

ORDINANCE NO. 53

AN ORDINANCE ESTABLISHING REGULATIONS FOR THE ZONING OF LAND AND CONTROL OF LAND USE, AND REQUIRING PERMITS FOR USES THEREIN; REGULATING THE LOCATION, HEIGHT, BULK AND SIZE OF BUILDINGS AND STRUCTURES; CREATING INDIVIDUAL DISTRICTS FOR ALLOWABLE PURPOSES; DEFINING AND ESTABLISHING RULES AND TERMS HEREIN; PROVIDING FOR CHANGES IN REGULATIONS, RESTRICTIONS AND BOUNDARIES OF DISTRICTS; PROVIDING FOR ENFORCEMENT AND ADMINISTRATION AND IMPOSITION OF PENALTIES FOR VIOLATIONS OF THIS ORDINANCE; AND REPEAL OF ANY ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT HEREWITH

The following official summary of Ordinance No. 53 has been approved by the City Council of the City of New Munich, Minnesota, as clearly informing the public of the intent and effect of the ordinance:

It is the intent and effect of this ordinance to establish regulations for the zoning of land and control of land use in the City of New Munich.

Areas of the City of New Munich are classified into four (4) classifications of use districts, which are named: R-1, one and two-family residence district; B, business district; I, industrial district; and F, flood plain district. The areas which are included in each of the use districts are shown on the official zoning map which is declared to be a part of the ordinance.

Permitted uses and uses requiring a special use permit in each of the use districts are established, together with regulations governing lot size, lot area, lot width and setback requirements for front, back and side yards of lots. Building height and lot coverage are also regulated.

Special regulations are established concerning activities causing residual dust, lighting glare, smoke, odors, noise, and refuse. Regulations are established concerning farm operations, mobile homes, junkyards, accessory buildings, sewer facilities, signs and dog kennels. Provisions made for


continued use of non-conforming uses and limitations established in regard to future expansion and restoration of non-conforming uses.

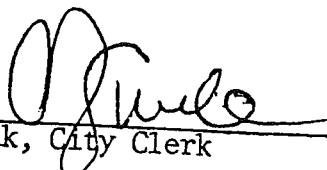
The ordinance shall be administered by a zoning officer who shall be appointed by the City Council. Building permit requirements are established. The planning commission is designated as the Board of Adjustments and Appeals, which is created for the purpose of hearing and deciding certain matters pertaining to the interpretation of the provisions of the ordinance. The planning commission shall hold public hearings for purposes set forth in the ordinance. Variances from provisions of the ordinance may be granted by the Board of Adjustments and Appeals under certain circumstances described in the ordinance. Conditional use permits may be granted by the City Council following the public hearing and recommendation by the planning commission. Provisions made for amending the ordinance by the City Council. The City Council is authorized to establish a schedule of fees to be paid by applicants for conditional use permits, variances or amendments to the ordinance.

A section of the ordinance defines certain terms contained in the ordinance. Violation of the ordinance is made a misdemeanor.

A printed copy of the ordinance is available for inspection by any person at the office of the City Clerk.

This ordinance shall be in full force and effect from and after its passage and publication of this title and summary.

  
\_\_\_\_\_  
Mayor  
City of New Munich

ATTEST:   
\_\_\_\_\_  
Cel Funk, City Clerk

MEYER, MEYER & POTTRATZ  
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300 West Riverside Avenue  
Melrose, Minnesota 56352

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THE CITY COUNCIL OF THE CITY OF NEW MUNICH, IN THE COUNTY OF STEARNS, AND STATE OF MINNESOTA, DOES ORDAIN AS FOLLOWS:

Section I. PURPOSE.

The purpose of this Ordinance is to ensure public health, safety and general welfare in accordance with adopted development goals, plans, and policies as stated in the Comprehensive Plan for the City of New Munich, pursuant to authority of Minnesota Statutes Chapter 462.

Section II. ORDINANCE TITLE.

This Ordinance shall be known and cited as the Zoning Ordinance of the City of New Munich.

Section III. APPLICATION AND INTERPRETATION.

1. This Ordinance shall apply to the entire area lying within the City Limits of New Munich. Any land which may be annexed to the City shall be classified as R-1, 1 and 2 Family Residence District, with the exception of land adjoining and contiguous with an Industrial District, such land shall be classified as I, Industrial District.

2. Except as hereinafter provided, no building or land within the City of New Munich shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with applicable regulations herein specified.

3. Essential services and structures, such as fire hydrants, utility lines, substations, and sanitary sewer lift stations shall be exempted from the provisions of this Ordinance.

4. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section IV. ZONING DISTRICTS.

The City of New Munich is hereby divided into the following Use Districts: R-1, 1 and 2 Family Residence District; B, Business District; I, Industrial District; F, Flood Plain District.

The location of the above districts are shown on the official zoning map which is hereby adopted and declared to be a part of this Ordinance. The boundaries of districts are the center lines of streets and alleys, the rear lot line where there are no alleys, sidelines of recorded lots or designated distances where land is unplatted.

Section V. R-1, 1 and 2 FAMILY RESIDENCE DISTRICT.

1. Intent. To provide for the normal outward residential expansion of New Munich according to current standards of development, where adequate municipal utilities exist or are to be extended and to protect the desired quiet and attractive living environment from potentially conflicting uses.

2. Permitted Uses. The following uses shall be permitted with R-1, 1 and 2 Family Residence District:

- a. Single and 2-family dwellings.
- b. Public parks and recreational areas, including golf courses and clubhouses.
- c. Essential services.

3. Conditional Uses. The following uses require a Conditional Use Permit as provided in Section XV of this Ordinance:

- a. Hospitals, clinics, libraries, memorial buildings, and museums.
- b. Governmental and public utility buildings and structures necessary for the health, safety and general welfare of the City.
- c. Public or semi-public recreational buildings, community centers, daycare centers, or charitable institutions.
- d. Nursing homes, rest homes, and homes for the aged.
- e. Multiple family dwelling units.
- f. Churches and schools.
- g. Uses determined by the Planning Commission of a similar nature to the listed Conditional Uses above and found not to be detrimental to the general health and welfare of the City.

4. Permitted Accessory Uses.

- a. Detached or attached private garages, parking spaces, attached carports for passenger cars, trucks, and recreational vehicles having a gross weight of sixty-five hundred (6,500) pounds or less.
- b. Home occupations.
- c. Toolhouses and similar buildings for storage of domestic equipment and noncommercial, recreational equipment having a maximum size of ten (10) foot by twelve (12) foot.
- d. Private swimming pools and tennis courts.

- e. Boarding or renting of rooms for not more than two (2) persons.

5. Lot, Yard, Area and Height Requirements.

	<u>LOT AREA</u> <u>SQ. FEET</u>	<u>LOT</u> <u>WIDTH</u>	<u>SETBACKS</u>	
			<u>FRONT</u> <u>YARD</u>	<u>REAR</u> <u>YARD</u>
<u>Single-Family</u>				
Existing Lots ( <u>01-01-85</u> )	5,000	60 ft.	30 ft.	30 ft.
New Lots	15,000	90 ft.	30 ft.	30 ft.
<u>Two-Family</u>				
Existing Lots ( <u>01-01-85</u> )	5,000	60 ft.	30 ft.	30 ft.
New Lots	15,000	90 ft.	30 ft.	30 ft.

- a. The setback for each side yard shall be ten percent (10%) of the width of the lot. In the event an existing lot is fifty (50) feet or less the side yard requirement shall be five (5) feet on each side. Where lots exceed one hundred (100) feet the minimum side yard requirement shall be ten (10) feet.
- b. Where adjacent structures within the same block have front yard setbacks different from those required, the front yard minimum setback shall be the average of the adjacent structures.
- c. On a corner lot, the width of the side yard on the street side shall not be less than fifteen (15) feet.
- d. Building Height. Residential structures hereafter created shall not exceed two (2) stories or thirty (30) feet in height. Church spires, water towers and chimneys shall be exempt from these requirements.
- e. Maximum Coverage. Lot coverage, for principal and accessory buildings, shall not exceed thirty-five (35) percent of the lot area.
- f. Lots platted prior to this Ordinance and not serviced by municipal water and sewer will be considered as buildable at their current size. However, newly platted lots shall be at a minimum of one-half ( $\frac{1}{2}$ ) acres when utilizing individual water and sewer systems. Where City sanitary sewer and water are available it is mandatory that there be hookup to the City facilities.
- g. Each lot shall have a minimum frontage on a street of fifty (50) feet.

Section VI. B, BUSINESS DISTRICT.

1. Intent. To provide a downtown business district to provide for the establishment of commercial and service activities which draw from and serve customers from the community and its surrounding areas.

2. Permitted Uses. The following uses shall be permitted within B, Business District:

- a. Commercial establishments, including but not limited to the following:
  1. Retail establishments such as grocery, hardware, drug, clothing, lumber yard, and furniture stores; eating and drinking places; auto dealers; and automobile service stations.
  2. Personal services such as laundry, barber, shoe repair shop and photography studio.
  3. Professional services such as medical and dental clinic and attorneys' offices.
  4. Repair services such as automobile, jewelry and radio and television repair shops.
  5. Entertainment and amusement services such as motion picture theatre and bowling alley.
  6. Lodging services such as hotel and motel.
  7. Finance, insurance and real estate services.
- b. Public and semi-public buildings such as post office, fire station and city hall.
- c. Private clubs.
- d. Apartments provided they are located above the first floor level.
- e. Automobile parking lots.
- f. Accessory uses incidental to the foregoing principal uses such as off-street parking and loading and unloading areas, signs, storage of merchandise, and wholesaling and manufacturing when incidental to a permitted use.

3. Other uses similar in name to the above uses and which, in the opinion of the Planning Commission, will not be detrimental to the integrity of this district.

4. Conditional Uses. The following uses shall require a Conditional Use Permit based on the proceeding set forth in Section XV of this Ordinance.

- a. Farm implement sales and repairs.

5. Lot, Yard and Area Requirements.

Within the B, Business District, there shall be no minimum front yard setback, and no minimum side yard requirements. There shall be a rear yard setback of at least twelve (12) feet. There shall be a minimum lot area requirement of one thousand five hundred (1,500) square feet and no lot coverage requirement.

Section VII. I, INDUSTRIAL DISTRICT.

1. Intent. The intent of this Ordinance in establishing an Industry District is in recognition of existing industrial development within the community and of the desirability of reserving additional land for possible new, expanded or relocated industries of a similar nature. It is intended that land zoned for industry would be located such that conflict with incompatible uses would be minimized.

2. Permitted Uses. The following uses shall be permitted within I, Industrial District:

- a. Any branch of trade or industry employing labor and capital, activities not allowed in commercial districts, activities which do not require steam, diesel, or gasoline engines as a prime mover excepting that no industry or use noxious by reason of odor, dust, smoke, noise or gas shall be included which interferes with other permitted uses.
- b. Building materials, storage yards, lumber yards.
- c. Contractors equipment and storage yards.
- d. Food processing and distribution facilities.
- e. Wholesale business and warehousing.
- f. Industrial research laboratories.
- g. Machine shops, public and private garages.
- h. Public utility and service buildings and gas regulator stations.
- i. Public and semi-public buildings such as post office, fire station and city hall.



3. Permitted Accessory Uses.

- a. Off-street parking and loading.
- b. Open and outdoor storage.
- c. Offices accessory to a principal use.
- d. Signs.

4. Conditional Uses. The following uses shall require a Conditional Use Permit based on the proceeding set forth in Section XV. of this Ordinance:

- a. Industrial parks and storage.
- b. Manufacturing of cement, concrete, lime gypsum or plaster.
- c. Restaurants, lunch counters, confectioneries to serve the employees of the district.
- d. Distillation of bone, coal, tar, petroleum, refuse, grain or wood.
- e. Explosive manufacture or storage.
- f. Fertilizer manufacturing, compose or storage.
- g. Garbage, offal, dead animals, refuse, rancid fats, incineration, glue manufacturing, size or gelatine manufacturing where the processes include the refining or recovery of products from animal refuse or offal.
- h. Livestock feeding yards, slaughtering of animals or stock yards.
- i. Petroleum or asphalt refining, manufacturing or storage.
- j. Smelting or refining of metals from ores.
- k. Steam and board hammers and forging presses.
- l. Storing, curing, and tanning of raw, green or salted hides or skins.
- m. Corrosive acid manufacturing or bulk storage thereof.

- n. Junk yards.
- o. Grain elevators, and storage, subject to height restrictions set forth as part of the Conditional Use Permit.
- p. Residences when on the same parcel as the principal use and occupied by an individual employed by the principal use.

5. Lot, Yard, Area and Height Requirements.

a.	LOT AREA SQ. FEET	LOT WIDTH	YARD SETBACKS		
			FRONT	SIDE (each)	REAR
	As necessary	100'	40'	15'	20'

- b. For corner lots, the setbacks from all street lines shall be forty (40) feet.
- c. Where a property abuts a railroad siding, no side or rear yard shall be required when a railroad loading facility is to be installed.
- d. Building Height. No structure hereafter erected shall exceed forty (40) feet in height.
- e. Maximum Coverage. Lot coverage shall not exceed fifty (50) percent.

Section VIII. F, FLOOD PLAIN DISTRICT.

1. Intent. The intent of this Ordinance in establishing a Flood Plain District is in recognition of significant areas of land which are located within the path of potential future urban expansion, and which are subject to periodic flooding; and in recognition of the objective to minimize potential damage to property, human suffering, and loss of life due to flooding within such land areas.

2. Permitted Uses. The following uses shall be permitted within F, Flood Plain District:

- a. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
- b. Public and private recreational uses not requiring "permanent or temporary structures" designed for human habitation such as parks, swimming areas, golf courses, driving ranges, picnic grounds, wildlife and nature preserves, game farms, fish hatcheries, and hunting, fishing and hiking areas.
- c. Utility facilities such as dams, power plants, flowage areas, transmission lines, pipelines, and water monitoring devices.
- d. Water related uses such as docks, piers, wharves, bridges, culverts, and river crossings of transmission lines.

3. Uses by Conditional Permit.

- a. Accessory uses incidental to permitted uses in the Flood Plain District and in adjacent zoning districts such as loading areas, parking areas, and storage yards for equipment or machinery easily moved or not subject to flood damage.
- b. Accessory structures incidental to permitted uses in the Flood Plain District and in adjacent zoning districts whether temporary or permanent, but only upon determination by the City Council that:
  - (1) Structures will not be designated for human habitation.
  - (2) Structures will have a low flood damage potential.
  - (3) The structure or structures, if permitted, will be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters:
    - (a) Whenever possible, structures will be constructed with the longitudinal axis parallel to the direction of flow of flood waters, and
    - (b) So far as practicable, structures will be placed so their longitudinal axis are approximately on the same line as those of adjoining structures.

- (4) Structures will be firmly anchored to prevent the structure or building from floating away and thus threatening to further restrict bridge openings and other restricted sections of the stream or river.
- (5) Service facilities such as electrical and heating equipment will be at or above the flood protection elevation for the particular area.

c. Fills or Deposition of Materials but only upon determination by the City Council that:

- (1) The fill or deposition of materials will have some beneficial purpose and the amount thereof will not be greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the final dimensions of the proposed fill or other material and the use to which the filled land will be put.
- (2) The fill or other materials will be protected against erosion by rip-rap, vegetative cover of "bulkheading".

#### Section IX. SPECIAL REGULATIONS.

The following regulations shall apply to all zoning districts unless specifically stated otherwise. Determination of potential or actual non-compliance with such special regulations shall be made by the City Council or its duly appointed agent.

##### A. Residual Features

No activity or operation shall be established or maintained which by reason of its nature or manner of operation will cause the emission of noise, odor, toxic or noxious fumes, smoke, dust and particulate matter in such concentrations as to be detrimental to or endanger the public health, welfare, comfort, and safety or cause injury to property or business.

B. Glare

Any lighting used to illuminate an off-street parking area or sign shall be arranged so as to deflect light away from any adjoining residential property or from the public streets. Direct or sky-reflected glare, whether from flood lights or from high-temperature processes such as combustion or welding, shall not be directed into any adjoining property.

C. Smoke

The emission of smoke by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation APC-1-15 and as subsequently expanded, modified or amended.

D. Odors

Odoriferous Matters in such quantity as to be offensive shall not be permitted. The emission of odor by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation APC-1-15 and as subsequently expanded, modified or amended.

E. Noise

All noise shall be muffled so as not to be objectionable, due to intermittence, beat frequency or shrillness and as measured at any property line, shall not exceed the minimum standards established by the State of Minnesota, Regulations NPC 1. 2. and 4.

F. Refuse

All waste material, debris, refuse, or garbage not disposed of through the public sanitary sewerage system shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse.

Garbage and refuse containers shall not be kept or permitted to stand within fifty (50) feet of any streets or avenues within the City of New Munich, except on the day on which garbage pickup is scheduled. Containers shall be promptly removed from the street on the same day that garbage pickup is made.

G. Farm Operations

The keeping of poultry, farm animals, and livestock shall not be permitted in the City of New Munich. Any existing operations of this type shall be classified as a non-conforming use.

H. Mobile Homes

1. All mobile homes within the City of New Munich shall be located within a duly permitted, designed and maintained mobile home court according to regulations of this Ordinance, and to laws and regulations of the State of Minnesota.
2. The location of such mobile home court should be at the periphery of a residential neighborhood and should be directly accessible from a collector or arterial street as defined herein. The minimum size of a mobile home court shall be two (2) acres.

3. In the event no such mobile home court shall be located within the City of New Munich then, in that event, mobile homes shall be permitted in the R-1, 1 and 2 Family Residence District subject to the following conditions:
- a. Said mobile home shall be located so as to be in conformance with all of the requirements for location of a dwelling house on a residential lot as set forth in this Ordinance.
  - b. Said mobile home shall be located on a lot containing a full basement and a foundation and the mobile home shall be securely attached to the foundation. City water and sanitary sewer service shall serve the premises and be connected through the basement area.
  - c. No such mobile home shall have ground floor space of less than nine hundred (900) square feet.
  - d. A building permit and any other required permits shall be obtained before installation of said mobile home.
  - e. In the event a mobile home park shall be established in the City of New Munich, any mobile home not in conformance with this paragraph no. 3 shall be required to move into said mobile home park or outside the City Limits of the City of New Munich within a period of five (5) years after space has been made available in the mobile home park.

*amended by Ord 63*

I. Junk Yards

No junk yard may continue as a non-conforming use for more than two (2) years after the effective date of this Ordinance, except that a junk yard may continue as a non-conforming use in the I-Industrial District, provided it is completely enclosed within a continuous solid fence as required by other city junk ordinance and laws.

J. Accessory Buildings

Accessory buildings and uses which are customarily incidental to the permitted uses shall be permitted in all districts. Detached residential garages may be located within four (4) feet of an interior side lot line when constructed on rear portion of residential lot.

K. Sewer Facilities

All sewage facilities shall be connected to community sewer facilities when available. Where sewers are not constructed or in operation, all sewage facilities shall be connected to approved septic tanks and disposal fields. This provision shall not apply to temporary construction sites, or portable units.

L. Sign Regulations

Signs shall not be permitted within the public right of way or easements, except as erected by an official unit of government or public utilities for the directions of traffic or necessary public information except in the B, Business District, wherein business signs shall be allowed to extend five and one-half (5½) feet over a sidewalk and a minimum distance above the sidewalk of



eight (8) feet. Advertising signs, business signs, and name plate signs which may or may hereafter become rotted, unsafe, or unsightly shall be repaired or removed by the owner or lessee of the property upon which the sign stands. Where a sign is illuminated, the source of light shall not shine upon any part of a residence which is located in an R-1, 1 and 2 Family Residence District or upon any roadway. No advertising or business signs shall be permitted in a residential district except as permitted in the definition of home occupation. Real estate signs advertising the sale, rental, or lease of property may be temporarily located, however, said signs shall not exceed eight (8) square feet in area. Special signs for the identification of churches, schools, parks, recreations or similar uses shall be permitted. No flashing signs shall be permitted.

J. Kennels

No dog kennel shall be permitted in the City of New Munich.

Section X. NON-CONFORMING USES AND STRUCTURES

The lawful use of any land or buildings existing at the time of the adoption of this ordinance may be continued, even if such use does not conform to the regulations of this ordinance, except as provided below:

1. Non-conforming Buildings

A. Alterations

A non-conforming building or structure shall not be reconstructed or altered to an extent exceeding 25 percent of its market value for assessment purposes unless said building or structure is changed to conform with the regulations of this ordinance.

B. Enlargement

A non-conforming building or structure shall not be added to or enlarged in any manner unless such additions or enlargements are made so as to bring said building or structure into conformity with the regulations of this ordinance.

C. Restoration

A non-conforming building or structure which is damaged by fire or other cause to the extent of more than fifty (50) percent of its market value shall not be restored except in conformity with the regulations of this Ordinance.

2. Non-conforming Use of Building or Land

A. Expansion

A non-conforming use of land or building shall not be expanded or enlarged.

B. Relocation

A non-conforming use shall not be moved to any other part of the parcel of land upon which the same was conducted at the time of passage of this ordinance.

C. Abandonment

A non-conforming use of a building or land which has been discontinued for a period of one year shall not be re-established and any future use shall be in conformity with the regulations of this ordinance.

3. Junk Yards

No junk yard may continue as a non-conforming use for more than two (2) years after the effective date of this ordinance, except that a junk yard may continue as a non-conforming use in the I-Industrial District provided it is completely enclosed within a continuous solid fence as required by other city junk ordinances and laws.

4. Outdoor Advertising Structures

No outdoor advertising structure may continue as a non-conforming use for more than one year after the effective date of this ordinance.

Section XI. ADMINISTRATION AND ENFORCEMENT

1. Zoning Officer

- A. The City Council shall appoint a Zoning Officer who may be a member of the Council or the City Clerk or any other citizen of the City. It shall be the duty of the Zoning Officer to administer and enforce the provisions of this ordinance.

2. Building Permit Requirement and Application

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

- A. No such building permit shall be issued except in conformity with all of the provisions of this ordinance, except upon written order from the Board of Appeals and Adjustment or a conditional use permit approved by the City Council.
- B. All applications for building permits shall be accompanied by building and plot plans in duplicate, drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lots of buildings already existing, if any; and the location and dimensions of the proposed building or alteration.
- C. The application shall include such other information as lawfully may be required, including existing or proposed building or alteration; existing or proposed use of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with and provide for the enforcement of this ordinance.
- D. One copy of the plans shall be returned to the applicant, after such copy either is approved or disapproved. The second copy of the plans, similarly marked, shall be retained by the City.
- E. The building permit shall be displayed on the premises.

Section XII. BOARD OF ADJUSTMENTS AND APPEALS.

1. Establishment.

The Planning Commission of the City of New Munich shall be designated as the Board of Adjustments and Appeals, vested with such administrative authority as is hereinafter provided or as provided by state law.

2. Duties.

The duties of the Board of Adjustments and Appeals shall be:

- A. To hear and decide appeals from any decision of the Zoning Officer or City Council.
- B. To interpret the meaning of the Ordinance and to determine the location of district boundaries in cases of ambiguity and to make rulings with respect to the application of the ordinance.
- C. To hold public hearings on applications for variances from the provisions of this Ordinance and to act upon such applications.

1. Application for any variance shall be made to the Secretary of the Planning Commission, who shall also serve as Secretary of the Board of Adjustments and Appeals. The application shall be in writing. Upon receipt of any application, a time and place for a public hearing shall be set before the Board, and such notice given as the Board shall deem proper.

2. If an application is denied, no further action shall be taken upon it; if an application is granted, the Board shall report the matter to the City Council for confirmation and approval. No permit shall be granted or application allowed until the City Council has approved same.

Section XIII. DUTIES OF THE NEW MUNICH PLANNING COMMISSION.

The duties of the New Munich Planning Commission in zoning administration, in addition to acting on the Board of Adjustments and Appeals, shall be:

- A. To hold public hearings on applications for Amendments to this Ordinance. The Commission shall not have the authority to make changes or amendments to this Ordinance; it shall act in a purely advisory manner to the City Council making its recommendation in all cases referred to it, and transmitting them to such Council for final action.

- B. To hold public hearings on applications for Conditional Use Permits provided for within this Ordinance and to transmit its recommended action to the City Council for final action.

Section XIV. VARIANCES.

1. Variations from the provisions of this Ordinance may be granted by the Planning Commission acting as the Board of Adjustments and Appeals where practical difficulties or unusual hardships in complying with such provisions are determined to exist, but only after a public hearing has been duly advertised and held by such Board. The Board of Adjustments and Appeals may impose such restrictions and conditions upon the premises benefitted by a variance as it considers necessary so that the public health, safety and general welfare may be secured and substantial justice done.
2. Applications for variances shall be accompanied by the boundary survey and plot plan as required for building permit applications, unless waived by the Board of Adjustments and Appeals.
3. Standards for Granting Variances.  
The Board of Adjustments and Appeals may vary the regulations of this Ordinance when supporting evidence in each specific case indicates that:
  - A. Because of the particular physical surroundings, shape or topographic conditions of the specific parcel of land involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
  - B. The conditions upon which the petition for a variance is based are unique to the parcel of land for which the variance is sought and one not applicable, generally, to other property with the same zoning classification.
  - C. The purpose of the variance is not based exclusively upon a desire to increase the value or income potential of the parcel of land.
  - D. The alleged difficulty or hardship is caused by the provisions of this Ordinance and has not been created by any persons presently or formerly having an interest in the parcel of land.

- E. The granting of the variance will not be detrimental to the public welfare or injurious to other land or improvements in the vicinity in which the parcel of land is located.
- F. The proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the vicinity.

Section XV. CONDITIONAL USE PERMITS.

- 1. Before a building or premises is devoted to any use classified under "Uses by Conditional Permit" in this Ordinance, a Conditional Use Permit must be granted by the City Council following a public hearing and recommendation by the Planning Commission.
- 2. The following exhibits shall be required unless waived by the Planning Committee.
  - A. The boundary survey and plot plan as required for building permit applications.
  - B. Petition of property owners within three hundred (300) feet of property in question showing fifty (50) percent of such owners favoring the proposal.
- 3. Standards for Granting Conditional Use Permits.  
A conditional use permit may be granted by the City Council after demonstration by evidence that:
  - A. The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
  - B. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
  - C. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
  - D. Adequate utilities, access roads, drainage and necessary facilities have been or will be provided.

- E. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
- F. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

The Planning Commission may recommend, and the City Council may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary for the protection of the public interest and to secure compliance with the requirements specified in this Ordinance.

4. Revocation of Conditional Use Permits.

Where a conditional use permit 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 conditional use. A conditional use permit shall be deemed to authorize only one particular use and shall expire if that use shall cease for more than twelve (12) consecutive months.

Section XVI. AMENDMENTS.

1. Adoption.

This Ordinance may be amended, changed, or altered only by a favorable majority two-third (2/3) vote of the City Council and only after a public hearing has been duly advertised and held by the Planning Commission.

2. Kinds of Amendments.

An amendment to this Ordinance may be one of the following:

- A. A change in a district's boundary (re-zoning).
- B. A change in a district's regulations.
- C. A change in any other provision of this Ordinance.

3. Initiation of Proceedings.

Proceedings for amending this Ordinance shall be initiated by at least one (1) of the following three (3) methods:

- A. By petition of an owner or owners of property which is proposed to be re-zoned, or for which district regulation changes are proposed.

- B. By recommendation of the Planning Commission.
- C. By action of the City Council.
- 4. Required Exhibits for Re-zoning or District Regulations Changes Initiated by Property Owners:
  - A. The boundary survey and plot plan as required for building permit applications.
  - B. Petition of property owners within three hundred (300) feet of property in question showing fifty (50) percent of such owners favoring re-zoning.

Section XVII. FEES.

An applicant who shall apply for a variance, conditional use permit, or amendment of an ordinance shall be required to pay a fee to the City of New Munich at the time of filing the application. Such fee shall be established by the City Council.

Section XVIII. DEFINITIONS.

For purposes of this Ordinance, certain words used herein are defined as follows:

Accessory Building or Use -- Any subordinate building or use which is customarily incident to the principal building or use and which is located on the same lot as such principal building or use.

Agriculture -- The tilling of the soil, the raising of crops, forestry, horticulture and gardening, including the keeping or raising of domestic animals and fowl.

Building, Non-conforming -- A building so constructed or so located on a lot that it does not comply with the building requirements or within the minimum lot requirements of the district within which it is located.

Building, Principal -- A non-accessory building in which the primary use of the lot on which it is located is conducted.

Carport -- A structure permanently attached to a dwelling having a roof supported by columns but not otherwise enclosed.



Dwelling -- A building, or portion thereof, designed or used predominantly for residential occupancy, including one-family dwellings, two-family dwellings, and multiple family dwellings, but not including hotels, motels, boarding or rooming houses, tourist homes or mobile homes.

Dwelling, Attached -- One which is joined to another dwelling or building at one or more sides by a party wall or walls.

Dwelling, Detached -- One which is entirely surrounded by open space on the same lot.

Dwelling, Unit -- One or more rooms containing complete kitchen facilities, permanently installed, which are arranged, designed, used or intended for use exclusively as living quarters for one family and for not more than an aggregate of two roomers or boarders.

Dwelling, One-family -- A residential structure containing one dwelling unit only.

Dwelling, Two-family (duplex) -- A residential structure containing two dwelling units only.

Dwelling, Multiple-family (apartment building) -- A building or portion thereof containing three or more dwelling units but not including a motel, hotel or rooming house.

Family -- One or more persons related by blood, marriage, or adoption or a group of not more than five persons not so related, maintaining a common household in a dwelling unit.

Home Occupation -- Any gainful occupation engaged in by the occupants of a dwelling when carried on within the dwelling unit and not in an accessory building. No persons other than those residing on the premises shall be employed. Home occupations shall not require internal or external alterations or involve construction features not customarily found in dwellings. There shall be no exterior display, nor exterior signs other than (1) non-illuminated nameplate measuring not more than one (1) by one and one-half (1½) feet in area and attached to the building. There shall be no exterior storage of equipment or materials used in the home occupation.

Industry -- An industry which involves the production, processing or storage of materials, goods or products.

Junk Yard -- Land or buildings used for the storage or keeping of junk, including scrap metals, or for the dismantling or "wrecking of automobiles or other vehicles or machinery", other than the storage of materials which is incidental or accessory to any business or industrial use on the same lot.

Kennels -- The keeping of three (3) or more dogs for the purpose of breeding or resale.

Lot -- A piece, parcel or plot of land intended for building development or as a unit for transfer of ownership.

Lot, Corner -- A lot situated at the intersection of two streets, the interior angle of such intersection not exceeding one hundred thirty-five (135) degrees.

Lot Area -- The area of a horizontal plane bounded by the front, side, and rear lot lines, measured within the lot boundaries.

Lot Coverage -- Total area of a zoning lot covered by principal and accessory buildings.

Lot Width -- The horizontal distance between the side lot lines of a lot measured at the building setback line.

Mobile Home -- A movable or portable dwelling building on a chassis, connected to utilities and designed for year-around living. A mobile home is also designed to enable placement upon a permanent foundation.

Parking Space, Automobile -- A suitable surfaced and permanently maintained area off the public street right-of-way, either within or outside of a building, of sufficient size to store one standard automobile, but in no event less than two hundred (200) square feet, exclusive of passageways, driveways or other means of circulation or access.

Particulate Matter -- Dust, smoke or any other form of airborne pollution in the form of minute separate particles.

Planning Commission -- New Munich Planning Commission.

Recreational Vehicle -- A vehicular portable structure built on a chassis designed to be used as a temporary dwelling for travel, recreation and vacation uses.

Setback -- The minimum horizontal distance between a building and the street or lot line, (unless specifically related to the street center line), disregarding steps, unroofed porches and overhangs.

Signs -- Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge, or insignia of any government or governmental agency, or of any civic, charitable, religious, patriotic, fraternal or similar organization. Such device may be either stationary or movable.

Sign, Flashing -- Any illuminated sign on which the artificial light is not maintained stationary and/or constant in intensity and color at all times when such sign is in use. For the purpose of this Ordinance, any revolving, illuminated sign shall be considered a "flashing sign."

Use -- The purpose or activity for which the land or building thereon is designed, arranged or intended, or for which it is occupied or maintained.

Use, Accessory -- A use subordinate to the principal use or building on the same lot and customarily incidental thereto as well as detached therefrom.

Use, Conditional -- A use, either public or private, which, because of the unique characteristics, cannot be properly classified as a permitted use in a particular district. After due consideration in each case, of the impact of such use upon neighboring land, and of the public need for the particular use at the particular location, such "Conditional" use may or may not be granted.

Use, Non-conforming -- Any lawfully established use of a building or premise which on the effective date of this Ordinance does not comply with the use regulations of the zoning district in which such building or premises is located.

Use, Permitted -- The main use of land or buildings as distinguished.

Yard -- An open space on a lot which is unobstructed from the lowest level to the sky, except as hereinafter permitted. A yard extends along a lot line and at right angles to such lot lines to a depth or width specified in the yard regulations for the district in which such lot is located.

Yard, Front -- A yard extending along the full width of the front lot line between side lot lines.

Yard, Rear -- The portion of the yard on the same lot with the building between the rear line of the building and the rear line of the lot for the full width of the lot. In those locations where an alley is platted in the rear of the lots, one-half of the width of the platted alley may be included in the rear yard requirements. On corner lots the owner may elect which yards are to be side and rear yards.

Yard, Side -- A yard extending along a side lot line between the front and rear yards.

Zoning District -- An area or areas for which the regulations and requirements governing use, lot and bulk of building and premises are uniform.

Zoning Map -- The Map setting forth the boundaries of the Zoning Districts of New Munich which map is a part of this Ordinance.

Section XIX. VIOLATIONS AND PENALTIES.

Any person who violates any provision of this ordinance is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding Five Hundred Dollars (\$500.00) or by imprisonment for a period not exceeding ninety (90) days or both, plus, in either case, the costs of prosecution.

Section XX. REPEALING.

Upon the effective date of this Ordinance, any other Ordinance or parts of other Ordinances in conflict with this Ordinance to the extent of such conflict and no further, are hereby repealed.

SECTION XXI. EFFECTIVE DATE.

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

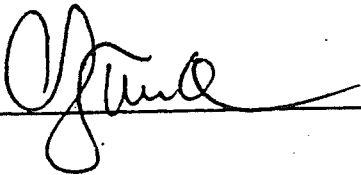
Adopted by the City Council this 11th day of December,  
1984.

  
\_\_\_\_\_

President of the Council  
City of New Munich

(seal)

Attest:

  
\_\_\_\_\_

Clerk