

**CITY OF NEW MUNICH
ZONING ORDINANCE**

**Ordinance 53A
2007**

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ORDINANCE NO. 53A

AN ORDINANCE REPEALING ORDINANCE 53 PREVIOUSLY IN EFFECT PERTAINING TO THE REGULATION OF LAND USES WITHIN THE CITY AND REPLACING IT WITH ORDINANCE 53A; ASSIGNING RULES AND REGULATIONS FOR LAND USES, DEFINING CERTAIN TERMS, PROVIDING FOR AMENDMENTS OF THE ORDINANCE, ESTABLISHING LAND USE DISTRICTS AND AN OFFICIAL MAP AND PRESCRIBING PENALTIES FOR VIOLATIONS.

THE CITY COUNCIL OF THE CITY OF NEW MUNICH DOES ORDAIN:

SECTION 1: TITLE

This Ordinance shall be known as the New Munich Zoning Ordinance, may be cited as such, and will be referred to herein as "this Ordinance."

SECTION 2: PURPOSE

The basic purpose of this Ordinance shall be to achieve the following objectives: To protect the public health, safety and welfare; to protect existing urban development from potential negative effects of conflicting uses, but also to permit broad development opportunities within the community; to prevent excessive population densities and overcrowding of land; to provide and maintain a safe and efficient traffic circulation system; to preserve the area's substantial natural amenities, such as the rivers, lakes, wetlands, bluffs, hills, valleys and woodland; to promote a pleasing visual environment throughout the community, within the urban, rural, commercial, industrial, public, and residential areas; to provide for the protection of access to direct sunlight for solar energy systems; to maintain the small town character of the community; and, to maintain compatibility of land uses.

SECTION 3: SCOPE

In interpreting and analyzing these zoning provisions, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, and general welfare. Whenever the provisions herein require greater standards than are required by any other statute, ordinance or regulations, the provisions of this chapter shall govern. Whenever the provisions of any other statute, ordinance or regulations require greater standards than are required by the provisions herein, the provisions of such statute, ordinance or regulations shall govern.

SECTION 4: ADMINISTRATIVE PROVISIONS

4.01 LEGAL AUTHORITY

This Ordinance is enacted in accordance with authority granted by Minnesota Statutes Section 462.357, as amended.

4.02 GEOGRAPHIC JURISDICTION

The geographic jurisdiction of this Ordinance shall be the entire area within the corporate limits of New Munich, Minnesota. Territory that may be added to the City of New Munich by annexation shall be classified according to the city's adopted Comprehensive Plan.

4.03 INTERPRETATION

- A. **Minimum Requirements.**
In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.
- B. **Where the conditions imposed by any provision of this Ordinance are either more or less restrictive than comparable conditions imposed by other ordinance, rule or regulation of the City, the ordinance, rule or regulation which imposes the more restrictive condition, standard, or requirements shall prevail**
- C. **Existing Uses that Become Conditional Uses.**
Any established use or building legally existing prior to the establishment of this Ordinance and which is now classified as a conditional use may be continued in like fashion and activity and shall automatically be considered as having received conditional use permit approval. Any change to such a use, or any other subsequently approved conditional use shall, however, require a new conditional use permit be processed according to this Ordinance.
- D. **Uses Not Identified.**
Uses not specifically identified in this Ordinance as permitted shall be prohibited. In such case, the City Council, on their own initiative or upon request, may conduct a study to determine if the use is acceptable and if so, what zoning district would be most appropriate and the determination as to conditions and standards relating to development of the use. The City Council or property owner, upon receipt of the staff study shall, if appropriate, initiate an amendment to this Zoning Title to provide for the particular use under consideration or shall find that the use is not compatible for development within the City.

4.04 SEPARATION

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

- A. If any court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgment shall not effect any other provisions of this Ordinance not specifically included in said judgment.
- B. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular property, building, or other structure, such judgment shall not affect the application of said provision to any other property, building, or structure not specifically included in said judgment.

SECTION 5: RULES AND DEFINITIONS

5.01 WORD CONSTRUCTION

For the purposes of this Ordinance, certain words contained herein have the following meanings. Words used in the present tense shall include the future tense; words in the singular number shall include the plural and words in the plural shall include the singular. Other words not included in this Section shall have the meanings customarily associated with them.

5.02 DEFINITIONS

"Abutting" shall mean making contact with or separated only by public thoroughfare, railroad or public right-of-way.

"Accessory Building" shall mean a subordinate building or structure fixed to the earth on the same lot or attached to the principal structure exclusively occupied by or devoted to a use incidental to the main use.

"Accessory Use" shall mean a use subordinate to the principal use on the same lot and customarily incidental to the main use.

"Addition" is an extension or increase in floor area or height of a building or structure.

"Adjacent" shall mean in close proximity to or neighboring, not necessarily abutting.

"Agricultural Building" shall mean a structure constructed on a minimum of ten (10) acres of agricultural land and designed to house farm implements (not a parking garage), livestock (which does include horses and the commercial boarding of horses) and/or "agricultural products". Agricultural buildings shall not be used for human habitation, retail sales, mini-storage, riding lessons, livestock shows, etc however the building can serve as a place of employment for persons working with the agricultural products and those engaged in their pickup or delivery.

"Alley" shall mean a public right of way which affords a secondary means of access to abutting property.

"Animal Feedlot" shall mean a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. Open lots used for feeding and rearing of poultry (poultry ranges) and barns, dairy farms, swine facilities, beef lots and barns, horse stalls, mink ranches and zoos, shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots.

"Animals" "Domestic" shall be defined as house pets such as dogs, cats, and birds which can be contained within a principal structure throughout the entire year, provided that containment can be accomplished without special modification to the structure requiring a building permit from the City. In addition, it includes birds and rabbits normally sheltered outside the home.

"Animals" "Farm" shall be defined as cattle, hogs, bees, sheep, goats, chickens, turkeys, horses and other animals commonly accepted as farm animals in the State of Minnesota.

"Animals" "Wild" shall mean any ape, including chimpanzee, gibbon, gorilla, orangutan, baboon, bear, bison, bobcat, cheetah, crocodile, coyote, deer, including members of the deer family such as elk, antelope and moose, elephant, ferret, fox, hippopotamus, hyena, jaguar, leopard, lion, lynx, monkey, ostrich, puma, also known as cougar, mountain lion or panther, rhinoceros, a snake which is poisonous or non-indigenous, or any constrictor snake, snow leopard, tiger, wolf, or other animal that is wild, ferocious, or vicious by nature, habit, disposition or character.

"Antenna" shall mean any structure or device used to collect or transmit RF waves, including but not limited to directional antennas, such as panels, microwave dishes and satellite dishes, and omni-directional antennas, such as whip antennas. Specific definitions related to antenna follow:

Personal Wireless Service. A device consisting of a metal, carbon fiber, or other electromagnetically conductive rods or elements, usually arranged in a circular array on a single supporting pole or other structure, and used for the transmission and reception of wireless communication radio waves including cellular, personal communication service (PCS), enhanced specialized mobilized radio (ESMR), paging and similar services and including the support structure thereof.

Public Utility Microwave. A parabolic dish or cornucopia shaped electromagnetically reflective or conductive element used for the transmission and/or reception of point to point UHF or VHF radio waves in wireless telephone communications, and including the supporting structure thereof.

Radio and Television, Broadcast Transmitting. A wire, set of wires, metal or carbon fiber rod or other electromagnetic element used to transmit public or commercial broadcast radio or television programming, and including the support structure thereof.

Radio and Television Receiving. A wire, set of wires, metal or carbon fiber element(s), other than satellite dish antennas, used to receive radio, television, or electromagnetic waves, and including the supporting structure thereof.

Satellite Dish. A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses and including the support structure thereof. This definition shall include, but not be limited to, what are commonly referred to as satellite earth stations, TVROs (television receive only) and satellite microwave antennas.

Short-Wave Radio Transmitting and Receiving. A wire, set of wires or a device, consisting of a metal, carbon fiber, or other electromagnetically conductive element used for the transmission and reception of radio waves used for short-wave radio communications, and including the supporting structure thereof.

Support Structure. Any pole, telescoping mast, tower, tripod, or any other structure which supports a device used in the transmitting or receiving of radio frequency energy.

Temporary Mobile. Any mobile tower, pole, or structure located on a trailer, vehicle, or temporary platform intended primarily for the purpose of mounting an antenna or similar apparatus for personal wireless services, also commonly referred to as a Cellular on Wheels (COW).

Tower. A self-supporting lattice, guyed or monopole structure constructed from grade which supports personal wireless service antennas. The term tower shall not include amateur radio operators' equipment, as licensed by the FCC.

"Apartment" shall mean a multi-family building containing dwelling units in a stacked configuration having common walls and floors/ceilings.

"Applicant" shall mean the owner, their agent or person having legal control, ownership and/or interest in land which the provisions of this Chapter are being considered for or reviewed.

"Assisted and Congregate Care Housing" shall mean a multiple dwelling which typically provides at least one meal per day for each of its residents and may include other supportive services including housekeeping, home health care, and transportation.

"Automobile Reduction Yard" shall mean a lot or yard where one or more unlicensed motor vehicles, or the remains thereof, are kept for the purpose of dismantling, wrecking, crushing, sale of parts, sale of scrap, storage or abandonment.

"Automobile Repair, Major" shall mean general repair, rebuilding or reconditioning of engines, motor vehicles or trailers, including body work, framework, welding and major painting service.

"Automobile Repair, Minor" shall mean the: replacement of any part or repair of any part which does not require removal of the engine head or pan, engine transmission or differential; incidental body and fender work, minor painting and upholstery service. Above stated is applied to passenger vehicles but does not include buses, commercial vehicles (semi tractors, trailers, non-tandem axel vehicles), commercial equipment and the like.

"Awning" shall mean an architectural projection that provides weather protection, identity or decoration and is wholly supported by the building to which it is attached. An awning is comprised of a lightweight, rigid skeleton structure over which a covering is attached.

"Balcony" means a floor projecting from and supported by a structure without additional independent supports.

"Basement" shall mean that portion of a building that is partly or completely below grade. A basement shall be considered as a story above grade plane where the finished surface of the floor above the basement is; more than six feet above grade plane, more that six feet above the finished ground level for more than fifty percent of the total building perimeter or more than twelve feet above the finished ground level at any point.

"Bed and Breakfast" shall mean an owner occupied single family residence that provides overnight accommodations to a limited number of visitors for a charge, not to exceed a stay of seven consecutive nights.

"Boarding House" shall mean any dwelling other than the motel or hotel where, by pre-arrangement, meals or lodging are provided for.

"Boundary Lines" shall mean any line indicating the bounds or limits of any tract or parcel of land; also a line separating the various use districts as shown on the Zoning Map.

"Buffer" shall mean a strip of land intended to create a physical and/or visual separation between potentially incompatible uses of land.

"Buildable Area" shall mean that part of the lot remaining after required yards have been provided but not including environmentally sensitive areas, environmentally significant areas, floodways, wetlands, public rights-of-way, surface waters, bluffs and/or areas deeded to the public.

"Building Coverage" shall mean the area of the lot covered by building(s), also referred to as 'building footprint'.

"Building Height" shall mean the vertical distance from grade plane (a reference plane representing the average of finished ground level adjoining the building at exterior walls; where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or where the lot line is more than six feet from the building between the building and a point six feet from the building) to the average height of the highest roof surface.

"Building, Principal" shall mean a building or structure in which is conducted the main or principal use of the lot on which said building or structure is situated.

"Building Setback Line" shall mean the front line of the building or the legally established line which determines the location of the building with respect to the minimum measured distance from the

public right-of-way. Said line shall be measured from the public right-of-way on which the structure fronts.

"Building" shall mean any structure used or intended for supporting or sheltering any use or occupancy.

"Business" shall mean any establishment, occupation, employment or enterprise where merchandise is manufactured, exhibited or sold, or where services are offered for compensation.

"Canopy" shall mean an accessory roof-like structure, which is either attached to or detached from an allowable primary building; which is open on all sides, other than where attached; and, which is located over and designed to provide cover for entrances, exits, walkways, and approved off-street vehicle service areas.

"Cemetery" shall mean a parcel or tract of land used or intended to be used for the burial of the dead including columbariums, crematories, mausoleums and mortuaries when operated within the boundaries of such cemetery.

"Channel" shall mean a natural or artificial depression of perceptible extent, with definite bed and banks to confine and conduct water either continuously or periodically.

"Church" shall mean a building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which buildings and uses are maintained and controlled by a religious body organized to sustain regular public worship.

"City Clerk" shall mean the person designated by the City Council as the Clerk for the City of New Munich.

"City Attorney" shall mean the person or firm designated by the City Council to be the City Attorney for the City of New Munich.

"City Building Official" shall mean the person/firm designated by the City Council to be the City Building Official for the City of New Munich.

"City Council" shall mean the governing body for the City of New Munich.

"City Engineer" shall mean the person/firm designated by the City Council to be the City Engineer for the City of New Munich.

"City Planner" shall mean the person/firm designated by the City Council to be the City Planner for the City of New Munich.

"Clear-Cutting" shall mean the removal of essentially an entire stand of trees and shrubs (i.e. over 60%) in an area except for the removal of nuisance vegetation or removal of trees/shrubs in a non-shoreland area of greater than 50 lineal feet.

"Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used to transport passengers or property if the motor vehicle: has a gross vehicle weight of more than 26,000 pounds; has a towed unit with a gross vehicle weight of more than 10,000 pounds and the combination of vehicles has a combined gross vehicle weight of more than 26,000 pounds; is a bus; is of any size and is used in the transportation of hazardous materials, except for those vehicles having a gross vehicle weight of 26,000 pounds or less and carrying in bulk tanks a total of not more than 200 gallons of liquid fertilizer and petroleum products; or is outwardly equipped and identified as a school bus, except for school buses defined in Mn. Rules, Section 169.01, Subd. 6(5) as may be amended.

"Common Open Space" shall mean any privately owned open space including private parks, nature areas, playgrounds, and trails, including accessory recreational buildings and structures which are an integral part of a development.

"Commercial Use" shall mean any use occurring and permitted within a business or commercial zone.

"Comprehensive Plan" shall mean the Comprehensive Plan of the City of New Munich.

"Conditional Use" shall mean occupations, vocations, skills, arts, businesses, professions, or uses specifically designated in each zoning district, which for the respective conduct or performance in such designated districts may require reasonable, but special, unusual or extraordinary limitations peculiar to the use for the protection, promotion and preservation of the general public welfare, health and safety, and the integrity of the City Comprehensive Plan and for which a conditional use permit is required.

"Conditional Use Permit" shall mean a permit specially and individually issued by the City Council in accordance with procedures specified in this Code and following review and recommendation by the Planning Commission, as a flexibility device to enable the City Council to assign dimensions to a proposed use or conditions surrounding it after consideration of adjacent uses and their functions and the special problems which the proposed use presents.

"Condominium, Housing or Business" shall mean the legal arrangement in which single residential or business units are individually owned but in which the common areas are owned, controlled and maintained through an organization consisting of all the individual owners. Condominium ownership provides design flexibility and the sharing of responsibility through the use of common open spaces that are in addition to private open spaces.

"Day Care Home, Group" shall mean any residence or portion of a residence licensed by the Department of Human Services under chapter 9502 as may be amended for no more than 14 children at any one time, and must meet Group R, Division 3 occupancy requirements.

"Day Care, Group facility" shall mean a public or private establishment, which for financial gain or other purpose regularly provides persons with care, training, supervision, habilitation, rehabilitation or developmental guidance on a regular basis, for periods of less than 24 hours per day, in a place other than the person's own home for persons of school age or older.

"Day Care, Home Family" means a residence or portion of a residence licensed by the Department of Human Services under chapter 9502 as may be amended for no more than ten children at one time of which no more than six are under school age, and must meet Group R, Division 3 occupancy requirements.

"Deck" shall mean an exterior floor supported on at least two opposing sides by an adjacent structure, and/or posts, piers or other independent supports.

"Development Plan" shall mean a plan guiding the development of the property to the ultimate land use. The plan shall include but is not limited to: site analysis information, staging plan, grading plan, drainage plan and end use plan.

"Display, Outside or Outdoor" shall mean a class of storage outside the principal building where merchandise is visible and may involve active sales as well as passive sales (where items can be taken inside for actual purchase). Outside display of merchandise may be temporary or permanent depending upon the conditions of the permit issued pursuant to this Chapter.

"District" shall mean a section of the City for which the regulations governing the use of buildings and premises, the height of buildings, the size of yards, the intensity of use are uniform for each class of use therein.

"Dog Kennel, Residential" shall mean any premises where no more than two (2) dogs over six (6) months of age are kept.

"Draining" shall mean the removal of surface water or ground water from land.

"Dredging" shall mean to enlarge or clean out a waterbody, watercourse, or wetland.

"Drive-in or Drive-thru Facility" shall mean an establishment which accommodates the patron's automobile from which the occupants may receive a service or in which products purchased from the establishment may be consumed on or off of the site.

"Duplex" see 'Dwelling Unit, Two-Family'.

"Dwelling Unit, Apartment" shall mean a building designed with three (3) or more dwelling units exclusively for occupancy by three (3) or more families living independently of each other, but sharing hallways and main entrances and exits.

"Dwelling Unit, Single-Family" shall mean a dwelling unit designed exclusively for occupancy by one (1) family. A single-family dwelling unit may be of one of two types:

"Dwelling, Single family, Attached" shall mean a dwelling which is joined to another at one or more sides by a common vertical wall and so designed as to supply each unit separate ingress/egress. Attached units may be of row or town house types as opposed to multiple dwelling apartment structures. Attached units and/or lots may be owned or rented.

"Dwelling, Single family, Detached" shall mean a dwelling unit not attached to another. No single structure shall contain in excess of six single family dwelling units.

"Dwelling Unit, Townhome" shall mean a single-family dwelling unit constructed in a group of three or more attached units in which each unit extends from foundation to roof and with open space on at least two sides.

"Dwelling Unit, Two-Family" shall mean a dwelling designed exclusively for occupancy by two (2) families living independently of each other but sharing common ingress/egress such as a double bungalow (a two-family dwelling with two (2) units side-by-side) or a duplex (a two-family dwelling with one (1) unit above the other).

"Dwelling Unit" shall mean any building or portion thereof which is designed or used exclusively for residential purposes including permanent provisions for living, sleeping, eating, cooking and sanitation. This term is inclusive of one-family, two-family and multiple family dwellings, but shall not include hotels, motels, boarding houses or recreation campers/vehicles/trailers.

"Dwelling, Zero Lot Line" shall mean single-family dwellings attached by a common wall in such a manner that the common/party wall is located on the common lot line (e.g. twin home).

"Earth Berm (House Construction)" shall mean an earth covering on the above grade portions of the building walls.

"Earth sheltered building" shall mean a building constructed so that more than 50 percent of the exterior surface area of the building, excluding garages or other accessory buildings, is covered with earth and the building code standards are satisfied. Earth covering is measured from the lowest level of the livable space in residential units and of usable space in non-residential buildings. An earth sheltered building is a complete structure that does not serve just as a foundation or sub-structure for above grade construction. Partially completed buildings shall not be considered earth sheltered.

"Easement" shall mean a temporary or permanent grant by a property owner for the use of a strip or area of land, from the ground to the sky, for purposes including but not limited to the constructing and maintaining of utilities, sanitary sewer, water mains, electric lines, telephone lines, storm sewer or storm water drainageway, and gas lines.

"Efficiency Apartment" shall mean a dwelling unit consisting of one (1) principal room exclusive of bathroom, hallway, closets, or dining alcove.

"Engineer" shall mean an electrical, mechanical, civil, or other professional engineer licensed by the State of Minnesota.

"Entertainment, Live" shall mean a show or presentation involving an actual in person appearance or performance, rather than one which has been filmed or recorded.

"Erosion" shall mean the wearing away of land surface by the action of natural elements.

"Essential Services" shall mean the erection, construction, alteration or maintenance of underground and overhead gas, electrical, steam or water distribution systems; collector, communication, supply or disposal systems including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants or similar equipment and accessories in conjunction therewith by public utilities, municipalities or other governmental agencies.

"Essential Service Structures" shall mean structures and buildings necessary for the operation of essential services, including but not limited to: telephone buildings, telephone booths, gas regulator stations, substations, electrical stations, water tanks, lift stations. Essential service structures shall not include transmission/reception antennas.

"Excavation" shall mean the removal, filling with, or storage of rock, sand, dirt, gravel, clay or other like materials.

"Exterior Storage" shall mean the storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.

"Exterior wall finish" shall mean a material or assembly of materials applied on the exterior side of exterior walls for the purpose of providing a weather resisting barrier, insulation or for aesthetics, including veneers, siding, exterior insulation and finish systems, architectural trim and embellishments such as cornices, soffits, fascias, gutters and leaders.

"Extractive Use" shall mean the use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, peat and/or similar materials.

"Face brick" shall mean a masonry building block or clay baked in a kiln until hard.

"Family Care Home" shall mean a residential structure typical of those in the neighborhood having a maximum of six residents needing the adult care and supervision of a "supervised residential program" or "social rehabilitation program," plus a minimum of two or more adults who operate the dwelling unit as a family home. The family care home typically may be a single-family detached dwelling, attached townhouse, rental or owned apartment, or similar unit to those of the immediate neighborhood where it is located. The unit must be acceptable to the licensing requirements of the state, federal government or other governmental licensing agency and the Minnesota Uniform Building Code.

"Family" shall mean an individual or two or more persons related by blood, marriage, legal adoption or legal guardianship, living together as one housekeeping unit using one kitchen and providing meals or lodging to not more than five unrelated persons living together as one housekeeping unit using one kitchen.

"Farming" shall mean the cultivating or pasturing of a parcel of land and the raising of domestic livestock or fowl for commercial purposes. It can include retail sale of goods produced on the premises - for example plant nurseries and vegetable stands could qualify but not if they sell shipped in goods.

"Fence" shall mean any partition, structure, wall or gate erected as a dividing mark, barrier or enclosure.

"Filling" shall mean the act of depositing any rock, soil, gravel, sand or other material so as to fill a waterbody, watercourse or wetland.

"Flood Areas" shall mean land which is subject to either permanent or temporary flooding from any cause whatsoever. This shall include lands which are flooded by overflowing streams, rivers or lakes or by heavy rainstorms or seasonal runoff. See Flood Plain Management Ordinance.

"Flood Fringe" shall mean that portion of the flood plain outside of the floodway.

"Flood" shall mean a temporary rise in stream flow or stage that results in inundation of the area adjacent to the channel.

"Floodplain" shall mean the channel or beds proper and areas adjoining a watercourse which have been or hereafter may be covered by a regional flood. Floodplain areas within the City shall encompass all areas designated as such by the Federal Emergency Management Agency.

"Floodway" shall mean the channel of a watercourse, bed of a wetland or lake, and those portions of the adjoining floodplains reasonably required to carry and discharge a regional flood.

"Floor Area, Gross" shall mean the floor area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, closets, the thickness of interior walls, columns or other features. The floor area of a building or portion thereof not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts.

"Floor Area, Net" shall mean the actual occupied area not including unoccupied accessory areas such as corridors, stairways, toilet rooms, mechanical rooms and closets.

"Frontage" see "Lot, Front".

"Garage, Commercial" shall mean any premises, except those described as a private or storage garage, used for the storage or care of power driven vehicles or where any such vehicles are equipped for operation, repaired or kept for remuneration, hire or sale.

"Garage, Private" shall mean a garage with a capacity of not more than four (4) power driven vehicles for storage only, and which is erected as an accessory to a dwelling.

"Garbage" shall mean animal and vegetable wastes and other wastes or putrescent matter including but not limited to grease, wrappings, shells, grounds, bones, entrails, and similar materials resulting from the handling, preparation, cooking, service and consumption of food, and other animal wastes.

"Garden Center" shall mean a place of business where retail and wholesale products and produce are sold to the retail customer. These centers, which may include a nursery and/or greenhouses, import the majority of the items sold. These items may include plants, nursery products and stock, fertilizers, potting soil, hardware, power equipment and machinery, hose, rakes, shovels, and other garden and farm tools and utensils.

"Garden/utility building/shed" shall mean a structure on the same lot as the principal building and used for storage of miscellaneous articles specifically excluding automobiles. A utility building shall contain not more than one-hundred and twenty (120) square feet inside area.

"Grade Plane" shall mean a reference plan representing the average of finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or where the lot line is more than six (6) feet from the building between the building and a point six feet from the building.

"Grading" shall mean changing the natural or existing topography of land.

"Greenhouse" shall mean an enclosed building, permanent or portable, which is used for the growing of small plants.

"Hardship" as used in connection with the granting of a variance shall mean: the property in question cannot be put to a reasonable use if used under conditions allowed by this Ordinance, 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. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under terms of the official controls.

"Height" shall mean the vertical distance from grade plane (a reference plane representing the average of finished ground level adjoining the building at exterior walls) to the average height of the highest roof surface. Chimneys, church steeples, towers, aeriels, flagpoles and similar objects not used for human occupancy are not subject to the building height limitations of this ordinance.

"Home Occupation" shall mean an occupation or profession normally and customarily carried on in a dwelling unit primarily by members of the family residing in the dwelling unit. The home occupation shall be clearly incidental to the use of the structure as a dwelling. A maximum two (2) square foot sign stating the name and address of the home occupation shall be the only indication that the structure is used for other than residential use. Home occupations shall be operated in accordance with regulations specified within this Ordinance.

"Home Office" shall mean a home occupation consisting of a room or group of rooms used for conducting affairs of a recognized business, profession or service solely by the occupant of the dwelling and which does not involve the on-site sale of products or client/patron site visitations.

"Hydric Soils" shall mean soils that are saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

"Impervious Surface" shall mean an artificial or natural surface through which water, air, or roots cannot penetrate.

"Institution" shall mean a building occupied by a non-profit corporation or a non-profit establishment for public use.

"Junk Yard" shall mean an area where used, waste, discarded or salvaged material is disassembled, including but not limited to scrap iron and other metal, paper, rags, rubber products, bottles and lumber. Storage of such material in conjunction with a permitted manufacturing process when within an enclosed area of building shall not be included.

"Land Disturbing Activity" shall mean any change of the land surface including removing vegetative cover, excavating filling, grading and the construction of any structure.

"Land Reclamation" shall mean the process of the re-establishment of acceptable topography (i.e. slopes), vegetative cover, soil stability and the establishment of safe conditions appropriate to the subsequent use of the land.

"Land Surveyor" shall mean such persons licensed by the State of Minnesota as a land surveyor.

"Landscaping" shall mean plantings such as trees, flowers, grass and shrubs and improvements directly related thereto.

"Landscape Materials" shall mean trees, shrubs and vines, sod, grass seed and other similar entities.

"Licensed Residential Facility" shall mean a facility as defined under Minnesota Statutes 245A.02, as amended.

"Lighting, Glare" shall mean direct light emitted from a light source which causes eye discomfort.

"Light Trespass" shall mean the shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

"Lighting, Luminary" shall mean a complete lighting unit consisting of a light source and all necessary mechanical, electrical and decorative parts.

"Loading Berth/Dock" shall mean an unobstructed area provided and maintained for the temporary parking of trucks and other motor vehicles for the purpose of loading and unloading goods, wares, materials and merchandise.

"Lodge" shall mean a building operated by a fraternal or veteran's organization that is qualified as tax exempt under the Internal Revenue Code, operated for the use of members and guests while in the company of a member.

"Lot" shall mean a parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means, separated from other parcels or portions by said description for the purpose of sale, lease, or separation, and occupied or used or intended for occupancy or use by an individual principal permitted use in this Code abutting on a public street, equipped with sanitary facilities and with sufficient size to provide the yards required by this Code.

"Lot area" shall mean the total horizontal area within the lot lines of a lot exclusive of streets and easements of access to other property.

"Lot area, average" shall mean an alternative means of calculating required lot area when neighboring properties do not conform to a required lot area prescribed within the applicable zoning classification. When neighboring properties are non-conforming with lot area requirements the average lot area shall be determined by the Zoning Officer. When determining the average lot area, the Zoning Officer shall calculate the average area of the four existing lots that are closest to the subject property on the same side of the block. If there are fewer than four lots on the same side of the block the average of the two closest lots on the same side of the block shall be used for this calculation. When only one adjacent lot exists on the same side of the block the minimum lot area shall be the average of the required lot area and the actual area of the adjacent lot. The minimum lot area shall be the lesser of either the area prescribed within the zoning classification or the average lot area as calculated by the Zoning Officer.

"Lot, Buildable Area" shall mean that part of the lot remaining after required yards have been provided but not including floodways, wetlands, public rights-of-way, surface waters, bluffs and/or areas deeded to the public.

"Lot, corner" shall mean a lot abutting on two or more streets other than an alley at their intersection.

"Lot, Coverage" shall mean the part or percentage of the lot occupied by buildings, structures and/or impervious surfaces, including accessory building/structures, parking lots, driveways, tennis courts etc.

"Lot Depth" shall mean the shortest horizontal distance between the front lot line and the rear lot line measured from the street right-of-way within the lot boundaries.

"Lot, Double Frontage (Through Lot)" shall mean a lot having a frontage on two non-intersecting streets, as distinguished from a corner lot.

"Lot Frontage" shall for purposes of complying with this Ordinance, be that boundary abutting a public right-of-way having the least width.

"Lot, Interior" shall mean a lot, other than corner lot, including double frontage lots.

"Lot, Line - Front" shall mean that boundary of a lot which abuts an existing or dedicated public street, and in the case of a corner lot, it shall be the shortest dimension on a public street.

"Lot, Line - Rear" shall mean that boundary of a lot which is opposite the front lot line. If the rear lot line is less than ten feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten feet in length within the lot connecting the side lot lines and parallel to the front lot line.

"Lot, Line - Side" shall mean any boundary of a lot which is not a front lot line or a rear lot line or a lot line along a public street.

"Lot line" shall mean the property line bounding a lot.

"Lot of Record also known as a Base Lot" shall mean a part of a subdivision approved by the city, the plat of which has been duly recorded in the office of the Register of Deeds or Registrar of Titles, prior to the adoption of this Ordinance which meets the minimum requirements of state law and all city ordinances in effect upon the date of the recording.

"Lot, Standard" shall mean a lot which meets the minimum lot area and lot width requirements as specified by the applicable zoning use district(s).

"Lot, Unit" shall mean lots created from the subdivision of a twin home, townhouse or quadraminium having different minimum lot size requirements than the conventional base lots within the zoning district.

"Lot Width" shall mean the distance measured between lot lines, parallel to the front lot line at the minimum required front yard setback.

"Manufactured Home Park" shall mean any site, lot, field or tract of land upon which two (2) or more occupied manufactured homes are located, either free of charge or for compensation, and includes any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of the manufactured home park.

"Manufactured Home" shall mean a structure, transportable in one 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 twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the structure's plumbing, heating, air conditioning and electrical systems. The term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary and complies with the standards established under this Code and which meets the Manufacture Home Builders Code as defined in Minnesota Statutes 327.32, subdivision 3, as amended.

"Manufacturing" shall mean combining machinery, tools, power and labor to bring material closer to a final state.

"Manufacturing, Heavy" shall mean the manufacture, compounding, processing, packaging, treatment or assembly of products and materials that may emit objectionable, hazardous and/or offensive influences; including but not limited to: odors, material/byproduct discharges, dust, glare, ash, smoke, vibration and noise beyond the lot on which the use is located.

"Manufacturing, Light" shall mean uses which include the manufacture, compounding, processing, packaging, treatment or assembly of products and materials provided such use will not generate objectionable and/or offensive influences; including but not limited to: odors, material/byproduct discharges, dust, glare, ash, smoke, vibration and noise beyond the lot on which the use is located.

"Marquee" shall mean a permanent canopy and roof structure which is attached to and supported by a primary building; which is constructed of durable material compatible with the primary structure; and which projects over the entrance to the building.

"Medical and Dental Clinic" shall mean a structure intended for providing medical and dental examinations and service available to the public. This service is provided without overnight care available.

"Metes and Bounds Description" shall mean a description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearings and distances of the lines forming the boundaries of the property or delineating a fractional portion of a section, lot or area by described lines or portions thereof.

"Minerals" shall mean soil, clay, stone, sand and gravel and other similar solid material or substance to be mined from natural deposits.

"Mining" shall mean all or part of the process involved in the extraction of minerals by removing the overburden and extracting directly from the mineral deposits thereby exposed in the amount of 400 cubic yards or more and involving removal of said material from the site.

"Modular Home" shall mean a non-manufactured housing unit that is fabricated at a central factory and transported to a building site where final installations are made permanently affixing the module to the site.

"Motel" shall mean two (2) or more attached, detached or semidetached buildings containing guestrooms or apartments, designed, intended or used for the accommodation of automobile travelers; including auto cabins, motor lodges, motor courts, automobile courts and similar designations.

"Motor Freight Terminal (Truck Terminal)" shall mean a building in which freight brought by motor truck is assembled and sorted for routing in intra-state and inter-state shipment.

"Motor Fuel Station" shall mean any building or premises used for the dispensation, sale or offering for sale at retail of any motor fuels, oils or lubricants. When the use is incidental to the conduct of a public garage, the premises shall be classified as a public garage.

"Multiple Family Residential" shall mean any dwelling which is jointed to another dwelling typically at two or more sides by a common wall(s) and featuring a shared ingress/egress facility(ies), hallways and other common areas.

"Municipality" shall mean the governmental unit or area described in and governed by this Ordinance. The term shall include unincorporated as well as incorporated areas.

"Natural Drainage Area; Course" shall mean all land surface areas which by nature of their contour configuration, collect, store and channel surface water runoff.

"Non-conforming Structure" shall mean any lawfully established structure which on the effective date of this Ordinance does not conform to the applicable conditions if the structure was to be erected under the guidance of this Ordinance.

"Non-Conforming Use" shall mean a use lawfully in existence on the effective date of this Ordinance but not conforming to the regulations for the district in which it is situated except as modified elsewhere in this Ordinance.

"Noxious Matter or Material" shall mean material capable of causing injury to living organisms by chemical reaction, or capable of causing detrimental effects on the physical or economic well being of individuals.

"Nursing Home (Rest Home)" shall mean a building having accommodations where care is provided for two (2) or more invalids, infirmed, aged convalescent or physically disabled persons that are not of the immediate family; but not including hospitals, clinics, sanitariums, or similar institutions.

"Nursery, Landscape" shall mean an enterprise which conducts the retail and wholesale sale of plants grown on the site, as well as accessory items directly related to their care and maintenance. The accessory items normally sold include clay pots, potting soil, fertilizers, insecticides, hanging baskets, rakes, and shovels and the like, but do not include power equipment such as gas or electric lawnmowers and farm implements.

"Occupancy" shall mean the purpose for which a building is used or designed. The term shall also include the building or room housing such use. Change of occupancy is not intended to include change of tenants or proprietors.

"Office Building" shall mean a building designed or used primarily for office purposes, no part of which is used for manufacturing or for dwelling.

"Offices, Professional or Commercial" shall mean a building or portion of a building wherein services are performed involving predominantly administrative, professional or clerical operations.

"Off-Sale Liquor" shall mean an establishment that sells intoxicating alcoholic beverages for consumption off the premises.

"Off-Street Loading" shall mean a space accessible from the street, alley or way, in a building or on the lot, for the use of trucks while loading or unloading merchandise or materials.

"On-Sale Liquor" shall mean an establishment that serves intoxicating alcoholic and/or non-intoxicating beverages for consumption on the premises.

"Open Sales Lot" shall mean land devoted to the display of goods for sale, rent, lease, advertising or trade, where the goods are not enclosed within a building.

"Open Space" shall mean any open area not covered by structures, including but not limited to the following uses: required or established yard areas, sidewalks, trails, recreation areas, water bodies, shorelands, watercourses, wetlands, ground water recharge areas, floodplain, floodway, flood fringe, erodible slopes, woodland, and soils with severe limitation for development.

"Open Space, Private" shall mean any open space owned by a person or persons.

"Open Space, Public" shall mean any open space publicly owned.

"Ordinary High Water Level" shall mean the elevation of the boundary of public waters, watercourses and wetlands delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominately terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel.

"Outlot" shall mean a parcel of land, included in a plat, which is smaller than the minimum size permitted for lots and which is thereby declared unbuildable until combined through platting with additional land; or, a parcel of land which is included in a plat and which is at least double the minimum size and which is thereby subject to future platting prior to development; or a parcel of land which is included in a plat and which is designated for public or private open space, right-of-way, utilities or other similar purposes.

"Owner" shall mean a person recorded as such on official records. The owner of property on which a Sign is located is presumed to be the owner of the Sign unless facts to the contrary are officially recorded or otherwise brought to the attention of the City Clerk/Treasurer, e.g., a Sign leased from a sign company.

"Parcel" shall mean a lot, piece or portion of land designed by metes and bounds, registered land survey, auditor's plat or other means separated from other parcels and portions by said description for the purpose of separation thereof.

"Park, Private" shall mean a tract of land presently owned or controlled and used by private or semi-public persons, entities, groups, etc. for active and/or passive recreational purposes.

"Park, Public" shall mean a tract of land publicly owned and used by the public for active and/or passive recreational purposes.

"Parking Lot" shall mean three or more parking spaces, along with the driveway connecting the parking spaces to the street or alley and permitting satisfactory ingress and egress of an automobile and the driving lane between or servicing the parking spaces.

"Parking Space" shall mean an area of not less than one hundred eighty (180) square feet net, exclusive of access or maneuvering area, to be used exclusively as a temporary storage space for one private motor vehicle.

"Patio" shall mean a level, surfaced area directly adjacent to a principal building at or within three (3) feet of the finished grade, without a permanent roof which is intended for outdoor lounging, dining and the like.

"Patio Home" shall mean a single family attached or detached unit and structure consisting of a one level living area.

"Performance Standard" shall mean criteria established to control height, bulk, setback, land coverage and density of buildings as well as noise, odor, toxic or noxious matter, vibration, fire, explosive hazards or glare or heat generated by or inherent in uses of land or buildings.

"Permitted Use" shall mean a use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations, and performance standards (if any) of such districts.

"Person" shall mean any individual, corporation, firm, partnership, association, organization or other group acting as a unit. It also includes any executor, administrator, trustee, receiver or other representative appointed by law. Whenever the word "person" is used in any section prescribing a penalty or fine, it shall include partners, associates, or members of a corporation, who are responsible for the violation.

Planned Unit Development. A residential development where dwelling units are grouped into clusters, allowing an appreciable amount of land for open space in accordance with a prearranged site plan and where the common open space is owned by the homeowners and usually maintained by a homeowners association.

"Planning Commission" shall mean the New Munich Planning Commission.

"Plat" shall mean a drawing or map of a subdivision, meeting all the requirements of the City and in such form as required by Stearns County for purposes of recording.

"Premises" shall mean a lot or plot with the required front, side and rear yards for a dwelling or other use as allowed under this Ordinance.

"Principal Building" shall mean the primary building on a lot.

"Principal Use" shall mean the main use of land or buildings as distinguished from subordinate or accessory uses. A "principal use" may be either permitted, interim, or conditional.

"Processing" shall mean the crushing, washing, compounding or treating of rock, sand, gravel, minerals, organic materials, organic compounds, artificially created materials or materials similar in nature.

"Property Owner" see 'Owner'.

"Protected Waters" shall mean any waters of the state which serve a beneficial public purpose, as defined in Mn. Statutes. However, no lake, pond or flowage of less than ten acres in size and no river or stream having a total drainage area less than two square miles shall be regulated for the purpose of these regulations. A body of water created by a private user where there was no previous shoreland, as defined herein, for a designated private use authorized by the Commissioner of Natural Resources shall be exempt from the provisions of this chapter. The official determination of the size and physical limits of drainage areas of rivers and streams shall be made by the Commissioner of Natural Resources. The official size of lakes, ponds or flowages shall be the areas listed in the Division of Waters Bulletin 25, "An Inventory of Minnesota Lakes," or in the event that lakes, ponds or flowages are not listed therein, official determination of size and physical limits shall be made by the Commissioner of Natural Resources in cooperation with the municipality.

"Protective Covenants" shall mean contracts entered into between all owners and holders of mortgage constituting a restriction on the use of property within a subdivision for the benefit of the property owners, and providing mutual protection against undesirable aspects of property value and economic integrity of any given area.

"Public Hearing" unless otherwise specifically redefined, a public hearing shall be pursuant to a notice published once in the official newspaper of the city at least ten days prior to the date of the hearing, which notice shall specify the general purpose, time and location of the hearing. Any hearing, after publication, may be continued, recessed or adjourned, from time to time, without further publication or notice thereof.

"Public Use" shall mean uses owned or operated by municipal, school districts, county, state, or other governmental units.

"Public Utility" shall mean any person, firm, corporation, municipal department or board fully authorized and furnishing under municipal regulation to the public electricity, gas, steam, communication services, cable television, telegraph services, transportation, water or the like.

"Publication" shall mean a notice placed in the official city newspaper stating time, location and date of meeting and description of topic.

"Residential Care Facility" shall mean a residential dwelling typical of those in the neighborhood having from 7 to 16 residents needing the adult care and supervision of a supervised residential program or social rehabilitation program plus a minimum of one adult supervisor for every four residents.

"Residential District" shall mean a zoning classification primarily providing for dwelling units.

"Residential Facility, State Licensed" shall mean any program, defined by Minnesota Statutes Section 245A.10, Subd. 14, that provides twenty-four (24) hour a day care, supervision, food, lodging, rehabilitation, training, education, habilitation, or treatment outside a person's own home, including a nursing home or hospital that receives public funds, administered by the Commissioner of the Department of Human Services to provide services for five (5) or more persons whose primary diagnosis is mental retardation or a related condition or mental illness and who do not have a significant physical or medical problem that necessitates nursing home care; a program in an intermediate care facility for four (4) or more persons with mental retardation or a related condition; a nursing home or hospital that was licensed by the Commissioner of the Department of Human Services on July 1, 1987, to provide a program for persons with a physical handicap that is not the result of the normal aging process and considered to be a chronic condition; and chemical dependency or chemical abuse programs that are located in a hospital or nursing home and receive public funds for providing chemical abuse or chemical dependency treatment services under Minnesota Statutes 254B. Residential programs include home and community-based services for persons with mental retardation or a related condition that are provided in or outside of a person's own home

"Residential Shelter" shall mean a facility providing short-term housing, food, and protection for individuals, not including State licensed residential care facilities, community correctional facilities, day care facilities, hotels, motels, or nursing homes.

"Rest Home", "Nursing Home" and "Boarding Care Home" shall all mean an institutional building used to provide care for the aged or infirm persons requiring or receiving personal care or custodial care according to the State Board of Health regulations.

"Restaurant" shall mean an establishment that serves food.

"Right-Of-Way" shall mean land acquired by reservation or dedication intended for public use, and intended to be occupied or which is occupied by a street, trail, railroad, utility lines, oil or gas pipeline, water line, sanitary sewer, storm sewer or other similar uses.

"Roof Line" shall mean that line at which an exterior wall surface of a building departs from the vertical plane and, typically, where the horizontal plane of the roof commences. Mansard-like roof treatments may be considered as extensions of a building wall surface when the mansard-like treatment is considered as part of the roof.

"Satellite Dish Antenna" shall mean a parabolic shaped Antenna (including all supporting apparatus) located on the exterior of, or outside of, any building or structure and is used for receiving telecommunications, television or radio signals.

"School" shall mean a building used for the purpose of elementary or secondary education, which meets all the requirements of compulsory education laws of the State of Minnesota, and not providing residential accommodations.

"Screening" shall mean an artificial barrier, vegetation, or topography which makes any structure on any property visually inconspicuous.

"Secondary Use" shall mean a use of land or of a building or a portion thereof which is subordinate to and does not constitute the primary use of the land or building.

"Semi-Public (Semi-governmental) Use" shall mean the use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization such as churches, private schools, etc.

"Setback" shall mean the minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, the top of a bluff, road, highway, property line, or other facility. Distances are to be measured from the most outwardly extended portion of the structure at ground level.

"Setback, average" shall mean an alternative means of calculating a required setback when neighboring properties do not conform to a required setback prescribed within the applicable zoning classification. When neighboring properties are non-conforming with a setback the minimum setback shall be the average setback of the adjacent structures. The average setback shall be determined by the Zoning Officer based on the setbacks of each principal structure that is built within the required setback as prescribed by the applicable zoning classification. When determining the average setback, the Zoning Officer shall calculate the average of the existing setbacks of the four structures that are closest to the subject property on the same side of the block. If there are fewer than four structures on the same side of the block the average of the two closest structures on the same side of the block shall be used for this calculation. When only one adjacent structure exists on the same side of the block the minimum setback shall be the average of the required setback and the setback of the adjacent structure. The minimum setback shall be the lesser of either the setback prescribed within the zoning classification or the average front yard setback as calculated by the Zoning Officer.

"Sewage Treatment Facility (Independent or Cluster)" shall mean a septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Minnesota Pollution Control Agency's document titled "Individual Sewage Treatment Systems Standards, Chapter 7080."

"Sewer System (Municipal, Public, Urban)" shall mean pipes or conduits, pumping stations, and force main, and all other constructions, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

"Sexually Oriented Business" shall mean an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

"Shopping Center" shall mean a group of commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements.

"Shore Impact Zone" shall mean land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback.

"Shoreland" shall mean land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond or flowage; and 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream whichever is greater. The shoreland limits may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner.

"Showroom" shall mean any business wherein a family of related products and/or services are housed, enclosed, sold and exhibited directly to the customer or to other businesses.

"Sign, Abandoned" shall mean a sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product or activity and/or for which no legal owner can be found.

"Sign, Area Identification" shall mean a freestanding sign or pylon which identifies the name of a neighborhood, a residential subdivision, a multiple-residential complex consisting of three (3) or more structures, a shopping center consisting of three (3) or more separate business concerns or an industrial area consisting of three (3) or more structures.

"Sign, Banner" shall mean a sign made of fabric, or any nonrigid material with no enclosing framework.

"Sign, Business" shall mean a sign which directs attention to a business or profession conducted, or to a commodity, service or entertainment sold or offered on the premises on which the Sign is located or to which it is affixed.

"Sign, Campaign" see 'Sign, Political'.

"Sign, Construction" shall mean a temporary sign identifying an architect, contractor, subcontractor, and/or material supplier participating in construction on the property on which the sign is located.

"Sign, Directional/Informational" shall mean an on-premises sign giving directions, instructions, or facility information and which may contain the name or logo of an establishment but no advertising copy, e.g., parking or exit and entrance signs. The sign may contain a logo if the logo does not compromise more than thirty percent (30%) of the total sign area.

"Sign, Directional" shall mean a sign erected on public or private property which bears the address and/or name of a business, institution, church or other use or activity plus directional arrows or information on location.

"Sign, Electrical" shall mean a sign or sign structure in which electrical wiring, connections, or fixtures are used.

"Sign, Flashing" shall mean any illuminated sign on which such illumination is not kept stationary or constant in intensity or in color at all times when such sign is in use.

"Sign, Freestanding" shall mean a sign supported permanently upon the ground by poles or braces and not attached to any building.

"Sign, Government" shall mean any temporary or permanent sign erected and maintained by the City, county, state, or federal government for traffic direction or for designation of or direction to any school, hospital, historical site, or public service, property or facility.

"Sign, Identification" shall mean any sign which states the name or address or both of the business or occupant of the lot or building where the sign is placed and may be a directory listing the names, addresses, and businesses of occupants.

"Sign, Illegal" shall mean a sign which does not meet the Code's requirements and which has not received legal nonconforming status.

"Sign, Illuminated" shall mean a sign with an artificial light source incorporated internally or externally to illuminate the sign.

"Sign, Institutional" shall mean a sign or bulletin board which identifies the name and other characteristics of a public or private institution on the site where the sign is located.

"Sign, Maintenance" shall mean the cleaning, painting, repair or replacement of defective parts of a sign in a manner that does not alter the sign's basic copy, design, or structure.

"Sign, Off-Premises" shall mean a sign which does not pertain to the use of the premises and/or property on which it is located.

"Sign, Political" shall mean a temporary sign used in connection with a local, State, or national election or referendum.

"Sign, Portable" shall mean any sign designed to be moved easily and not permanently affixed to the ground, a structure or a building.

"Sign, Projecting" shall mean a sign, other than a flat wall sign, which is attached to and projects from a building wall or other structure not specifically designed to support the sign.

"Sign, Pylon" shall mean a ground sign erected upon a single post or posts or shafts that converge at a common base with the posts not more than fifteen feet (15') apart with the display portion mounted on top thereof at least twelve feet (12') above the surface of the street adjacent to the property on which the sign is located.

"Sign, Real Estate" shall mean a temporary sign advertising the real estate upon which the sign is located as being for rent, lease or sale.

"Sign, Subdivision Identification" shall mean a freestanding or wall sign identifying a recognized subdivision, condominium complex, or residential development.

"Sign, Surface Area" shall mean the entire area within a single continuous perimeter enclosing the extreme limits of the actual sign surface, not including any structural elements outside the limits of such sign and not forming an integral part of the display.

"Sign, Temporary" shall mean a sign not constructed or intended for long-term use.

"Sign, Wall" shall mean a sign attached essentially parallel to and extending not more than twenty four inches (24") from the wall of a building with no copy on the sides or edges. This definition includes painted, individual letter, and cabinet signs, and signs on a mansard.

"Sign" shall mean any device, structure, fixture, or placard using graphics, symbols, and/or written copy for the primary purpose of identifying, providing directions, or advertising any establishment, product, goods, or services.

"Site Plan" also known as plot plan shall mean a map drawn to scale depicting the development of a tract of land, including, but not limited to, the location and relationship of structures, streets, driveways, recreation areas, parking areas, easements, utilities, landscaping, and walkways, as related to a proposed development.

"Sketch Plan" shall mean a rough sketch map and supportive text depicting the location, general purpose, general type of land use and circulation pattern, primary relationships between site elements and between the proposed development and surrounding development, proposed general schedule of development, and information on the proposed developer.

"Slope" shall mean the degree of deviation of a surface from the horizontal, usually expressed in percent or degrees.

"Slope, Steep" shall mean slopes exceeding eighteen (18) percent in grade as measured over horizontal distances of fifty (50) feet or more, that are not bluffs.

"Stand, Roadside" shall mean a structure used only for the display and sale of products with no space for customers within the structure.

"Storage, Outside (Exterior)" shall mean an exterior depository, stockpiling, or safekeeping of materials, products, vehicles, trailers and the like. Outside storage may be enclosed by a structure that includes a roof, but no side walls, in which case the structure shall be deemed outside storage; or outside storage may involve fencing or screening without a roof in which case fencing or screening shall be deemed outside storage. Parking lots do not qualify for outside storage. Outside

storage does not involve any product representation or signage except for those emergency or safety related signs specifically approved by the City. Vending machines accessory to allowable uses do not constitute outside storage. The parking or storage of vehicles, equipment, and merchandise for a period of less than ninety-six (96) hours does not constitute outside storage.

"Story" shall mean the vertical distance from top to top of two successive finished floor surfaces; and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

"Street" shall mean all property dedicated or intended for public street, highway, freeway or roadway purposes and subject to public easements theretofore.

"Street, Arterial" shall mean the functional classification of streets that places the highest emphasis on mobility as opposed to land access.

"Street, Collector" shall mean the functional classification of streets that places moderate emphasis on mobility and moderate emphasis on land access.

"Street, Local" shall mean the functional classification of streets that places low emphasis on mobility and high emphasis on land access.

"Structure" shall mean something constructed or built, or a piece of work artificially built up or composed of parts joined together in some definite manner.

"Structural alteration" shall mean a change to the supporting members of a structure including foundations, bearing walls or partitions, columns, beams, girders, or any structural change in the roof or in the exterior walls.

"Subdivision" shall mean the division of land into smaller parcels through the use of a plat, registered land survey or metes and bounds description.

"Swimming Pool" shall mean that which is built or constructed to contain water over 1½ feet in depth or with a capacity of over 1,000 gallons.

"Tower" shall mean any free-standing ground or roof-mounted pole, spire, structure or a combination thereof taller than fifteen (15) feet, including supporting lines, cables, wires, braces, and masts, not wholly contained within a building or other structure, intended primarily for the mounting an antenna, meteorologic device, or similar apparatus above grade.

"Townhome, Townhouse" see 'Dwelling Unit, Townhome'.

"Transient Merchant" shall mean any person, individual, co-partnership, incorporation, both as principal and agent, who is engaged in, does, or transacts any temporary and transient business selling goods, wares, and merchandise; and, who for the purpose of carrying on such business, has complied with the licensing requirements of the City Code, and hires, leases, occupies, or uses a building, structure, vacant lot, motor vehicles, trailer, or railroad car in a zoning district where it is allowed by this Chapter.

"Tree, Significant" shall mean trees which are healthy and measure a minimum of ten (10) inches in diameter at a distance of five feet above ground for deciduous varieties or a minimum of eight (8) inches in diameter at a distance of five feet above the ground for conifers.

"Twin Home" see 'Dwelling Unit, Zero Lot Line'.

"Use" shall mean the purpose for which land or a structure is designed, arranged or intended, or for which it is occupied or maintained.

"Use, Accessory" shall mean a use incidental or accessory to the principal use of the lot or a building located on the same lot with a building but detached therefrom.

"Use, Conditional" shall mean a use which because of unique characteristics cannot be properly classified as a permitted use in a particular district. After due consideration each case, a public hearing, an examination of the impact of such use upon a neighboring land and conditional use standards according to this Ordinance, the City Council may approve such use and/or attach conditions to the use. Conditional uses are itemized in individual zoning classes.

"Use, Industrial" shall mean the use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

"Use, Principal" shall mean the main use of land or buildings as distinguished from subordinate or accessory uses. A 'principal use' shall either be a permitted or a conditional or an interim use within the applicable zoning classification. There shall be only one principal use per lot.

"Utility/garden building/shed" shall mean a structure on the same lot as the principal building and used for storage of miscellaneous articles specifically excluding automobiles. A utility building shall contain not more than one-hundred and twenty (120) square feet inside area.

"Utilities, Municipal" shall mean City facilities such as sanitary sewer, water and storm sewer designed and constructed to City standards owned and operated by the City for the public use.

"Vacation" shall mean the act of relinquishing a recorded dedication or easement as in a street right-of-way, utility easement, etc.

"Variance" shall mean a modification of the literal provisions of this Ordinance granted when strict enforcement would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted. "Undue hardship" as used in connection with the granting of a variance shall mean: the property in question cannot be put to a reasonable use if used under conditions allowed by this Ordinance, 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. District boundary lines, zoning, property use or nonconforming use restrictions shall not be revised or amended by granting a request for variances.

"Warehousing" shall mean the storage of goods, material, or equipment within an enclosed building as a principal use (30% or more of the gross floor area).

"Waterbody" shall mean a body of water (lake, pond) in a depression of land or expanded part of a river or an enclosed basin that holds water and is surrounded by land.

"Watercourse" shall mean a channel or depression through which water flows, such as rivers, streams or creeks and may flow year around or intermittently.

"Watershed" shall mean the area drained by the natural and artificial drainage system, bounded peripherally by a bridge or stretch of high land dividing drainage areas.

"Wetland" shall mean an area where water stands near, at, or above the soil surface during a significant portion of most years, saturating the soil and supporting a predominantly aquatic form of vegetation, and which may have the following characteristics: a) Vegetation belonging to the marsh (emergent aquatic), bog, fen, sedge meadow, shrub land, southern lowland forest (lowland hardwood), and northern lowland forest (conifer swamp) communities. (These communities correspond roughly to wetland types 1, 2, 3, 4, 6, 7, and 8 described by the United States Fish and Wildlife Service, Circular 39, "Wetlands of the U.S. 1971"). (Ref. Ord. 915, 12/13/94) b) Mineral soils with grey horizons or organic soils belonging to the Histosol order (peat and muck). c) Soil which is water logged or covered with water at least three (3) months of the year. Swamps, bogs, marshes, potholes, wet meadows, and sloughs are wetlands, and such property, may be shallow water bodies, the waters of which are stagnant or actuated by very feeble currents, and may at

times be sufficiently dry to permit tillage but would require drainage to be made arable. The edge of a wetland is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

"Wholesaling" shall mean the selling of goods, equipment and materials by bulk to another business that in turn sells to the final customer.

"Yard" shall mean an open space on a lot which is unobstructed from the ground upward except as otherwise provided in this ordinance.

"Yard, front" shall mean a yard between side lot lines and measured horizontally at right angles to the front lot line from the front lot line to the nearest point of a building or other structure. A parcel can have more than one front yard according to the definitions herein.

"Yard, rear" shall mean a yard between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of a building or other structure.

"Yard, side" shall mean a yard between the front and rear yard measured horizontally at right angles from the side lot line to the nearest point of a building or other structure.

"Zoning Officer" shall mean the person or persons designated by the City Council to be the Zoning Officer for the City of New Munich.

"Zoning District" shall mean an area or areas within the limits of the city for which the regulations and requirements governing use, lot and size of building and premises are uniform.

"Zoning District Overlay" shall mean a zoning district containing regulations superimposed upon other zoning district regulations and superseding the underlying zoning district use regulations.

"Zoning District Underlying (Base)" shall mean all zoning districts except overlay zoning districts.

"Zoning Map" shall mean the map or maps incorporated into this Chapter as part thereof, designating the zoning districts.

SECTION 6: GENERAL PROVISIONS

6.01 ESSENTIAL SERVICES AND EASEMENT PROTECTION

- A. Privately-owned and operated essential services (cable, electric, gas, telephone, etc.) are subject to the provisions of this Ordinance, unless specifically exempted by a provision of this Ordinance. These essential services are also subject to other ordinances of the City of New Munich as applicable.
- B. Signs and structures are not permitted in easements. Plantings and non-permanent landscaping features may be placed in an easement provided they do not interfere with drainage, however, if access to the easement is required such plantings, fences and the like may be removed without notice and at not cost to the utility operator. Fences may be allowed in easements if a conditional use permit is issued. Fences shall not interfere with drainage easements and may be removed without notice and at no cost to the utility operator in the event access to the easement is required.

6.02 LOT PROVISIONS

- A. Lots of Record.
No lot of record shall be reduced in size below the district requirements of this Ordinance. A lot of record shall be deemed a buildable lot even though the lot area and/or dimensions are less than those required for the district provided the following conditions are met: Evidence must be presented that the lot in question met minimum requirements for the division of property under ordinance regulations in effect at the time the property was divided; the fronts a public street; and, if two (2) or more lots are in single ownership and if all or part of the lots do not meet the width and area requirements of this Ordinance, the contiguous lots shall be considered to be an undivided parcel for the purpose of this Ordinance.
- B. One Building Per Lot.
No more than one (1) principal building shall be located on a lot unless specifically permitted herein or allowed through the issuance of a Conditional Use Permit.
- C. Principal Building Required. No accessory or subordinate structure shall be placed upon a lot until an allowed principal use is established unless a Conditional Use Permit is issued.

6.03 HOME OCCUPATIONS

Home occupations as defined in this Ordinance will be allowed as provided elsewhere in this Ordinance providing the following conditions are met and an administrative permit is issued by the Planning Commission:

- A. Conduct of the home occupation does not result in any alteration to the exterior of the residence, which changes the character of the residence.
- B. Signage consists of no more than one single- or double-faced, unlighted sign with a maximum area of two (2) square feet not located on a public right-of-way.
- C. Conduct of the home occupation does not generate more noise, vibration, glare, fumes, odors or electrical interference than is normally associated with residential occupancy in the neighborhood.
- D. The use shall not generate sewage of a nature or rate greater than that normally associated with residential occupancy nor shall it generate hazardous waste or solid waste at a rate greater than that normally associated with residential occupancy.
- E. The home occupation should not increase vehicular traffic flow and parking above levels normally associated with the neighborhood.

- G. The home occupation may employ no more than one (1) full-time and two (2) part-time employees.
- H. Outdoor display of goods or outside storage of equipment or materials is permitted through the issuance of a Conditional Use Permit.
- J. Equipment used in the home occupation shall be of a type normally found in the home.

6.04 SINGLE-FAMILY DWELLING REQUIREMENTS

All single-family detached dwellings shall be constructed according to the following minimum standards:

- A. All dwellings shall have a minimum width of twenty-four (24) feet.
- B. All dwellings shall have a permanent, frost-free foundation as defined in the State Building Code. Split level, split entry and earth-sheltered homes shall comply with this requirement.
- C. Main roofs shall have a minimum pitch of 3:12 per definition of the applicable building code.
- D. Roofs shall be shingled with asphalt, wood, tiles, sod or other comparable materials. When seeking to employ "other comparable materials" the applicant shall secure a conditional use permit from the City Council.
- E. Unpainted, galvanized and/or exposed fastener metal siding (i.e. non-architectural grade metal) shall not be permitted.
- F. "Hoop" sheds shall not be permitted in residential or commercial zones.

6.05 TEMPORARY DWELLINGS

The use and occupancy of a tent, recreation vehicle or other temporary dwellings for the purpose of living quarters is not permitted in the city.

6.06 STREET ACCESS REQUIRED

Every building hereafter erected shall be located on a lot having frontage on a public street, except as specifically permitted herein.

6.07 PUBLIC UTILITIES REQUIRED

All residential, commercial, industrial, public, institutional or other uses that include plumbing facilities shall be connected to the public sewer and water system within three (3) years when municipal utilities are available within 350 feet of the subject lot and when one of the following occur: at the time a principal structure is erected; when an existing septic system fails or needs replacement; or, upon sale of the property. Agricultural uses are exempt from this standard provided a conditional use permit is issued.

6.08 RELOCATED BUILDINGS OR STRUCTURES

No existing building or structure shall be relocated anywhere in the city without an administrative permit. An administrative permit for the relocation of any building or structure shall not be issued without site plan approval by the Planning Commission. The Planning Commission shall not approve a site plan without certifying the following: The building or structure is compatible in appearance, age and character with existing buildings and structures in the area of the relocation destination; The building or structure meets all code requirements for new buildings or structures; The building or structure is compatible with any other buildings or structures existing on the same property; and, The building or structure meets all other requirements of this Ordinance and any other city ordinances.

6.09 ACCESSORY STRUCTURES

- A. Accessory buildings and structures in residential districts shall be subject to the following regulations:
1. No accessory building or structure shall be constructed on a parcel without a principal building unless a Conditional Use Permit is issued.
 2. There shall be no more than two (2) accessory building on a lot, unless no attached garage is present, then there shall be no more than two (2) accessory buildings permitted in addition to a detached garage. When an attached garage is present, then a detached garage shall be considered an accessory building.
 3. An administrative permit is required for all accessory buildings and structures over forty (40) square feet.
 4. Setback/Location.
 - a. Accessory buildings and structures attached to or part of the principal building shall maintain the same setbacks as required for the principal buildings.
 - b. Detached accessory buildings and structures shall maintain a side yard setback of at least ten (10) percent of the lot width. Detached accessory structures/buildings shall maintain a setback of ten (10) feet from rear lot lines.
 - c. Sidewall height for attached and detached accessory structures shall not exceed 12 feet in height unless a conditional use permit is issued.
- B. Except in the Agricultural District, no accessory building or structure shall be constructed within a required front yard or corner side yard.
- C. Accessory buildings and structures shall not be permitted within an easement.
- D. Accessory structures shall be clearly subordinate to principal structures in terms of size, scale, bulk, and height. Accessory structures shall be constructed of materials that are similar to the principal structure and designed so as to be similar in character to the principal structure when viewed from exterior lot lines.
- E. Accessory buildings in commercial and industrial zoning districts shall maintain setbacks as defined for principal structures. All accessory buildings and structures for commercial and industrial uses shall require site plan approval.

6.10 FIRE HAZARDS

Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire fighting and fire-prevention equipment and by such safety devices as are normally used in the handling of any such material. Such hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential danger involved.

6.11 NOISE

Any use established shall be so operated that no undue or objectionable noise, as measured at any property line, shall exceed the minimum standards established by the State of Minnesota. This shall not apply to incidental traffic, parking, loading, construction, or maintenance operations.

6.12 VIBRATION

No vibration shall be permitted which is discernible without instruments on any adjoining lot or property. The standard shall not apply to vibrations created during the process of construction.

6.13 AIR POLLUTION

No pollution of air by fly-ash, dust, vapors, odors, smoke, or other substances shall be permitted which are harmful to health, animals, vegetation, or other property, or which can cause excessive soiling. For the purpose of this ordinance the regulations and standards adopted by the Minnesota Pollution Control Agency shall apply.

6.14 REFUSE

All waste material, debris, refuse or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse.

6.15 RADIOACTIVITY OR ELECTRICAL DISTURBANCE

No activity shall emit dangerous radioactivity at any point, or electrical disturbance adversely affecting the operation of any equipment on any lot other than that of the creator of such disturbance.

6.16 FENCES

A. Permit Required.

It is unlawful for any person to construct or cause to be constructed or erected within the City, any fence without first making an application for and securing an administrative permit from the Zoning Officer as provided under Section 10.03 of this Ordinance.

B. Fencing Requirements.

1. Height: No fence in a front yard shall exceed three (3) feet in height, except that if the fence is constructed of chain link material and therefore see-through, it may be four (4) feet in height in the front yard. No fence in the side or rear yard shall exceed six (6) feet in height. The height of fences shall be measured from the average point between the highest and lowest grade.
2. Setback. No fence, screen or structure which obstructs view of traffic shall be located within thirty (30) feet of any front lot line, and twenty five (25) feet of any corner formed by the intersection of street or railroad right-of-ways as measured from the intersecting property lines. In all other cases, unless specified differently fences shall be setback a minimum of four feet from the front lot line, four feet from an alley right of way, or two feet from a side/rear lot line.
3. The City may allow setback encroachment provided: a conditional use permit as provided for under Section 10.05 of this Ordinance is issued; the fence does not require maintenance; and, if placed on a property line, written, notarized authorization is provided by all affected property owners.

C. Construction and Maintenance.

1. All wood fences, other than those constructed out of finished metal, vinyl, plastic, green-treated lumber, redwood or cedar, shall be stained or painted upon completion of construction. Chain link fences shall be made out of a non-rust material.
2. The following materials are prohibited for fences:
 - a. Barbed wire and electrical fences, except in agricultural districts;
 - b. Creosote lumber;

- c. Chicken wire, except in agricultural districts;
 - d. Woven or welded wire, except in Industrial Districts;
 - e. Plastic webbing, except when used for police control. This shall not prohibit the use of plastic materials intended to resemble wood products;
 - f. Makeshift, flimsy materials, or material such as paper, twine, rope, tin and the like, except when used for traffic control or police security.
3. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a nuisance. Any such fence which is, or has become dangerous to the public safety, health, or welfare, is a public nuisance, and the Zoning Officer shall commence proper proceedings for the abatement thereof.
 4. That side of the any fence considered to be its evident finished side or face (i.e. the finished side having no structural supports) shall front abutting property. If the fence is located in a commercial or industrial district and visible to the public from both sides, as determined by the Zoning Officer it shall contain finished surfaces on both the interior and exterior of the fence.
 5. Fences shall not obstruct natural drainage.

6.17 TELECOMMUNICATION TOWERS AND ANTENNAE

A. Personal satellite dishes and personal antenna.

1. Any personal satellite dish and/or antenna hereafter erected shall conform to the provisions of this Section and any other Ordinance or regulation of the City.
2. General Requirements for personal satellite dishes and antennas.
 - a. Satellite dishes and other dishes shall not be located in front yards.
 - b. No satellite dish or other dish shall be located within ten (10) feet of any rear lot or side lot line in any residential district.
 - c. A limit of two (2) such structures per dwelling unit shall exist at any one (1) time on any residential zoned and used lot or parcel except that satellite dishes exceeding one (1) meter in width shall be limited to one (1) per residential lot or parcel.
3. The applicant shall be responsible for any required license by any federal, state or local agency.

B. Commercial Towers and Antenna

1. Required Permits. Prior to any construction activities the City of New Munich must issue a conditional use permit under Section 10.05 of this Ordinance
2. The applicant shall be responsible for demonstrating any required license by any federal, state or local agency has been obtained.
3. Zoning District Use. Telecommunication towers and antennae will be allowed in any industrial zoning district in the City upon the approval of the two permits required above.

4. Area, Setback, and Height Restrictions.
 - a. Lot Area. The minimum lot area site is located and as determined by any additional area needed to meet all requirements are determined by the zoning district in which the tower development setback requirements of this ordinance.
 - b. Tower Setbacks. The minimum setback from all property lines and public rights of way for telecommunications towers shall be equal to its height, except for towers that are designed to collapse in upon themselves. For these later types of towers, the minimum setbacks are one half the tower height for all yard setbacks.
 - c. Height Restrictions. The maximum height for telecommunications towers, including antennae, is two hundred (200') feet.
5. Co-Location Requirements.
 - a. A proposal for a new commercial wireless telecommunication service tower shall not be approved unless it can be documented by the applicant, by a qualified and licensed engineer, that the telecommunication equipment planned for the proposed tower cannot be accommodated on an existing or approved tower, commercial building or public structure within one (1) mile radius of the proposed tower site. The applicant must demonstrate a good faith effort to co-locate equipment on existing towers or structures within the one (1) mile radius.
 - b. Any proposed commercial wireless telecommunication service tower shall be designed to accommodate both the applicant's antennae and comparable antennae for at least two (2) additional users. Towers must be designed to allow for future rearrangement of antennae upon the tower and to accept antennae mounted at varying heights.
6. Tower Design Requirements. Proposed or modified towers and antennae shall meet the following design requirements:
 - a. Towers and antennae shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities.
 - b. Commercial wireless telecommunication service towers shall be of a monopole design unless the City Council determines that an alternative design would better blend in to the surrounding environment. Towers must be self-supporting without the use of wires, cables, beams, or other means.
7. Construction Requirements.
 - a. All antennae, towers, and accessory structures shall comply with all applicable provisions of this ordinance.
 - b. A qualified and licensed professional engineer to conform to the latest structural standards and wind loading requirements of the Uniform Building Code and Electronics Industry Association shall certify towers.
 - c. No part of any antenna or tower nor any lines, cable, equipment, wires, or braces in connection with either shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk, or property line.
 - d. Towers and associated antennae shall be designed to conform to accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.

- e. All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight (8') feet above the ground at all points, unless buried underground.
- f. A security fence to discourage climbing of the tower shall protect every tower affixed to the ground, unless waived by the City.
- g. Tower locations should provide the maximum amount of screening possible for off-site views of the facility. Existing on-site vegetation shall be preserved to the maximum extent practicable. The area around the base of the tower and any accessory structures shall be landscaped and/or screened.

8. Lights and Other Attachments.

No antenna or tower shall have affixed or attached to it in any way, except during time of repair or installation, any lights, reflectors, flashers, or other illuminating device, except as required by the Federal Aviation Agency (FAA) or the Federal Communications Commission (FCC), nor shall any tower have constructed on, or attached to, in any way, any platform, catwalk, crow's nest, or like structure, except during periods of construction or repair. The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

9. Accessory Utility Buildings.

All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the zoning district in which the tower site is located. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

10. Antennae Mounted on Roofs, Walls, and Existing Towers.

The placement of wireless telecommunication antennae on roofs, walls, and existing towers may be approved by the City Council, provided the antennae meet the requirements of this ordinance.

6.18 YARD REQUIREMENTS

- A. No lot, yard or other open space shall be reduced in area or dimension so as to make such lot, yard or open space less than the minimum required by this Ordinance, and if the existing yard or other open space as existing is less than the minimum required, it shall not be further reduced.
- B. In all zoning districts, yards shall not be graded or fill installed to elevate the lot in a manner which will divert storm water to an adjacent property. Individual lot drainage shall be coordinated with the general drainage of the area.

6.19 SCREENING AND LANDSCAPING

- A. In all zoning districts, all usable open space as defined by this Ordinance shall be planted and maintained in grass, sodding, shrubs or other suitable vegetation or treatment as specified unless devoted to drives, sidewalks or patios, within six (6) months of the issuance of the certificate of occupancy.
- B. All screening required by the provisions of this Ordinance shall consist of either:

1. A green belt planting strip consisting of vegetative cover of sufficient width and density to provide an effective screen; or
2. A fence constructed of masonry, brick, wood or steel, which is compatible with surrounding structures and buildings.

6.20 LIGHTING STANDARDS

- A. Purpose. The purpose of this section is to create standards for outdoor lighting which will provide for nighttime safety, security and utility while reducing light pollution, light trespass, and conserving energy. It is the intent of this Section to require appropriate lighting levels, efficient (watts to lumens) lighting sources, full cut-off lighting, and to minimize/discourage lighting glare, lighting pollution and lighting trespass.
- B. Exemptions. The following are exempt from the standards contained in this section.
 1. Decorative seasonal lighting.
 2. Lighting for one-and two family dwellings.
 3. Lighting utilized for the purpose of illuminating national, state or local flags on flagpoles; provided no more than two luminaries are employed, the light fixtures include a cutoff component and the light source is directed at the flag and arranged to minimize the amount of light pollution, trespass, or glare on to adjacent properties and public streets.
 4. Temporary emergency lighting used by police, fire fighters, or other emergency services, as well as all vehicular luminaires.
 5. Hazard warning luminaires which are required by federal regulatory agencies.
 6. As part of the approval of public street or sidewalk projects, the City Council may vary from the requirements of this Section.
 7. Because of their unique requirement for nighttime visibility and their limited hours of operations, ball diamonds, playing fields and tennis courts are exempted from the general standards of this section. Lighting for these outdoor recreational uses shall be shielded to minimize light and glare from spilling over onto adjacent residential properties.
 8. Exterior lighting in existence on the effective date of this chapter shall be exempt from the standards of this chapter and shall be considered legally nonconforming. Such fixtures may be repaired and maintained. However, if any legal nonconforming luminaire is moved or damaged by any means to an extent that its total replacement is necessary, the luminaire, or replacement, shall comply with this subdivision.
- C. Lighting Standards. Following are general standards for lighting on private property.
 1. No flashing lights, beacons, search lights, lights that change colors, lights that flash on and off, lights that change intensity and/or similar lights shall be permitted.
 2. Street, parking lot, security, walkway and building lights shall be designed to function as full cutoff luminaires which focus the light emitted only on the area to be lit and not onto adjacent properties or toward the sky.
 3. All luminaires located on commercial, industrial, or institutional property shall be designed so that the light source (bulb or lamp) is completely shielded from direct view of adjacent lot lines, a transitional yard or at any location on residentially zoned property.

4. All luminaires located on private property shall be designed or positioned so that the maximum illumination at the property line shall not exceed one-half (1/2) foot candle.

6.21 OUTDOOR STORAGE

A. Residential Uses.

1. Residential Uses. All outside storage of materials and equipment for residential uses (excluding functional agricultural equipment actively used in a farming operation on a property within the Agricultural District) shall be stored within a building or fully screened so as not to be visible from adjoining properties, except for the following:
 - a. Clothes line pole and wire.
 - b. Parking of licensed and operable vehicles in compliance with this Ordinance (Off street parking).
 - c. Any combination of four or fewer licensed and operable recreational vehicles (RV's, boats, snowmobiles on a trailer, etc.) and/or seasonal automobiles may be parked or stored on property outside a home, provided:
 - i. They are not stored within the front yard, except if parked on an approved driveway.
 - ii. If stored within the side or rear yard they are at least five feet from the property line. If stored on a corner lot said storage must not interfere with motorists views from intersecting streets.
 - d. Construction and landscaping material currently being used on the premises for a period not to exceed 6 months of any given project start date.
 - e. Lawn furniture or furniture used and constructed explicitly for outdoor use.
 - f. Playground equipment.
 - g. Rear or side yard exterior storage of firewood for the purpose of consumption only by those inhabiting the property on which it is stored.

B. Commercial/Industrial Uses.

1. Except as allowed by district use provisions, outside storage of equipment, materials and inventory for commercial and industrial uses shall require an administrative permit subject to the provisions of this Ordinance.
2. The City may require fencing/screening be installed at its discretion.
3. All non-residential outside storage shall conform to the following conditions:
 - a. The area occupied is not within a required front yard.
 - b. If abutting a Residential District or a residential use a landscaped buffer of no less than 15 feet in width is provided according to a plan approved by the Zoning Officer.
 - c. The storage area is covered to control dust as approved by the Zoning Officer and proper storm water drainage is maintained.
 - d. All lighting is directed away from the public right-of-way and from neighboring residences.

SECTION 7: ZONING DISTRICTS/MAP

7.01 ZONING DISTRICTS ESTABLISHED

The City of New Munich is hereby divided into classes of "Zoning Districts" as listed below and as shown on the Official Zoning Map, which, together with all the explanatory and supplemental matter thereon, is hereby adopted by reference and declared part of this Ordinance.

A	Agriculture
R-1	Residential
C-1	Commercial
I-1	Industrial

7.02 OFFICIAL ZONING MAP

The locations and boundaries of the districts established by this Ordinance are set forth on the Zoning Map of the City of New Munich, which is made part of this Ordinance.

7.03 ZONE BOUNDARY INTERPRETATION

The location and boundaries of each zoning district established by this Ordinance are as set forth in zoning district sections of this Ordinance and are shown on the Official Zoning Map. Where uncertainty exists as to the boundaries as shown on the Official Zoning Map, the following rules will apply:

- A. Boundaries indicated as approximately following the centerline of streets, highways or alleys shall be construed to follow such centerlines.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Where physical or cultural features existing on the ground are at variances with those shown on the Official Zoning Map, or in other circumstances not covered above, the Planning Commission shall interpret the district boundaries.

7.04 ANNEXATION

All territory hereafter annexed to the City of New Munich which is not shown on the Zoning Map shall automatically upon annexation be classified within the A-1 District and shall be subject to all regulations, notations, references and conditions as are applicable to said district until such time that a determination may be made as to the proper district classification for such territory and an amendment can be made to that effect.

7.05 (A) AGRICULTURE

A. Intent

To recognize the existing agricultural use of the land and to preserve the undeveloped state of the land until development at urban densities with public sewer and water occurs.

B. Permitted Uses

1. Vegetable, fruit, crop, sod and horticulture production,
2. Animal husbandry, not exceeding three farm animals per acre
3. Agricultural use accessory structures
4. Public parks and recreation facilities
5. Hobby farms or single family detached dwellings at a density of not more than one (1) dwelling unit per ten (10) acres of land
6. Day care facilities, as defined in Chapter 2 of this Ordinance, licensed by the State and serving twelve (12) or fewer persons
7. Residential care facilities serving six (6) or fewer persons
8. Essential services as regulated by Section Six (6) of this ordinance

C. Accessory Uses.

1. Operation and storage of such vehicles, equipment and machinery which are incidental and customary to permitted or conditional uses allowed in this district
2. Home occupations as regulated by Chapter Six (6) of this Ordinance
3. Private recreational vehicles and equipment
4. Swimming pool, tennis courts and other recreational facilities which are operated for the enjoyment and convenience of the residents of the principal use and their guests
5. Tool houses, sheds and similar buildings for storage of domestic and farm supplies and non-commercial recreational equipment as provided for under Section Six (6) of this ordinance
6. Private garages, parking spaces and car ports for licensed and operable passenger cars and trucks
7. Fences as provided for under Section Six (6) of this Ordinance
8. Personal radio and television receiving antennas including single satellite dish TVROs, short-wave radio dispatching antennas, or those necessary for the operation of household electronic equipment including radio receivers, federal licensed amateur radio stations and television receivers, as regulated by Section Six (6) of this Ordinance
9. Signs as regulated by Section Nine (9) of this Ordinance

D. Conditional Uses. Following uses require a conditional use permit under Section 10.05 of the Ordinance.

1. Governmental and public regulated utility buildings and structures necessary for the health, safety and general welfare of the City, provided that:
 - a. When abutting a residential use in a residential use district, the property is screened and landscaped in compliance with Section Six (6) of this ordinance relating to landscaping and screening.
 - b. The provisions of Section 10.05.D (Conditional Uses) of this Ordinance are considered and determined to be satisfied.
2. Commercial outdoor recreational areas including golf courses and country clubs, swimming pools and similar facilities provided that:
 - a. The principal use, function or activity is open, outdoor in character.
 - b. The use will not negatively impact abutting or neighboring existing or potential residential uses.
 - c. When abutting a residential use or a residential use district, the property is screened and landscaped in compliance with Section Six of this Ordinance relating to landscaping and screening.
 - d. The traffic generated by the use can be adequately accommodated (both volume and weight) upon the City streets serving the property upon which the use is located.
 - e. The provisions of Section 10.05.D (Conditional Uses) of this Ordinance are considered and determined to be satisfied.
3. Mining, sand and gravel extraction, land reclamation and alteration provided that:
 - a. The provisions of Section 10.05.D (Conditional Uses) of this Ordinance are considered and determined to be satisfied.
 - b. Detailed plans illustrating existing and proposed conditions; extent of mining contemplated; proposed fencing; proposed pollution prevention measures; proposed reclamation plans; proposed surety and the like are submitted for review and approval.
 - c. Extraction shall only occur in maximum increments of twenty (20) acres. Reclamation must be completed to the satisfaction of the city as prescribed in the conditional use permit prior to initiation of additional extraction.

7.06 (R-1) RESIDENTIAL DISTRICT

A. Intent.

To recognize fully or developing residential areas at a relatively dense urban scale and connected to municipal sanitary sewer and water services of the community when available; to provide for future development of a similar nature; and to protect the desired low intensity living environment from encroachment by potential conflicting uses.

B. Permitted Uses.

1. Single-family detached and attached residences.
2. Public parks and recreation facilities.
3. Day care facilities serving twelve (12) or fewer persons.
4. Residential care facilities serving six (6) or fewer persons.

C. Accessory Uses.

1. Operation and storage of such vehicles, equipment and machinery which are incidental and customary to permitted or conditional uses allowed in this district, subject to regulations included in Chapter Six (6) of this Ordinance.
2. Home occupations as regulated by Chapter Six (6) of this Ordinance.
3. Swimming pool, tennis courts and other recreational facilities which are operated for the enjoyment and convenience of the residents of the principal use and their guests.
4. Private garages, parking spaces and car ports for licensed and operable passenger cars and trucks.
5. Fences as provided for under Section Six (6) of this Ordinance.
6. Personal radio and television receiving antennas including single satellite dish TVROs, short-wave radio dispatching antennas, or those necessary for the operation of household electronic equipment including radio receivers, federal licensed amateur radio stations and television receivers, as regulated by Section Six (6) of this Ordinance
7. Signs as regulated by Section Nine (9) of this Ordinance

D. Conditional Uses. Following uses require a conditional use permit under Section 10.05 of the Ordinance.

1. Governmental and public regulated utility buildings and essential services and structures necessary for the health, safety and general welfare of the City; governmental/institutional buildings; places of worship; educational facilities (public or private); health care facilities; nursing homes; assisted living facilities; and, similar structures provided that:
 - a. When abutting a residential use in a residential use district, the property is screened and landscaped in compliance with Section Six (6) of this ordinance relating to landscaping and screening.

- b. The provisions of Section 10.05.D (Conditional Uses) of this Ordinance are considered and determined to be satisfied.
 2. Commercial outdoor recreational areas including golf courses and country clubs, swimming pools and similar facilities provided that:
 - a. The principal use, function or activity is open, outdoor in character.
 - b. The use will not negatively impact abutting or neighboring existing or potential residential uses.
 - c. When abutting a residential use or a residential use district, the property is screened and landscaped in compliance with Section Six of this Ordinance relating to landscaping and screening.
 - d. The traffic generated by the use can be adequately accommodated (both volume and weight) upon the City streets serving the property upon which the use is located.
 - e. The provisions of Section 10.05.D (Conditional Uses) of this Ordinance are considered and determined to be satisfied.
 3. State licensed residential facility serving from seven (7) through sixteen (16) persons or a licensed day care facility serving from thirteen (13) through sixteen (16) persons, provided:
 - a. The requirements of Section 10.05.D relating to Conditional Uses of this Ordinance are considered and satisfied.
 - b. When abutting a residential use in an area guided toward future residential development within the Comprehensive Plan the required side yard width is doubled and a landscaped buffer yard is provided. The required landscaped buffer yard shall screen the buildings/structures and parking lots from the view of the abutting residential use. The Zoning Officer shall approve the appropriateness of the landscaped buffer yard after consulting the standards for buffer yards contained in Section Six (6) of this ordinance.
 4. Multiple Family Dwellings including duplex, triplex and apartment buildings sharing a common entry and hallways provided:
 - a. The requirements of Section 10.05.D relating to Conditional Uses of this Ordinance are considered and satisfied.
 - b. When abutting a residential use in an area guided toward future residential development within the Comprehensive Plan the required side yard width is doubled and a landscaped buffer yard is provided. The required landscaped buffer yard shall screen the buildings/structures and parking lots from the view of the abutting residential use. The Zoning Officer shall approve the appropriateness of the landscaped buffer yard after consulting the standards for buffer yards contained in Section Six (6) of this ordinance.
 5. Manufactured home parks that are properly licensed with the Minnesota Department of Health and/or Stearns County and provided the minimum manufactured home park area consists of 10 acres and individual lots are at least 50 feet wide and 100 feet in depth.
 6. Uses deemed by the City Council to be similar to permitted or conditional uses listed

under this Section Ordinance provided the City Council considers possible adverse effects of the proposed events or activity as required under Section 10.05.D of this Ordinance relating to Conditional Uses.

E. Performance Standards.

1. Lot area. The lot area in a residential district shall be a minimum of 5,000 square feet for existing lots of record, plus 2,000 additional square feet for each additional dwelling unit in excess of two dwelling units. For newly created lots, minimum lot size shall be 15,000 square feet for detached units and 7,500 for single family attached units. Infill development on existing lots within developed neighborhoods may have a lot size established by computing the average lot area of adjacent parcels as defined in this Ordinance.
2. Lot width. The minimum lot width in a residential district shall be 75 feet. Apartment buildings shall add an additional twenty (20) feet of lot width for each above ground story. Infill development on existing lots within developed neighborhoods may have a lot width established by computing the average lot width of adjacent parcels.
3. Front setback. The minimum front setback shall be thirty (30) feet or the average front setback of adjacent parcels, whichever is less. No building or structure shall be constructed, erected or placed within the required setback. Corner lots. Corner lots shall have two front yard setbacks.
4. Side setback. There shall be a minimum side yard setback equivalent to ten (10) percent of the lot width, except that multiple family units with greater than three (3) units which abut an R-1 Single Family Residential District shall be required to have a minimum side yard setback of thirty (30) feet.
5. Rear setback. There shall be a minimum rear yard setback of ten (10) feet or the average rear setback of adjacent parcels, whichever is less.
6. Building height. The maximum building height shall be 30 feet or three stories. The maximum building height may be increased provided a conditional use permit under Section 10.05.D of this Ordinance is issued and the required setbacks are increased an additional one-half foot for each foot of height over thirty (30) feet.
7. Minimum ground floor area/width. The minimum ground floor area of a structure within this District shall be eight hundred sixty square feet (860) or the average ground floor area of the principal structures on adjacent lots, whichever is less.
8. Street frontage - there shall be a minimum street frontage of 25 feet, exclusive of frontage on any alley.
9. Apartment units with greater than three (3) units shall submit a site plan for review (via administrative permit) as provided for in Section 10.03 of this Ordinance.

7.07 – 7.10 RESERVED.

7.11 C-1 COMMERCIAL DISTRICT.

A. Intent.

To provide appropriate areas in proximity to thoroughfares for commercial retail and service establishments which draw from and serve customers from the community and its surrounding areas.

B. Permitted Uses.

1. Commercial establishments and retail facilities which are oriented to pedestrians such as small scale, independently owned/operated grocery stores, cafes, bakeries, finance offices, professional offices (medical, dental, attorney, accountant, insurance agencies), pharmacies, personal services (beauty shops, barbers, laundromat, photography studio), eating/drinking establishments and the like provided they do not feature drive through facilities.
2. Public and semi-public facilities such as postal offices, city hall, fire station, religious institutions, educational facilities (public or private).
3. Mixed commercial and residential buildings provided residential facilities are located to the rear of the building or above ground.

C. Accessory Uses.

1. Landscaping and decorative features.
2. Signs as provided under Section Nine (9) of this Ordinance.
3. Parking as provided under Section Eight (8) of this Ordinance.
4. Fences as provided under Section Six (6) of this Ordinance.
5. Personal or accessory antenna as provided under Section Six (6) of this Ordinance.
6. Accessory uses incidental and customary to uses allowed as permitted and conditional uses within this Section.

D. Conditional Uses. The following uses are allowed following the issuance of a Conditional Use Permit under Section 10.05 of this Ordinance.

1. Minor auto repair service providing a plan for outdoor storage and handling of waste is submitted and approved in conjunction with the CUP.
2. Gas stations, with or without convenience store providing plans for pedestrian and vehicular circulation, parking, signage and landscaping are approved in conjunction with the CUP.
3. Retail/service facilities with drive through lane(s) providing plans for pedestrian and vehicular circulation, parking, signage and landscaping are approved in conjunction with the CUP.
4. Commercial establishments requiring large sites for outdoor display, sales, and storage (farm implement sales, auto and truck sales, mobile home sales, and building material sales are examples) including incidental repair (income from incidental repair and employees devoted to incidental repair must be clearly and demonstrably subordinate to sales), providing plans for pedestrian and vehicular circulation, parking, signage and landscaping are approved in conjunction with the CUP.

5. Wholesaling all commodities except live animals providing plans for pedestrian and vehicular circulation, parking, signage and landscaping are approved in conjunction with the CUP.
6. Existing single-family dwellings primarily used for residential purposes.

E. Performance Standards.

1. Lot area. The lot area in a commercial district shall be a minimum of 10,000 square feet, except that lots fronting on Main Street shall be exempt from this requirement. Infill development on existing lots within developed areas may have a lot size established by computing the average lot area of adjacent parcels as defined in this Ordinance.
2. Lot width. The minimum lot width in the commercial district shall be 80 feet, except that lots fronting on Main Street shall be exempt from this requirement. Infill development on existing lots within developed areas may have a lot width established by computing the average lot width of adjacent parcels.
3. Front setback. The minimum front setback shall be thirty (30) feet or the average front setback of adjacent parcels, whichever is less, except that lots fronting Main Street are exempt from this requirement. No building or structure shall be constructed, erected or placed within the required setback. Corner lots shall have two front yard setbacks.
4. Side setback. There shall be a minimum side yard setback of ten feet or the average side yard setback of adjacent parcels, whichever is less, except that lots fronting on Main Street shall be exempt from this requirement.
5. Rear setback. There shall be a minimum rear yard setback of ten (10) feet or the average rear setback of adjacent parcels, whichever is less, except that lots fronting on Main Street are exempt from this requirement.
6. Building height. The maximum building height shall be 30 feet or three stories. The maximum building height may be increased provided a conditional use permit under Section 10.05.D of this Ordinance is issued and the required setbacks are increased an additional one-half foot for each foot of height over thirty (30) feet.
7. Street frontage - there shall be a minimum street frontage of 25 feet, exclusive of frontage on any alley.
8. Commercial uses abutting Main Street shall provide parking as required by the City Council but shall not allow parking in a front yard. All other commercial uses shall provide parking consistent with Section Eight (8) of this Ordinance.
9. Commercial signage is subject to issuance of a permit and the requirements of Section Nine (9) of this Ordinance.
10. Site plan approval (via administrative permit) under Section 10.03 of this Ordinance is required for all commercial uses within this district.
10. New commercial uses abutting or adjacent to residential zoning classifications shall provide screening under Section 6.19 of this Ordinance to lessen potential impact of commercial uses on residential zones.

7.12 – 7.15 RESERVED.

7.16 I-1 INDUSTRIAL DISTRICT.

A. Intent.

To provide space for light and heavy manufacturing activities as defined in the definitions section of this Ordinance and involving a minimum degree of refuse byproducts and air or noise pollution, and requiring a relatively low level of on-premise processing. These activities may include secondary commercial functions which are conducted on site.

B. Permitted Uses.

1. Assembly plants, bottling establishments, cabinet/woodworking establishments, call centers, contractor (electrical, plumbing, heating/ventilation, etc) facilities, contractor's supply yard, storage yards for lumber, coal, brick and stone, provided such use is entirely enclosed within a substantial opaque fence not less than six feet in height, electric appliances assembly, industrial research laboratories, lumberyards, mail order facilities.
2. Manufacturing, assembly, compounding, treatment, packaging or repackaging of: musical instruments, toys, novelties, rubber or metal stamps; small electrical parts, or signs; articles or merchandise from the following previously prepared materials: cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, paper, plastic, precious or semi-precious metals and stones, shell, textiles, tobacco, wood excluding planing mill, yarn, and paint not requiring a boiling process; food products such as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, toiletries. Uses contemplated under this section must have a low potential for noise, odor, waste or pollution problems and low transportation and other service requirements.
3. Minor and major automotive repair.
4. Offices/showroom/retail space as a portion of the principal industrial use provided they do not exceed a combined twenty-five (25) percent of the total square footage of the principal use.
5. Printing/binding establishments.
6. Storage facilities: wholesale and mini-storage.
7. Utility structures and essential service structures.
8. Warehousing and wholesale merchandising.

C. Accessory Uses.

1. Landscaping and decorative features.
2. Signs as provided under Section Nine (9) of this Ordinance.
3. Parking as provided under Section Eight (8) of this Ordinance.
4. Fences as provided under Section Six (6) of this Ordinance.
5. Personal or accessory antenna as provided under Section Six (6) of this Ordinance.
6. Accessory uses incidental and customary to uses allowed as permitted and conditional uses within this Section.

D. Conditional Uses. The following uses are allowed following the issuance of a Conditional Use Permit under Section 10.05 of this Ordinance. Lot size, width and setback requirements shall be double those required under Section 7.16, Subd. E.

1. Freight truck terminals, provided access and circulation do not cause conflict with general traffic movement on the adjacent roadway(s).
2. Heavy manufacturing (potential for noise, odor, waste or pollution problems or high transportation and other service requirement needs).
3. Sexually oriented uses. Provided:
 - a. Activities classified as "obscene" as defined by Minnesota Statutes, Section 617.241 as may be amended are not permitted and are prohibited.
 - b. Sexually oriented uses are prohibited from locating in any building which is also utilized for residential purposes.
 - c. Sexually oriented uses are prohibited from locating in any building which is also used to dispense or consume alcoholic beverages.
 - d. Sexually oriented uses shall be located at least five hundred (500) radial feet, as measured in a straight line from the closest point of the property line of the building upon which the sexually oriented use is located to the property line of: residentially zoned property; a licensed day care center; a public or private educational facility classified as a pre-school, elementary, junior high or senior high; a public library; a public park; another sexually oriented use; and, an on/off sale liquor establishment.
4. Telecommunication towers and antenna.
5. Uses deemed by the City Council to be similar to permitted or conditional uses listed under this Section provided the City Council considers possible adverse effects of the proposed events or activity and a CUP is issued.

E. Performance Standards.

1. Lot area. The lot area in an industrial district shall be a minimum of 10,000 square feet. Infill development on existing lots within developed areas may have a lot size established by computing the average lot area of adjacent parcels as defined in this Ordinance.
2. Lot width. The minimum lot width in the industrial district shall be 80 feet, infill development on existing lots within developed areas may have a lot width established by computing the average lot width of adjacent parcels.
3. Front setback. The minimum front setback shall be thirty (30) feet or the average front setback of adjacent parcels, whichever is less. Corner lots shall have two front yard setbacks.
4. Side setback. There shall be a minimum side yard setback of ten feet or the average side yard setback of adjacent parcels, whichever is less.
5. Rear setback. There shall be a minimum rear yard setback of twenty (20) feet or the average rear setback of adjacent parcels, whichever is less.
6. Building height. The maximum building height shall be 30 feet or three stories. The maximum building height may be increased provided a conditional use permit under Section 10.05.D of this Ordinance is issued and the required setbacks are increased an additional one-half foot for each foot of height over thirty (30) feet.

7. Street frontage - there shall be a minimum street frontage of 25 feet, exclusive of frontage on any alley.
8. Industrial signage is subject to issuance of an administrative permit and the requirements of Section Nine (9) of this Ordinance.
9. Site plan approval (via administrative permit) under Section 10.03 of this Ordinance is required for all industrial uses within this district.

SECTION 8: OFF-STREET PARKING AND LOADING.

8.01 PURPOSE

The regulation of off-street parking spaces in this Ordinance is intended to help alleviate or prevent congestion of the public rights-of-way and to promote the safety and general welfare of the public. The regulations and requirements set forth herein shall apply to all off-street parking facilities in all of the zoning districts of the City.

8.02 PARKING REQUIREMENTS

- A. Parking plans shall be required for all new apartment, commercial and industrial uses. Said plans shall be reviewed and approved by the City of New Munich.
- B. Existing apartment complexes, commercial and industrial uses proposing the expansion of a principal structure shall meet the requirements of this Section.
- C. The City Council may issue a conditional use permit when the site's physical constraints prior to expansion (i.e. existing square footage of lot, existing lay-out of buildings on site, etc.) reasonably prohibit the development of a compliant parking area. In such cases the considerations of Section 10.05.D (Conditional Use Permits) shall be addressed.
- D. All parking area surfaces shall be maintained in a dust-free manner. Parking and maneuvering areas shall be setback a minimum of five (5) feet from all property lines. A landscaped buffer as required under Section Six (6) of this ordinance shall be provided when a parking lot abuts residentially zoned property.
- E. The following table illustrates the minimum number of on-site parking spaces required for various uses permitted in the city. The City may modify minimum parking requirements in the C-1 District for lots abutting and fronting on Main Street, if it is determined that the use is consistent with the purpose of the district and that street parking is sufficient to accommodate the use. On-street parking areas shall not be used to meet the required number of parking spaces.

Uses	Minimum Number of Parking Spaces Required
Residential	2/dwelling unit
Apartments	1/bedroom
Church	1/5 seats in largest assembly
School	1/classroom plus 1/5 seats in largest assembly
Restaurant	1/5 seats
Office	1/500 sf gross floor area
Retail	1/500 sf gross floor area
Convenience Store	2/500 sf gross floor area
General Service	1/500 sf gross floor area
Trade Business	3/1,000 sf gross floor area
Manufacturing	3/1,000 sf gross floor area
Other Industry	3/1,000 sf gross floor area
For uses not identified the Zoning Officer shall determine appropriate number of stalls by using the calculation that is most similar to that proposed.	
Drive-Thru Lanes	3 stacking for each drive thru lane

8.03 LOADING.

- A. On-street unloading shall be prohibited during peak travel periods so as to not interfere with traffic flow.
- B. Off-street loading spaces adjacent to Main Street or areas zoned for residential use shall be screened from the view as required by Section Six (6) of this Ordinance.
- C. For new construction occurring after the date of the adoption of this Ordinance, truck loading and receiving areas when may not be on the front side of a building facing the street (this does not include drive-in entrances).

SECTION 9: SIGNS

9.01 FINDINGS

The City of New Munich finds: that exterior signs have a substantial impact on the character and quality of the environment; that signs provide an important medium through which individuals may convey a variety of messages; that signs can create traffic hazards, aesthetic concerns and detriments to property values, thereby threatening the public health, safety and welfare; that the city's zoning regulations have historically included the regulation of signs in an effort to provide adequate means of expression and to promote the economic viability of the business community, while protecting the City and its citizens from a proliferation of signs of a type, size, location and character that would adversely impact upon the aesthetics of the community and threaten the health, safety and welfare of the community; and, that the regulation of the physical characteristics of signs within the City has had a positive impact on traffic safety and the appearance of the community.

9.02 PURPOSE/INTENT

- A. It is not the purpose or intent of this sign ordinance to regulate the message displayed on any sign; nor is it the purpose or intent of this ordinance to regulate any building design or any display not defined as a sign, or any sign which cannot be viewed from outside a building.
- B. The purpose and intent of this ordinance is to:
 1. Regulate the number, location, size, type, illumination and other physical characteristics of signs within the city in order to promote the public health, safety and welfare.
 2. To establish standards which permit property owners the opportunity to identify and advertise themselves, goods, or services; to preserve and protect the value of land, buildings and landscapes and promote the attractiveness of the community; to ensure that signs in the City are not a safety hazard to lives and/or property; to eliminate confusion in locating goods, services and facilities, and to preserve order and to encourage business to erect permanent signs and discourage temporary and/or portable signs.
 3. Improve the visual appearance of the City while providing for effective means of communication, consistent with constitutional guarantees and the City's goals of public safety and aesthetics.
 4. Provide for fair and consistent enforcement of the sign regulations set for herein under the zoning authority of the City.

9.03 EXEMPTIONS

- A. Changing the copy of signage is exempt from this Ordinance.
- B. One (1) temporary sign not exceeding twenty-four (24) square feet in area is allowed per lot provided: the sign is located on private property, setback standards of the applicable zoning classification are observed.
- C. Political signs are allowed in any district on private property with the consent of the owner of the property. Such signs must be removed within ten (10) days following the date of the election to which they applied.
- D. Official public, traffic and street signs.

9.04 SIGN REGULATIONS.

- A. Signs shall not be permitted within the public right-of-way or easements.
- B. Upon notification by the Council or Zoning Officer that a sign is rotted, unsafe or the information it conveys ceases to exist, the owner of the sign or owner of the property where the sign is located shall remove or repair the sign. If the sign is not removed or repaired, the city shall remove the sign at the owners expense after notice to the owner of the sign and like notice to the owner of the property and hearing thereon.
- C. The owner, lessee or manager of any ground sign and the owner of the land on which the same is located shall keep grass or weeds and other growth cut and shall clean and remove debris and rubbish from the lot on which a sign is located.
- D. Administrative Permit Required. An Administrative Permit under Section 10.03 of this Ordinance shall be obtained from the Zoning Officer prior to installing signage.
- E. Signs in Residential Districts. No sign shall be erected in any Residential District, except:
1. A nameplate sign identifying the owner or occupant of a building or dwelling unit, provided such sign does not exceed two (2) square feet in surface area.
 2. A sign pertaining to the lease or sale of the building or property, provided such sign does not exceed six (6) square feet in surface area.
 3. A temporary sign identifying an engineer, architect, contractor or product engaged in or used in the construction of a building. This sign may not exceed four (4) square feet in surface area and must be removed before occupancy of the building.
 4. Public street identification signs, traffic signs, and directional signs in any parking area where such signs are necessary for the orderly movement of traffic.
- F. Signs in Commercial and Industrial Districts. Signs may be erected in Commercial and Industrial Districts subject to the following provisions:
1. The total surface area of all business signs on a lot shall not exceed four (4) square feet per lineal foot of lot frontage or ten percent.
 2. A single sign may not contain more than two (2) signs per facing, exceed twenty feet in height or exceed 300 square feet in area.
 3. Where a sign is illuminated, the source of light shall not be visible from any public right-of-way and shall be directed away from a residential district.

SECTION 10: ADMINISTRATION AND ENFORCEMENT

10.01 ZONING OFFICER/ADMINISTRATOR

A. The specific duties of the Zoning Officer include:

1. Providing zoning information upon request.
2. Receiving applications for conditional use permits, variances, amendments, and appeals, referring such applications to the appropriate official body, notifying effected property owners of required public hearings, and publishing notice of such hearings.
3. Notifying applicants for conditional use permits, variances, amendments, and appeals of actions taken by the official bodies relative to their applications.
4. Conducting inspections to determine and assure compliance with Ordinance provisions.
5. Investigating violations, notifying persons accused of violations and describing the nature of such, and initiating appropriate actions against violators as provided by law.
6. Maintaining permanent and current records of this Ordinance and the Official Zoning Map, including but not limited to conditional use permits, variances, amendments, appeals, and applications.

10.02 PLANNING COMMISSION DUTIES IN ZONING ADMINISTRATION

A. Planning Commission duties in zoning administration shall be:

1. To hold public hearings on applications for amendments to this Ordinance. The Commission shall not have the authority to make changes or amendments to this Ordinance; rather, it shall act in an advisory manner to the City Council making its recommendation in all cases referred to it.
2. To consider applications for interim use permits provided for in this Ordinance and to transmit its recommended action to the City Council for final action.
3. To act as the Board of Appeals and Adjustments in considering applications for variances and appeals.
4. To review and approve applications for administrative permits. Deleted per Ordinance 2008-538

10.03 PERMITS

A. Administrative Permits.

Hereafter no person shall erect, alter, remodel, wreck or move any kind of a structure or building or part thereof without first securing an administrative permit as provided for in this or other applicable code or ordinances.

B. Exhibits. Each application for an administrative permit shall be accompanied by the following exhibits unless waived by the Zoning Officer:

1. Name and address of developer/owner;
2. Name and address of architect/designer, if applicable;
3. Name and brief written description of what is proposed;

4. All proposed improvements, including (unless waived by the Zoning Officer):
 - a. Required and proposed setbacks;
 - b. Location, setback, and dimensions of all existing and proposed buildings and structures;
 - c. Location of all buildings on the property in question;
 - d. Location, number, and setbacks of proposed parking spaces and drive aisles, if applicable;
 - e. Location, number, and dimensions of proposed loading spaces, if applicable;
 - f. Vehicular and pedestrian circulation by arrows;
 - g. Existing/proposed sidewalks, trails, and walkways;
 - h. Location and type of proposed lighting;
 - i. Location of proposed outdoor storage including details for screening;
 - j. Existing and/or proposed sign locations and dimensions;
 - k. Location, size, and type of water and sewer system mains and proposed service connections.

5. Supplemental Data. Additional information, data and other plans and information as required by the Zoning Officer may be required including but not limited to:
 - a. Color drawings or renderings and/or sample exterior building materials proposed for all principal and accessory buildings.
 - b. Typical floor plan and room plan drawn to scale with a summary of square footage for each use or activity.
 - c. Vicinity map showing the property in relation to near by highways or major street intersections.
 - d. When required, evidence of completion of National Pollutant Discharge Elimination System (NPDES) permitting program and/or the Storm Water Pollution Prevention Program (SWPPP).
 - e. Evidence of compliance with federal, state and local pollution and nuisance laws and regulations, including, but not limited to glare, smoke, dust, odors and noise. The burden of proof for compliance with appropriate standards shall lie with the applicant.

- C. Permit Application Procedure. The procedure for applying for an administrative permit shall be as follows:
 1. The property owner or his or her agent shall meet with the Zoning Officer to explain his or her situation, learn the procedures, and obtain an application form.
 2. The applicant shall file the completed application form together with the required exhibits with the Zoning Officer.

3. The Zoning Officer determines the permit fee as specified by Council Ordinance and the City Clerk collects the fee from the applicant. The permit application will then be forwarded to the Planning Commission for review and approval according to the provisions of this Ordinance.
- Amended
See
Ordinance
2008-53B*
- D. Considerations in granting the permit. The Zoning Officer shall consider possible adverse effects of the proposed events or activity. Judgment shall be based upon (but not limited to) the following factors:
1. Compliance with and effect upon the Comprehensive Plan and public facilities plans.
 2. The establishment, maintenance or operation of the use, event or activity will promote and enhance the general public welfare and will not be detrimental to or endanger the public health, safety or welfare.
 3. The use event, or activity will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.
 4. The establishment of the use, event or activity will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
 5. Adequate public facilities and services are available or can be reasonably provided to accommodate the use, event or activity which is proposed.
 6. The use, event or activity shall, in all other respects, conform to the applicable regulations of the district in which it is located.
 7. The use, event or activity and site conform to the performance standards as outlined in Section 10.05.D (Conditional Use Permit) and all other applicable provisions of this Ordinance.
 8. A written permit shall be issued to the applicant when a determination of compliance has been made. Specific conditions to assure compliance with applicable evaluation criteria, codes, ordinances and the standards of this Chapter shall be attached to the permit.
- E. Expiration of Administrative Permit. If the work described in any permit has not begun within one (1) year from the date of issuance thereof, said permit shall expire.

10.04 VARIANCES

- A. Board of Appeals and Adjustments. The Planning Commission shall act as the Board of Appeals and Adjustments and shall have the power to hear requests and make decisions regarding the following:
1. Appeals where it is alleged that there is an error in a decision or judgment made by an administrative officer in the interpretation or enforcement of this Ordinance or in the interpretation of zoning district boundaries.
 2. Variances. Requests for variances from the literal provisions of this Ordinance, in instances where the provisions' strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration, may be granted by the Board of Appeals and Adjustments only when it is demonstrated that such actions will be in keeping with the spirit and intent of this Ordinance. Undue hardship, as used in connection with the granting of a variance, means the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to the property that are not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of this Ordinance. Undue hardship also includes, but is not limited to, inadequate access to direct sunlight for solar

energy systems. Variances shall be granted for earth-sheltered construction as defined in Minnesota Statutes Section 216C.06, subdivision 2, when in harmony with this Ordinance.

B. Variance Procedures

1. Applications provided by the City must be completed in writing prior to any consideration of variance petitions. Fees for variances are established by the City Council through a fee ordinance.
2. Information requirement. The exhibit requirements of Section 10.03(B) of this Ordinance apply to all variance requests.
3. The Board of Appeals and Adjustments may require the applicant to provide ten (10) copies of plans, maps, surveys, etc., as deemed necessary, to ensure proper review and consideration of variance petitions.
4. After filing an application, the Zoning Officer shall set a date for a public hearing. Notice of the shall be posted and published at least ten (10) days prior to the date of the hearing, and notice shall be mailed to each property owner whose land is adjacent to the property to which the variance relates. Defects in the notice or failure to notify individual property owners shall not invalidate the proceedings, provided a good faith effort was made to comply with these provisions.
5. Upon hearing the request, the Board of Appeals and Adjustments shall either approve or deny the variance and shall state the reasons for said action. Conditions for approval may be attached to any variance granted. Actions by the Board of Appeals and Adjustments are effective upon a simple majority of members present.
6. Findings: The Board of Appeals and Adjustments must find as follows in the granting of a variance from this Ordinance:
 - a. Granting a variance will not adversely affect the public health, welfare and safety and will not be detrimental and injurious to property or improvements in the neighborhood.
 - b. Strict interpretation or enforcement of the provisions of this Ordinance would result in a practical difficulty or unnecessary hardship that is not self-created, nor inconsistent with the intent of this Ordinance and the Comprehensive Plan.
 - c. There are exceptional or extraordinary circumstances or conditions applicable to the property, use, or facilities that do not apply generally to other properties in the same district.
 - d. Strict or literal interpretation of this Ordinance would deprive the applicant of the use and enjoyment of his or her property in a manner similar to others in the same district.
 - e. Granting of the variance will not allow a use which is otherwise not a permitted use in the zoning district in question.
7. A variance granted but not used shall become void one (1) year after its effective date.
8. No application for the same or essentially the same variance shall be made within six (6) months of the date of denial.

10.05 CONDITIONAL USE PERMITS

A. Intent and Purpose.

Unless carefully controlled and monitored, some uses have the potential to have a deleterious effect on adjacent properties and the City as a whole. They must therefore meet and maintain a

higher standard of quality to insure land use and environmental compatibility. Uses possessing unique and potentially detrimental characteristics may be authorized in certain zoning districts by issuance of a CUP when certain conditions are met.

- B. Information Requirement. The exhibit requirements of Section 10.03(B) of this Ordinance apply to all conditional use permit requests.
- C. Procedures
After the filing of an application, the Zoning Officer shall set a date for a public hearing. Notice of the hearing shall be posted and published at least ten (10) days prior to the date of the hearing. Notice of proposed rezoning shall also be mailed to each property owner within three hundred fifty (350) feet of the proposed zoning district boundary amendments. Upon hearing the request, the Planning Commission shall recommend approval, denial or conditional approval of the proposed CUP and shall state the reasons of said action. The City Council shall consider said recommendation by the Planning Commission. Unless an extension is granted, the request for a conditional use permit shall be acted on within 60 days of the receipt of a complete application or the request shall be automatically approved.
- D. Standards for Granting Conditional Use Permits. A conditional use permit may be granted by the City Council after demonstration by evidence that:
 - 1. The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare.
 - 2. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
 - 3. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
 - 4. Adequate utilities, access roads, drainage and necessary facilities have been or will be provided.
 - 5. Adequate measures have been or will be taken to minimize traffic congestions in the public streets.
 - 6. The conditional use shall meet the specific requirements set forth in each district, defined in this Ordinance.
 - 7. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.
- E. Duration. A conditional use permit runs with the property and shall remain in effect as long as the agreed upon conditions are observed or until the use is converted to another use.
- F. Expiration. A conditional use permit shall become void one (1) year after being granted by the City Council if substantial construction has not been completed.

10.06 AMENDMENTS

- A. Amendments to this Ordinance may be initiated by the Planning Commission, City Council or by petition of a landowner.
- B. Applications provided by the City must be completed in writing prior to any consideration for an amendment. Fees for zoning amendments are established by a fee ordinance approved by the City Council.

- C. Information Requirement. The City may require the applicant to provide plans, maps, surveys, etc., to ensure proper review and consideration of any proposed amendment to the written provisions of this Ordinance or zoning district boundaries.
- D. After the filing of a complete application, or after initiation by the City Council, the Zoning Officer shall set a date for a public hearing. Notice of the hearing for all amendments shall be posted and published at least ten (10) days prior to the date of the hearing. Notice of proposed rezoning shall also be mailed to each property owner within three hundred fifty (350) feet of the proposed zoning district boundary amendments.
- E. Upon hearing the request, the Planning Commission shall recommend either approval or denial of the proposed amendment and shall state the reasons of said action.
- F. Unless an extension is granted, the request for an amendment shall be acted on by the City Council within 60 days of the receipt of a complete application or the request shall be automatically approved. A simple majority vote is sufficient for a text amendment and rezoning from agricultural to residential or one residential classification to another or from commercial to industrial. A super majority (4/5ths) vote is required for rezoning from a residential to commercial or industrial classification.

10.07 FEES

- A. Payment Required.
Any person filing a petition requesting an amendment, appeal, adjustment, conditional use permit, variance or other permit described within this Chapter shall pay a fee according to the schedule established by City Council Ordinance.
- B. Amount.
 - 1. Fees payable under this section, and adopted by Ordinance of the City Council, shall be payable at the time of filing a petition and is not refundable.
 - 2. In addition to the fees referenced above and in the event the City incurs professional fees, either legal, engineering or professional planners, or any other cost, including but not limited to, postage and publication expenses, the applicants may be required to reimburse the City for those fees, and the City officials may require a deposit for these fees prior to the final hearing on the application.

10.08 NON-CONFORMANCE.

- A. Non-Conforming Uses and Structures.
It is not the intent of this section to encourage the non-conforming use of land. Non-conformities are declared by this Ordinance to be incompatible with permitted uses in the districts in which the non-conformity occurs. Non-conforming use may relate to the non-conforming use of a structure, a non-conforming use of land, or a non-conforming use of a structure and land in combination.
- B. Standards.
 - 1. Non-Conforming Uses of Land.
 - a. Non-conforming uses of land shall not be extended or enlarged after passage of this Ordinance. Said uses of land may include, but are not limited to, the attachment on a building or erection on land of additional signs intended to be seen from off the premises or the addition or expansion of uses which would be generally prohibited in the zoning district.

- b. Change of Non-Conforming Use of Land. A non-conforming use cannot be changed to a comparable non-conforming use. Whenever a non-conforming use has been changed to a conforming use, or to a use permitted in a district of greater restrictions, it shall not thereafter be changed to a non-conforming use of a less restricted district.
- c. Discontinuance of Non-Conforming Use of Land. If a non-conforming use of land is discontinued or ceased for a period of one (1) year or more, or if the use is involuntarily discontinued and ceased because of the revocation of a permit or the right to engage in the use, subsequent use of such building or land shall conform thereafter to the use permitted in the district in which it is located.

2. Non-Conforming Use of Structures.

- a. Continuation of Non-Conforming Use of Structure. The lawful use of a building or structure existing at the time of the adoption of this Ordinance may be continued although such use does not conform with the district provisions herein, unless the use ceases for a period of one (1) year.
- b. Extension or Expansion of Non-conforming Structure. A non-conforming use of a commercial or industrial building may not be extended or expanded by adding onto the building. The non-conforming use of residential, commercial or industrial land shall not be enlarged, expanded, increased or extended to occupy a greater area than was occupied when the use became non-conforming.
- c. Non-Conforming Structure, Structural Change. No existing structure devoted to a non-conforming use shall be enlarged, extended, reconstructed, moved, or structurally altered except in changing the use of the structure to a conforming use.
- d. Maintenance of Non-Conforming Structure. Maintenance of a building or other structure containing or used for a non-conforming use will be permitted when it includes necessary non-structural repairs and incidental alterations which do not extend or intensify the non-conforming building or use.
- e. Residential Alterations. Alterations may be made to a residential building containing non-conforming residential units when they will improve the livability and safety of such units provided, however, that they do not increase the number of dwelling units in the building. Additions may be made to non-conforming residential buildings, limited to an increase in the living area of no more than twenty (20) percent of the existing main floor square footage. The construction and alteration of garages and accessory buildings is also permitted, as long as the improvements conform with the zoning requirements for both the zoned use of the property, and the non-conforming use.
- f. Restoration Of Non-Conforming Structure After Destruction. Any non-conforming building or structure damaged greater than fifty (50) percent of its market value by fire, collapse, explosion or acts of God, or public enemy, shall not be restored or reconstructed and used as before such destruction; unless a permit to rebuild is issued within 180 days.

3. Non-Conforming Lots of Record.

A single-family dwelling and customary accessory building, notwithstanding limitations imposed by other provisions of this Ordinance, may be erected in any district in which single-family dwellings are permitted on any single lot of record at the effective date of adoption of or amendment to this Ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. The provisions shall apply even though such lot fails to meet the zoning requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in

which such lot is located. If, two (2) or more contiguous lots in any district are under the same ownership, and any individual lot does not meet the area and width requirements of this Ordinance, the lot must not be considered as a separate parcel or land for the purpose of sale or development. The lot must be combined with the one (1) or more contiguous lots so they equal one (1) or more parcels of land, each meeting the area and width requirements of this Ordinance.

10.09 VIOLATIONS AND PENALTIES

A. Enforcement.

1. The Zoning Ordinance shall be administered and enforced by the Zoning Officer. It shall be unlawful to violate a provision of this Ordinance. The Zoning Officer may institute in the name of the City of New Munich any appropriate actions or proceedings against a violator.
2. Notification. For the enforcement of the provisions of the Zoning Ordinance, the first zoning violation notice shall be sent by regular mail, and the second notice will be sent by certified mail, return receipt requested to the property owner of which the violation is taking place. A copy of all zoning violation notices shall be sent to the City Council, Planning Commission, and City Attorney. All zoning violation notices shall contain the following information:
 - a. A description of the violation that is taking place.
 - b. A picture (if possible) of the violation that is taking place.
 - c. Location and/or address of the property at which the violation is taking place.
 - d. Identification of the section of the Zoning Ordinance that is being violated.
 - e. Date the violation was discovered.
 - f. Steps necessary to correct the violation.
 - g. Deadline in which the violation must be corrected, which is at the discretion of the Zoning Officer, but which in no case may be longer than thirty (30) days from the date the first notice is mailed.
3. Correction of the Zoning Violation. Upon correction of the violation in the manner stipulated by the zoning violation notice at any point during this enforcement process, the City shall take no further enforcement activity with respect to such specific violation incident.
4. Failure to Correct Zoning Violation – Enforcement Remedies. Failure to correct the zoning violation shall result in the City pursuing enforcement action following notification to the property owner, with the City having the authority to carry out the following enforcement remedies:
 - a. Withhold Permits. The City shall have the authority to withhold or deny any and all permits or City approvals until the violation is corrected to the satisfaction of the Zoning Officer.
 - b. Stop Work Order. The City shall have the authority to issue a stop work order on the property in violation.
 - c. Abatement. The City shall have the authority to require that the violation be abated by completely removing or stopping the item or use which has been identified in the zoning violation notice. Abatement action by the City shall not proceed until after a hearing before the City Council.

- d. Injunctive Relief. The City shall have the authority to seek an injunction in court to stop any violation of this Section.
- e. Civil Remedies. The City shall have the authority to institute appropriate civil action including injunctive and other equitable processes to enforce the provisions of this Section and, at the discretion of the civil court, shall recover reasonable court costs and attorney's fees that are incurred due to the enforcement of the subject violation.
- f. Assessment. The City shall have the authority to use the provisions of Minnesota Statutes Chapter 429, as amended, supplemented, or replaced from time to time, to assess charges against any property in violation of any of the provisions of this Section, and any such assessment shall, at the time at which taxes are certified to the County Auditor, be certified for collection in the manner that other special assessments are so certified.
- g. Criminal Remedies. The City shall have the authority to institute appropriate misdemeanor action or misdemeanor criminal action for a violation of this Section. Any person who violates a provision of this Chapter is guilty of a misdemeanor and, upon conviction thereof, may be punished by a fine of not more than seven hundred dollars (\$700.00) and imprisonment for a term not to exceed ninety (90) days, or both.
- h. Cumulative Remedies. The powers and remedies of this Section shall not be individually limited and are not exclusive. The powers and remedies of this Article are cumulative and all power and remedies may apply, and any other remedies allowed under State law. Failure to exercise any remedy shall not be a waiver of that remedy.

11.00 REPEALER

Ordinance No. 53 and all amendments thereto are hereby repealed. Parts of other ordinances in conflict with this Ordinance to the extent of such conflict and no further, are hereby repealed.

12.00 PUBLICATION BY SUMMARY

- A. Summary Approval. Pursuant to Minnesota Statutes Section 412.191, Subd. 4, the Council hereby determines that publication of the title and a summary of this Ordinance will clearly inform the public of the intent and effect of this Ordinance. The text of the summary of this Ordinance, entitled "Official Summary of Ordinance No. 53A," a copy of which is attached hereto, is hereby approved and the Council determines that it clearly informs the public of the intent and effect of this Ordinance.
- B. Publication, Inspection, and Posting. The City Clerk-Treasurer is hereby directed that only the title of this Ordinance and the attached summary be published with a notice that a printed copy of the entire Ordinance is available for inspection by any person during regular office hours at the office of the City Clerk-Treasurer. A copy of the entire text of this Ordinance shall also be posted at the New Munich City Hall, New Munich, Minnesota 56356.

13.00 EFFECTIVE DATE

This Ordinance shall take effect and be in full force upon its adoption and upon the publication of its title and official summary.

Adopted by the City Council of the City of New Munich, Minnesota, this 10th day of September 2007.

Harold Klaphake
Mayor

ATTEST:

Luby
Clerk

Title and Official Summary of Ordinance No. 53A were published in the Melrose on 09 15,
Beacon 2007.