

ORDINANCE 90 – ZONING ORDINANCE

TABLE OF CONTENTS

ORDINANCE 90 - ZONING

Section 90.01	NAME.....	90.01.1
Section 90.02	DEFINITIONS OF CERTAIN WORDS.....	90.02.1
Section 90.03	DEFINITIONS OF TERMS	90.03.1
Section 90.04	OFFICIAL ZONING MAP.....	90.04.1
Section 90.05	GENERAL REQUIREMENTS	90.05.1
Section 90.06	SWIMMING POOLS	90.06.1
Section 90.07	HOME OCCUPATIONS.....	90.07.1
Section 90.08	STRUCTURE HEIGHTS	90.08.1
Section 90.09	ANTIQUES AND COLLECTIBLES.....	90.09.1
Section 90.10	OFF-STREET PARKING	90.10.1
Section 90.11	RESERVED FOR FUTURE USE.....	
Section 90.12	FENCES, LANDSCAPING AND SCREENING	90.12.1
Section 90.13	EXTERIOR LIGHTING.....	90.13.1
Section 90.14	TOWERS AND ANTENNAS.....	90.14.1
Section 90.14A	OPT-OUT OF MINNESOTA STATUTES, SECTION 462.3593.....	90.14A.1
Section 90.15	R-1 LOW DENSITY RESIDENTIAL	90.15.1
Section 90.16	R-2 MEDIUM DENSITY RESIDENTIAL.....	90.16.1
Section 90.17	R-3 MULTIPLE RESIDENCE DISTRICT.....	90.17.1
Section 90.18	R-4 R MH MANUFACTURED HOME PARK DISTRICT.....	90.18.1
Section 90.19	C-1 CORE COMMERCIAL DISTRICT.....	90.19.1
Section 90.20	C-2 HIGHWAY COMMERCIAL.....	90.20.1
Section 90.21	EXTERIOR MATERIAL REQUIREMENTS	90.21.1
Section 90.22	M-1 INDUSTRIAL DISTRICT.....	90.22.1
Section 90.23	RESERVED FOR FUTURE USE.....	
Section 90.24	PUBLIC DISTRICT	90.24.1
Section 90.25	CONDITIONAL USES	90.25.1
Section 90.26	INTERIM USES PERMIT (IUP)	90.26.1
Section 90.27	PLANNED UNIT DEVELOPMENT (PUD) OVERLAY DISTRICT	90.27.1
Section 90.28	VARIANCES AND APPEALS.....	90.28.1
Section 90.29	AMENDMENTS AND REZONING	90.29.1
Section 90.30	ADMINISTRATION AND ENFORCEMENT.....	90.30.1
Section 90.31	NONCONFORMITIES	90.31.1
Section 90.32	VIOLATIONS	90.32.1
Section 90.33	PENALTY	90.33.1
Section 90.34	INTERPRETATION.....	90.34.1
Section 90.35	SEVERABILITY.....	90.35.1

ORDINANCE 90 – ZONING ORDINANCE

TABLE OF CONTENTS

Section 90.01 NAME.....90.01.1

ORDINANCE 90 – ZONING ORDINANCE

Section 90.01: NAME

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

ORDINANCE 90 – ZONING ORDINANCE

TABLE OF CONTENTS

Section 90.02 DEFINITIONS OF CERTAIN WORDS.....90.02.1

ORDINANCE 90 – ZONING ORDINANCE

Section 90.02 DEFINITIONS OF CERTAIN WORDS

For the purpose of this Ordinance, certain terms or words used herein shall be interpreted or defined as follows:

- a) Words used in the present tense include the future tense;
- b) The singular number includes the plural;
- c) The word “person” includes a corporation, partnership, association, society or agency, as well as an individual;
- d) The word “lot” includes the word “plot” or “parcel”;
- e) The term “shall” is always mandatory;
- f) The word “used” or “occupied” as applied to any land or building shall be construed to include the words “intended, arranged, or designed to be used or occupied”.

ORDINANCE 90 – ZONING ORDINANCE

TABLE OF CONTENTS

Section 90.03 DEFINITIONS OF TERMS90.03.1

Section 90.03 DEFINITIONS OF TERMS

Subd. 1: Accessory. Shall mean a use, building or structure subordinate and incidental to the principal use, building or structure on the lot.

Subd. 2: Accessory building. Shall mean a subordinate building serving the principle use on the same lot and incidental thereto. A deck is considered an accessory building structure.

Subd. 3: Adult Arcade. Shall mean an establishment where, for any form of consideration, one (1) or more motion picture projectors, slide projectors, or similar machines for viewing by five or fewer persons each are used to show films, motion pictures, video cassettes, slides or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

Subd. 4: Adult Bookstore. Shall mean an establishment that offers for use or sale, 1) books, magazines, periodicals, or other printed matter, or photographs, films motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or 2) instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

Subd. 5: Adult Cabaret. Shall mean a nightclub, bar, restaurant, or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

Subd. 6: Adult Motion Picture Theater. Shall mean an establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

Subd. 7: Adult Theater. Shall mean a theater, concert hall, auditorium, or similar establishment characterized by (activities featuring) the exposure of specified anatomical areas or by specified sexual activities.

ORDINANCE 90 – ZONING ORDINANCE

Subd. 8: Adult Use Establishments. Shall mean adult use establishments which include, but are not limited to: adult arcade, adult bookstore, adult cabaret, adult motion picture theater, adult theater, or sexual encounter establishment.

Subd. 9: Applicant. Shall mean the owners, their agent, or representative having an interest in land where an application for City review of any permit, use, or development is required by this chapter.

Subd. 10: Basement. Shall mean that portion of a building between floor and ceiling, which is partly below and partly above grade (as defined in this section), but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling.

Subd. 11: Bed and Breakfast. Shall mean a private, owner occupied dwelling with guest rooms where temporary lodging facilities and some meals are provided to paying lodgers where the lodging is subordinate and incidental to the main residential use of the dwelling. Indoor recreational facilities for the use of the residents and paying lodgers may be included.

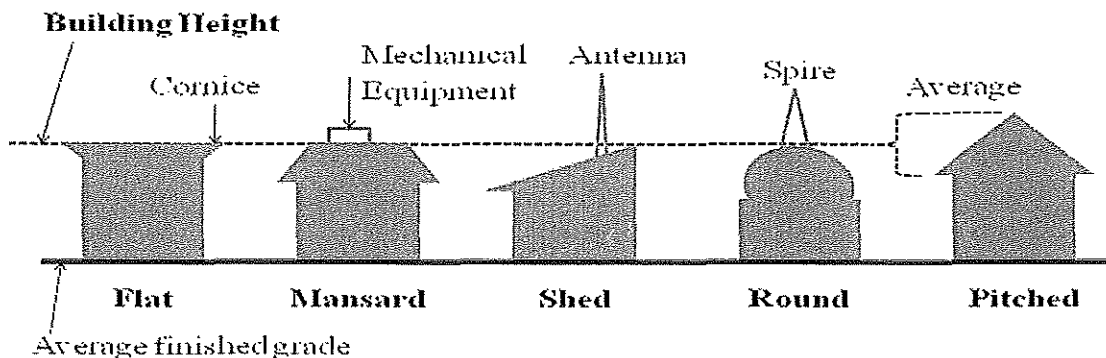
Subd. 12: Board of Appeals and Adjustment. Shall mean the City Council.

Subd. 13: Boulevard. Shall mean that portion of the public right-of-way not occupied by the improved street or roadway.

Subd. 14: Building. Shall mean any building or structure, or portion thereof, which is used, or designed or intended to be used for human habitation, for living, sleeping, recreating, cooking, or eating purposes or any combination thereof.

Subd. 15: Building Coverage. Shall mean that percentage of the total area of a lot which is covered by structures.

Subd. 16: Building Height. Shall mean the vertical distance of a building measured from the average elevation of the finished grade of the street in front of the structure to the highest point of the top of the cornice of a flat roof, to the deck line of a mansard roof, to a point of the roof directly above the highest wall of a shed roof, to the uppermost point of a round or other arch type roof, to the mean distance of the highest gable on a pitched or hip roof excluding mechanical or elevator penthouses, church spires and antennas.



ORDINANCE 90 – ZONING ORDINANCE

Subd. 17: Building Line. Shall mean the edge or side of a building nearest a lot line, but not including the overhanging eaves or steps.

Subd. 18: Building Official. Shall mean the officer charged with the administration and enforcement of this Ordinance or his or her regularly authorized deputy.

Subd. 19: Building Principal. Shall mean a structure in which the primary use of the lot is situated.

Subd. 20: Building Permit. Shall mean a permit required from the responsible governmental agency before any site work, construction or alternation to structures can be started.

Subd. 21: Cemetery. Shall mean land used or intended to be used for the burial of the dead and dedicated for cemetery purposes and including, but not limited to, columbariums, mausoleums, and chapels when operated in conjunction with and within the boundaries of the cemetery.

Subd. 22: Clear View Area. Shall mean the triangular area of a corner lot formed by the street lines and a line connecting them at points thirty five feet (35') from the intersection of the street lines, or from the area formed by the intersection of the right-of-way (ROW) lines and a line connecting them at points twenty feet (20') from the intersection, whichever is greater, unless otherwise directed by City staff. Within this area, visibility shall be unobstructed between a height of twenty four inches (24") and nine feet (9') above the center line grades of the intersecting streets. See Section 90.05, Subd. 6.

Subd. 23: Commercial Business Development (CBD). Shall mean a CBD within a Planned Unit Development (PUD).

Subd. 24: Community Based Residential Facility. Shall mean a state licensed, full-time residential facility, except that a residential facility whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be considered a community residential facility.

Subd. 25: Conditional Use. Shall mean the use of land in a district where such use requires additional controls and safeguards not required of permitted uses.

Subd. 26: Condominium. Shall mean real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners. Any multi-unit dwelling may be held under multiple ownership.

ORDINANCE 90 – ZONING ORDINANCE

Subd. 27: Contiguous. Shall mean parcels of land that touch a common lot line or boundary or which are separated by a right-of-way, easement, railroad right-of-way, driveway or thruway.

Subd. 28: Council. Shall mean the City Council of the City of New Munich.

Subd. 29: Day Care Facility. Shall mean a state licensed residential facility serving persons for part of a twenty-four hour day.

Subd. 30: Deck. Shall mean a horizontal, unenclosed platform with or without attached railing, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending above ground level. Decks must meet all setback requirements.

Subd. 31: Decibel. Shall mean the unit of sound measured on the “A” weighing scale of a sound level meter, set on slow response, the weighing characteristics of which are specified in the “Standards on Sound Level Meters of the USA Standards Institute.”

Subd. 32: District. Shall mean a section or sections of the City of New Munich within which the regulations governing the use of buildings and premises or the height and area of buildings and premises are uniform.

Subd. 33: Drive-Thru. Shall mean any use where products and/or services are provided to the customer under conditions where the customer does not have to leave the car or where service to the automobile occupants is offered regardless of whether service is also provided within a building.

Subd. 34: Dwelling Unit. Shall mean one (1) or more rooms in a residential structure designed for occupancy by one (1) family for living purposes and having its own permanently installed kitchen and bathroom facilities.

Subd. 35: Dwelling, One (1) Family or Single-Family. Shall mean a residential structure containing accommodations for and occupied by one (1) family only, not including manufactured homes.

Subd. 36: Dwelling, Two-Family. Shall mean one (1) residential structure containing two independent dwelling units on a lot.

Subd. 37: Dwelling, Multiple-Family. Shall mean a residential structure containing three or more dwelling units, designed with more than one (1) dwelling unit connecting to a common corridor or entryway.

Subd. 38: Family. Shall mean two (2) or more persons occupying the premises and living as a single housekeeping unit, as distinguished from a group occupying a rooming house, club, fraternity, or hotel.

ORDINANCE 90 – ZONING ORDINANCE

Subd. 39: Fence. Shall mean a partition, structure, wall, or gate erected as a dividing marker, visual or physical barrier, or enclosure.

Subd. 40: Fish House. Shall mean a temporary structure with appropriate licensing used for ice fishing.

Subd. 41: Floor Area. Shall mean the area inside the exterior walls of a building. Measurements shall be made from the inside of exterior walls.

Subd. 42: Floor Plan, General. Shall mean a graphic representation of the anticipated use of the floor area within a building or structure.

Subd. 43: Footprint. Shall mean the area of the land covered by a building's foundation.

Subd. 44: Frontage. Shall mean that boundary of a lot that abuts a public street or private road.

Subd. 45: Funeral Home. Shall mean a building or part thereof used for funeral services. The building may contain space and facilities for: embalming and the performance of other services used in preparation of the dead for burial; the storage of caskets, urns, and other related funeral supplies; and the storage of funeral vehicles. Where a funeral home is permitted, a funeral chapel shall also be permitted. This definition shall not include facilities for cremation.

Subd. 46: Garden supply store and nursery yard. Shall mean a building or premises used primarily for the wholesale and retail sale of trees, shrubs, flowers, other plants, and products related accessory products, excluding power tools and tractors. Accessory products are those products that are used in the culture, display, and decoration of lawns, gardens, and indoor plants.

Subd. 47: Garages. Shall mean a type of detached residential accessory buildings principally intended for the storage of automobiles.

Subd. 48: Gasoline or Automotive Service Station. Shall mean any building or premises used for the retail sale of liquefied petroleum products for the propulsion of motor vehicles, and such products as kerosene, fuel oil, packaged naphtha, lubricants, tires, batteries, anti-freeze, motor vehicle accessories and other items customarily associated with the sale of such products; for the rendering of service and making of adjustments and replacements to motor vehicles; and as incidental to other services rendered, washing, waxing, and polishing of motor vehicles and making of repairs to motor vehicles except those of a major type.

Subd. 49: Group Family Day Care Facility. Shall mean a state licensed group family licensed day care facility licensed under Minnesota Rules 9502.0315 to 9502.0445, as amended.

Subd. 50: Guest Room. Shall mean guest room is any room or rooms used, or intended to be used, by a guest for sleeping purposes. Every one hundred (100) square feet of superficial floor area in a dormitory is a guest room.

ORDINANCE 90 – ZONING ORDINANCE

Subd. 51: Hard-surfaced. Shall mean improved and maintained with an asphalt or portland cement binder material pavement or such other surface as may be approved by the City, to provide a durable and dust-free surface.

Subd. 52: Home Occupation. Shall mean any occupation or profession carried on as an accessory use of a dwelling unit by a member of a family residing on the premises and not more than one (1) employee and conducted entirely within the dwelling or enclosed garage.

Subd. 53: Homeowner's Association. Shall mean a formally constituted non-profit association or corporation made up of the property owners and/or residents of the development for the purpose of owning, operating, and maintaining the common open space and facilities.

Subd. 54: Hotel. Shall mean any building containing six or more guest rooms intended or designed to be used or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes by guests, whether rent is paid in money, goods, labor, or otherwise.

Subd. 55: Housekeeping Unit. Shall mean anyone or a group of individuals living together as a unit.

Subd. 56: Impervious Surface. Shall mean the portion of the parcel which has a covering which does not permit water to percolate into the natural soil. Impervious surface shall include but not be limited to buildings, all driveways and parking areas (whether paved or not), sidewalks, patios, swimming pools, tennis and basketball courts, covered decks, porches and other structures.

Subd. 57: Interim Use. Shall mean a temporary use of property until a particular date, until the occurrence of a particular event, or until the use is no longer allowed by zoning regulations.

Subd. 58: Incidental. Shall mean directly and immediately pertaining to, or involved in, though not an essential part.

Subd. 59: Junkyard. Shall mean land where waste, discarded or salvaged materials are stored, bought, sold, exchanged, baled or packaged, disassembled or handled, including house wrecking yards, used lumber yards, and places or yards for storage of salvaged house wrecking and a structural steel materials and equipment, automobile tractor, or machinery wrecking and used parts yard, but not including areas where such uses are conducted entirely within a completely enclosed building and not including the processing of used, discarded or salvaged materials as part of manufacturing operations.

Subd. 60: Landscaping. Shall mean the planting of trees, shrubs, and turf covers such as grasses and shrubs.

ORDINANCE 90 – ZONING ORDINANCE

Subd. 61: Lean To Roof. Shall mean a roof of a single pitch with the higher end abutting wall or larger building. May also be used on a shed as a roof extension but must meet setbacks.

Subd. 62: Lot. Shall mean a parcel of land shown as an individual unit of ownership on the most recent plat of record or other public records.

Subd. 63: Lot, Corner. A lot abutting the intersection of two or more streets.

Subd. 64: Lot, Depth of. Shall mean the mean horizontal distance between the front and rear lot lines measured in the direction of its side property lines.

Subd. 65: Lot, Interior. Shall mean a lot other than a corner lot, including a through lot.

Subd. 66: Lot Lines. Shall mean the lines bounding a lot.

Subd. 67: Lot of Record. Shall mean a lot which is a recorded metes and bounds description prior to 1945 or is a part of a subdivision, the plat of which has been recorded in the office of the County Recorder for Stearns County, Minnesota.

Subd. 68: Lot, Through. Shall mean a lot fronting on two generally parallel streets.

Subd. 69: Lot Width. Shall mean the mean horizontal distance between side lot lines measured parallel to the street line or its chord if curved.

Subd. 70: Manufacturing. Shall mean a use engaged in the assembly, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of the products.

Subd. 71: Manufactured Home. Shall mean a structure, transportable in one (1) or more sections, which in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or when erected on site, is three hundred and twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling when connected to the required utilities. The term includes any structure for which a certification is filed with the Secretary of State that the structure qualifies as a manufactured home.

Subd. 72: Manufactured Home Park. Shall mean any site, lot, field or tract of land upon which two or more occupied manufactured homes are located, either free of charge or for compensation, including any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of the manufactured home park.

Subd. 73: Mayor. Shall mean the Mayor of the City of New Munich.

Subd. 74: Motel, Auto Court. Shall mean a building or group of attached or detached buildings containing individual sleeping or living units for transients with garage attached or with parking facilities conveniently located near each such unit.

ORDINANCE 90 – ZONING ORDINANCE

Subd. 75: Motor Vehicle Dealer. Shall mean a person engaged in the sales of new and/or used motor vehicles.

Subd. 76: Motor Vehicle Repair Garage. Shall mean any building used for major automobile repairs defined to be spray painting, body, fender, clutch, transmission, differential, axle, spring and frame repairs; major overhauling of engines requiring the removal of engine cylinder head or crankcase pan; or repairs to radiators requiring the removal thereof.

Subd. 77: Net Acre. Shall mean area devoted to development exclusive of roadways and right-of-ways, wetlands, flood plains and parks.

Subd. 78: Nonconforming Lot. Shall mean a separate parcel or lot of record on the effective date of this Ordinance, or any amendments thereto, which lot or parcel does not conform to the regulations, including area or dimensional standards contained in this Ordinance or amendments thereto.

Subd. 79: Nonconforming Use. Shall mean a structure or land lawfully used or occupied as of the date of enactment of this Ordinance, which does not conform to the regulations of this Ordinance.

Subd. 80: Nonconforming Structure. Shall mean any structure lawfully or legally existing on the effective date of this Ordinance, or any amendment thereto, which does not conform to the regulations, including the dimensional standards, for the district in which it is located after the effective date of this Ordinance or amendments thereto.

Subd. 81: Nursery School. Shall mean a home or institution where care and instruction are provided for four or more non-resident children during the day, including a kindergarten.

Subd. 82: Nursing Homes. Shall mean a licensed home to provide care for the aged or infirm persons requiring or receiving nursing care.

Subd. 83: Office (Professional). Shall mean a room, suite of rooms, or a building containing rooms or suites of rooms in which commercial activities, professional services, or occupations are conducted that do not require that goods are stored, produced, sold at retail, or repaired, including, but not limited to, financial institutions, architect or engineer, governmental offices, medical, dental, chiropractic, attorneys at law, insurance offices, real estate offices, utility offices, radio broadcasting, and similar uses.

Subd. 84: Ordinance. Shall mean this ordinance or any subsequent revisions thereto.

Subd. 85: Parking Space. Shall mean a permanently surfaced area either within a structure, or in the open, exclusive of driveway or access drives, for the temporary parking of a motor vehicle.

ORDINANCE 90 – ZONING ORDINANCE

Subd. 86: Patio. Shall mean a ground level blocked and/or cemented slab, maximum of thirty inches (30”) above pre-existing or natural grade. Patios do not need to meet setback requirements.

Subd. 87: Pawn Shop. Shall mean a facility where money is loaned based on the value of goods deposited by the borrower, which goods are held by the lender of the money occupying the facility as collateral for the loan. Items held by the lender which are not redeemed by a borrower may be put up for sale at the facility to the general public.

Subd. 88: Permitted Uses. Shall mean a use that is allowed as a matter of right with a building permit with no additional action being required by the Planning Commission or City Council.

Subd. 89: Pervious Surface. Surface materials that admit the passage of water.

Subd. 90: Planning Commission. Shall mean the duly appointed Planning Commission of the City.

Subd. 91: Planned Unit Development. Shall mean a tract of land developed as a unit rather than as individual development, wherein two or more buildings and activities may be located in relationship to each other rather than to lot lines or zoning district boundaries.

Subd. 92: Planning Commission. Shall mean the Planning Commission of the City of New Munich.

Subd. 93: Platted Land. Lands with legal descriptions described as lot, block, and plat name.

Subd. 94: Porch. Shall mean a two or three season screened or otherwise enclosed addition attached to the principal use. Porches must meet setback requirements. When a variance is obtained for building a deck, the permitted use is solely for the purposes of a deck and not for future enclosure.

Subd. 95: Principal Structure. Shall mean a structure or group of structures in which a principal use occurs.

Subd. 96: Principal Use. Shall mean the main use and chief purpose of land or structures, as distinguished from a secondary or accessory use.

Subd. 97: Personal Service Shop. Shall mean an establishment that provides a personal service that is non-medical and may include accessory retail sales of products to the services that are provided. Examples of personal services include but are not limited to the following: beauty and barber shop, dry cleaners, pick-up shoe repair, Laundromat, tailor, video rental and travel agency.

ORDINANCE 90 – ZONING ORDINANCE

Subd. 98: Recreational Motor Vehicle or Recreational Vehicle. Any self-propelled vehicle and any vehicle propelled or drawn by a self-propelled vehicle used for recreational purposes, including but not limited to snowmobile, trail bike or other all-terrain vehicle, hovercraft, or motor vehicle licensed for highway operation that is being used for off-road recreational purposes.

Subd. 99: Resident. Shall mean a person living in a dwelling or group living unit or community based residential facility.

Subd. 100: Retail Sales and Services. Shall mean stores and shops selling goods over the counter for use away from the point of purchase or that offer services available on the premises. Large items, such as motor vehicles and boats, or exterior sales lots and repair garages, are not included in this category of uses.

Subd. 101: Right-of-Way, Public. Shall mean an area for public use owned by a government jurisdiction.

Subd. 102: School. Shall mean a facility that provides a curriculum of preschool, elementary, secondary, post-secondary, or other instruction, including, but not limited to, kindergartens, elementary, junior high, senior high schools, and technical or college instruction.

Subd. 103: Self-Service Storage. Shall mean a structure or structures containing separate storage spaces of varying sizes that are leased or rented individually.

Subd. 104: Setback. Shall mean the minimum horizontal distance between a structure and street right-of-way, lot line, or other reference point as provided by this Ordinance. Distances are to be measured perpendicularly from the property line to the most outwardly extended portion of the structure.

Subd. 105: Service Use. Shall mean any establishment from which services are provided for building or equipment repair or installation, such as, but not limited to electrical, carpentry, flooring, heating and plumbing but not including automobile service stations.

Subd. 106: Screening. Shall include earth mounds, berms, or ground forms, fences and walls, or landscaping (plant materials) or landscape fixtures (such as timbers) used in combination or singularly so as to block direct visual access to an object throughout the year.

Subd. 107: Sexual Encounter Establishment. Shall mean an establishment other than a hotel, motel, or similar establishment offering public accommodations, which, for any form of consideration, provides a place where two or more persons may congregate, associate, or consort in connection with specified sexual activities or the exposure of specified anatomical areas. This definition does not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the State engages in sexual therapy.

Subd. 108: Specified Anatomical Areas. Shall mean specified anatomical areas and include any of the following: 1) less than completely and opaquely covered human genitals,

ORDINANCE 90 – ZONING ORDINANCE

pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areola; or 2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Subd. 109: Specified Sexual Activities. Shall mean specified sexual activities means and includes any of the following: 1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; 2) sex acts, actual or simulated, including intercourse, oral copulation, or sodomy; 3) masturbation, actual or simulated; or 4) excretory functions as part of or in connection with any of the activities in an adult use establishment.

Subd. 110: Street. Shall mean a public thoroughfare or right-of-way which provides the principal means of access to abutting property.

Subd. 111: Street Line. Shall mean the property line between a street and an abutting lot or boulevard.

Subd. 112: Structure. Shall mean anything constructed or erected, or any part thereof, which is permanently located in or on the ground, or in any way attached to, connected to, or served by anything in or on the ground.

Subd. 113: Structural Alteration. Shall mean any change in the type of construction or in the supporting members of a structure, such as bearing walls or partitions, columns, beams or girders, beyond ordinary repairs and maintenance.

Subd. 114: Townhouse. Shall mean a structure containing attached individually owned or rented dwelling units that share a common wall but have individual and separate front and/or rear yard entrances. Townhouse structures may contain three or more dwelling units.

Subd. 115: Unit. Shall mean a dwelling, group living or community based residential facility.

Subd. 116: Variance. Shall mean a modification to the terms of the Zoning Ordinance for height, area, size of structure, size of required yards, size of signs or other requirements, but not involving the actual use.

Subd. 117: Warehouse/Storage. Shall mean a facility for receiving, holding, shipping and occasional packaging of commodities.

Subd. 118: Yard. Shall mean a required open space on the same lot with a principal use.

Subd. 119: Yard, Front. Shall mean a space extending the full width of the lot and situated between the front property line and the front line of the building projected to the side property lines of the lot, through lots will have front yards on both sides of the building.

ORDINANCE 90 – ZONING ORDINANCE

Subd. 120: Yard, Rear. Shall mean a space extending the full width of a lot and situated between the rear property line of the lot and the rear line of the building projected to the side property lines of the lot. Through lots have no rear yard.

Subd. 121: Yard, Side. Shall mean a space extending from the front yard to the rear yard, or between the front yards on a through lot, between the building line and the side lot line measured perpendicular to the side lot line. Corner lots will have street side yards abutting public streets.

Subd. 122: Yard, Street Side. Shall mean a space extending from the front yard to the rear yard, or between the front yards on a through lot, between the building line and the street line measured perpendicular to the street line.

Subd. 123: Zoning Administrator. Shall mean the designated authority charged with the administration and enforcement of the Zoning Ordinance.

Subd. 124: Zoning District. Shall mean an area or areas within the limits of the City in which the regulations and requirements of this Ordinance are applied uniformly.

Subd. 125: Zoning Permit. Shall mean a permit required from the responsible governmental agency as sited within the Zoning Ordinance.

ORDINANCE 90 – ZONING ORDINANCE

TABLE OF CONTENTS

Section 90.04 OFFICIAL ZONING MAP.....90.04.1

Section 90.04 OFFICIAL ZONING MAP

Subd. 1: General. The City is hereby divided into districts as shown on the Official Zoning Map which, together with the matter thereon and the certificate attached thereto, is hereby incorporated by this reference made a part hereof. The Official Zoning Map shall be maintained by the Zoning Administrator and shall be available for inspection at the office of the Zoning Administrator.

Subd. 2: Zoning Map Amendment. Changes to the Official Zoning Map may be made following the same procedures as though amending the text of this Ordinance. Upon amendment, changes shall be made to the Official Zoning Map or documents attached thereto.

Subd. 3: Replacement of Zoning Map. In the event that the Official Zoning Map becomes damaged, lost or difficult to read or interpret because of the number of changes thereto, a new Official Zoning Map shall be prepared by the Zoning Administrator and approved by the City Council.

Subd. 4: Map Interpretation. The following procedure shall be used when uncertainty exists as to the boundaries of Zoning Districts, as shown on the Official Zoning Map:

- a) Boundaries shall be interpreted as following the nearest logical line to that shown;
- b) Where shown as approximately following platted lines, it shall be construed as following such lines;
- c) Where shown as approximately following the City limits, street centerlines, stream centerlines, or shorelines, it shall be construed as following such lines;
- d) Where distances are not shown on the map, they shall be determined by scale of the map;
- e) Where a boundary cannot be interpreted or where such boundary seems to conflict with the physical features of the land, the Board of Adjustment shall interpret such boundary.

ORDINANCE 90 – ZONING ORDINANCE

TABLE OF CONTENTS

Section 90.05 GENERAL REQUIREMENTS90.05.1

Section 90.05 GENERAL REQUIREMENTS

Subd. 1: Intent. The intent of this section is to establish general development performance standards. The regulations provided herein shall apply to all districts except where special provisions provide otherwise.

Subd. 2:

- a) Land Use and Structures. No structure or land shall hereafter be used or occupied and no structure or part thereof shall hereafter be erected, constructed, reconstructed or moved unless it is in conformity with all of the regulations herein specified for the district of which it is located;
- b) Construction Materials for Structures.
 - 1. Garages and accessory structures over one hundred and twenty (120) square feet of floor space or over one hundred and twenty (120) square feet of roof and roof overhang shall be constructed of materials similar in color, quality and appearance to that of the main dwelling structure on the lot;
 - 2. Within all residential districts, galvanized sheet metal, unfinished steel, ridged, corrugated sheet metal, galvalum, asbestos, or iron, whether or not they are colored, shall not be used as a major exterior wall covering on buildings over one hundred and twenty (120) square feet of floor space or over one hundred and twenty (120) square feet of roof and roof overhang;
 - 3. Within all residential districts, horizontal steel siding is allowed if the individual panels have a width not exceeding ten inches (10”), and the panels are affixed without exposed fasteners;
 - 4. Within all residential districts, pole-type construction shall not be permitted;
 - 5. Within all zoning districts, buildings shall maintain a high standard of architectural and aesthetic compatibility with surrounding properties to ensure that they will not adversely impact the property values of the abutting properties or adversely impact the public health, safety, and general welfare. Exterior building finishes shall consist of durable finish-type materials of a high grade and quality;

ORDINANCE 90 – ZONING ORDINANCE

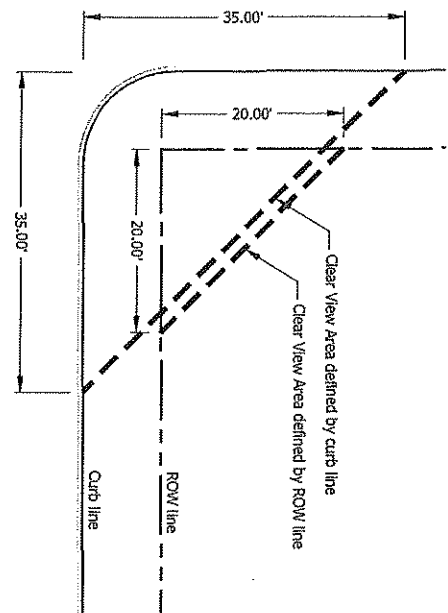
6. Within all Residential and Commercial zoning districts, structures or buildings constructed of canvas, fabric, or straw shall not be permitted;
7. No accessory structure shall be constructed in the front yard in a residential district, and no accessory structure shall be constructed on any lot in any district prior to the time of construction of the principal building to which it is an accessory;

Subd. 3: Yards, Open Space and Off Street Parking. No part of any yard, other open space, or off street parking or loading space required in connection with any building or use shall be included as part of a yard, open space, loading or parking space of any other building or use.

- a) The following shall not be considered as encroachments on yard setback requirements:
 1. Chimneys, flues, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters and the like provided they do not project more than two feet (2') into a yard;
 2. Uncovered terraces, steps, porches, stoops, fire escapes or similar features provided they do not extend above the height of the ground floor level of the principal structure or to a distance less than five feet (5') from any lot line;
 3. In side and rear yards: laundry drying equipment, garden arbors, and trellises, nonpermanent sheds, playhouses or other accessory buildings of 120 square feet or less, decks forty-eight (48) square feet or less and air conditioning or heating equipment, provided they are at a distance of five feet (5') from the lot line.
- b) On through lots or corner lots, the front yard setback requirements shall be provided on all street sides.

Subd. 4: Lot of Record. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the requirements set forth herein. All yards or lots created after the effective date of this Ordinance shall meet the minimum requirements of this Ordinance.

Subd. 5: Annexation. All land which may hereafter be annexed to the City shall be considered for zoning in conformance to the Comprehensive Plan or as determined by the City Council.



ORDINANCE 90 – ZONING ORDINANCE

Subd. 6: Clear View Area. A wall or other structure which obstructs sight lines at an elevation below eight feet (8') above a roadway shall be prohibited within the Clear View Area in all Districts except the C-1 Core Commercial District.

Subd. 7: Detached Accessory Buildings.

- a) No detached garage, accessory building or use shall be permitted in any required front yard and no detached accessory structures (except accessory buildings of 120 square feet or less) shall be erected within ten feet (10') of any principal building. All accessory buildings and decks shall conform to setbacks which are imposed within the respective zoning district, except as set forth in Subd. 3 of this Section;
- b) The sidewalls of a detached accessory building shall not exceed twelve feet (12') in height and shall not be more than one (1) story in height;
- c) Construction of an accessory structure on a lot may not precede construction of the principal structure;
- d) No building or zoning permit is required for an accessory building one hundred and twenty (120) square feet or less, however such structures shall comply with the applicable setbacks. No building or zoning permit is required for a deck forty-eight (48) square feet or less;
- e) Construction of an accessory structure shall be of the same or a similar material as the principal structure including roofing material and roof line design. An exception to this requirement is provided for pre-fabricated construction kits of one hundred and twenty (120) square feet or less or where there is an existing dwelling and the exterior is brick, stone or stucco and the cost to mimic the exterior is impractical. In these instances, alternate materials, but in similar compatible colors may be approved by the Zoning Administrator. Temporary structures including carports or fabric style covers shall not be permitted;
- f) Accessory buildings on a single lot shall not exceed twelve hundred (1,200) square feet in area accessory buildings. Lot sizes of one (1) acre or greater shall be limited to eighteen hundred (1,800) square feet;
- g) No lot shall have more than two (2) detached accessory buildings including a detached garage. The provisions of this subparagraph shall apply only to lots located in a residential zone or a lot used primarily for residential purposes.
- h) Accessory buildings for public uses, including public schools, shall be exempt from the requirements in subparagraphs b, e, f, and g above.

ORDINANCE 90 – ZONING ORDINANCE

Subd. 7A: Miscellaneous Structures.

- a) No more than one (1) Fish House, Trailer or Recreational Vehicle shall be permitted to be stored on a residential lot, unless fully obscured within a building.

Subd. 8: Site Plan Requirement.

- a) The City Council declares it necessary and appropriate to require site plan approval of any construction, development or improvement in certain zoning districts to preserve and promote attractive, well-planned, stable urban conditions, and for the purpose of drainage and erosion control. Site plan approval is required for all proposed buildings or improvements in all zoning districts, and it is required before a Building Permit may be issued. A Site Plan shall be required unless, at the discretion of the City Administrator, the requirement is waived.
- b) A Site Plan consisting of the information described in subsection d) herein, along with a completed Application for Site Plan Approval, shall be submitted to the City for comment by the City engineer, review and recommendation by the Planning Commission, and approval or denial by the City Council. The Site Plan and Application shall be submitted to the City at least two weeks prior to the Planning Commission meeting, and before any disturbance of the land on the site;
- c) Upon review of the Site Plan and the Application, the Planning Commission shall submit a recommendation for approval or denial of the Application for Site Plan Approval to the City Council. A recommendation for approval may be conditional, and the Planning Commission may impose additional restrictions and conditions that it deems necessary to protect the public interest, and the general health, safety and welfare of the City;
- d) Applications for Site Plan Approval shall be on a form provided by the City and shall include the established fee as shown in Appendix A. In all cases, the Site Plan application shall contain three (3) full sized copies and six (6) 11"x17" reduced copies.

The Site Plan shall include the following information:

- Name of project/development
- Location of project/development by street address
- Name and mailing address of developer/owner
- Name and mailing address of engineer/architect
- Date of plan preparation/revisions
- North point indicator
- Scale (nothing greater than one inch (1") equals one hundred feet (100')
- Boundary line of property with dimensions
- Location, identification and dimensions of existing and proposed:
 - o Existing and Proposed topographic contours at a minimum interval of two feet (2')

ORDINANCE 90 – ZONING ORDINANCE

- o Adjacent streets and street rights-of-ways
- o On-site street and street rights-of-way
- o Utilities and utility easements
- o Fire Hydrants
- o Buildings and structures
- o Parking facilities
- o Surface water holding ponds, drainage ditches and drainage patterns
- o Wetlands – Delineation and name of Delineator
- Sidewalks, walkways, driveways, loading areas and docks
- Fences and retaining walls
- All Exterior signs including elevations, materials and dimensions
- Exterior Refuse collection areas
- Detailed Drainage analysis including existing and proposed storm water run-off model:
 - o Two (2), ten (10), and one hundred (100) year – twenty-four (24) hour rainfall events
 - o Ten (10) year runoff event for storm pipe
- Grading Plan showing finished grade elevations
- Site Statistics, including site square footage, percent of site coverage (Impervious Surface), and dwelling unit density. Impervious Surface means a constructed hard surface that either prevents or retards the 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. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.
- Elevation drawings of all proposed structures and buildings, with dimensions
- Proposed building or site lighting shall meet the requirements in Section 80.13
- Adequate fire protection and access/passage/maneuverability for emergency vehicles
- A listing of all required Federal, State, County, and City permits and status of applications
- Erosion Control Process (Identify Best Management Practices to be implemented)
- Other information considered pertinent by the City staff and consultants

ORDINANCE 90 – ZONING ORDINANCE

TABLE OF CONTENTS

Section 90.06 SWIMMING POOLS90.06.1

Section 90.06 SWIMMING POOLS

This section regulates swimming pools that are directly or indirectly attached to the ground, not located in a building and permanent in nature. Swimming pools which are set up for four (4) months or less and are not incorporated into a permanent structure are exempt from the requirements of this section.

Subd. 1: Swimming pools regulated by this section shall only be allowed in those zoning districts wherein it is expressly listed, or as included in any residential planned unit development, based on the following requirements as approved by the Zoning Administrator.

Subd. 2: The location of swimming pools and associated decks, patios or similar areas and accessory equipment such as the filter unit, pump, heating unit and any other mechanical equipment shall be subject to the following standards:

- a) They shall not be located beneath overhead electrical lines, nor over underground utility lines of any type, and shall be located in such a manner that complies with the provisions of the electrical code;
- b) They shall not be located within any private or public utility, walkway, drainage or other easement or right-of-way;
- c) They shall not be located within twenty feet (20') of any rear lot line, within ten feet (10') of a side yard lot nor within any front yard;
- d) They shall be located at least ten feet (10') from any principal structure or frost footing unless it is part of the principal structure and twenty five feet (25') from any adjacent residential structure;
- e) Adequate screening, including both fencing and landscaping shall be placed between the swimming pool structures and other adjacent lot lines.

Subd. 3: Construction of swimming pools shall be subject to the following standards:

- a) All access to the site of construction of a swimming pool shall be limited to the Applicant's land, and due care shall be taken to avoid damage to public streets and adjacent private property;
- b) The swimming pool shall be designed and constructed in such a manner so as not to endanger the health or safety of its users and not to unduly interfere with the use and enjoyment of adjacent property;

ORDINANCE 90 – ZONING ORDINANCE

- c) The swimming pool shall have adjacent provisions to properly recirculate, filter, algaecide and germicide the water of the pool and instructions for maintenance of the same;
- d) During the construction of underground swimming pools, due care shall be taken in stockpiling excavating material to avoid erosion, dust or other infringement or interference with the use of adjacent property;
- e) Back-flush water or water from pool drainage shall be directed onto the pool owner's property or into approved public drainage ways and shall not drain onto adjacent private land. Drainage onto public streets or other public drainage ways shall require the approval of the Zoning Administrator;
- f) All wiring, installation of heating units, grading, installation of pipes, and all other installations and constructions relating to a swimming pool shall be properly installed.

Subd. 4: All outdoor swimming pools existing and hereafter constructed, altered or reconstructed shall be completely enclosed by a non-climbable fence or barrier. All fence openings or points of entry into the pools or enclosure shall be equipped with gates. The fence and gates shall be at least five feet (5') in height, but no more than six feet (6') in height, and shall be constructed of materials approved by the City. All pools shall be provided with safeguards to prevent children from gaining uncontrolled access thereto. All gates shall be equipped with self-closing and self-latching devices placed on the top of the gate or otherwise inaccessible to small children. All fence posts shall be decay or corrosion resistant and shall be set in concrete bases, or other suitable protection. No more than four inches (") of space shall be permitted between the bottom of the fence or barrier and the ground or other surface. Swimming pools that are not fenced shall be fenced, in accordance with this section within two (2) years of the effective date of the Ordinance.

Subd. 5: Lighting for the swimming pool shall be directed into or onto the pool and not onto adjacent property.

ORDINANCE 90 – ZONING ORDINANCE

TABLE OF CONTENTS

Section 90.07 HOME OCCUPATIONS.....90.07.1

Section 90.07 HOME OCCUPATIONS

Home occupations shall be allowed in residential districts, subject to the following criteria:

Subd. 1: Only residents residing on the premises and not more than one (1) employee not living on the premises shall be engaged in such occupation.

Subd. 2: The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty five percent (25%) of the main floor area of the dwelling unit shall be permanently set aside to be used in the conduct of the home occupation.

Subd. 3: There shall be no change to the outside appearance of the premises that would reflect the presence of a home occupation other than one (1) sign, not to exceed two (2) square feet, non-illuminated, and mounted flat against the wall of the principal building. No freestanding sign shall be permitted.

Subd. 4: No equipment shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot or in a neighboring dwelling unit. In the case of electrical interference, no equipment shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

Subd. 5: Parking for home occupations shall not occur on streets abutting residentially zoned properties.

Subd. 6: The receipt, sale or shipment of deliveries shall not be permitted on or from the premises, with the exception of regular U.S. Mail and/or an express shipping service that is characteristic of service to residential neighborhoods.

Subd. 7: For uses within the dwelling unit, the entrance to the space devoted to such occupation shall be within the dwelling unit.

Subd. 8: There shall be no outdoor display, exterior storage of equipment or materials used in the home occupation.

Subd. 9: The home occupation must be conducted entirely within a building. If conducted within a garage, the garage doors shall be kept closed.

ORDINANCE 90 – ZONING ORDINANCE

Subd. 10: Permissible home occupations include, but are not limited to the following: art studio; dressmaking; special offices of the clergy, lawyer, architect, engineer, accountant; beautician; professional offices; real estate agent or appraiser; teaching; group family day care facility serving fourteen (14) or fewer children; and miscellaneous services including sales, repairs, fix-it shops, etc.

ORDINANCE 90 – ZONING ORDINANCE

TABLE OF CONTENTS

Section 90.08 STRUCTURE HEIGHTS90.08.1

Section 90.08 STRUCTURE HEIGHTS

Structure heights shall be limited to thirty-five feet (35') or as otherwise permitted in zoning district. In multi-family residential districts and in commercial and industrial districts height limits may be increased through conditional use permit to one hundred and fifty feet (150') for areas not designed for human occupancy.

ORDINANCE 90 – ZONING ORDINANCE

TABLE OF CONTENTS

Section 90.09 ANTIQUES AND COLLECTIBLES.....90.09.1

Section 90.09 ANTIQUES AND COLLECTIBLES

In Residential Districts antiques and collectibles shall be stored and displayed only within a building or in a rear yard.

ORDINANCE 90 – ZONING ORDINANCE

TABLE OF CONTENTS

Section 90.10 OFF-STREET PARKING90.10.1

Section 90.10 OFF-STREET PARKING

Subd. 1: Intent. The intent of this section is to provide for off-street parking adequate to each type of development in terms of both amount and location in order to reduce the need for parking on the streets and highways and the traffic congestion and hazards caused thereby.

Subd. 2: Location Requirements.

- a) No off-street parking shall be required in the C-1 Core Commercial District, except that the number of off-street parking provided may be diminished below the number required if the use were in a district other than the C-1 Core Commercial District only through conditional use permit;
- b) Accessory off-street parking required for the uses specified herein shall only be for use by automobiles of employees, customers or residents of the activity-served and shall be in addition to provisions for parking for the public at large;
- c) Off-street parking requirements shall be met on the same lot as the building served or on a lot within three hundred feet (300') thereof especially reserved for such use. A recorded easement shall be required. Off-street parking facilities for separate uses may be provided collectively on a separate lot if the total spaces are not less than the total requirements of the separate uses and if other requirements are met;
- d) Parking in the public rights-of-way or boulevards shall not be considered off-street parking for purposes of this section;
- e) All or any part of off-street parking requirements may be met within the building.

Subd. 3: Design Standards.

- a) An off-street parking space shall be at least nine feet (9') in width and at least twenty feet (20') in length, exclusive of access drive and ramp which shall be at least twenty four feet (24') wide, and have a vertical clearance of at least seven feet (7');
- b) All off-street parking and loading spaces, together with driveways, aisles and other circulation areas, shall be improved in such a way as to provide a durable and dust-free surface. Off-street parking spaces and access areas shall be so improved, arranged and marked for new non-residential uses within the same time

ORDINANCE 90 – ZONING ORDINANCE

period prescribed for completion of the work authorized by the building permit and for new residential uses within twenty four (24) months of issuance of the building permit unless an extension is granted by the Zoning Administrator;

- c) All open parking areas with four (4) or more parking spaces adjoining property in a residential district shall be screened by a wall, fence or densely-planted compact hedge or evergreen cover not less than three and one half feet (3½') nor more than eight feet (8') in height;
- d) Any lighting used to illuminate an off-street parking area shall be so arranged such that the source of illumination is shaded or diffused so as to reflect the light away from the adjoining property and away from abutting traffic flow;
- e) Parking or the storage of any vehicles is not allowed within any grassy or landscaped areas in any zoning district except for during the time period of November 1st and April 15th;
- f) The owner of any parking or loading area shall maintain the area in good condition without holes and free of all dust, trash and other debris and shall maintain in a neat and adequate manner the striping, landscaping and screening.

Subd. 4: Number of Off-Street Parking Spaces Required. The number of off-street parking spaces for uses or buildings or additions thereto shall be determined in accordance with the following list. In the computation of parking spaces, fractions of one-half (½) or more shall require one (1) parking space. Designated handicapped parking spaces shall be prescribed in the state uniform building code. Calculation of spaces shall be based on building square footage using the gross area exclusive of entrances, service areas, and storage. The following list represents minimum requirements.

- a) Residential Dwelling (Single-Family). Two (2) parking spaces for each dwelling unit;
- b) Residential Dwelling (Multiple-Family). Two (2) spaces per dwelling unit, one (1) of which must be enclosed, plus an additional one-half (½) parking spaces per every five (5) dwelling units for guest;
- c) Residential Dwelling: Senior Cooperative Living: One (1) space per unit; Independent Living: One (1) space per unit; Assisted Living (facility with on site nursing support): 0.3 spaces per unit; Memory and Special Care (facility with on site nursing support): 0.3 spaces per unit;
- d) Automobile Sales and Service Garages. At least four (4) spaces, plus two (2) spaces for each service stall, plus parking spaces for other uses as specified in this section;

ORDINANCE 90 – ZONING ORDINANCE

- e) Banks, Business and Professional Offices, and Clinics. One (1) space for each two hundred and fifty (250) square feet of building;
- f) Bed and Breakfasts. Two (2) spaces, plus one (1) space for each room for rent;
- g) Bowling Alleys. Six (6) spaces for each alley, plus additional spaces for related uses in the principal building;
- h) Churches, Theaters, Auditoriums, Assembly Halls, Sports Arenas and Stadiums. One (1) space for each three (3) seats in the assembly areas;
- i) Elementary and Middle/Junior High Schools. One (1) space for each classroom and office room, plus one (1) space for each fifty (50) students of designed student enrollment capacity;
- j) Dance Halls and Skating Rinks. One (1) parking space for each two hundred (200) square foot of gross floor area;
- k) Day Care. One (1) space for every six (6) program participants licensed by the State of Minnesota;
- l) Drive-In Restaurants and Convenience Stores. One (1) space for each two hundred and fifty (250) square feet of gross floor area;
- m) Funeral Homes and Mortuaries. One (1) space for each three (3) seats in the chapel or auditorium, plus one (1) space for each funeral vehicle maintained on the premises;
- n) Health and Fitness Club. One (1) space per three hundred and fifty (350) square feet;
- o) High School College and Vocational High School. One (1) space for each classroom, one (1) space for each two hundred (200) square feet of office space, plus one (1) space for each three (3) students of designed student enrollment capacity;
- p) Hospitals. One-half (½) space for each bed, plus one (1) space for each employee in the maximum shift;
- q) Hotel, Motel, and Lodging Houses. One (1) space for each room, suite or each lodging unit, plus one (1) space per employee on largest shift, plus fifty percent (50%) of the spaces otherwise required for accessory uses (e.g. restaurants and bars);
- r) Manufacturing Establishments. One (1) space for each thousand (1,000) square feet of gross floor area;

ORDINANCE 90 – ZONING ORDINANCE

- s) Nursing, Convalescent and Rest Homes, Sanitariums. One (1) space for each six (6) beds for which accommodations are offered, plus one (1) space for each two (2) employees at maximum shift;
- t) Restaurants (drive-in or fast food). Two and a half (2½) spaces per thousand (1,000) square feet of gross floor area allocated to patron service and counter area, plus one (1) space per employee on largest working shift;
- u) Restaurants (sit down), Beer Taverns and Nightclubs. One (1) space for each three (3) seats, plus one (1) space per two (2) employees on the largest working shift;
- v) Retail Stores and Personal Service Shops. One (1) space for each four hundred (400) square feet of net retail or service floor area;
- w) Retail Sales, Service and Distribution Facilities with forty percent (40%) or More Space Devoted to Warehouse/Storage. One (1) space for each two hundred (200) square feet of sales or office space and one (1) space for each thousand (1,000) square feet of storage area;
- x) Warehouse/Storage. One (1) parking space for each two thousand (2,000) square feet;
- y) Other Uses. For any use or building not provided for above, the most similar use or uses above shall be used by the Zoning Administrator to determine the off-street parking requirements.

Subd. 5: Proof of Parking.

- a) The City may permit banking of up to twenty-five percent (25%) of the required parking spaces through the site plan review process;
- b) Sufficient evidence shall be provided by the Applicant that supports the reduced parking needs and parameters which will require an increase in parking to what is required in this section;
- c) The area proposed for banking of parking spaces shall be on the subject property and an area suitable for parking at a future time;
- d) Landscaping of the banked area shall be in full compliance of the zoning regulations and at a minimum landscaped with grass. As a result of the site plan review process, the City may require additional landscaping of the land-banked area;

ORDINANCE 90 – ZONING ORDINANCE

- e) The parking banking area cannot be used for any other use without amendment of the site plan;
- f) As part of the site plan review process, the Applicant shall show the area to be banked on the site plan and marked as “banked future parking”;
- g) The City, on the basis of increased parking demand for the use, shall require the conversion of all or part of the banked area to off-street parking spaces.

ORDINANCE 90 – ZONING ORDINANCE

TABLE OF CONTENTS

Section 90.12 FENCES, LANDSCAPING AND SCREENING90.12.1

Section 90.12 FENCES, LANDSCAPING AND SCREENING

Subd. 1: General Regulations. Fences and landscaping installed in the City shall comply with the following general requirements:

- a) Prior to constructing or reconstructing a fence or wall (sixteen feet (16') or greater in total length) within the City, the person or entity owning the property on which the wall or fence is to be constructed or reconstructed shall first secure a zoning permit from the Zoning Administrator. A site plan depicting the location of the proposed fence shall be submitted with the application. In addition, a permit fee, in an amount set by resolution of the City Council, shall be paid at the time the application for a permit is submitted;
- b) No fences shall be erected and no landscaping, except the overstory of trees with branches no lower than ten feet (10') above curb grade, shall be installed or allowed to grow on a corner lot in the Clear View Area as depicted in Section 90.05, Subd. 6;
- c) No barbed wire or electric fences may be erected within the City; except that barbed wire fencing may be used in an industrial or highway commercial zone if the barbed wire portion of the fence is no greater than two feet (2') in height and is located on the top of a chain link fence which is at least six feet (6') in height;
- d) A fence shall be constructed of decorative stone, brick, treated wood, cedar or redwood, simulated wood, durable vinyl or other durable or composite plastic materials, ornamental non-corrosive aluminum, iron, or coated or non-coated chain link or split rail;
- e) Any fence erected on or within ten feet (10') of a property line shall be constructed so that the side of the fence considered to have the most esthetically pleasing appearance, or which appears to be the most finished, shall be directed toward the adjacent property. The side of the fence from which supporting posts are least visible shall be deemed to be the finished side;
- f) No zoning permit shall be required for fences sixteen feet (16') or less in total length.

Subd. 2: Residential Districts. Fences and landscaping installed in the City in residential districts shall comply with the following:

ORDINANCE 90 – ZONING ORDINANCE

- a) Fences and hedges in the side yard or rear yard shall not exceed six feet (6') in height;
- b) Fences and hedges shall be set back twenty feet (20') from the curb in front yards and twenty feet (20') from the curb in side yards on corner lots and shall be outside of the clear view area as defined in Section 90.05, Subd. 6. Fences and hedges in front yards shall not exceed three and one half feet (3½') in height;
- c) Fences in City parks are exempt from the requirements of this subdivision and shall meet the clear view area as defined in Section 90.05, Subd. 6;
- d) No zoning permit shall be required for screening of mechanical equipment or trash enclosures.

Subd. 3: Non-Residential Districts. Fences and landscaping in non-residential districts shall comply with the following:

- a) Fences in the side or rear yard shall not exceed eight feet (8') in height, except when the side or rear yard abuts a residential district. Boundary fences shall be limited to six feet (6') in height;
- b) Fences in the front yard shall not exceed six feet (6') in height and shall be outside of the clear view area as defined in Section 90.05, Subd. 6;
- c) No zoning permit shall be required for screening of mechanical equipment or trash enclosures.

Subd. 4: Fence Maintenance. Every fence and retaining wall shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a nuisance. Any such fence, which is, or has become dangerous to the public safety, health, or welfare, is a public nuisance, and the Zoning Administrator shall commence proper proceedings for the abatement thereof. Any fence is a public nuisance if it does not comply with the following requirements:

- a) The fence shall be firmly fastened and anchored in order that it is not leaning or otherwise in a state of collapse;
- b) The fence shall be free from deterioration, loose or rotting pieces, or holes, breaks, or gaps not otherwise intended in the original design of the fence;
- c) The fence shall be free from any defects or condition which makes the fence hazardous;
- d) No fence section shall have peeling, cracked, chipped or otherwise deteriorated surface finish, including but not limited to paint or other protective covering or

ORDINANCE 90 – ZONING ORDINANCE

treatment, on more than twenty percent (20%) of any one (1) linear ten (10) foot section of the fence.

Subd. 5: Landscaping Standards. A primary purpose of this Subdivision is to establish minimum performance requirements and provide proper attention to site development and landscaping in the City.

- a) Maintenance Standards: The maintenance of certain standards is essential to ensure compatible relationships between land uses within a community. All uses, allowed as either permitted or conditional uses within the City's various zoning districts, shall conform to the following general provisions and performance standards.

Subd. 6: Minimum Standards.

- a) C-2 District: At least ten percent (10%) of the land area shall be landscaped with grass, approved ground cover, shrubbery and trees;
- b) M-1 Districts: At least ten percent (10%) of the land area within industrial lots which are located around the perimeter of industrial areas and viewable from major arterial roadway corridors shall be landscaped with grass, approved ground cover, shrubbery and trees. At least five percent (5%) of the land area within industrial lots located in the interior of industrial areas shall be landscaped;
- c) Residential Districts: For all Residential Districts, all exposed ground area surrounding the principal building and accessory buildings which are not driveways, sidewalks or patios shall be landscaped with grass, shrubs, trees or ornamental landscape material;
- d) Grass and Ground Cover: Open Areas: All open areas of a site not occupied by building, parking, walkways, other permitted structures or storage shall be landscaped with grass or approved ground cover. Ground cover shall be planted in such a manner as to present a finished appearance and reasonably complete coverage within twelve (12) months after planting with proper erosion control during plant establishment period. Undisturbed Areas: Exception to this is undisturbed areas containing natural vegetation, which can be maintained free of foreign and noxious materials.

Subd. 7: Screening Standards. Screening required by this Ordinance shall reduce and restrict, but need not totally block visibility of the objects being screened throughout the year and may consist of any of the following or of a combination thereof:

- a) Vegetation meeting the following size requirements at planting:
 1. Shrub materials at least three feet (3') in height;

ORDINANCE 90 – ZONING ORDINANCE

2. Deciduous trees at least six feet (6') in height and two inches (2") in diameter measured three feet (3') above the ground;
 3. Coniferous trees at least five feet (5') in height.
- b) Other screening meeting the following standards:
1. Earth berms having a slope of not more than three feet (3') horizontal to one foot (1') vertical;
 2. Fences or walls constructed of other than chain link or nylon materials.

Subd. 8: Screening Fence Or Wall.

- a) A fence or wall may be used for screening when plant materials are provided along the outside of the fence or wall for aesthetic appeal;
- b) A screening fence, different from residential yard fence or wall shall be constructed of attractive, permanent finished materials, compatible with those used in the construction of the principal structure. Such screens shall provide a minimum year-round opaqueness of eighty percent (80%) within two (2) years of installation and be of sufficient height to achieve screening but not to exceed six feet (6') in height;
- c) Screen fences and walls which are in disrepair, shall be repaired.

Subd. 9: Earth Berms.

- a) An earth berm shall be allowed for screening when used in combination with plant material maintained in accordance with Subd. 10b. A height minimum of twenty five percent (25%) of the required screen must be provided with plant material;
- b) Earth berms shall be of sufficient height to achieve screening but shall not exceed three to one (3:1) slope.

Subd. 10: Planting Screens.

- a) A planting screen shall consist of healthy, fully hardy plant materials and shall be designed to provide a minimum year-round opaqueness of eighty percent (80%) within two (2) years of installation. The plant material shall be of sufficient height to achieve the required screening;
- b) Planting screens shall be maintained in a neat and healthful condition. Plants which have died shall be promptly replaced by the property owner.

ORDINANCE 90 – ZONING ORDINANCE

Subd. 11: Parking Lot Screening. Any off-street parking area containing more than four (4) parking spaces adjoining a residential zone or across the street from any adjoining residential zone shall be completely screened to a height of at least three and one-half feet (3½') above the parking grade. Such screening shall be accomplished through the use of earth berming and/or plant materials.

Subd. 12: Landscaping and Screening Plan. In the case of a development where screening is required, a landscaping and screening plan shall be submitted to the City for review and the final landscaping and screening plan shall be subject to written City approval. The plan shall be drawn to scale and shall include the following information:

- a) Existing trees and shrubs, location, approximate size and common name;
- b) Proposed planting plan with schedule showing quantities, common and botanical names, size at planting and root condition (balled and burlapped, bare root or container);
- c) Existing and proposed fences and berms, including elevation drawing.

ORDINANCE 90 – ZONING ORDINANCE

TABLE OF CONTENTS

Section 90.13 EXTERIOR LIGHTING.....90.13.1

Section 90.13 EXTERIOR LIGHTING

Subd. 1: General Requirements. Any lighting used to illuminate an off-street parking area, sign or structure shall comply with the following general requirements:

- a) Lighting fixtures used for exterior illumination on a commercial, industrial or multi-family residential property or building, or to illuminate roadways or common areas in manufactured home complexes, shall be of a downcast, cutoff type, concealing the light source from view and preventing glare and spilling into adjacent properties and rights-of-way. A maximum of one (1.0) foot candle at property lines is recommended. Exceptions may be made by the Planning Commission and approved by the City Council for the use of ornamental lighting;
- b) Lighting fixtures mounted on poles or structures shall have a maximum height of twenty-five feet (25') when the commercial or industrial property is adjacent to a Residential District, except that no lighting shall be placed higher than twelve feet (12') within fifty feet (50') of any such property. Exceptions to these height requirements may be granted when said lighting is located in an area otherwise screened or blocked from view from the residential property such as lighting on the side of a commercial/industrial building opposite the residential property. Exceptions to the height requirement will be determined by the Planning Commission and approval by the City Council.

ORDINANCE 90 – ZONING ORDINANCE

TABLE OF CONTENTS

Section 90.14 TOWERS AND ANTENNAS.....90.14.1

Section 90.14 TOWERS AND ANTENNAS

Subd. 1: Purpose. In order to accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community, the City finds that these regulations are necessary in order to:

- a) Facilitate the provision of wireless communication services to residents and businesses of the community;
- b) Maximize the use of existing and approved towers and buildings in order to reduce the number of new towers necessary in order to provide wireless communication services to the community;
- c) Ensure wireless communication towers are designed, sited, and constructed in accordance with all applicable code requirements;
- d) Require towers, their antennas and base stations to utilize building materials, colors, textures, screening and landscaping that effectively blend the facilities within the surrounding natural setting and built environment to the extent possible as determined by the City.

Subd. 2: Definitions. Certain terms are defined for purposes of this section as follows:

- a) Antenna. Shall mean 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, and satellite dishes, and omni-directional antennas, such as whips, not including television reception antennas;
- b) Base Station. Shall mean equipment located near and used in conjunction with an antenna;
- c) Personal Wireless Communication Services. Shall mean licensed commercial wireless communication services including cellular, personal communication services (pcs), enhanced specialized mobilized radio (esmr), paging and similar services;
- d) Public Utility. Shall mean persons, corporations, or governments supplying gas, electric, transportation, water, sewer, cable, or land line telephone service to the general public;

ORDINANCE 90 – ZONING ORDINANCE

- e) Search Ring. Shall mean a geographic area identified by the personal wireless communication services provider as potentially meeting radio frequency design criteria;
- f) Tower. Shall mean any self-supporting structure, or combination thereof, at least twenty feet (20') in height, including supporting lines, cables, wires, braces, and masts, for the purpose of mounting an antenna, meteorological device, cables, telephone lines, electrical lines or similar apparatus above ground level;
- g) Tower Accessory Structure. Shall mean a structure located at the base of the tower;
- h) Tower, Apparatus. Shall mean any equipment mounted to a new or existing tower, including platforms, antennas, rotors, emergency sirens, lights, and the like.

Subd. 3: Residential Zones and C-1 Core Commercial Zone. Towers are prohibited in the Residential zoning districts and in the C-1 Core Commercial zoning district.

Subd. 4: Business Zones. In the C-2 Highway Commercial district, antennas attached to existing structures and base stations associated with such antennas are permitted uses. Towers shall be conditional uses subject to the following conditions:

- a) The tower shall be no more than two hundred feet (200') in height;
- b) The tower shall be setback at least the height of the tower (including all attachments) from any residential structure.

Subd. 5: Industrial Districts. In the M-1 industrial district, antennas attached to an existing structure and base stations associated with such antennas shall be permitted uses. The following uses are conditional uses:

- a) Antennas on towers of a height of one hundred and fifty feet (150') or less and base stations associated with such antennas;
- b) Antennas on towers greater than one hundred and fifty feet (150') in height as well as base stations associated with such antennas, subject to the following conditions:
 - 1. The tower shall be no more than two hundred and fifty feet (250') in height;
 - 2. The tower shall be setback at least the height of the tower (including all attachments) from any residential structure.

ORDINANCE 90 – ZONING ORDINANCE

Subd. 6: Co-location Requirements. A proposal for a new personal wireless communication service tower shall not be approved unless the Applicant shows that the communications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within the search ring where the proposed tower is located due to one (1) 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 be reinforced or modified to accommodate planned equipment at a reasonable cost;
- b) The planned equipment would cause interference with other existing or planned equipment at the tower or building as documented by a qualified radio frequency engineer, and the interference cannot be prevented at a reasonable cost;
- c) No existing or approved towers or commercial / industrial buildings within the search ring meet the radio frequency design criteria;
- d) Existing or approved towers and commercial / industrial buildings within the search ring cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified radio frequency engineer;
- e) The existing structure is not made available by the owner on reasonable terms.

Subd. 7: Performance Standards. All towers erected, constructed, or located within the City shall comply with the following requirements:

- a) Monopoles are the preferred tower design. However, the City will consider alternative tower types in cases where structural, radio frequency design considerations, and / or the number of tenants required by the City preclude the use of a monopole;
- b) Towers, their antennas and base stations shall comply with all applicable provisions of this code;
- c) Towers shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards of the uniform building code and all other applicable reviewing agencies;
- d) Towers, their antennas and base stations shall comply with all applicable provisions of the electrical code;
- e) Metal towers shall be constructed of, or treated with, corrosive resistant material;
- f) Towers shall be designed, structurally, electrically, and in all respects, to accommodate both the Applicant's antennas and comparable panel antennas for at

ORDINANCE 90 – ZONING ORDINANCE

least one (1) additional multiple antenna user. The height restrictions applicable to each tower shall be increased by twenty five feet (25') for each additional antenna the tower is designed to accommodate. To allow for future rearrangement of antennas upon the tower, the tower shall be designed to accept antennas mounted at no less than ten foot (10') intervals;

- g) All towers shall be reasonably protected against unauthorized climbing;
- h) No advertising or identification of any kind intended to be visible from the ground or other structures is permitted, except applicable warning and equipment information signage required by the manufacturer or by federal, state, or local authorities;
- i) Towers shall not be illuminated by artificial means, or the illumination is specifically required by the federal aviation administration or other authority;
- j) No part of any antenna or tower, nor any lines, cable, equipment, wires, or braces shall at any time extend across or over any part of the right-of-way, public street, highway, or sidewalk, without approval by the City;
- k) In addition to the submittal requirements required elsewhere in this code, applications for building permits for towers, their antennas and base stations shall be accompanied by a report from a qualified and licensed professional engineer which does the following:
 - 1. Describes the tower height and design including a cross section and elevation;
 - 2. Demonstrates the tower's compliance with the aforementioned structural and electrical standards;
 - 3. Documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas;
 - 4. Describes the tower's capacity, including the number and type of antennas that it can accommodate.

Subd. 8: Antennas. The placement of wireless communication antennas on roofs, walls, water tower and existing towers may be permitted in any zoning district with a building permit approved by the City staff. In addition to the submittal requirements required elsewhere in this code, an application for a building permit for antennas to be mounted on an existing structure shall be accompanied by the following information:

- a) A drawing showing the location of the proposed antennas and base stations on the structure and documenting that the request meets the requirements of this code;

ORDINANCE 90 – ZONING ORDINANCE

- b) A building plan showing the construction of the antennas, the proposed method of attaching them to the existing structure, and documenting that the request meets the requirements of this code;
- c) A report prepared by a qualified and licensed professional engineer indicating the existing structure or tower's ability to support the antennas.

Subd. 9: Unused Towers. All unused towers shall be removed within twelve (12) months of the cessation of operations unless a time extension is approved by the City. If a time extension is not approved, the tower may be deemed a nuisance pursuant to Minnesota Statute, Section 463.15. In the event a tower is determined to be a nuisance, the City may act to abate such nuisance and require the removal of the tower at the property owner's expense. In the case of multiple operators sharing the use of a single tower, this provision shall not become effective until all users cease operations for a period of twelve (12) consecutive months.

ORDINANCE 90 – ZONING ORDINANCE

TABLE OF CONTENTS

Section 90.14A OPT-OUT OF MINNESOTA STATUTES, SECTION 462.359390.14A.1

90.14A.0

ORDINANCE 90 – ZONING ORDINANCE

Section 90.14A OPT-OUT OF MINNESOTA STATUTES, SECTION 462.3593

Subd. 1: Pursuant to authority granted by Minnesota Statutes, Section 462.3593, subdivision 9, the City of New Munich opts-out of the requirements of Minn. Stat. §462.3593, which defines and regulates Temporary Family Health Care Dwellings.”

ORDINANCE 90 – ZONING ORDINANCE

TABLE OF CONTENTS

Section 90.15 R-1 LOW DENSITY RESIDENTIAL90.15.1

Section 90.15 R-1 LOW DENSITY RESIDENTIAL

The purpose of this district is to provide for a low density, single-family residential development, protected as to its residential quality, value and amenities and conforming to the system of services available or to be provided such community facilities as will enhance the residential quality of the area.

Subd. 1: Permitted Uses.

- a) Single-family dwellings, a maximum of one (1) per lot;
- b) Parks, playgrounds, and other outdoor recreation areas;
- c) Community based residential facilities serving six (6) or fewer residents;
- d) Day care facility serving twelve (12) or fewer persons;
- e) Group family day care facility serving fourteen (14) or fewer residents.

Subd. 2: Permitted Accessory Uses or Structures.

- a) A detached garage or accessory building as regulated by Section 80.05, Subd. 7. Exterior grain bin structures of any size, excluding traditional wildlife feeder grain bins, are not a permitted accessory building regardless of their size;
- b) Temporary buildings for and during construction not on location or in use for more than twelve (12) consecutive months;
- c) Fences as regulated by Section 80.12;
- d) Home occupations as regulated by Section 80.07;
- e) Private swimming pools as regulated in Section 80.06.

Subd. 3: Conditional Uses.

- a) Two family dwellings;
- b) Churches;

ORDINANCE 90 – ZONING ORDINANCE

- c) Cemeteries;
- d) Hospitals and nursing homes;
- e) Public utility buildings and structures;
- f) Elementary, junior high and senior high schools;
- g) Public swimming pools;
- h) Bed and Breakfasts;
- i) Manufactured Home Parks providing the Site Plan Requirements and Design Standards of Section 80.18 of this Ordinance are complied with;
- j) Other uses that are determined by the Planning Commission and City Council to be of the same character as the permitted uses in this Section.

Subd. 4: Minimum Lot Width, Depth and Maximum Density.

- a) The minimum lot width and depth shall be:
 - 1. Single-family dwelling unit. Each lot shall have a minimum width of seventy-five feet (75') measured at the front property pin and of seventy feet (70') measured at the front yard setback. For any lot fronting on a cul de sac, the minimum width measured at the front property pin shall be fifty feet (50'). Lot depth shall be a minimum of one hundred and ten feet (110');
 - 2. Two-family dwelling unit. Each lot shall have a minimum width of ninety feet (90'), measured at the front property pin and of eighty-five feet (85') measured at the front yard setback. For any lot fronting on a cul de sac, the minimum width measured at the front property pin shall be fifty feet (50'). Lot depth shall be a minimum of one hundred and ten feet (110').
- b) The maximum density shall be five (5) dwelling units per net acre.

Subd. 5: Minimum Building Standards.

- a) The minimum building width and length for single and two-family dwellings shall be twenty-six feet (26') in width and twenty-six feet (26') in length. All dwelling units shall have a minimum floor area of six hundred and seventy-six (676') square feet;
- b) All dwelling units shall have a minimum roof pitch of 3:12 as defined by the building code;

ORDINANCE 90 – ZONING ORDINANCE

- c) All dwelling units shall have a frost-free foundation as defined by the building code, or an engineered concrete slab with concrete above-grade exterior foundation walls;
- d) Roofs shall be shingled with asphalt, wood, tiles, steel or comparable materials. Unpainted, galvanized (i.e. non-architectural grade metal) and/or exposed fasteners on metal roofing shall not be permitted. When seeking to employ sod or “other comparable materials” the applicant shall secure a conditional use permit from the City Council.
- e) No patio doors shall be located facing into the side yard unless the dwelling unit is set back a minimum of twenty-two feet (22’) from the property line.

Subd. 6: Minimum Yard Requirements.

- a) Front Yard.
 - 1. Twenty-five feet (25’).
 - 2. A front yard encroachment of eight feet (8’) in length and ten feet (10’) in width shall be permitted for front steps.
- b) Side Yard Setbacks
 - 1. Ten feet (10’) from other lots.
- c) Street Side Yard on Corner Lot.
 - 1. Twenty-five feet (25’).
- d) Detached Garages and Accessory Buildings. Twenty feet (20’) from the property line faced by a vehicle door, ten feet (10’) from rear lot lines and ten feet (10’) from side lot lines.

Subd. 7: Maximum Building Coverage. The maximum building coverage shall be thirty-five percent (35%).

Subd. 8: Maximum Building Height. The maximum building height shall be twenty-four feet (24’) or matching same height as homes to either side and direct across from the front and rear.

ORDINANCE 90 – ZONING ORDINANCE

TABLE OF CONTENTS

Section 90.16 R-2 MEDIUM DENSITY RESIDENTIAL.....90.16.1

Section 90.16 R-2 MEDIUM DENSITY RESIDENTIAL

The purpose of this district is to provide for a medium density residential development, protected as to its residential quality, amenity and values and conforming to the system of services available or to be provided and to provide such community facilities as will enhance the residential character of the area.

Subd. 1: Permitted Uses.

- a) Uses permitted in the R-1 residential district;
- b) Private swimming pools;
- c) Two-family dwellings;
- d) Townhouses.

Subd. 2: Permitted Accessory Uses or Structures.

- a) Temporary buildings for and during construction;
- b) A detached garage or accessory building as regulated in Section 90.05, Subd. 7. Exterior grain bin structures of any size, excluding traditional wildlife feeder grain bins, are not a permitted accessory building;
- c) Fences as regulated by Section 90.12;
- d) Community storm shelters, community rooms and recreational buildings, provided that such structures are of a permanent nature and maintained by the homeowners association.

Subd. 3: Conditional Uses.

- a) Churches and cemeteries;
- b) Public utility buildings and structures;
- c) Public parking area if within two hundred feet (200') of a commercial district;
- d) Daycare facilities serving thirteen (13) to sixteen (16) people;

ORDINANCE 90 – ZONING ORDINANCE

- e) Community based residential facilities serving seven (7) to sixteen (16) people;
- f) Clinics, nursing homes, homes for the elderly, convalescent homes;
- g) Multi-family dwellings;
- h) Home occupations (single-family only);
- i) Public swimming pools;
- j) Bed and Breakfasts;
- k) Manufactured Home Parks, providing the Site Plan Requirements and Design Standards of Section 90.18 of this Ordinance are complied with;
- l) Elementary Schools, Early Childhood Education Programs;
- m) Other similar uses determined by Planning Commission or City Council;
- n) Other uses that are determined by the Planning Commission and City Council to be of the same character as the permitted uses in this Section.

Subd. 4: Minimum Lot Width, Depth, and Maximum Density.

- a) The minimum lot width and depth shall be:
 - 1. Single-family dwelling unit. Each lot shall have a minimum width of seventy five feet (75') measured at the front property pin and of seventy feet (70') measured at the front yard setback. For any lot fronting on a cul de sac, the minimum width measured at the front property pin shall be fifty feet (50'). Lot depth shall be a minimum of one hundred and ten feet (110').
 - 2. Two-family dwelling unit. Each lot shall have a minimum width of ninety feet (90') measured at the front property pin and of eighty five feet (85') measured at the front yard setback. For any lot fronting on a cul de sac, the minimum width measured at the front property pin shall be fifty feet (50'). Lot depth shall be a minimum of one hundred and ten feet (110').
- b) Maximum Density. The maximum density shall be eight (8) dwelling units per net acre.

Subd. 5: Minimum Building Standards.

- a) The minimum building width and length for single and two-family dwellings shall be twenty six feet (26') in width and twenty six feet (26') in length. All

ORDINANCE 90 – ZONING ORDINANCE

dwelling units shall have a minimum floor area of six hundred and seventy six (676') square feet;

- b) All dwelling units shall have a minimum roof pitch of 3:12 as defined by the building code;
- c) All dwelling units shall have a frost free foundation as defined by the building code, or an engineered concrete slab with concrete above-grade exterior foundation walls;
- d) Roofs shall be shingled with asphalt, wood, metal, tiles or other comparable materials as allowed by the applicable building code;
- e) No patio doors shall be located facing into the side yard unless the dwelling unit is set back a minimum of twenty two feet (22') from the property line.

Subd. 6: Minimum Yard Requirements.

- a) Front Yard. Twenty five feet (25');
- b) Rear Yard. Twenty feet (20');
- c) Side Yard. Ten feet (10');
- d) Street Side Yard on Corner Lot. Twenty five feet (25');
- e) Detached Garages and Accessory Buildings. Twenty feet (20') from the property line faced by a vehicle door, ten feet (10') from rear lot lines and ten feet (10') from side lot lines.

Subd. 7: Maximum Building Coverage. The maximum building coverage shall be forty percent (40%).

Subd. 8: Maximum Building Height. The maximum building height shall be thirty five feet (35').

Subd. 9: Townhouse Regulations.

- a) See Section 90.17 Subd. 8.

ORDINANCE 90 - ZONING ORDINANCE

TABLE OF CONTENTS

Section 90.17 R-3 MULTIPLE RESIDENCE DISTRICT.....90.17.1

Section 90.17 R-3 MULTIPLE RESIDENCE DISTRICT

The intent of this district is to provide for an interesting and pleasant high density environment close to major travel, service retail and other facilities and services.

Subd. 1: Permitted Uses.

- a) Uses permitted in an R-2 district;
- b) Multi-family dwellings;
- c) Townhouses.

Subd. 2: Permitted Accessory Uses or Structures.

- a) Temporary buildings for and during construction;
- b) A detached garage or accessory building as regulated in Section 90.05, Subd. 7. Exterior grain bin structures of any size, excluding traditional wildlife feeder grain bins, are not a permitted accessory building;
- c) Fences as regulated by Section 90.12;
- d) Community storm shelters, community rooms and recreational buildings, provided that such structures are of a permanent nature and maintained by the homeowners association.

Subd. 3: Conditional Uses.

- a) Churches;
- b) Nursery schools, child-care centers – non-boarding;
- c) Public utility buildings and structures;
- d) Public parking areas if within two hundred feet (200') of a commercial district;
- e) Nursing homes and convalescent homes;
- f) Funeral homes, mortuaries;

ORDINANCE 90 - ZONING ORDINANCE

- g) Lodges, fraternal organizations;
- h) Medical clinics, professional offices;
- i) Home occupations;
- j) Public swimming pools;
- k) Bed and Breakfasts;
- l) Manufactured Home Parks providing the Site Plan Requirements and Design Standards of Section 90.18 of this Ordinance are complied with;
- m) Community based residential facilities serving seven (7) through sixteen (16) residents;
- n) Daycare facility serving thirteen (13) through sixteen (16) persons;
- o) Other uses that are determined by the Planning Commission and City Council to be of the same character as the permitted uses in this Section.

Subd. 4: Minimum Lot Width and Depth and Maximum Density.

a) Minimum Lot Width and Depth.

1. Single-family dwelling unit. Each lot shall have a minimum width of seventy five feet (75') measured at the front property pin and of seventy feet (70') measured at the front yard setback. For any lot fronting on a cul de sac, the minimum width measured at the front property pin shall be fifty feet (50'). Lot depth shall be a minimum of one hundred and ten feet (110');
2. Two-family dwelling unit. Each lot shall have a minimum width of ninety feet (90') measured at the front property pin and of eighty five feet (85') measured at the front yard setback. For any lot fronting on a cul de sac, the minimum width measured at the front property pin shall be fifty feet (50'). Lot depth shall be a minimum of one hundred and ten feet (110');
3. Multi-family Dwelling. Each lot shall have a minimum width of one hundred feet (100') measured at the front property pin and of ninety five feet (95') measured at the front yard setback. Lot depth shall be a minimum of one hundred and ten feet (110');
4. Townhouse. Each lot shall have a minimum width of one hundred feet (100') measured at the front property pin (plus ten feet (10') for each additional unit over three (3)) and ninety five feet (95') measured at the

ORDINANCE 90 - ZONING ORDINANCE

front yard setback. Lot depth shall be a minimum of one hundred and ten feet (110').

- b) Maximum Density. 16 units per acre.

Subd. 5: Minimum Building Standards.

- a) The minimum building width and length for single and two family dwellings shall be twenty six feet (26') in width and twenty six feet (26') in length measured. All dwelling units shall have a minimum floor area of six hundred and seventy six (676') square feet;
- b) All dwelling units shall have a minimum roof pitch of 3:12 as defined by the building code;
- c) All dwelling units shall have a frost free foundation as defined by the building code, or an engineered concrete slab with concrete above-grade exterior foundation walls;
- d) Roofs shall be shingled with asphalt, wood, metal, tiles or other comparable materials as allowed by the applicable building code;
- e) No patio doors shall be located facing into the side yard unless the dwelling unit is set back a minimum of twenty two feet (22') from the property line.

Subd. 6: Floor Area Requirements for Multiple-Family Dwelling Units: Living units in stacked buildings containing more than two (2) units shall have the following minimum floor areas per unit:

- a) Efficiency apartments: Four hundred (400) square feet;
- b) One (1) bedroom apartments: Six hundred forty (640) square feet;
- c) Two (2) bedroom apartments: Seven hundred twenty (720) square feet;
- d) More than two (2) bedroom apartments: One hundred twenty (120) square feet additional for each bedroom.

Subd. 7: Minimum Yard Requirements.

- a) Front Yard – twenty five feet (25');
- b) Rear Yard – twenty feet (20');
- c) Side Yard – ten feet (10');

ORDINANCE 90 - ZONING ORDINANCE

- d) Street Side Yard on Corner Lot – twenty five feet (25’);
- e) Detached Garages and Accessory Buildings – Twenty feet (20’) from the property line faced by a vehicle door, ten feet (10’) from rear lot lines and ten feet (10’) from side lot lines;
- f) Lot 9 of Block 1 of Halls Highview Addition. All yards shall be a minimum of twenty feet (20’).

Subd.8: Townhouse Regulations.

- a) A townhouse shall have no more than six (6) dwelling units;
- b) Townhouse dwelling units shall contain at least seven hundred and twenty (720) square feet when it is a one (1) story structure and at least eleven hundred (1,100) square feet when it is a two (2) story structure;
- c) The minimum width of a townhouse shall be twenty feet (20’);
- d) The maximum building height for townhomes shall be thirty five feet (35’);
- e) Each lot shall have a minimum width of one hundred feet (100’) measured at the front property pin (plus ten feet (10’) for each additional unit over three (3)) and ninety five feet (95’) measured at the front yard setback. Lot depth shall be a minimum of one hundred and ten feet (110’);
- f) Townhouses intended to be rented shall be provided with a minimum of one (1) sanitary sewer connection of adequate size to provide the needed service for each of the townhouse dwelling units. Townhouses intended to be sold individually shall be provided with a separate sanitary sewer connection for each of the townhouse dwelling units;
- g) Townhouses intended to be rented shall be provided with at least one (1) potable water service connection of sufficient size to provide a one inch (1”) “service hookup equivalence” for each townhouse dwelling unit. Townhouses intended to be sold individually shall be provided with a separate metered one inch (1”) potable water service connection for each of the townhouse dwelling units;
- h) Applications for townhouses, owner occupied, must comply with the provisions of the Minnesota Common Interest Ownership Act and furnish proof of compliance at any time upon request of the Zoning Administrator;
- i) Applications for townhouses, owner occupied, must be accompanied by a Declaration of Covenants, Conditions and Restrictions, which document shall set forth the rights of the individual owners sharing a single structure, including maintenance, repair and construction, building and use restrictions, party walls

ORDINANCE 90 - ZONING ORDINANCE

and separate or shared services. The intent of the required declaration is to promote harmony between neighbors sharing a single structure, and to protect the City and neighborhood from improper maintenance and/or disputes. The City, as well as the individual property owners shall be considered the beneficiary of these Declaration of Covenants, Conditions and Restrictions. The Declaration of Covenants, Conditions and Restrictions must be approved by the Zoning Administrator and recorded with the County Recorder at or before the time of filing the subdivision plat;

- j) The minimum yard requirements are:
 - 1. Front Yard – twenty five feet (25’);
 - 2. Rear Yard – thirty five feet (35’);
 - 3. Side Yard – ten feet (10’).
- k) All driveways and parking areas shall be hard surfaced with bituminous or concrete;
- l) Each dwelling unit shall be provided with a minimum of two (2) parking spaces, one (1) of which shall be in an attached garage.

ORDINANCE 90 - ZONING ORDINANCE

TABLE OF CONTENTS

Section 90.18 R-4 R-MH MANUFACTURED HOME PARK DISTRICT90.18.1

Section 90.18 R-4 R-MH MANUFACTURED HOME PARK DISTRICT

The purpose of an “R-MH” manufactured home park district is to provide a separate district for manufactured home parks, distinct from other residential areas.

Subd. 1: Permitted Uses. All permitted uses in a residential district except detached single-family dwellings.

Subd. 2: Conditional Uses. The following are conditional uses in an “R-MH” district (requires a conditional use permit based upon procedures set forth in and regulated by this Ordinance):

- a) Manufactured home parks;
- b) Governmental and public regulated utility buildings and structures necessary for the health, safety and general welfare of the community provided that the use is adequately screened and landscaped from abutting residential uses in accordance with Section 90.12 of this Ordinance.

Subd. 3: Site Plan Requirements. In addition to meeting the conditional use permit requirements, a site plan containing the following information must be submitted:

- a) Legal description and size in acres of the proposed manufactured home park;
- b) Location and size of all manufactured home lots, storage areas, recreation areas, laundry drying areas, roadways, parking sites, sidewalks, and all setback dimensions including but not limited to: parking spaces, manufactured home sites, and accessory building pads and locations;
- c) Landscaping and screening plans as required by Section 90.12 of this Ordinance;
- d) Utility, garbage disposal and recycling plan;
- e) Surface drainage plan as required by Section 90.05, Subd. 8, of this Ordinance;
- f) Location and size of all streets abutting the manufactured home park and all driveways from such streets to the manufactured home park;
- g) Road construction plans and specifications;

ORDINANCE 90 - ZONING ORDINANCE

- h) Plans for any and all structures including central community building and storm shelter;
- i) Such other information as required or implied by these manufactured home park standards or requested by public officials;
- j) Name and address of developer or developers;
- k) Development phasing plan if being done in phases;
- l) A copy of the guidelines and rules proposed by the manufactured home park operator regulating the building type and construction of building additions, accessory buildings, decks and similar type construction;
- m) A sign plan showing the size and location of all proposed signs demonstrating compliance with this Ordinance.

Subd. 4: Pre-1995 Parks. This Ordinance does not alter existing density, lot size requirements or Manufactured Home setback requirements in any Manufactured Home Park constructed before January 1, 1995, if the Manufactured Home Park, when constructed, complied with the then existing density, lot size and setback requirements.

Subd. 5: Design Standards. The general provisions for all manufactured home parks are:

- a) Fences. Shall be prohibited on individual manufactured home lots;
- b) Enclosed. The area beneath a manufactured home shall be enclosed and such enclosure must have access for inspection;
- c) Central Community Building. A manufactured home park shall have an adequate central community building. Such building must be provided with restroom facilities, have adequate heating in all areas, and be maintained in a safe, clean and sanitary condition;
- d) Emergency Storm Protections. Manufactured home parks established prior to July 1, 1993 shall comply with emergency storm protections as required by Minnesota Statute 327.02. A new manufactured home park established after the effective date of this Ordinance shall have storm shelters in compliance with Minnesota Statute 327.02. Additionally, all emergency storm protection measures shall be subject to the approval of the City Council;
- e) Individual Manufactured Home Lot Setbacks.
 - 1. In manufactured home parks established before the effective date of this Ordinance, the end of a unit shall be located no closer than twelve feet (12') from the end of an adjacent unit and no part of a unit shall be located

ORDINANCE 90 - ZONING ORDINANCE

closer than sixteen feet (16') from the side of an adjacent unit and no closer than twelve feet (12') from a street surface;

2. In manufactured home parks established after the effective date of this Ordinance and in additions to manufactured home parks established before the effective date of this Ordinance no part of a unit shall be located closer than twenty five feet (25') from another unit and from a street surface.

f) Permitted Encroachments.

1. Attached steps, uncovered stoops, and landings may encroach up to five feet (5') into a setback from an adjacent unit, provided that they do not exceed twenty (20) square feet in area or extend closer than ten feet (10') to an adjacent structure;
2. An eve or overhang may encroach up to one foot (1') into a required setback from an adjacent unit.

g) Building Height Requirements.

1. No structure shall exceed one (1) story or twenty five feet (25'), whichever is least.

h) Utilities. All utilities shall be underground; there shall be no overhead wires or supporting poles except for those essential for street or other lighting purposes.

i) Accessory Buildings.

1. Density and Size. Accessory buildings, including garages, shall be limited to one (1) per manufactured home lot and shall not exceed one hundred (100) square feet in floor area. Exterior grain bin structures of any size, excluding traditional wildlife feeder grain bins, are not a permitted accessory building.
2. Maximum Building Height. Fifteen feet (15').
3. Location. The manufactured home park site plan shall designate the locations proposed for the development of garages and/or accessory buildings on each manufactured home lot. Said accessory buildings shall be set back a minimum of two feet (2') from the unit owned by the owner of the accessory building, a minimum of eight feet (8') from adjacent units and at least as far back from street surfaces as the unit owned by the owner of the accessory building.

ORDINANCE 90 - ZONING ORDINANCE

- j) Structure Type and Construction.
1. Accessory structures shall be architecturally compatible with principal structure.
- k) Design Requirements for Manufactured Home Parks Created after the Effective Date of this Ordinance.
1. Park Size. The minimum area required for a manufactured home park designation shall be five (5) acres;
 2. Parking.
 - A. Each manufactured home site shall have off-street parking space for two (2) passenger vehicles;
 - B. All parking spaces shall be hard surfaced with bituminous or concrete according to specifications established by the City.
 3. Internal Roads and Streets. All streets shall be private streets and shall be developed with a roadbed of not less than thirty two feet (32') in width and shall meet City design specifications. A reduction in the street width requirement may be allowed provided sufficient off-street guest parking spaces are constructed and maintained at the owner/operator's request;
 4. The park shall have a street lighting plan approved by the City.
- l) Recreation. All manufactured home parks shall have at least ten percent (10%) of the land area developed for recreational use (tennis courts, children's play equipment, swimming pool, golf green, etc.). The recreational use shall be developed and maintained at the owner/operator's expense;
- m) Landscaping. Each manufactured home lot shall be provided with two (2) trees. The size and type of trees must meet the requirements of Section 90.12, Subd. 6:
1. A landscape screen meeting the requirements of Section 90.12 of this Ordinance shall be installed and maintained around each manufactured home park;
 2. All areas shall be landscaped in accordance with a landscaping plan approved by the City Council.
- n) Lighting.
1. Artificial light shall be maintained during all hours of darkness in all buildings containing public toilets, laundry equipment, and the like;

ORDINANCE 90 - ZONING ORDINANCE

2. The manufactured home park grounds shall be lighted as approved by the City from sunset to sunrise.

ORDINANCE 90 - ZONING ORDINANCE

TABLE OF CONTENTS

Section 90.19 C-1 CORE COMMERCIAL DISTRICT.....90.19.1

Section 90.19 C-1 CORE COMMERCIAL DISTRICT

The intent of this district is to provide a retail and service center for the City and all economic activities that provide jobs for its residents. It should not intrude on residential development, and residential development in this area should be discouraged as harmful to the economic development of the City.

Subd. 1: Permitted Uses.

- a) Retail uses conducted entirely within a building;
- b) Eating and drinking establishments except drive-ins and drive-thru's;
- c) Personal service shops, excluding specifically pawnshops;
- d) Financial institutions;
- e) Professional offices, clinics, business schools;
- f) Municipal buildings/offices, libraries, postal service offices;
- g) Theaters, commercial amusement places;
- h) Hotels, motels;
- i) Laundromats;
- j) Beauty/Barber shops;
- k) Lodges, fraternal organizations;
- l) Institutional uses, churches;
- m) Funeral homes, mortuaries;
- n) Parking lots (public);
- o) Public utility buildings and structures;
- p) Temporary buildings for and during construction;

ORDINANCE 90 - ZONING ORDINANCE

- q) Apartments over business establishment;
- r) Dwelling units above other permitted or approved conditional uses;
- s) Rental uses conducted entirely within a building;
- t) Service uses.

Subd. 2: Conditional Uses.

- a) Retail sales lots including used cars, trucks and trailers;
- b) Gasoline service stations and motor vehicle repair;
- c) Day care center;
- d) Drive-thru facilities incidental to a retail or financial institution use;
- e) Other uses that are determined by the Planning Commission and City Council to be of the same character as the permitted uses in this Section.

Subd. 3: Permitted Accessory Uses or Structures.

- a) Storage within a building, if accessory to a principal use.
- b) Off-street parking spaces and loading berths.
- c) Accessory buildings and uses customarily incidental to the principal use. Exterior grain bin structures of any size, excluding traditional wildlife feeder grain bins, are not a permitted accessory building.

Subd. 4: Minimum Lot Dimensions. No minimum lot area or width is prescribed.

Subd. 5: Minimum Yard Requirements. No yards are required provided that if a building abuts on a residential district or park there shall be a yard of not less than twenty feet (20') provided on the abutting side, which yard shall be screened from view of the residential district.

Subd. 6: Maximum Building Coverage. The maximum building coverage shall be eighty percent (80%).

Subd. 7: Maximum Building Height. Maximum Building Height: Thirty five feet (35') or three (3) stories.

ORDINANCE 90 - ZONING ORDINANCE

Subd. 8: Multiple Buildings. Multiple buildings may be constructed on lots in this district, provided that each building will have a minimum of twenty five feet (25') of frontage on a public right-of-way. In the event that the lot is ever subdivided, each building will have to have separate access onto the public right-of-way and be separately served by sewer and water. Separation of services shall be at the subdivider's expense. The multiple buildings may be used for unrelated permitted uses provided that the use of all buildings on the property remains commercial.

ORDINANCE 90 - ZONING ORDINANCE

TABLE OF CONTENTS

Section 90.20 C-2 HIGHWAY COMMERCIAL.....90.20.1

ORDINANCE 90 - ZONING ORDINANCE

Section 90.20 C-2 HIGHWAY COMMERCIAL

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

Subd. 1: Permitted Uses.

- a) Uses permitted in a C-1 District;
- b) Auto, truck, marine, boat, recreation vehicle, trailer and farm implement sales;
- c) Building contractor office;
- d) Gasoline service stations, truck stops;
- e) Car washes and repair garages but not including open storage of dismantled vehicles;
- f) Landscape, nursery or garden sales;
- g) Lumber yard, construction material sales, garden and landscaping sales and services (including produce);
- h) Private clubs or lodges serving food and beverages;
- i) Restaurants, drive-in and drive-thru;
- j) Grain and seed sales and storage;
- k) Veterinary clinics and animal hospitals.

Subd. 2: Conditional Uses.

- a) Bowling alleys, dance halls;
- b) Miniature golf course, golf driving range and other commercial outdoor recreation activities;

ORDINANCE 90 - ZONING ORDINANCE

- c) Wholesale, Warehouse and storage;
- d) Other uses that are determined by the Planning Commission and City Council to be of the same character as the permitted uses in this Section.

Subd. 3: Permitted Accessory Uses and Structures.

- a) Storage of goods related to sales establishments;
- b) Off-street parking spaces and loading berths;
- c) Accessory buildings and uses customarily incidental to the principal use.

Subd. 4: Minimum Lot Dimensions.

- a) Area. Five thousand (5,000) square feet;
- b) Width. Fifty feet (50');
- c) Depth. One hundred feet (100').

Subd. 5: Minimum Yard Requirements.

- a) Front Yard. Thirty feet (30');
- b) Rear and Side Yards. Ten feet (10') except that if a building abuts on a residential district or park there shall then be provided a yard of not less than twenty feet (20') on the abutting residential side, which yard shall be screened from view of the residential district.

Subd. 6: Maximum Building Coverage. The maximum building coverage shall be sixty percent (60%).

Subd. 7: Maximum Building Height: The maximum building height shall be thirty five feet (35') or three (3) stories.

Subd. 8: Multiple Buildings. Multiple buildings may be constructed on lots in this district, provided that each building will have a minimum of twenty five feet (25') of frontage on a public right-of-way. In the event that the lot is ever subdivided, each building will have to have separate access onto the public right-of-way and be separately served by sewer and water. The multiple buildings may be used for unrelated permitted uses provided that the use of all buildings on the property remains commercial.

ORDINANCE 90 - ZONING ORDINANCE

TABLE OF CONTENTS

Section 90.21 EXTERIOR MATERIAL REQUIREMENTS90.21.1

Section 90.21 EXTERIOR MATERIAL REQUIREMENTS

Subd. 1: Purpose and Intent. The purpose and intent of this Section is to preserve and complement the historical character of existing commercial building stock and enhance the pedestrian experience and ensure the quality and aesthetics of all commercial buildings within the City of New Munich.

Subd. 2: Applicability. In the C-1 and C-2 districts all new construction shall meet the building design requirements as required in Subds. 3 through 6. For existing commercial buildings in the C-1 and C-2 districts, any exterior building improvements shall comply with the requirements of Subd. 7. When an commercial existing building is expanded at over fifty percent (50%) of the existing square footage or building value (based on latest assessed value), whichever is less, the entire building shall meet the requirements of Subdivisions 3 through 7. Residential dwellings located in the C-1 and C-2 districts are exempt from this section.

Subd. 3: Within all zoning districts, commercial buildings shall maintain a high standard of architectural and aesthetic compatibility with surrounding properties to ensure that they will not adversely impact the property values of the abutting properties or adversely impact the public health, safety, and general welfare. Exterior building finishes shall consist of durable finish-type materials of a high grade and quality.

Subd. 4: The use of various textures, colors and accents is encouraged. Architectural details shall continue on all sides of the building visible from a public street or right of way. The following are acceptable exterior materials:

- a) Brick or face brick;
- b) Decorative architectural precast concrete masonry units. Concrete masonry units shall have an indented, hammered, split face finish or other similar architectural finish and be integrally colored.
- c) Specially designed, precast or tilt wall concrete panel units if the surfaces have been integrally treated with an applied decorative material or texture (excluding raw concrete block painted or unpainted);
- d) Wood;
- e) Natural or Cut Stone such as granite, marble, limestone, slate, river rock and other durable naturally occurring all weather stone;

ORDINANCE 90 - ZONING ORDINANCE

- f) Stucco (plaster) Exterior Insulated Finishing System (EIFS);
- g) Glass curtain walls provided they are designed as non-load bearing exterior walls supported in a metal framework;
- h) Decorative synthetic material approved by the City Council;
- i) Any combination of the materials identified herein;
- j) Any other material approved by the City Council, including but not limited to hardy plank or other concrete composite materials found to be of comparable or superior durability which mimic the appearance of other approved materials.

Subd. 5: Concrete block or masonry framing systems are preferred. Tilt-up, post frame wood and/or steel framing are allowed as long as any structure has a contiguous masonry frost-free foundation.

Subd. 6: Prohibited Exterior Materials: The following materials are prohibited:

- a.) corrugated, galvanized, or unfinished steel, galvalume or unfinished aluminum buildings (walls or roofs) (except those specifically designed to have a corrosive designed finish such as corten steel) shall not be allowed in any zoning district except in association with farming operations.
- b) unadorned pre-stressed concrete panels, non-decorative concrete block, such as light weight concreted block or cinder block,
- c) metal siding with exposed fasteners,
- d) vinyl siding,

Subd. 7: Historic materials or features on existing buildings, including but not limited to brick façades , masonry coping, window sill stones, decorative brick courses, and cornices shall not be covered with other materials or painted. Existing window openings shall be maintained and any new window openings shall be proportionate to the existing pattern of windows. Shutters appropriate to the architectural style of the building may be installed over second story window openings. Canopies that obstruct view of the original façade features shall be removed if practicable. Building components such as air conditioners, burglar alarms, and vents shall be located away from the front façade and designed to blend into the wall of which they are a part. Any exterior modifications, additions or alterations shall be compatible with the original architecture of the structure. Architectural design alternatives that meet the objectives of Subd. 1 may be considered for approval by the Planning Commission and City Council by conditional use permit.

ORDINANCE 90 - ZONING ORDINANCE

TABLE OF CONTENTS

Section 90.22 M-1 INDUSTRIAL DISTRICT.....90.22.1

Section 90.22 M-1 INDUSTRIAL DISTRICT

The intent of this district is to provide for the activities that give employment to many of the City's residents. In this area, close to rail or highway transportation, the most advantageous sites for such activities are located. However, uses of land which may adversely affect the health or welfare of the people are prohibited.

Subd. 1: Permitted Uses.

- a) Gasoline service stations;
- b) Manufacturing or assembly of a wide variety of products. Examples of such uses include: fabrication or assembly of small products such as opticals, electronic, pharmaceutical, medical supplies and equipment and printing and publishing;
- c) Motor vehicle repair but not including the open storage of dismantled vehicles;
- d) Landscape nursery or garden sales;
- e) Public utility buildings and structures;
- f) Lumber yards, building materials sales yards;
- g) Auto, truck and trailer sales;
- h) Marine and boat sales;
- i) Machine shops;
- j) Bottling;
- k) Food processing plants;
- l) Storage warehouses and open storage yards;
- m) Transportation and freight terminals;
- n) Warehousing of non-explosive material or equipment;
- o) Grain, feed and fuel supply sales and storage;

ORDINANCE 90 - ZONING ORDINANCE

- p) Monument works.

Subd. 2: Permitted Accessory Uses and Structures.

- a) Off-street parking spaces and loading berths;
- b) Accessory buildings and uses customarily incidental to the principal use;
- c) Temporary buildings for and during construction.

Subd. 3: Conditional Uses.

- a) Any lawful use of land or building not expressly prohibited or provided for in the M-1 district and which, by its nature, does not constitute either a public or private nuisance because of noise, dirt, soot, offensive odor or unsanitary condition.

Subd. 4: Minimum Lot Dimensions.

- a) Area. Ten thousand (10,000) square feet;
- b) Width. One hundred feet (100');
- c) Depth. One hundred feet (100');

Subd. 5: Minimum Yard Requirements.

- a) Front Yard. Thirty feet (30');
- b) Street Side Yard. Ten feet (10');
- c) Side Yard. Ten feet (10') except that where an M-1 industrial district abuts a residential district or park a side yard of fifty feet (50') shall be provided on the abutting side, which yard shall be screened from view of the residential district.
- d) Rear Yard. Thirty feet (30') except that where an M-1 district abuts a residential district or a park, the yard shall be screened from view of the abutting residential district or park.

Subd. 6: Maximum Building Coverage. The maximum building coverage shall be sixty percent (60%).

Subd. 7: Maximum Building Height. The maximum building height shall be thirty five feet (35') or three (3) stories.

ORDINANCE 90 - ZONING ORDINANCE

Subd. 8: Multiple Buildings. Multiple buildings may be constructed on lots in this district, provided that each building will have a minimum of fifty feet (50') of frontage on a public right-of-way. In the event that the lot is ever subdivided, each building will have to have separate access onto the public right-of-way and be separately served by sewer and water. The multiple buildings may be used for unrelated permitted uses provided that the use of all buildings on the property remains industrial.

Subd. 9: Exterior Material Requirements. For new construction in the M-1 district or when an existing building is expanded at or over fifty percent (50%) of the existing square footage or building value (based on latest assessed value), whichever is less, the entire building including the existing façade and new expansion shall meet the following building design requirements:

- a) Permitted Materials:
 - 1. Any approved commercial materials;
 - 2. Standard smooth-faced concrete masonry units;
 - 3. Unfinished pan formed precast or cast-in-place concrete panels.

ORDINANCE 90 - ZONING ORDINANCE

TABLE OF CONTENTS

Section 90.24 PUBLIC DISTRICT90.24.1

Section 90.24 PUBLIC DISTRICT

Subd. 1: Intent. It is the intent of this district to provide ordinances governing the use and development of property owned by the City, the County, the State of Minnesota, or any other political subdivision. This section is intended to allow the use of such property for any public purpose while minimizing the impact of any such public use which is incompatible with or detrimental to the essential character of land adjoining the Public District.

Subd. 2: Permitted Uses.

- a) City, County, State owned buildings and grounds;
- b) Churches and other religious institutions;
- c) Golf courses;
- d) Parks, playgrounds, open space and other outdoor recreation areas;
- c) Schools.

Subd. 3: Setback Requirements.

- a) Front yard. Setback shall be twenty five (25) feet from the lot line;
- b) Side yard. Setback shall be ten (10) feet from the lot line, 20 feet if abutting a residential district;
- c) Rear yard. Setback shall be ten (10) feet from the lot line, 20 feet if abutting a residential district;
- d) Street Side Yard on Corner Lot. Setback shall be twenty-five (25) feet from the lot line.

Subd. 4: Height Requirements. Any portion of a structure shall not exceed thirty five (35) feet in height. Berming the building does not allow a building to be constructed higher than thirty five (35) feet. Elevation for the building shall be determined by the average grade of the land.

ORDINANCE 90 - ZONING ORDINANCE

Subd. 5. Site Coverage. No roofed structure or combination of roofed structures shall occupy more than 60 percent of the lot area. A combination of structures and nonporous surfaces may not cover in excess of 90 percent of the lot area.

Subd. 6: Other Requirements.

- a) Parking Lots. All parking lots shall conform to the standards set forth in Section 90.10. All lots shall include parking controls and other landscaping techniques to improve their aesthetic quality and to direct the flow of traffic.

Section 90.25 CONDITIONAL USES

Any use listed as a conditional use in this Ordinance shall be permitted only upon issuance of a conditional use permit from the City Council.

Subd. 1: Requirements. In passing upon a conditional use permit the City Council, based on the recommendation of the Planning Commission, shall ensure that:

- a) The use generally conforms to the objectives of the Comprehensive Plan and the intent of this Ordinance;
- b) The proposed use will not be detrimental to nearby affected property owners;
- c) The proposed use (except in the case of a planned unit development) meets the overall density, lot coverage, yard, height and all other requirements of the district in which the proposed use is located;
- d) The proposed use does not adversely affect the general health, welfare and public safety;
- e) The proposed use generates demands for public services and traffic consistent with the City's capacity.

Subd. 2: Procedures on Applications. The application procedure for conditional use permits shall be as follows:

- a) An application for a conditional use permit shall be filed with the Zoning Administrator by the owner or owners of the property on which the request is being made;
- b) Applications for conditional use permits shall be on an application form provided by the City accompanied by an application fee as set forth by the City Council and shall include the following information:
 - 1. Description of the proposed use and of its conformance with the standards set forth in this section;
 - 2. Legal description of the property;
 - 3. Scaled site plan;

ORDINANCE 90 - ZONING ORDINANCE

4, Other information required by the Zoning Administrator.

Subd. 3: Hearing Date. The Zoning Administrator shall set a date for public hearing no later than thirty (30) days after receipt of the application for the conditional use permit.

Subd. 4: Written Notice. The Zoning Administrator shall give written notice to all property owners of record within three hundred and fifty feet (350') of the property for which the conditional use permit is requested at least ten (10) days before the day of the hearing. A similar notice shall also be published in the official City newspaper at least ten (10) days before the day of the hearing. The written and published notice shall state:

- a) The date, time and place of the public hearing;
- b) The purpose of the public hearing;
- c) The general scope of the proposed project or application.

Subd. 5: Planning Commission Recommendation. The Planning Commission, upon completion of the public hearing, shall submit to the City Council a recommendation of approval or non-approval of the conditional use permit within ten (10) days. In the course of its deliberation, the Planning Commission may consult such people as may be deemed helpful or necessary. The Planning Commission may recommend conditions which will improve the proposal or protect adjacent properties from any adverse effects. The Planning Commission, when submitting a recommendation to the City Council, shall also submit findings.

Subd. 6: City Council Action. The City Council may grant the conditional use permit subject to reasonable limitations or conditions as it may deem appropriate to enhance the appearance of the property, to reduce any adverse effects on nearby property or their occupants, to preserve the character of the neighborhood to protect or enhance the view from this or other properties, or to make it more acceptable in other ways. The City Council shall issue written findings stating the reasons for its decision and any conditions imposed, and send a copy of the findings to the Applicant by mail within ten (10) days after its decision. The City Council must make a decision on each application within sixty (60) days after receiving the completed conditional use permit application, except that the City is allowed a longer time if:

- a) The City states in writing to the Applicant that a longer time is needed to protect against serious and significant harm to the public health, safety, or welfare, states the reason why, and specifies the additional time needed;
- b) The City states in writing to the Applicant that a longer time is needed to comply with state or federal requirements, states the requirements, and specifies the additional time needed; or
- c) An agency that must take action on an application is a multimember board that meets periodically, in which case the agency must complete its action within sixty

ORDINANCE 90 - ZONING ORDINANCE

(60) days after its first meeting after receipt of the application, or within a longer period established under this Section.

Subd. 7: Issuance of Permit. The Zoning Administrator shall issue the permit upon approval by the City Council. The Zoning Administrator or designee shall be responsible to assure that the conditions are met.

Subd. 8: Failure to Obey. Any use permitted under the terms of any conditional use permit shall be established and conducted in conformity with the terms or conditions of such permit. The conditional use permit shall remain in effect so long as the conditions are met. Failure to comply with the conditions of a conditional use permit may result in revocation of the conditional use permit by the City Council. The City Council shall first conduct a public hearing before a conditional use permit is revoked.

ORDINANCE 90 - ZONING ORDINANCE

TABLE OF CONTENTS

Section 90.26 INTERIM USES PERMIT (IUP)90.26.1

Section 90.26 INTERIM USES PERMIT (IUP)

Any use listed as an Interim Use Permit (IUP) in this Ordinance shall be permitted only upon issuance of an Interim Use Permit (IUP) from the City Council.

Subd. 1: Purpose and Intent. The purpose and intent of allowing Interim Uses is:

- a) To allow a use for a brief period of time until a permanent location is obtained or while the permanent location is under construction.
- b) 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 will be replaced in the future by permitted or conditional use allowed within the respective district.
- 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 architectural character and design standard of existing uses and development.

Subd. 2: Procedures on Applications. The application procedure for Interim Use Permits (IUP) shall be as follows:

- a) Defined Uses. Uses defined as Interim Uses which do not presently exist within a respective zoning district shall be processed according to the standards and procedures for a conditional use permit as established by Section 90.24;
- b) General Standards. An Interim Use shall comply with the following:
 - 1. Meet the standards of a conditional use permit set forth in Section 90.24 of this Ordinance;
 - 2. Conform to the applicable standards of the applicable zoning district standards;
 - 3. The use is allowed as an Interim Use in the respective zoning district;
 - 4. The date or event that will terminate the use can be identified with certainty;

ORDINANCE 90 - ZONING ORDINANCE

5. The use will not impose additional unreasonable costs on the public;
 6. The user agrees to any conditions that the Planning Commission and City Council deems appropriate for permission of the use.
- c) Termination: An Interim Use shall terminate on the happening of any of the following events, whichever occurs first:
1. The date stated in the permit;
 2. Upon violation of conditions under which the permit was issued;
 3. If upon change in the City's zoning regulations, which renders the use non-conforming, the City will consider not renewing or extending the permit;
 4. 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.
- d) Amendment. Holders of an IUP may propose amendments to the permit at any time, following the procedures for a new permit set forth in this Ordinance. No significant changes in the circumstances or the scope of the permitted uses shall be undertaken without approval of those amendments by the Planning Commission with recommendation to the City Council. The City shall determine what constitutes significant change. Significant changes include, but are not limited to, hours of operation, number of employees, expansion of structures and/or premises, and operational modifications resulting in increased external activities and traffic, and the like. The Planning Commission may recommend and the City Council may approve significant changes and modifications to IUPs, including the application of additional or revised conditions;
- e) Expiration. Unless the City Council specifically approves a different time when action is officially taken on the request, permits which have been issued under the provisions of this Ordinance shall expire without further action by the Planning Commission or City Council unless the Applicant commences the authorized uses within one (1) year of the date the IUP is issued, or, unless before the expiration of the one (1) year period, the Applicant shall apply for an extension thereof by completing and submitting a request for extension. The request for extension shall state facts showing a good faith attempt to complete or utilize the use permitted in the IUP. A request for an extension not exceeding one (1) year shall be subject to the review and approval of the City Council. Should the Applicant request a second extension or any extension of time longer than one (1) year, it shall be presented to the Planning Commission for recommendation and to the City Council for a decision;

ORDINANCE 90 - ZONING ORDINANCE

- f) Reapplication. No application for an IUP for a particular use on a particular parcel shall be resubmitted for a period of one (1) year from the date of the denial of the previous application unless a decision to reconsider the matter is made by a majority vote of the full City Council.

ORDINANCE 90 - ZONING ORDINANCE

TABLE OF CONTENTS

Section 90.27 PLANNED UNIT DEVELOPMENT (PUD) OVERLAY DISTRICT90.27.1

Section 90.27 PLANNED UNIT DEVELOPMENT (PUD) OVERLAY DISTRICT

The purpose of the planned unit development overlay district is to offer an alternative to development as outlined in the residential, commercial, and industrial use districts of this Ordinance. Deviation from the definitive and precise requirements of the underlying zoning districts is to be allowed as a Planned Unit Development (PUD) if the particular areas to be developed can offer greater value to the community and can better meet the community's health, welfare, and safety requirements than if those same areas were to be developed in accord with the strict interpretation of the regulations.

Subd. 1: PUD projects may allow:

- a) A mixture land uses, housing types and densities within a comprehensive site design concept;
- b) Departure from strict application of required setbacks, yard areas, lot sizes, minimum dwelling unit sizes, minimum requirements and other performance standards associated with traditional zoning, thereby maximizing the development potential of land while remaining sensitive to its unique and valuable natural characteristics;
- c) Consolidation of areas for recreation and reductions in street lengths and other utility related expenses;
- d) The clustering of units/project density, and base density is determined on the number of units per acre rather than specific lot dimensions;
- e) A combination of uses which are allowed in separate zoning districts such as:
 1. Mixed residential uses allowing both densities and unit types to be varied within the project;
 2. Mixed commercial, industrial, residential or institutional land use with the integration of compatible land uses within the project.
- f) PUD projects shall be developed in accordance with an overall design and an integrated development plan and otherwise in accordance with the City Subdivision Regulations. Such projects shall be consistent with the intent and purpose of this Ordinance and shall not adversely affect the property adjacent to the land included in the project.

ORDINANCE 90 - ZONING ORDINANCE

Subd. 2: General Standards for Approval. A rezoning will be required of all PUD's. The rezoning will be applied as an overlay to the underlying zoning district and reflected as such on the official zoning map. The City may approve the PUD only if it finds that the development satisfies 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 provides for the preservation or creation of unique amenities such as natural streams, stream banks, wooded cover, rough terrain, manmade landforms or landscaping 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. The development plan will not have a detrimental effect upon the neighborhood or an in which it is proposed to be located;
- d) The PUD provides transitions in land use in keeping with the character of adjacent land use, and provides variety in the organization of site elements and building design;
- e) The tract under consideration is under single ownership or control;
- f) The proposal meets the standards and purposes of the Comprehensive Plan and preserves the health, safety and welfare of the citizens of the City and that all of the following conditions exist:
 1. The proposal better adapts itself to the physical and aesthetic setting of the site and with the surrounding land uses than could be developed using strict standards and land uses allowed within the underlying zoning district;
 2. The proposal would benefit the area surrounding the project to greater degree than development allowed within the underlying zoning district(s);
 3. The proposal would provide mixed land use and/or site design flexibilities while enhancing site or building aesthetics to achieve an overall, workable higher quality of development than would otherwise occur in the underlying zoning district;
 4. The proposal would ensure the concentration of open space into more workable or usable areas and would preserve the natural resources of the site than would otherwise occur in the underlying zoning district.

ORDINANCE 90 - ZONING ORDINANCE

- g) The public benefits, such as but not limited to, improved site or architectural design, open space preservation, improved parks, trails, recreation facilities or other amenities, a mix of compatible land uses which foster Comprehensive Plan goals, of the PUD justify any deviations from the primary zoning ordinance provisions and performance standards;
- h) The PUD will not create an excessive burden on parks, schools, streets, or other facilities and utilities that serve or are proposed to serve the PUD;
- i) Upon approval of rezoning to planned unit development the zoning designation on the Official Zoning Map of the tract or tracts of land involved shall be changed by adding "PUD Overlay" indicator to the parcels.

Subd. 3: Ownership and Plan. This Section makes provisions for residential, core commercial, commercial, industrial, and mixed use planned unit development overlay districts for a tract or tracts of land under single or unified ownership. Such planned unit development projects shall be developed in accordance with an overall design as shown in a general development plan which shall be consistent with the general intent of this Ordinance.

Subd. 4: Regulations.

- a) All roadways and utilities within planned unit developments shall be constructed to specifications established by the City;
- b) A development agreement for the completion of this work shall be established between the City and the developer;
- c) There shall be no standard minimum land area requirement for any planned unit development;
- d) Upon approval of the planned unit development by the City Council, the area will be subject to the stipulations of the development agreement and approved general development plan;
- e) Once the general development plan, the final plat if required and the rezoning to overlay planned unit district have been approved by the City Council, the resulting Ordinance becomes effective, the development agreement has been entered into, and the plat if required has been filed of record, the developer may begin construction. No change to the general development plan shall be allowed without amending the approved PUD;
- f) Nothing in this article or this Ordinance shall be interpreted as negating the necessity of filing a plat as required by the City's subdivision regulations. In addition, nothing in this article shall be interpreted as defeating the purpose of the orderly and rational development of the City and of the environment.

ORDINANCE 90 - ZONING ORDINANCE

Subd. 5: Administrative Procedure.

- a) Concept Plan and General Process. Before filing an application for approval of a planned unit development, an Applicant is encouraged to submit a concept plan for review and comment by the City staff. The Applicant may request a review of the concept plan by the Planning Commission to obtain the Commissions non-binding comments on its merits. Before any construction, the proponents of a PUD project shall submit and receive approval of:
1. Preliminary development plan and preliminary plat if platting is required;
 2. General development plan through Conditional Use Permit (CUP), final plat if platting is required and rezoning to PUD overlay.
- b) Preliminary Plan. The preliminary development plan and preliminary plat if platting is required shall be submitted to the City for referral and hearing. The Planning Commission shall conduct a public hearing pursuant to the hearing procedures outlined in this section and make recommendations to the City Council. The plan shall include the following:
1. All information required for consideration and approval of a preliminary plat, if a plat is necessary;
 2. Existing site conditions, including development on the subject property and immediately adjacent properties;
 3. The proposed use of all areas of the site;
 4. The proposed density, type, size and location of all dwelling units, if dwelling units are proposed;
 5. The general size, location and use of any proposed nonresidential buildings on the site;
 6. All public and private streets, entrance and exit drives and walkway locations;
 7. Parking areas;
 8. Landscaped areas;
 9. Parks and open space, public plazas and common areas;
 10. Site dimensions;
 11. Generalized drainage and utility plans;

ORDINANCE 90 - ZONING ORDINANCE

12. Summary sheets showing proposed densities, area for each land use on the site and proposed modifications of underlying district regulations;
 13. Generalized staging plan for the project, including the geographical sequence of construction and the number of dwelling units or square footage of nonresidential to be constructed in each stage;
 14. A statement describing how the proposed PUD overlay district meets the stated purposes and objectives of this section of the Ordinance and of the Comprehensive Plan;
 15. Any other information which the City may reasonably request.
- c) Final Plan. After Planning Commission and City Council approval of the preliminary development plan (and the preliminary plat when required) application for approval of the general development plan, the final plat if required and the rezoning of the entire area to the PUD overlay district shall be made. The submission for the general development plan, the final plat if required and the rezoning to PUD overlay shall include:
1. All information required for consideration and approval of a final plat, if a plat is necessary;
 2. A final site plan drawn to scale showing the location of all structures including their placement, size and type as well as streets, parking areas and stall arrangement, walkways and other pedestrian facilities, parking calculations, and open space including public plazas and commons;
 3. A landscape plan showing the location, size, and species of all plant materials, a landscaping irrigation system plan, and all other non-vegetative landscaped features;
 4. A utility plan showing the location and size of all on-site utilities and easements as well as storm water runoff calculations for both the predevelopment and post-development condition of the site;
 5. Building plans at a level of detail necessary to allow parking calculations to be made and building elevation drawings showing architectural details and proposed building materials;
 6. Any deed restrictions, covenants, agreements, and Articles of Incorporation and By-laws of any proposed homeowners' association or other documents or contracts which control the use or maintenance of property covered by the PUD;

ORDINANCE 90 - ZONING ORDINANCE

7. A staging plan, if staging is proposed, indicating the geographical sequence and timing of development of the plan or portions thereof, including the estimated date of beginning and completion of each stage;
 8. Any information that has changed since submission for approval of the preliminary development plan;
 9. Any other information which the City may reasonably request.
- d) Amendments. Any deviation from the final Development Plan after approval by the City Council shall be a violation of this Ordinance unless approved as an amendment to the Conditional Use Permit by the City. Minor amendments to the final Development Plan may be approved by the City Council. Major amendments shall be approved by the City Council following review and recommendation of the Planning Commission.

Subd. 6: Development Agreement, Guarantee of Performance, Phasing.

- a) Prior to final plan approval by the City Council, the Subdivider(s)/Developer(s) shall execute and submit to the Council an agreement for development of the PUD which contains adequate assurances that he/she will provide the following at his/her expense, binding on his/her heirs, personal representatives, and assigns, including, but not limited to:
 1. A summary of the Development Plan for the PUD;
 2. A listing or schedule of when and what improvements (subject to approval by the City Engineer, as recommended by the Planning Commission and subject to the approval of the City Council) shall be required, phasing (if any), construction timeline, completion date, etc;
 3. A certification by the City Engineer or Zoning Administrator that all improvements, agreements, and documents meet the minimum requirements of all applicable ordinances;
 4. A provision containing all conditions, if any, imposed by the City Council upon approval of the final plan;
 5. A provision outlining the procedure or alternative to be utilized in the financing of required improvements;
 6. A provision requiring a performance bond or letter of credit to guarantee performance by the developer. The amount of this bond or letter of credit, and the specific elements of the development program that it is intended to guarantee shall be stipulated in a Development Agreement; The City will also collect escrow fees for professional services;

ORDINANCE 90 - ZONING ORDINANCE

7. If the development shall occur in phases, the Development Agreement shall outline the various phases of development.
- b) The City may review all building permits and certificates of occupancy issued for the PUD and examine the construction which has been actualized to determine Developer adherence to the approved Development Agreement prior to authorizing the next phase of development.

ORDINANCE 90 - ZONING ORDINANCE

TABLE OF CONTENTS

Section 90.28 VARIANCES AND APPEALS.....90.28.1

ORDINANCE 90 - ZONING ORDINANCE

- f) The Planning Commission shall conduct the public hearing for variances. The Board of Appeals and Adjustments shall conduct the public hearing for appeals from any administrative decision made under this Ordinance;
- g) The Planning Commission, upon completion of the public hearing for a variance, shall submit a recommendation to the Board of Appeals and Adjustment. The Planning Commission may submit recommended conditions to any recommendation to grant a variance;
- h) The Planning Commission, when submitting a recommendation to the Board of Appeals and Adjustments, shall also submit findings relative to this Ordinance.

Subd. 2: Variance Findings.

- a) Any variance to the provisions or requirements of this Ordinance may be authorized by the Board of Appeals and Adjustments when it finds evidence that all of the following facts and conditions exist:
 - 1. That there are practical difficulties in complying with the Ordinance requirements. "Practical difficulties" means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality.
 - 2. That such variance is necessary to put the property to a reasonable use. Economic circumstances or the possibility of increased financial gain shall not in itself be deemed sufficient to warrant a variance;
 - 3. That the granting of such variance is consistent with the intent and purpose of this Ordinance and the comprehensive plan;
 - 4. That the condition or situation of the specific piece of property, for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such a condition or situation.
- b) In granting a variance, the Board of Appeals and Adjustments may impose conditions which are directly related to and bear a rough proportionality to the impact created by the variance;
- c) The Board of Appeals and Adjustments may not permit as a variance any use that is not permitted under this Ordinance for the property in the district where the affected persons land is located.

ORDINANCE 90 - ZONING ORDINANCE

Subd. 3: Board of Appeals and Adjustments.

a) Membership and Duties.

1. The Board of Appeals and Adjustments shall be the City Council;
2. The Board of Appeals and Adjustments shall act upon all questions as may arise in the administration of this Ordinance, including the interpretation of zoning maps, and it shall hear and decide appeals from and review any order, requirement decision, or determination made by an administrative official charged with enforcing this Ordinance. Such appeal may be made by any person owning the property under appeal or by any officer, board, or commission of the City. The Board of Appeals and Adjustments shall have the power to vary or adapt the strict application of any of the requirements of this Ordinance or in the case of exceptionally irregular, narrow, or shallow lots, other exceptionally physical condition, whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved.

b) Public Hearing. The Board of Appeals and Adjustments shall refer all Applicants for variances to the Planning Commission to hold a public hearing and make recommendations to the Board. The Board may act on any application if no report is transmitted within thirty-one (31) days of acceptance of the variance application;

c) Findings. The Board of Appeals and Adjustments shall issue written findings stating the reasons for its decision and any conditions imposed, and send a copy of the findings to the Applicant by mail within ten (10) days after its decision. The Board of Appeals and Adjustments must make a decision on each application within sixty (60) days after receiving the completed variance or appeal application, except that the Board of Appeals and Adjustments is allowed a longer time if:

1. The Board of Appeals and Adjustments states in writing to the Applicant that a longer time is needed to protect against serious and significant harm to the public health, safety, or welfare, states the reason why, and specifies the additional time needed;
2. The Board of Appeals and Adjustments states in writing to the Applicant that a longer time is needed to comply with state or federal requirements, states the requirements, and specifies the additional time needed;

ORDINANCE 90 - ZONING ORDINANCE

3. An agency that must take action on the application is a multimember board that meets periodically, in which case the agency must complete its action within sixty (60) days after its first meeting after receipt of the application, or within a longer period established under this subsection.
- d) Appeal. Decisions of the Board of Appeals and Adjustments shall be final, except that appeals from decisions of the Board of Appeals and Adjustments may be made to the District Court.

ORDINANCE 90 - ZONING ORDINANCE

TABLE OF CONTENTS

Section 90.29 AMENDMENTS AND REZONING90.29.1

ORDINANCE 90 - ZONING ORDINANCE

Section 90.29 AMENDMENTS AND REZONING

Subd. 1: Initiation.

- a) The City Council or Planning Commission may initiate a request to amend the text or the zoning district boundaries of this Ordinance;
- b) Any person, persons, firm, or corporation or agent owning real estate in the City may initiate a request to amend the text or zoning district boundaries of this Ordinance as it relates to that real estate.

Subd. 2: Procedure.

- a) Requests for amendments shall be filed with the Zoning Administrator;
- b) Applications for amendments shall be on an application form provided by the City accompanied by an application fee as set forth by the City Council and shall include the following information:
 - 1. Detailed written and graphic materials fully explaining the proposed change, development, or use;
 - 2. Legal description of the property if a zoning district boundary change is requested;
 - 3. Scaled site plan if a zoning district boundary change is requested;
 - 4. Other information required by the Zoning Administrator.
- c) Hearing. The Zoning Administrator shall set a date for public hearing before the Planning Commission after receipt of any request for a zoning change. The City shall publish notice of the public hearing's time, place and purpose in the City's official newspaper at least ten (10) days before the hearing;
- d) Written Notice. In the case of a request for a zoning district change, the Zoning Administrator shall give written notice to all property owners of record within three hundred and fifty feet (350') of the property for which the zoning district change is requested at least ten (10) days prior to the public hearing date. A similar notice shall also be published in the official City newspaper at least ten days prior to the public hearing date;

ORDINANCE 90 - ZONING ORDINANCE

- e) Planning Commission Recommendation. The Planning Commission, upon completion of the public hearing, shall make a recommendation to the City Council unless the amendment has been initiated by the Commission and the Commission determines not to recommend it to the Council. When the amendment has not been initiated by the Planning Commission, the recommendation shall be filed no later than forty-five (45) days from the date of reference of the amendment to the Commission;
- f) City Council Action.
1. Any amendment not initiated by the Planning Commission shall be referred to it for study and report and shall not be acted upon by the City Council until it has received the recommendation of the Planning Commission or forty five (45) days have elapsed from the receipt of the completed application;
 2. Upon receipt of the Planning Commission recommendation, the City Council shall place the request on the Council Agenda for final action;
 3. The City Council, in addition to the public hearing conducted by the Planning Commission, may also conduct a public hearing. The City shall adopt or amend the Zoning Ordinance by majority vote of all of its members except for a rezoning of residential zoned property being rezoned to industrial than a two-thirds (2/3) ratio of all of its members is required;
 4. The City Council must make a decision on each application within sixty (60) days after receiving the completed application, except that the City is allowed a longer time if:
 - A. The City states in writing to the Applicant that a longer time is needed to protect against serious and significant harm to the public health, safety, or welfare, states the reason why, and specifies the additional time needed;
 - B. The City states in writing to the Applicant that a longer time is needed to comply with state or federal requirements, states the requirements, and specifies the additional time needed;
 - C. An agency that must take action on an application is a multimember board that meets periodically, in which case the agency must complete its action within sixty (60) days after its first meeting after receipt of the application, or within a longer period established in this subsection.

ORDINANCE 90 - ZONING ORDINANCE

TABLE OF CONTENTS

Section 90.30 ADMINISTRATION AND ENFORCEMENT.....90.30.1

Section 90.30 ADMINISTRATION AND ENFORCEMENT

Subd. 1: Duties of Zoning Administrator.

- a) Administer and enforce the provisions of this Ordinance;
- b) Issue permits and retain records;
- c) Maintain the official zoning map;
- d) Receive all applicable applications and forward them to the Planning Commission, Board of Appeals and Adjustments and City Council;
- e) Schedule public hearings as required;
- f) Promulgate regulations and procedures consistent with the function;
- g) Assure, that when required, documents are recorded at the Office of the County Recorder.

Subd. 2: Permit Requirements and Applications.

- a) No building, sign or other structure shall be erected, moved, added to, or structurally altered without a permit;
- b) Any use listed as a conditional use or interim use in this Ordinance shall be permitted only upon issuance of a Conditional Use Permit (CUP) or Interim Use Permit (IUP) by the City Council;
- c) No permit shall be issued except in conformity with the provisions of this Ordinance;
- d) All applications for permits shall be accompanied by building and plot plans drawn to scale, showing the actual dimensions and shape of the lot being built upon; the exact size and location on the lot of any buildings and the location and dimensions of the proposed building, addition or alternation;
- e) The Zoning Administrator may require that additional information be provided with the application if the additional information is necessary to determine conformance with the provisions of this Ordinance.

ORDINANCE 90 - ZONING ORDINANCE

Subd. 3: Permit Expiration.

- a) If the work described in any Variance, Conditional Use Permit (CUP) or Interim Use Permit (IUP) is not started within one (1) year from the date of issuance, said permit shall expire;
- b) If the work described in any permit is not substantially completed within one (1) year from the date of commencement, the permit shall expire. Further work, as described in the canceled permit, shall not proceed unless a new permit has been obtained;
- c) This time period for completion of work described in any Variance, Conditional Use Permit (CUP) or Interim Use Permit (IUP) may be extended by the City Council for up to one (1) additional year if the City Council finds that such extension is justified. Such extension shall be one (1) year from original date of permit. If work described is not started within the second year no additional extensions shall be granted without full reapplication and payment of applicable application fees at time or reapplication.

Subd. 4: Conformity of Construction and Use.

- a) Permits issued on the basis of plot plans and applications forms authorize only the use, arrangement and construction set forth in such plans or application, and no other use or arrangement;
- b) Use or construction in conflict with an approved plot plan shall be deemed a violation of this Ordinance and subject to the enforcement provisions of this Ordinance.

Subd. 5: Fees. To defray the administrative costs of processing requests of this Ordinance, fees not exceeding administrative costs shall be paid by the Applicant. Such fees shall be determined by the City Council as established in Appendix A.

ORDINANCE 90 - ZONING ORDINANCE

TABLE OF CONTENTS

Section 90.31 NONCONFORMITIES90.31.1

Section 90.31 NONCONFORMITIES

Within the districts established by this Ordinance there exist lots, structures and uses which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated or restricted under the terms of this Ordinance or its amendments. It is the intent of this Ordinance to permit these uses to continue until they are removed, but not to encourage their survival. Such uses are declared to be incompatible with permitted uses in the districts involved. It is further the intent of this Ordinance that non-conformities shall not be enlarged upon, expanded, extended or used as grounds for adding other prohibited uses. However, nothing in this Ordinance shall be deemed to require a change in plans, construction or designated uses of a building on which actual lawful construction has been begun prior to effective date of this Ordinance.

Subd. 1: Single Lots. In any district in which single-family dwellings are permitted, provided other requirements of this Ordinance are met, a single-family dwelling and customary accessory buildings may be erected on any single lot of record on the effective date of this Ordinance of at least fifty feet (50') in width and seven thousand (7,000) square feet in area. Such lot must be in separate ownership and not of contiguous frontage with other lots of the same ownership.

Subd. 2: Combination of Two or More Lots. If two or more non-riparian lots or combinations of non-riparian lots with contiguous frontage in single ownership are of record at the effective date of this Ordinance, and if all or part of the lots do not meet the requirements for lot area and lot width, the land involved shall be considered to be an undivided parcel and no portion of said parcel shall be used or sold which does not meet lot area and width requirements of the district in which it is located, nor shall any division of the parcel be made which creates lots or portions of lots below such requirements. Shifting of boundary lines between adjacent properties are permitted if they do not create an illegal lot.

Subd. 3: Continuation of Non-Conforming Use. A lawful use on the effective date of this Ordinance or its amendments which is made no longer permissible by the terms of this Ordinance may be continued if it remains otherwise lawful, subject to the following provisions:

- a) No such use shall be enlarged, increased or extended to occupy a greater area of land than was occupied by such use on the effective date of this Ordinance;
- b) No such use shall be moved in whole or in part to any other structure or portion of the lot or parcel being occupied by such use on the effective date of this Ordinance. No new accessory structures to the principal nonconforming use shall be constructed on the property;

ORDINANCE 90 - ZONING ORDINANCE

- c) If any such nonconforming use ceases for a period of more than twelve (12) months, any subsequent use of the land shall conform to district regulations for the district in which it is located.

Subd. 4: Nonconforming Structures. Where a lawful structure exists that could not be built under the terms of this Ordinance, such structure may be continued as long as it remains otherwise lawful, providing that:

- a) No such structure may be enlarged or altered in any way that increases its nonconformity, including but not limited to the addition of accessory structures. An exception may be permitted to allow an expansion to a lawful nonconforming principal structure in the R-1 zoning district in the following circumstances:
 - 1. If the proposed expansion is equal to or less than 25% of the existing square footage of the principle building existing on the date of this ordinance and the expansion does not increase the nonconformity in terms of setbacks in the side and rear yards. Expansions shall extend from the existing wall line in side and rear yards. Extensions of 25% or less in the front yard shall not extend beyond the neighboring structures on either side of the subject property. The expansion may proceed by Building Permit for Limited Expansion of Non-Conforming Use reviewed by the Zoning Administrator and issued by the Building Inspector. The applicant shall file with the Zoning Administrator proof that property PIN's have been identified and a site plan showing all dimensions for the proposed expansion, and shall provide such other information as the Zoning Administrator shall request. Any expansion allowed under this paragraph, shall have a similar design to and shall have the same exterior materials as the existing building;
 - 2. Should such structure be destroyed by any means to an extent of more than fifty percent (50%) of its market value at time of destruction, the building may be reconstructed to its original condition provided that a building permit has been applied for within one hundred and eighty (180) days of the damage or destruction. After one hundred and eighty (180) days, it shall not be reconstructed except in conformity with the provisions of this Ordinance;
 - 3. Should such structure be moved; it shall conform to the regulations for the district to which it is relocated.

Subd. 5: Continuing Use of Non-Conforming Structures. If a lawful use of a structure or of structures and premises exists at the effective date of adoption or amendment of this Ordinance, that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, providing that:

ORDINANCE 90 - ZONING ORDINANCE

- a) No existing structure devoted to a nonconforming use shall be enlarged, extended, reconstructed or structurally altered, unless the use is changed to a permitted use;
- b) Any nonconforming use may be extended to any other part of a building designed for such use, but no such use may be extended in any way to occupy land outside the building;
- c) If no structural alterations are made, any nonconforming use of a building, structure, or premises may be changed to another nonconforming use, provided that the Board of Appeals and Adjustments shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the board may require appropriate conditions or safeguards;
- d) Any structure or structures and land in or on which a nonconforming use is replaced by a permitted use shall thereafter conform to the regulations of the district in which it is located, and the nonconforming use may not thereafter be resumed;
- e) Wherever a nonconforming use of a structure or premise is discontinued or abandoned for twelve (12) consecutive months or for eighteen (18) months during any three (3) year period, the structure or premises shall not thereafter be used except in conformance with the regulations of the district in which it is located;
- f) Where nonconforming use status applies to both structure and land, the removal or destruction of the structure, other than by fire or other peril, shall require use of a new structure and use of the land on which the new structure is built to conform to this Ordinance.

Subd. 6: Repairs and Maintenance. On any building devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs and fixtures, wiring, plumbing or repair or replacement of nonbearing walls, to an extent not exceeding ten percent (10%) of the assessor's estimated market value of the building in any twelve (12) month period, provided that such work does not increase the size of the building. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to safe conditions of any buildings or part thereof declared to be unsafe by any official charged with protecting the public safety upon order of such official.

ORDINANCE 90 - ZONING ORDINANCE

TABLE OF CONTENTS

Section 90.33 PENALTY90.33.1

Section 90.33 PENALTY

If a violator has not complied with an order within thirty (30) days after being served, the violator shall be guilty of a petty misdemeanor. Second and subsequent offenses shall be a misdemeanor. Each day the violation continues unabated shall constitute a separate and distinct offense. Fines for violations are as established by the City Council in Appendix A. The City, at its sole discretion, may enforce any provisions of this Ordinance by mandamus, injunction, or any other appropriate remedy in any court of competent jurisdiction and may require reimbursement of all legal fees required for the enforcement of any provision of this Ordinance from persons found guilty of a violation.

ORDINANCE 90 - ZONING ORDINANCE

TABLE OF CONTENTS

Section 90.34 INTERPRETATION.....90.34.1

Section 90.34 INTERPRETATION

Subd. 1: In their application and interpretation, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and welfare.

Subd. 2: Where the conditions imposed by any provisions of this Ordinance are either more or less restrictive than comparable conditions imposed by any law, Ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

Subd. 3: For purposes of Zoning Ordinance interpretation, uses not specifically listed as permitted, conditional or accessory in any zone shall be treated the same as the most similar use listed in the Ordinance. If there is no similar use, the use is prohibited in the City.

ORDINANCE 90 - ZONING ORDINANCE

TABLE OF CONTENTS

Section 90.35 SEVERABILITY90.35.1

ORDINANCE 90 - ZONING ORDINANCE

Section 90.35 SEVERABILITY

If any section, subsection, sentence, clause, or phrase of this code or its application to any person or circumstance is held invalid by the decision of any court of competent jurisdiction, the remainder of this code, or the application of the provision to other persons or circumstances is in effect and shall remain in full force and effect.