscaping shall be maintained so as not to be unsightly or present harmful health or safety conditions.
3. The area disturbed by construction or reconstruction shall be restored or landscaped within nine (9) months after issuance of an occupancy permit.
4. Landscaping required by this Section shall be maintained in perpetuity by the property owner.

### **Section 607. Tree and Woodland Preservation**

#### **§ 607.1. General Requirements**

The following restrictions shall apply to all development occurring in wooded areas:

1. Structures shall be located in such a manner that the maximum number of significant trees shall be preserved.
2. Prior to the granting of a building permit, it shall be the duty of the person seeking the permit to demonstrate that there are no feasible or prudent alternatives to the cutting of significant trees on the site and that if trees are cut, the applicant will restore trees on the site to a density that is consistent with that which existed before development.
3. Forestation, reforestation, or landscaping shall utilize a variety of native and/or climate-adapted tree and shrub species and shall not utilize any species that is invasive or presently under disease epidemic. Species planted shall be hardy under local conditions and compatible with the local landscape.
4. Development including grading and contouring shall take place in such a manner that the root zone aeration stability of existing trees shall not be affected and shall provide existing trees with a watering equal to one-half (1/2) the crown area.
5. Notwithstanding the above, the removal of trees seriously damaged by storms or other acts of God, or diseased trees shall be permitted.

#### **§ 607.2. Tree and Woodland Preservation Plans**

1. In the case of all residential subdivisions and business and industrial developments, a tree preservation plan shall be submitted to the Planning Commission for review and then to the City Council for approval prior to the commencement of any tree removal.
2. The tree preservation plan shall include identification of significant trees and tree masses within the construction area, tree preservation measures to be implemented during building construction, and site grading to protect identified significant trees.

## **Section 608. Grading and Drainage**

### **§ 608.1. Land Alteration**

1. Depositing a total of more than 50 cubic yards of material per 0.5 acre or less, either by hauling in or regarding the area, shall constitute land reclamation and shall require a permit from the Building Inspector.
2. The permit shall be issued only after the City has received and approved a finished grading plan, pursuant to Subsection 608.2. of this Ordinance, which shows that the land reclamation will not adversely affect the adjacent land.
3. The permit may include conditions regarding the type of material permitted, program for rodent control, plan for fire control, site controls of vehicular ingress and egress and drainage, and control of material dispersed from wind or hauling of material to or from the site.
4. A grading and filling permit may be issued only if:
  - A. Slopes greater than 12 percent (12 feet vertical rise in 100 horizontal feet) are preserved to the greatest extent possible;
  - B. Earth moving, erosion, vegetative cutting, drainage to adjacent properties, filling of wetlands, and the destruction of natural amenities is minimized;
  - C. The smallest amount of ground is exposed for as short a time as possible;
  - D. During construction, temporary ground cover such as mulch is used and permanent ground cover such as sod is planted upon completion, taking into consideration seasonal conditions;
  - E. Methods to prevent erosion and trap sediment are employed; and
  - F. Fill is stabilized to accepted engineering standards.
5. A separate grading and filling permit is not required for grading, filling, or excavating the minimum area necessary for a structure, sewage disposal system, private road, and parking area undertaken pursuant to a validly issued building permit that accounts for site grading impacts.
6. No water area shall be filled, partially filled, dredged, altered by grading, mining, or otherwise utilized or disturbed in any manner without first securing a permit from the Minnesota Department of Natural Resources, the U.S. Army Corps of Engineers, and the affected Watershed District or Watershed Management Organization, as applicable. Such grading may be reviewed and approved by the Department of Natural Resources, the City Engineer, the Watershed District, Watershed Management Organization, and the Planning Commission.
7. Water areas shall include all lakes, ponds, swamps, streams, drainage ways, floodways, natural water courses, underground water resources and similar features involving directly or indirectly the use of water within the community.

### **§ 608.2. Drainage Plans**

1. In case of all residential subdivisions containing three (3) or more lots and business and industrial developments, the grading and drainage plans shall be submitted to the City Engineer for review and the final grading and drainage plans shall be subject to the City Engineer's written approval. The grading and drainage plans must show compliance with all of the applicable performance standards of this Section.
2. As part of a building permit application for a single-unit home, a site survey showing grading, drainage, and building pad (location and elevation) must be submitted. Such documents shall be consistent with the approved final grading plan of the subdivision. If a final grading plan for the

subdivision does not exist, the grading plan must demonstrate that site drainage meets the standard of this section and will not result in drainage or flooding that may encumber adjoining properties.

3. Prior to issuance of a certificate of occupancy, the holder of the building permit shall submit certification that the grading and drainage was performed consistent with the approved grading and drainage plan. The City Engineer may, at the permit holder's expense, review, inspect, and verify that the actual site grading has been completed in accordance with the approved grading and drainage plan.
4. Storm water drainage may be discharged into marshlands, wetlands, retention basins after passing through appropriate water quality treatment facilities. Diversion of storm water to marshlands or wetlands may be considered for existing or planned surface drainage. Marshlands and wetlands used for storm water storage shall provide for natural or artificial water level control. Retention and water quality treatment basins scattered throughout developed areas shall be encouraged to improve storm water quality, reduce peak flow, erosion damage, and construction cost.
5. Storm water drainage plans for any development site or subdivision, except those sites in the SC-VC District, shall manage storm water flows from the site at pre-development volumes and rates both during and at the completion of site development.

### **§ 608.3. Soil Erosion and Sedimentation Control**

1. Soil Erosion and Sedimentation Control. All site grading shall meet the following soil erosion and sediment control standards:
  - A. All grading, filling, and development shall conform to the natural limitations presented by the topography and soil so as to create the best potential for preventing soil erosion.
  - B. Slopes over 18 percent in grade shall not be developed.
  - C. Development on slopes with a grade between 12 to 18 percent shall be carefully reviewed to ensure adequate measures are taken to prevent erosion, sedimentation, and structural damage.
  - D. Erosion and siltation control measures shall be coordinated with the different stages of development. Appropriate control measures shall be installed prior to development when necessary to control erosion.
  - E. Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time.
  - F. The drainage system shall be constructed and operational as quickly as possible during construction.
  - G. Whenever possible, natural vegetation shall be retained and protected.
  - H. Where the topsoil is removed, sufficient arable soil shall be set aside for respreading over the developed area. The soil shall be restored to a depth of four (4) inches and shall be of a quality at least equal to the soil quality prior to development.
  - I. When soil is exposed, the exposure shall be for the shortest feasible period of time. No exposure shall exceed 60 days or the time permitted by the MPCA NPDES Construction Stormwater permit, whichever is less. Said time period may be extended only if the Planning

Commission is satisfied that adequate measures have been established and will remain in place.

- J. The natural drainage system shall be used as far as is feasible for storage and flow of runoff.
- K. A signed Erosion Control Agreement providing that erosion control standards and requirements will be met must be secured by the City before a building permit shall be issued.

#### **§ 608.4. Exposed Slopes**

1. Exposed Slopes. The following control measures shall be taken to control erosion during construction:
  - A. No exposed slope steeper in grade than five (5) feet horizontal to one (1) foot vertical is permitted.
  - B. Exposed slopes steeper in grade than 10 feet horizontal to one (1) foot vertical shall be contour plowed to minimize direct runoff of water.
  - C. At the foot of each exposed slope, a channel and berm shall be constructed to control runoff. The channelized water shall be diverted to a sedimentation basin (debris basin, silt basin, or silt trap) before being allowed to enter the natural drainage system.
  - D. Along the top of each exposed slope, a berm shall be constructed to prevent runoff from flowing over the edge of the slope. Where runoff collecting behind said berm cannot be diverted elsewhere and must be directed down the slope, appropriate measures shall be taken to prevent erosion. Such measures shall consist of either an asphalt paved flow apron and drop chute laid down the slope or a flexible slope drain. At the base of the slope drain or flow apron, a gravel energy dissipator shall be installed to prevent erosion at the discharge end.
  - E. Exposed slopes shall be protected by whatever means will effectively prevent erosion considering the degree of slope, soils material, and expected length of exposure. Slope protection shall consist of mulch, sheets of plastic, burlap or jute netting, sod blankets, fast growing grasses, or temporary seedlings of annual grasses. Mulch consists of hay, straw, wood chips, corn stalks, bark, or other protective material. Mulch shall be anchored to slopes with liquid asphalt, stakes, and netting, or shall be worked into the soil to provide additional slope stability.
  - F. Control measures, other than those specifically stated above, may be used in place of the above measures if it can be demonstrated that they will as effectively protect exposed slopes.

#### **§ 608.5. Preservation of Natural Drainageways**

1. Waterways
  - A. All new development shall be designed to retain the natural drainage systems in the City, including existing wetlands and ponds. The natural drainage system shall be maintained by the City where it exists within a public easement. Above-ground runoff disposal waterways may be constructed to augment the natural drainage system. The natural and constructed waterways may be coordinated with an open space trail system.
  - B. The widths of a constructed waterway shall be sufficiently large to adequately channel runoff from a 100 year storm. Adequacy shall be determined by the expected runoff when full development of the drainage area is reached.

- C. No structures, except bridges, shall be constructed across any waterway, tributary, stream, or wetland.
  - D. No building shall be located within 20 feet of the ordinary high water level of any waterway, tributary, stream, or wetlands.
  - E. No fence or bridge shall be constructed across or over any waterway, tributary, stream, or wetland that will reduce or restrict the flow of water.
  - F. The banks of the waterway shall be protected with a permanent turf vegetation.
  - G. The banks of the waterway shall not exceed five (5) feet horizontal to one (1) foot vertical in gradient.
  - H. The gradient of the waterway bed shall not exceed a grade that will result in a velocity that will cause erosion of the banks of the waterway.
  - I. The bed of the waterway shall be protected with turf, sod, or concrete. If turf or sod will not function properly, rip rap may be used. Rip rap shall consist of queried limestone, fieldstone (if random rip rap is used) or construction materials provided said construction materials are limited to asphalt, cement and concrete. The rip rap shall be no smaller than two (2) inches square nor no larger than two (2) feet square. Construction materials shall be used only in those areas where the waterway is not used as part of a recreation trail system.
  - J. If the flow velocity in the waterway is such that erosion of the turn side-wall will occur and said velocity cannot be decreased via velocity control structures, then other materials may replace turf on the side walls. Either gravel or rip rap would be allowed to prevent erosion at these points.
2. Waterway Velocity
- A. The flow velocity of runoff in waterways shall be controlled to a velocity that will not cause erosion of the waterway.
  - B. Flow velocity shall be controlled through the installation of diversions, berms, slope drains, and other similarly effective velocity control structures.
3. Sediment Control
- A. To prevent sedimentation of waterways, pervious and impervious sediment traps and other sediment control structures shall be incorporated throughout the contributing watershed.
  - B. Temporary pervious sediment traps could consist of a construction of bales of hay with a low spillway embankment section of sand and gravel that permits a slow movement of water while filtering sediment. Such structures would serve as temporary sediment control features during the construction stage of development. Development of housing and other structures shall not be permitted in the area on either side of the waterway required to channel a 100 year storm.
  - C. Permanent impervious sediment control structures consist of sediment basins (debris basins, desilting basins, or silt traps) and shall be utilized to remove sediment from runoff prior to its disposal in any permanent body of water.
4. Maintenance of Erosion Control Systems
- A. The erosion and velocity control structures shall be maintained in a condition that will insure continuous functioning according to the provisions of this ordinance.
  - B. Sediment basins shall be maintained as the need occurs to insure continuous desilting action.

- C. The areas utilized for runoff waterways and sediment basins shall not be allowed to exist in an unsightly condition. The banks of the sediment basins and waterways shall be landscaped.
- D. Prior to the approval of any plat for development, the developer shall make provisions for continued maintenance on the erosion and sediment control system.

## **Section 609. Wetland Preservation**

### **§ 609.1. Wetland Preservation**

- 1. General Provisions
  - A. All wetlands in the City including marshlands and swamps shall be retained in their natural state to serve as storm water runoff basins and also as wildlife habitat. Filling or excavation of wetlands is prohibited.
- 2. Vegetation. No wetland vegetation may be removed or altered except that reasonably required for the placement of structures and use of property as permitted by this Ordinance. Any alterations or changes shall be approved by the Watershed, USACE, or any other authority having jurisdiction.

## **DIVISION 700. SIGNAGE**

### **Section 701. General Requirements**

- 1. This Division does not apply to signs visible through windows or transparent doors.
- 2. Illuminated sign lighting shall be diffused or indirect so as not to direct rays of light onto adjacent property or into any public street or right-of-way.
- 3. Unless otherwise specified in this Division, no sign shall exceed 35 square feet in area.
- 4. The maximum square footage of a multi-faced sign shall not exceed two (2) times the allowed square footage of a single faced sign.

### **Section 702. Prohibited Signs**

The following signs shall be prohibited within the City of Marine on St. Croix:

- 1. Signs which hinder the safety of persons. Specifically, no sign is allowed that:
  - A. Prevents egress or ingress from any door, window or fire escape;
  - B. Interferes with the proper functioning of traffic or which constitutes a traffic hazard; or
  - C. Is structurally unsafe or which endangers life or property.
- 2. Private signs, other than public utility signs, allowed within or suspended above:
  - A. The public right-of-way of any street,
  - B. Other property, or
  - C. Utility or telephone poles.
- 3. Flashing signs
- 4. Within the SFR District, no monument sign shall be permitted.

### **Section 703. Permitted Signs**

1. The following signs shall be allowed without a permit:
  - A. In all zoning districts, the property address shall be displayed on each principal building.
  - B. Signs in accordance with M.S. § 211B.045.
  - C. Two (2) temporary signs on residential or public property, neither of which exceeds four (4) square feet in area.
  - D. One (1) sign shall be allowed on property which is currently for sale, lease, or under development.
    - I. This sign shall be removed upon sale of all lots or units within the development.
    - II. This sign shall be a maximum of 75 square feet each side, located at the site of the subdivision.
    - III. This sign shall be set back at least 15 feet from the lot lines and shall not be located within right-of-way or boulevard.
2. The following signs shall require an administrative permit from the City:
  - A. Signs in the St. Croix – Village Center and Limited Industry districts:
    - I. No individual sign shall exceed 100 square feet in area.
    - II. Total square footage of signage for any single building shall not exceed 15 percent of the front façade of the building.
    - III. In the case of corner lots, both the front of the building and side abutting a street shall be allowed signage.
  - B. One (1) sign is allowed on the site of a farm or equine operation, provided that the sign shall not exceed 10 square feet per surface and shall have no more than two (2) surfaces.

### **Section 704. Pre-Existing Non-Conforming Signs**

1. All non-conforming signs in existence prior to the enactment of this Ordinance shall be allowed to be replaced, restored, or rebuilt as necessary to remain the same as they were before enactment of the Ordinance.
2. Any change beyond the established structural dimensions shall be in compliance with the requirements of this Ordinance, unless a variance is granted.

## **DIVISION 800. PROCEDURES & ENFORCEMENT**

### **Section 801. Common Procedures**

#### **§ 801.1. Application Materials and Fees**

1. Application Forms, Exhibits, and Fees. The applicant shall file the completed application form together with the required exhibits with the Zoning Administration Staff, and shall pay a filing fee as established by the City Council. Detailed information about required exhibits is found on the application form for specific applications.
2. Cost Recovery
  - A. Purpose. The costs of the City for receiving, analyzing, processing, and hearing requests of changes, modification, or special consideration under this Ordinance, such as requests for



rezoning (area or text), conditional use permits, and variances are considered to be unique to the applicant requesting such consideration, and it is the intent of this section to provide that all costs of the City occasioned by such requests shall be borne by the applicant. The reimbursement to the City shall be limited to out-of-pocket costs of the City. Out-of-pocket costs shall include all engineering, legal, planning, or other consultant fees or costs paid by the City for other consultants for expert review of an application.

- B. Basic Zoning Fee. Each applicant shall pay a non-refundable basic zoning fee at the time an application is presented to the City for a zoning change of any nature, site and building plan review, a conditional use permit, or a variance. This fee is intended to reimburse the City for its reasonable costs for administrative processing of a development application. If this fee proves to be insufficient to cover such costs, such additional costs will be charged as a part of the zoning deposit, or the supplemental zoning deposit.
- C. Zoning Escrow. In addition to the non-refundable basic zoning fee, the City may require the applicant to pay a zoning escrow in an amount prescribed by the City Council by resolution. All out-of-pocket costs including, but not limited to, planning, engineering, legal, or other consultant fees or costs, incurred by the City in the processing of the application shall be paid or reimbursed to the City from the zoning escrow. Out-of-pocket costs not fully paid or reimbursed from the basic zoning fee shall be paid or reimbursed from this escrow or the supplementary zoning escrow.
- D. Supplemental Zoning Escrow. At any time while the application is pending and before its final conclusion, if the City Clerk determines that the amount of the zoning escrow is or is estimated to be insufficient to pay for present or anticipated out-of-pocket costs of the application, a supplementary zoning escrow shall be required by the Zoning Administration Staff to be paid by the applicant. The one or more supplementary zoning escrows shall be in an amount sufficient to pay all out-of-pocket costs of the City.
- E. Refunds – Administrative Costs. The basic zoning fee is non-refundable.
- F. Refunds – Direct Costs. If the out-of-pocket costs of the City in processing the application are less than the amount of the zoning escrow and any supplementary zoning escrow, any such overage shall be refunded to the applicant upon the conclusion of the proceedings.

## **§ 801.2. Review Procedure**

The following review procedure shall be followed for each land use application unless otherwise noted in this Division:

1. The applicant shall meet with the Zoning Administration Staff to explain their situation, learn the procedures, and obtain an application form. The applicant may also pursue a pre-application meeting with the Planning Commission to identify the type of approval(s) needed, the potential review criteria, and information required to be submitted with the application.
2. The applicant shall file the completed application form together with the required exhibits with the Zoning Administration Staff and shall pay a filing fee as established by the City Council.
3. The city shall advise the applicant within 15 business days of submission of application filings of any omission or deficiency in the application and supporting documents.
4. Upon receipt of a complete application, the Zoning Administration Staff shall refer the application to the Planning Commission for a public hearing and review.
5. Public Hearing:

- A. The Zoning Administration Staff shall set the date for a public hearing and shall have notice of such hearing published at least once in the legal newspaper, not less than 10 days and not more than 30 days prior to said hearing.
  - B. Zoning Administration Staff shall notify all property owners within 350 feet of the outer boundaries of the property in question; however, failure of any property owner to receive such notification shall not invalidate the proceedings.
  - C. The Planning Commission shall hold a public hearing and shall, at the close of the public hearing, consider the application, the testimony of the applicant, all exhibits, public comment, staff reports, and other evidence, and shall then record its advice on the granting of the applicant's request by motion to either recommend to the city council:
    - I. Approval of the request, together with comments and suggested conditions, if any, and findings, or
    - II. Denial of the request, together with comments and suggested findings.
6. City Council
- A. After review and recommendation by the Planning Commission, the Zoning Administration Staff shall transmit the application to the City Council.
  - B. The City Council shall study the application and shall make a decision within 60 days from the date of submission of a complete application, unless an extension has been provided, pursuant to Minnesota Statutes 15.99, as amended.
  - C. The City Council shall make findings of fact and take one (1) of three (3) actions – approval, denial, or conditional approval.
  - D. Approval of a request shall require passage by a simple majority vote of the entire City Council.
  - E. A copy of the final order shall be served upon the applicant by mail.
7. The Planning Commission and City Council shall have the authority to request additional information from the applicant or to obtain expert advice and/or testimony at the expense of the applicant. Failure on the part of the applicant to supply all necessary supportive information may be grounds for denial of the request.
8. Unless excused by the Planning Commission Chair or Mayor, the applicant, or a representative thereof, shall appear before the Planning Commission and City Council in order to answer questions concerning the request.

**§ 801.3. Successive Applications**

- 1. No application by a property owner shall be submitted to the City Council within a one (1) year period following a denial of such a request, except the City Council may permit a new application if, in the opinion of the City Council new evidence or change of circumstances warrant it.

**§ 801.4. Revocation**

- 1. The City Council may revoke an approval if the conditions established by the City Council as part of granting the request are violated.

**§ 801.5. Performance Agreement**

- 1. Performance Agreement. Except in the case of non-income producing residential property that is not part of a planned unit development, upon approval of a conditional use permit, variance,

site plan, and/or planned unit development, the City may require the applicant to enter into a performance agreement prior to the issuing of building permits or initiation of work on the proposed improvement or development. Said agreement shall guarantee conformance with the conditions of the approval and the codes of the City. The performance agreement shall be prepared and approved by the City Attorney and shall contain, but not be limited to, the following terms and conditions:

- A. Financial Security. The performance agreement shall require the applicant to provide financial security to assure compliance with the agreement and conditions of the approval. The security may be in the form of a surety bond, cash escrow, certificate of deposit, irrevocable letter of credit, securities, or cash deposit. The security shall be in an amount determined by the City Engineer or Building Official under the direction of the Zoning Administration Staff, and approved by the Council, to cover estimated costs of labor and materials for the proposed improvements or development. The project can be handled in stages with prior approval of the City.
- B. Financial Security Release. The City shall hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the application approval and Building Code of the City has been issued by the City Building Official.
- C. Financial Security Forfeiture. Failure to comply with the conditions of the application approval and/or the ordinances of the City shall result in forfeiture of the security.
- D. Hold Harmless and Indemnification of City. The applicant shall agree to indemnify and hold harmless the City and its agents and employees against any and all claims, demands, losses, damages, and expenses (including attorney fees) arising out of or resulting from the applicant's negligent or intentional acts, or any violation of any safety law, regulation, or code in the performance of this agreement, without regard to any inspection or review made or not made by the City, its agents or employees or failure to take any other prudent precaution. In the event the City, upon failure of the applicant to comply with any conditions of the approval, performs said conditions, the applicant shall indemnify and hold harmless the City, its employees, agents, and representatives from its or their negligent or intentional acts in the performance of the applicant's required work under the permit.
- E. Attorney and Consultant Fees. The applicant shall agree to pay any and all reasonable attorney and consultant fees incurred by the City to enforce the terms and conditions of any application approval or provisions of any performance agreement relating to said performance agreement.

#### **§ 801.6. Appeal of Zoning Code Interpretation**

- 1. Appeal of Zoning Administration Staff Decision
  - A. The application for an appeal of Zoning Code Interpretation shall be filed within 30 days of the alleged grievance or judgment in question. The City Council, acting as the Board of Adjustment, shall hear and decide appeals from and review any order, requirement, decision, or determination made by Zoning Administration Staff charged with enforcing the Ordinance within 60 days.
  - B. Hearings by the City Council shall be held within such time and upon such notice to interested parties as is provided in its adopted rules for the transaction of its business. The City Council shall, within a reasonable time, make its order deciding the matter and shall serve a copy of such order upon the appellant or petitioner by mail. Any party may appear at

the hearing in person or by agent or attorney. Pursuant to Minnesota Statute 15.99, as may be amended, an application for an appeal shall be approved or denied within 60 days from the date of its official and complete submission unless notice of extension is provided by the City or a time waiver is granted by the applicant.

2. Appeal of City Council Decision

- A. All decisions made by the city regarding zoning shall be final, except that any aggrieved person shall have the right to appeal within 30 days after delivery of the decision to the appellant, to the District Court in Washington County. Any person seeking judicial review under this chapter must serve the city and all necessary parties, including any landowners, within the 30-day period defined above.

## **Section 802. Building Permit**

### **§ 802.1. Applicability**

1. No person shall erect, alter, remodel, wreck, or move any kind of structure or building or part thereof without first securing a Building Permit. No such permit shall be necessary for general maintenance of the structure.

### **§ 802.2. Procedure**

1. Persons requesting a building permit shall fill out a building permit form available from the Zoning Administration Staff.
2. Completed building permit forms and a fee as may be established by resolution of the City Council shall be submitted to the Zoning Administration Staff. If the proposed development conforms in all respects to the Zoning Ordinance, the City Building Code, and septic system regulations, a building permit shall be issued by the Zoning Administration Staff within a period of 60 days following the receipt of complete application pursuant to Minnesota Statute 15.99, as may be amended.
3. If the proposed development involves a multiple unit residential dwelling or commercial/ industrial site plan, zoning amendment, variance, or conditional use permit, land reclamation, or land grading as regulated by Section 608 of this Ordinance, the application shall be distributed by the Zoning Administration Staff to both the Planning Commission and the City Council for review and appropriate action according to the procedures set forth in this Division.
4. See Subsection 402.4 Application Procedures for additional procedures, standards, and requirements for building permits within the St. Croix River Overlay District.

## **Section 803. Site Plan**

### **§ 803.1. Applicability**

1. Site plans shall be required for:
- A. New construction or building expansion of multiple unit residential dwellings, commercial, or industrial land use.
- B. Land reclamation and land grading, as regulated by Subsection 608 of this Ordinance.

### **§ 803.2. Procedure**

1. Site plans shall be subject to review and approval by the Zoning Administration Staff.

2. The Zoning Administration Staff may refer site plan applications to the Planning Commission and City Council for review. If the application is referred to the Planning Commission and City Council, the Planning Commission shall provide a recommendation and the City Council shall authorize the Zoning Administration Staff to approve or deny the site plan request.
3. See Subsection 402.4 Application Procedures for additional procedures, standards and requirements for site plans within the St. Croix River Overlay District.

### **§ 803.3. Review Criteria**

1. Site plans shall meet the following criteria:
  - A. The site and buildings shall be designed to avoid:
    - I. Commercial buildings that are incompatible with the historical architecture of the Village Center.
    - II. Noise incompatibility.
    - III. Traffic pattern incompatibility.
    - IV. Accelerated erosion.
    - V. Unnecessary loss of existing natural features (vegetation, steep slopes, wetlands, water bodies).
    - VI. Increased flood potential.
  - B. No development shall be allowed which will result in unusual maintenance or repair costs of municipal roads, parking areas, or utility lines.
  - C. The types and intensity of land use proposed for the site shall be suited to the site conditions and shall adequately correct problems due to soil limitations, including but not limited to bearing strength, shrink-swell potential, slope stability, high ground water, or wetness.
  - D. The applicant shall demonstrate how buildings will be sited, designed, oriented, and landscaped to produce a harmonious relationship of building and grounds to surrounding buildings and properties and the total neighborhood environment.
  - E. The proposed use shall promote the objectives of this Ordinance and shall be consistent with the policies and recommendations of the Comprehensive Plan.

## **Section 804. Conditional Use Permit (CUP)**

### **§ 804.1. Applicability**

1. The purpose of a CUP is to permit a use that would not be appropriate generally, but which may be allowed within a certain zoning district with appropriate restrictions to mitigate the impact of the proposed use.

### **§ 804.2. Procedure**

1. Applications for CUPs shall be reviewed following the procedure in Subsection 801.2.
2. Revocation of CUPs. Where a CUP has been issued pursuant to the provisions of this Ordinance, such permit shall become null and void without further action by the Planning Commission or the City Council unless work thereon commences within one (1) year of the date of granting such permit. A CUP shall be deemed to authorize only one particular use and shall expire if that use shall cease for more than 12 consecutive months.

3. A certified copy of any CUP including a legal description of the property involved shall be filed with the Office of the County Recorder or Registrar of Titles by the applicant. The applicant shall provide a receipt of recording to the City.
4. The Zoning Administration Staff shall maintain a record of all CUPs issued including information on the use, location, and conditions imposed by the City Council, review dates, and such other information as may be appropriate.
5. For conditional use procedures and standards for the Lower St. Croix Overlay District, see Subsection 402.4 Application Procedures.

### **§ 804.3. Review Criteria**

1. Existing Uses. Existing uses shall be in conformance with zoning and building standards in effect at the time of initial construction and development, and may not be enlarged or expanded except under the terms for newly established uses and shall continue to be governed by the Zoning Ordinance in the future.
2. In granting a CUP, the Marine on St. Croix City Council shall consider the advice and recommendations of the Planning Commission, the consistency of the proposed use with the Comprehensive Plan, and the effect of the proposed use upon the health, safety, morals, and general welfare citizens and natural environment. Among other things, the City Council shall make the following findings where applicable:
  - A. The use will not create an excessive burden on existing parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the area.
  - B. The use will be sufficiently compatible or separated by distance or screening from adjacent residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.
  - C. The structure and site shall have an appearance or operation that will not have an adverse effect upon adjacent residential properties.
  - D. The use, in the opinion of the City Council, is reasonably related to the overall needs of the City and to the existing land use.
  - E. The use is consistent with the purposes and performance standards of the Zoning Ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use.
  - F. The use is consistent with the policies and provisions of the Comprehensive Plan.
  - G. The use will not cause traffic hazard or congestion.
  - H. Adequate utilities, access roads, drainage, and necessary facilities have been or will be provided.
3. In addition to the use specific standards listed in Division 500 Use-Specific Standards, every conditional use shall meet the following standards:
  - A. The use is compatible with the existing land uses in the surrounding area.
  - B. The project requires no alteration or fill of shoreline, bluffland, or floodway.
  - C. In sewerred areas, public sewer will service the project.
  - D. No lighted or flashing signs shall face riverward.

#### **§ 804.4. Additional Conditions**

1. In permitting a new conditional use or the alteration of an existing conditional use, the City Council may impose, in addition to these standards and requirements expressly specified by this ordinance, additional conditions which the City Council considers necessary to protect the surrounding area or the community as a whole. These conditions may include, but are not limited to the following:
  - A. Increasing the required lot size or yard dimension.
  - B. Limiting the height, size, or location of buildings.
  - C. Controlling the location and number of vehicle access points.
  - D. Increasing the street width.
  - E. Increasing the number of required off-street parking spaces.
  - F. Limiting the number, size, location, or lighting of signs.
  - G. Requiring diking, fencing, screening, landscaping, or other facilities to protect adjacent or nearby property.
  - H. Designating sites for open space.
  - I. Impose limits on hours of operation.

#### **Section 805. Interim Use Permit (IUP)**

##### **§ 805.1. Applicability**

1. The purpose and intent of allowing interim uses is:
  - A. To allow a use for a period of time up to 24 months while a permanent location is obtained or constructed; or
  - B. At the request of the applicant, to allow a use that is presently judged acceptable by the City Council, but that with anticipated development or redevelopment, will not be acceptable in the future; or
  - C. To allow a use which is reflective of anticipated long range change to an area and which is in compliance with the Comprehensive Plan, provided that said use maintains harmony and compatibility with surrounding uses and is in keeping with the performance standards of this Ordinance.
  - D. To accommodate a request by the applicant.
2. Within the SFR, SFU, and LI districts, any use listed as principal or accessory in Tables 4.1 and 4.2 may be determined to be an interim use by the City Council upon request.
3. Within the SC-RR, SC-UR, and SC-VC districts, any use listed within each respective district in Tables 4.5 and 4.6 as conditional or permitted with standards may be determined to be an interim use by the City Council upon request.

##### **§ 805.2. Procedure**

1. Applications for IUPs shall be reviewed following the procedure in Subsection 805.3.
2. A certified copy of any IUP including a legal description of the property shall be filed with the Office of the County Recorder or Registrar of Titles by the applicant. The applicant shall provide a receipt of recording to the City.

### **§ 805.3. Review Criteria**

1. An interim use shall comply with the following:
  - A. Existing Uses. Existing uses shall be in conformance with zoning and building standards in effect at the time of initial construction and development, and may not be enlarged or expanded, except under the terms for newly established uses and shall continue to be governed by such regulations in the future.
  - B. New Uses
    - I. The use conforms to the applicable performance standards of this ordinance.
    - II. The date or event that will terminate the use can be identified with certainty.
    - III. The use will not impose additional costs on the public if it is necessary for the public to acquire the property in the future.
    - IV. The user agrees to any conditions that the City Council deems appropriate for permission of the use.

### **§ 805.4. Termination**

1. An interim use shall terminate on the happening of any of the following events, whichever occurs first:
  - A. The date or event stated in the permit.
  - B. Upon violation of conditions under which the permit was issued.
  - C. Upon change in the City's zoning regulations which renders the use non-conforming.
  - D. The redevelopment of the use and property upon which it is located to a permitted or conditional use as allowed within the respective zoning district.
  - E. Upon sale of the property.

## **Section 806. Variance**

### **§ 806.1. Applicability**

1. The City Council, acting as the Board of Adjustment, shall have the exclusive power to order the issuance of variances from the requirements of the Zoning Ordinance including restrictions placed on nonconformities.
2. No variance may be granted that would allow any use that is not allowed in the zoning district in which the property is located.

### **§ 806.2. Procedure**

1. Applications for variances shall be reviewed following the procedure in Subsection 801.2 Review Procedure.
2. The City Council may impose conditions in the granting of variances as may be necessary to comply with the standards established by this Ordinance, or to reduce or minimize the effect of such variance upon other properties in the neighborhood, and to better carry out the intent of the variance. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.
3. Lifespan of Variances Granted. Where a variance has been approved pursuant to the provisions of this Ordinance, such approval shall become null and void without further action by the



Planning Commission or the City Council unless work thereon commences within two (2) years of the date of granting such variance and is diligently pursued to completion.

4. For additional variance criteria and procedures and standards for the Lower St. Croix River District see Subsection 402.4 Application Procedures.
5. Review Criteria
  - A. Findings. When considering any request for a variance, the city council shall make the following findings:
    - I. The requested variance is in harmony with the purposes and intent of this ordinance.
    - II. The requested variance is consistent with the comprehensive plan.
    - III. The applicant has established that there are practical difficulties for the site in complying with this ordinance.
  - B. Practical Difficulties Considerations.
    - I. Practical Difficulties Standard. "Practical difficulties", as used in connection with the granting of a variance, means:
      - a. That the property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance;
      - b. The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
      - c. The variance, if granted, will not alter the essential character of the locality.
    - II. When determining reasonable manner or essential character, the city council will consider, but not be limited to, the following:
      - a. The variance request will not impair an adequate supply of light and air to adjacent property.
      - b. The variance request will not unreasonably increase the congestion in the public street.
      - c. The variance request will not increase the danger of fire or endanger the public safety.
      - d. The variance request will not unreasonably diminish or impair established property values within the neighborhood or in any way be contrary to the intent of this ordinance.
      - e. Economic conditions alone do not constitute practical difficulties.
      - f. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

## **Section 807. Zoning Amendment**

### **§ 807.1. Applicability**

1. The City Council may adopt amendments to the zoning ordinance and zoning map in relation both to land uses within a particular district or to the location of the district line. Such amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals and policies of the City as reflected in the Comprehensive Plan or changes in conditions in the City.

2. Whenever the public necessity, convenience, general welfare, or good zoning practice requires, the City Council may, by ordinance:
  - A. Amend, change, or supplement the text of the regulations established by this chapter; or
  - B. Change the district boundaries established by this chapter and the Zoning Map incorporated herein.
3. Proceedings for amending this ordinance shall be initiated by at least one of the following three methods:
  - A. By petition of an owner or owners of property which is proposed to be rezoned, or for which district regulation changes are proposed.
  - B. By recommendation of the Planning Commission.
  - C. By action of the City Council.

### **§ 807.2. Procedure**

1. Applications for zoning amendments shall be reviewed following the procedure in Subsection 801.2, except that approval of an amendment shall require passage by a two-thirds (2/3) vote of the City Council.
2. For procedures to amend provisions of the Lower St. Croix River Overlay District, see Section 510.

### **§ 807.3. Review Criteria**

1. In considering the amendment request, the Planning Commission and City Council shall base their judgment upon, but not limited to, the following factors:
  - A. The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the City Comprehensive Plan.
  - B. The proposed amendment is or will be compatible with present and future land uses of the area.
  - C. The proposed amendment conforms with all performance standards contained herein and the City Code.
  - D. The proposed amendment can be accommodated with existing public services and will not overburden the City's service capacity.
  - E. Traffic generation by the proposed use is within capabilities of streets serving the property.

## **Section 808. Planned Unit Development (PUD)**

### **§ 808.1. Applicability**

1. The establishment of a planned unit development (PUD) provides design flexibility to promote creative and efficient use of land. PUD provisions are also intended to create public and private benefit by allowing improved site design; allowing developments on multiple lots to function as one coordinated site; facilitating protection of natural features; allowing flexibility for unique developments; and ensuring coordination of phased development.

## § 808.2. Procedure

1. A conditional use permit (CUP) shall be required for all PUDs in addition to approval of a preliminary development plan and final development plan as described below. Concurrent subdivision review shall also be required.
2. Concurrent Subdivision Review
  - A. It is the intent of this Ordinance that subdivision review under the Subdivision Ordinance be carried out simultaneously with the review of a planned development under this Ordinance.
  - B. The plans required under this Section shall be submitted in a form which will satisfy the requirements of the subdivision control ordinance for the preliminary and final plats required under those regulations.
3. Pre-Application Meeting. Prior to the submission of any plan to the Planning Commission, the applicant may meet with the Zoning Administration Staff and with the Planning Commission to discuss the contemplated project relative to community development objectives for the area in question and to learn the procedural steps and exhibits required. This includes the procedural steps for a CUP and a preliminary plat. The applicant may submit a simple sketch plan at this stage for informal review and discussion. The applicant is urged to avail himself or herself of the advice and assistance of the planning staff to facilitate the review of the preliminary development plan and preliminary plat.
4. Preliminary Development Plan
  - A. An applicant shall make an application for a CUP following the procedural steps as set forth in Subsection 801.2 of this Ordinance.
  - B. In addition to the criteria and standards set forth in Subsection 804.3 for the granting of CUPs, the following additional findings shall be made before the approval of the preliminary development plan:
    - I. The proposed PUD is in conformance with the Comprehensive Plan for Marine on St. Croix.
    - II. The uses proposed will not have an undue and adverse impact on the reasonable enjoyment of neighboring property and will not be detrimental to potential surrounding uses.
    - III. Each phase of the proposed development, as it is proposed to be completed, is of sufficient size, composition, and arrangement that its construction, and operation are feasible as a complete unit, and that provision and construction of dwelling units and common open space are balanced and coordinated.
    - IV. The PUD will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the district.
    - V. The proposed total development and each phase is designed in such a manner as to form a desirable and unified environment within its own boundaries and in relationship to the entire municipality.
  - C. Preliminary Plat. The applicant shall also submit a preliminary plat and all the necessary documentation as required under the Subdivision Regulations of all or that portion of the project to be platted. For purposes of administrative simplification, the public hearings required for the CUP and preliminary plat may be combined into one hearing or may be held concurrently.

- D. If the preliminary development plan is approved by the City Council, the Zoning Administration Staff shall issue a CUP to the applicant.
5. Final Development Plan.
- A. Within 90 days following the approval of the preliminary development plan with recommended modifications, if any, and the preliminary plat, the applicant shall file with the Zoning Administration Staff a final development plan containing in final form the information required in the preliminary development plan plus any changes recommended by the Planning Commission and the City Council as a result of the public hearing. The applicant shall also submit a final plat for all or that portion of the property to be platted.
  - B. The Zoning Administration Staff shall refer the final development plan and the final plat to the Planning Commission for review.
  - C. The final development plan and the final plat shall conform to the preliminary development plan and preliminary plat plus any recommended changes by the Planning Commission or City Council to the preliminary development plan and preliminary plat.
  - D. The City Council shall review the final development plan and final plat. The City Council shall give notice and provide opportunity to be heard on the final development plan to any person who has indicated to the Planning Commission in writing that they wish to be notified.
  - E. If the final development plan is approved by the City Council, a performance agreement may be required pursuant to Subsection 801.5 of this Ordinance.
6. Enforcing Development Schedule. The construction and provision of all of the common open spaces and public and recreational facilities which are shown on the final development plan must proceed at the same rate as the construction of dwelling units. At least once every six months following the approval of the final development plan, the Zoning Administration Staff shall review all of the building permits issued for the PUD and examine the construction which has taken place on the site. If the Zoning Administration Staff shall find that the rate of construction of dwelling units is greater than the rate at which common open spaces and public improvements and recreational facilities have been constructed and provided, the Zoning Administration Staff shall forward this information to the City Council, which may revoke the CUP for the PUD.

### **§ 808.3. Review Criteria**

- 1. The City may approve the PUD only if it finds that the development satisfies the standards of Subsection 501.9, Section 808, and all of the following standards:
  - A. The PUD is consistent with the Comprehensive Plan of the City.
  - B. The PUD is an effective and unified treatment of the development possibilities on the project site and the development plan provisions for the preservation of unique natural amenities such as streams, stream banks, wooded cover, rough terrain, and similar areas.
  - C. The PUD can be planned and developed to harmonize with any existing or proposed development in the areas surrounding the project site.

## **Section 809. Enforcement**

### **§ 809.1. Violations**

1. The violations of any provisions of this Ordinance or the violation of the conditions or provisions of any permit issued pursuant to this Ordinance, shall be a misdemeanor, and upon conviction thereof, the violation shall be subject to a fine of not more than the maximum penalty for a misdemeanor prescribed under State law.
2. Application to Community Personnel. The failure of any officer or employee of the community to perform any official duty imposed by this Ordinance shall not subject the officer or employee to a penalty imposed for violation unless a penalty is specifically provided for such failure.
3. Equitable Release. In the event of a violation or the threatened violation of any provision of this Ordinance, or any provision or condition of a permit issued pursuant to this Ordinance, the community, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct, or abate such violation or threatened violation.

### **§ 809.2. Penalties**

1. Unless otherwise provided, each act of violation and every day on which such violation occurs or continues constitutes a separate offense.