

Ordinance No. 100
Zoning Ordinance

City of New Germany, Carver County, MN

Adopted by the City Council on:
November 15, 2011

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CHAPTER I. TITLE

This Ordinance shall be known, cited and referred to as the City of New Germany Zoning Ordinance, except as referred to herein, where it shall be known as "this Ordinance".

CHAPTER II. PURPOSE AND AUTHORITY

Section 1. Purpose

This Ordinance is adopted for the following purposes:

- A. To promote and protect the public health, safety and general welfare of the people;
- B. To promote the orderly development of the residential, business, industrial, parks and open space, and public areas;
- C. To divide the City into zones or districts that reasonably regulate the location, use and development of buildings, structures and land for residential, business, industrial, parks and open space and other specified uses;
- D. To provide for adequate light, air and convenience of access to property by regulating the use of land and buildings, and the characteristics of structures in relationship to surrounding properties;
- E. To limit congestion in the public rights-of-way;
- F. To provide for the compatibility of different land uses and the most appropriate use of the land;
- G. To require and facilitate the adequate provision of water, sewerage and other public services and facilities to land uses;
- H. To maintaining, to a reasonable extent, the values of property and the tax base of the City;
- I. To encourage the conservation and management of natural resources and renewable energy; and
- J. To provide for the administration of this Ordinance, defining the powers and duties imposed by this Ordinance, and prescribing penalties for the violation of its provisions.

Section 2. Authority

- A. This Ordinance is enacted pursuant to the authority granted by the Municipal Planning Act, Minnesota Statute Sections 462.352 to 462.365, as may be amended. The provisions of this Ordinance shall be interpreted and applied in accordance and as permitted by the State.
- B. This Ordinance shall not repeal, annul, or in any way impair or interfere with the provisions of other ordinances or regulations of the City except as expressly provided within this Ordinance.

CHAPTER III. GENERAL PROVISIONS

Section 1. Scope

- A. The use of all land and all buildings erected, altered, enlarged or relocated shall be in conformance with the provisions of this Ordinance, from and after the effective date of this Ordinance.
- B. Any building, structure or use lawfully existing on April 7, 1964, which is not in conformity with this Ordinance shall be regarded as nonconforming, but may be continued except as, and subject to, the requirements contained in this Ordinance.

- C. This Ordinance shall not repeal, annul, or in any way impair or interfere with the provisions of other ordinances or regulations of the City except as expressly provided in this Ordinance.

Section 3. Repeal of Previous Zoning Ordinance

- A. Ordinance No. 38A - Zoning Regulations adopted by the City Council on November 10, 1998 and all amendments to Ordinance No. 38A are hereby repealed.
- B. Ordinance No. 87 - Establishment of the Planning Commission adopted by the City Council on November 1, 2005 is hereby repealed.

Section 4. Separability

The City declares that the provisions of this Ordinance are separable in accordance with the following:

- A. If any court of competent jurisdiction shall decide that any provision of this Ordinance to be invalid, such decision shall not affect any other provisions of this Ordinance not specifically included in the decision.
- B. If any court of competent jurisdiction shall decide that the application of any provision of this Ordinance to a particular property, building, or other structure is invalid, the decision to invalidate shall not affect the application of the provision to any other property, building, or structure not specifically included in the decision to invalidate.

Section 5. Interpretation

- A. The provisions of this Ordinance shall be interpreted as the minimum requirements necessary to accomplish the purposes of this chapter.
- B. Except as provided within this Ordinance, the provisions of this Ordinance are cumulative and in addition to the provisions of other laws and ordinances governing the same subjects.
 - 1. Where the provisions of this Ordinance impose greater restrictions than those of any law, other ordinance or regulation, the provisions of this Ordinance shall control.
 - 2. Where the provisions of any law, or other ordinance or regulation impose greater restrictions than this Ordinance, the greater restrictions shall be controlling.
 - 3. Words or terms defined in this Ordinance shall have the meanings assigned to them unless such meaning is clearly contrary to the intent of this Ordinance.
 - a. The singular number shall include the plural.
 - b. The present tense shall include the past and future tenses.
 - c. The word "shall" is mandatory and "may" is permissive.
 - 4. All measured distances expressed in feet shall be to the nearest tenth of a foot. In event of conflicting provisions, the more restrictive provisions shall apply.

Section 6. Compatibility with the Comprehensive Plan

The City of New Germany has adopted a Comprehensive Plan, that may be amended from time to time, that establishes the policies for the establishment and provisions of this Ordinance. All land uses and development shall comply with the Comprehensive Plan and the provisions of this Ordinance.

Section 7. Uses Not Provided for Within a Zoning District

- A. Uses not specifically identified in this Ordinance as a permitted, conditional, interim or accessory use shall be prohibited.
- B. Whenever a use is not specifically permitted, the City Council, the Planning Commission or the

owner of the property may request consideration of an interim use permit or an amendment to this Ordinance to determine if the particular use should be allowed as a permitted, conditional, interim use or accessory use.

- C. The City Council within its discretion shall approve or deny the request for an interim use permit or an amendment to this Ordinance following the applicable procedures established in Chapter VI, Section 1 of this Ordinance.

Section 8. Non-Conforming Uses and Structures

A. Purpose: This Section is established to regulate existing uses, structures and property within the City that were established before the adoption of this Ordinance and no longer meet all the provisions of this Ordinance. The regulation of uses, structures and property no longer meeting the requirements of this ordinance are intended to reduce their impacts on adjacent properties, prevent and abate nuisances, and to protect the public health, safety, and welfare.

B. General Standards:

1. Any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of this Ordinance may be continued, including the repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:
 - a. The nonconformity or occupancy is discontinued for a period of more than one year; or
 - b. The nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its market value, and no building permit has been applied for within 180 days of when the property is damaged. In this case, the City may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property.
2. Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.
3. The City may impose reasonable regulations on a nonconforming use to prevent and abate nuisances and to protect the public health, welfare, or safety.
4. When any lawful non-conforming use of any structure or land in any district, has been changed to a conforming use, it shall not thereafter be changed to a non-conforming use.
5. A lawful non-conforming use of a structure or land may be changed to a similar non-conforming use or to another non-conforming land use of lesser intensity if it is found to be in the public interest upon review and approval by the City Council. In all instances, the applicant has the burden of proving that the proposed land use is similar or less intense than the exiting nonconforming land use. Once a structure or parcel of land has been placed in a nonconforming use of less intensity, it shall not return to a more intensive non-conforming use.
6. Normal maintenance of a building or other structure containing or related to a lawful non-conforming use is permitted, including necessary nonstructural repairs and incidental alterations which do not extend or intensify the non-conforming use.

CHAPTER IV. PLANNING COMMISSION

Section 1. Establishment

The Planning Commission of five members is established and will constitute the planning agency of the City of New Germany. The Planning Commission members shall be residents of the City and

shall be appointed by the City Council.

Section 2. Appointment and Removal

- A. Each newly appointed Planning Commission member shall be subject to a six month probationary period. At the end of the probationary period the City Council may review the status and work effort of the member and may determine if the member should remain on the Planning Commission or be removed.
- B. A vote to remove the member shall be by majority vote of the entire City Council.

Section 3. Term and Vacancies

Planning Commission members shall be appointed for staggered terms of three calendar years. Members shall hold their offices until their successors are appointed and qualified. Vacancies shall be filled by the City Council for the unexpired portion of the term.

Section 4. Powers and Actions

- A. The Planning Commission shall have such powers and duties as provided by State law and City ordinances however, the Planning Commission's actions shall be advisory to the City Council and shall work under the direction of the City Council. Duties include but are not limited to investigating, reviewing and making recommendations to the City Council in regard to:
 - 1. The Comprehensive Plan,
 - 2. Zoning and subdivision ordinances,
 - 3. Subdivision sketch plans, preliminary and final plats,
 - 4. Variances,
 - 5. Conditional use and interim use permits, and
 - 6. General planning matters
- B. The Planning Commission shall make recommendations to the City Council on items before it within a reasonable time or such time as shall be prescribed by State law or City ordinance. Failure by the Planning Commission to make a recommendation within the required period shall be deemed to be a recommendation for denial if the delay is appealed by the applicant.
- C. The Planning Commission may recommend that the City Council place conditions on applications and permits required under this Ordinance in order to carry out the intent of this Ordinance. The Planning Commission shall accompany its decision to recommend a denial of an application with a statement of its findings regarding the matter.
- D. The City Council may adopt, modify or reject the recommendation of the Planning Commission by vote of a majority of those present.

Section 5. Procedures

- A. At the first meeting of each year the Planning Commission shall elect from its membership a chairperson, a vice chairperson and a secretary. The officers shall take office immediately following their election and shall hold office for a term of one calendar year until their successors are elected and assume office.
- B. The duties of the Commission officers are as follows:
 - 1. The chairperson shall preside at all meetings and perform such other duties as may be directed by the Commission.
 - 2. The vice chairperson shall act in the capacity of the chairperson in the absence of the

chairperson. If the office of the chairperson becomes vacant, the vice chairperson shall succeed to this office for the unexpired term and the Commission shall elect a successor to the office of vice chairperson for the unexpired term.

3. The secretary shall be responsible for taking the minutes of the meeting and any other correspondence of the Commission.
- C. The Planning Commission shall hold regular meetings as it determines appropriate and necessary to efficiently and effectively carry out the work and duties of the Commission or as directed by the City Council. All meetings shall be open to the public and posted as required by law.
- D. The Planning Commission may adopt bylaws or rules for the conduct of its business. The Commission shall keep a record of its transactions, findings and minutes of each meeting. These records shall be a public record and shall be submitted to the City Clerk to distribute to the City Council for review.
- E. Expenses of the Commission shall be within the amount appropriated for such purposes by the City Council.

CHAPTER V. DEFINITIONS

The following words, terms and phrases, as used herein, have the following meanings:

- (1) **Abut:** To border upon or share all or a portion of a common property line, public right-of-way or alley.
- (2) **Accessory Structure:** A structure subordinate to and servicing the principal structure on the same lot including but not limited to garages, sheds, or storage buildings exceeding 120 sq. ft.; swimming pools, spas and other similar structures.
- (3) **Accessory Use:** A use incidental to, and on the same lot as, a principal use.
- (4) **Agriculture and Horticulture:** Land used for agricultural and horticultural purposes, excluding feedlots, that includes the raising, cultivation, drying, or storage of agricultural and horticultural products for sale, or the storage of machinery or equipment used in support of agricultural production by the same farm entity.
- (5) **Alley:** A public right of way that affords a secondary means of access to abutting property.
- (6) **Alteration:** Any modification, additions or change in construction or type of occupancy of a structure; any horizontal or vertical enlargement of a structure; or the moving of a structure from one location to another.
- (7) **Amendment:** Any modification of the text of this Ordinance or the zoning map. A map amendment shall also be known as a rezoning.
- (8) **Antenna Devices, Personal:** A device used for transmitting or receiving telecommunication, television or radio signals that is used for personal wireless telecommunication service.
- (9) **Applicant:** An owner, agent or person, individual firm, association, syndicate, partnership, corporation, trust or other legal entity having sufficient proprietary interest to request approval of a development, variance, conditional or interim

- use permit, zoning amendment, or other related action as required by this Ordinance.
- (10) Application, Complete: Any necessary form, as may be provided by the City, and all accompanying information as required by this Ordinance to be completed by the applicant for the requested action.
- (11) Automobile Repair Garages: A business that conducts general repair, rebuilding or reconditioning of engines, bodywork, framework, welding, major painting services, and other similar work incidental to the repair of automobiles, trucks and trailers.
- (12) Automobile Service Station: Any structure used for the retail sale of vehicular fuels along with associated sales of lubricants, grease, tires, batteries or minor automobile accessories. Associated services may include the installation of tires, batteries or minor accessories; minor automobile repairs; and greasing or washing of individual automobiles. Automobile service stations shall not include the sale or storage of vehicles, automobile wrecking or detached car washes.
- (13) Basement: A portion of the building located wholly or partially underground but having at least 1/2 of its floor to ceiling height below the grade of the adjoining ground.
- (14) Boathouse, Community: A boathouse designed for communal use by property owners residing in residential subdivisions designed as a planned development; and excluding any commercial or retail activities.
- (15) Boathouse, Private: An uninhabited accessory structure designed and used solely for the storage of boats, water recreation vehicles or boating and water recreation equipment, and associated with a single family residential home with lakeshore frontage.
- (16) Boulevard: That portion of a street right-of-way between the curb or curb line and the property line.
- (17) Building: A structure which may provide shelter and enclosure for persons, chattels or animals, and when such structure is divided by party walls without openings, each portion so formed and separated shall be deemed to be a separate building.
- (18) Building Face: The portion of any exterior elevation of a building or other structure extending from the grade level to the top of a wall and the entire width of the building or structure elevation.
- (19) Building Height: The vertical distance measured from the mean curb level along the front lot line or from the mean ground level for all of the portion of the structure having frontage on a public right-of-way, whichever is higher, to the:
- a. highest point of the coping of a flat or shed roof, or
 - b. to the deck line of a mansard roof, or
 - c. to the average height of the highest gable of a pitched or hip roof.

- (20) Business Service Use: Commercial establishments engaged in providing services and assistance to other businesses, individuals, and government.
- (21) Building Setback Line: A line parallel to a lot line or the ordinary high water mark indicating the maximum extent where a building may be erected or placed.
- (22) Cemetery: Land used for the burial of the dead and dedicated for cemetery purposes, including columbarium's, mausoleums and associated service uses.
- (23) City: City of New Germany, Carver County, Minnesota.
- (24) City Clerk: The City Clerk, appointed by the City Council, and shall serve as the official zoning officer of the City, unless another individual is appointed by the City Council.
- (25) Comprehensive Plan: The document entitled The City of New Germany 2030 Comprehensive Plan, as may be amended from time to time.
- (26) Conditional Use Permit: A permit to allow a conditional use in a particular zoning district as approved by the City Council.
- (27) County: The governing board of Carver County, Minnesota
- (28) Day Care Facility, State Licensed: A day care facility licensed by the State serving 12 or fewer persons, and a group family day care facility serving 14 or fewer children and licensed under Minnesota Rules, parts 9502.0315 to 9502.0445
- (29) Deck: A structure which is either free standing or attached to a principal or accessory building, constructed at grade or above grade, intended or designed for use as outdoor living space and unenclosed by solid or non-solid walls or a roof.
- (30) Density: The number of dwelling units per acre of land as regulated by the Comprehensive Plan, excluding right of way, and wetlands or floodplain area.
- (31) Dwelling: A building or portion thereof used exclusively for residential purposes, including single-family, double-family, town-houses and multiple family dwellings, but not including hotels, motels or rooming houses.
- (32) Dwelling, Attached: A dwelling attached to one or more dwellings by common walls or floors.
- (33) Dwelling, Detached: A dwelling that is not attached to any other dwelling or structure by any means.
- (34) Dwelling, Double-Family: A building containing two dwelling units totally separated from each other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.
- (35) Dwelling, Multiple Family: A building containing three or more dwelling units totally separated from each other and designed with more than one

- dwelling unit connecting to a common corridor or entranceway.
- (36) Dwelling, Townhouse: Three or more residential dwellings within a building having one or more side by side common walls extending from the foundation to the roof with another dwelling, and oriented so all entrances/exits open directly to the outside.
- (37) Dwelling, Single Family Detached: A detached dwelling unit designed for occupancy by one family, including a single manufactured home as defined by Minnesota Statute 327.31.
- (38) Educational Facility: A public or private elementary, middle, secondary, post-secondary or vocational school having a course of instruction meeting the compulsory education requirements of the State.
- (39) Family: An individual or two or more persons living together as a single housekeeping unit and maintaining a common household.
- (40) Fence, Permanent: A permanent structure, other than a building, which is a barrier and used as a boundary or means of protection or confinement.
- (41) Fence, Temporary: A temporary structure, other than a building, which is a barrier and used as a boundary or means of protection or confinement during a portion of the year. Examples of temporary fences include snow fencing, garden fencing and invisible fences.
- (42) Garage: A building for the private use of the owner or occupant of a principal building situated on the same lot and used for the storage of personal items and vehicles.
- (43) Home Occupation: An activity which is clearly secondary to the principal use on the property and does not change the nature of the principal use. It shall have no exterior evidence of the occupation, no significant increase in traffic or demand for parking, no significant increase in levels of noise, air or other pollution, no exterior signage, and no persons employed in the business who does not reside in the dwelling. It may have only limited retail sales activity.
- (44) Home Occupation, (with a Conditional Use Permit): An activity which is clearly secondary to the principal use and does not change the nature of the principal use. It may have a minimal exterior indication of the business use and may have only limited retail sales activity, as specified in Chapter IX, Section 2 of this Ordinance.
- (45) Hotel or Motel: A building containing guest rooms where temporary lodging is provided with or without meals for compensation and in which the principle access to and from all rooms is made through an inside lobby or a supervised office.
- (46) Industry: An enterprise that involves the production, processing or

- storage of materials, goods or products.
- (47) Interim Use: A temporary use of property until a particular date, until the occurrence of a particular event, or it no longer permitted by this Ordinance.
- (48) Land Disturbing Activity: Any land change that may result in soil erosion from wind, water and/or ice and the movement of sediments into or upon waters, lands, or rights-of-way within the City, including but not limited to building demolition, clearing and grubbing, grading, excavating, transporting and filling of land.
- (49) Landscaping: Plantings such as trees, grass, bushes or shrubs.
- (50) Loading Space: An unobstructed area on a property designed for temporary parking, and loading and unloading of vehicles.
- (51) Lot: A parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means that is adequate for a use allowed by this Ordinance; abutting a public street; and of sufficient size to meet the required setbacks and area required by this Ordinance.
- (52) Lot Area: The total area within the lot lines of a lot excluding dedicated public rights of way.
- (53) Lot Area per Dwelling Unit: The number of square feet of lot area required per dwelling unit.
- (54) Lot, Corner: A lot abutting upon two intersecting streets. The greater frontage of a corner lot shall be the lot depth and the lesser frontage is the lot width.
- (55) Lot Depth: The mean horizontal distance between the front lot line and the rear lot line.
- (56) Lot, Double Frontage: A lot having frontage on two non-intersecting streets.
- (57) Lot Frontage: The portion or side of a lot that abuts public right of way.
- (58) Lot Line: A property boundary line of any lot, except any portion of the lot that extends into the abutting street or alley.
- (59) Lot Line, Front: A lot line abutting a public right of way and if a corner lot, it shall be the shortest dimension on a public street.
- (60) Lot Line, Rear: The lot line opposite and most distant from the front lot line.
- (61) Lot Line, Side: Any lot line other than a front or rear lot line.
- (62) Lot of Record: A parcel of land whose legal description was established in the Carver County property records by plat, subdivision, or as otherwise permitted by law.
- (63) Lot Width: The horizontal distance between side lot lines, measured at the required front setback line.
- (64) Manufactured Home: A structure, transportable in one or more sections, that is built on a permanent chassis and is designed for single family residential use with or without a permanent

- foundation when attached to the required utilities, as further defined in Minnesota Statute 327.31, as may be amended. The term does not include a recreational vehicle.
- (65) Net Acre: An acre of land excluding areas excluding road right of ways, wetlands, floodplain areas or other water features.
- (66) Non-Conforming Structure: A structure, including signage, which does not meet the requirements of the zoning district in which it is located due to the enactment of this Ordinance or as amended, but which was lawfully existing as of the date of its construction or placement.
- (67) Non-Conforming Use: A use which does not meet the requirements of the zoning district in which it is located due to the enactment of this Ordinance or as amended, but which was a lawful use as of the date it was first commenced.
- (68) Noxious Matter: Any substance capable of causing injury to living organisms or of causing detrimental effects on the physical or economic well being of individuals.
- (69) Off-street Parking: A maintained area, other than on a public street or right-of-way, for the storage of an automobile.
- (70) Office Use: A building or portion of a building for the conduct of business activities involving predominantly professional, administrative or clerical service operations such as attorneys, financial advisors, consultants, insurance, travel, and other uses of similar character.
- (71) Performance Standards: Standards established in Chapter IX of this Ordinance to assure that development will not be a detriment to the public health, safety and general welfare of the City.
- (72) Planning Commission: The City of New Germany Planning Commission, as established by the New Germany City Council.
- (73) Practical Difficulty (ies): In connection with the granting of a variance, it means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Practical difficulty (ies) also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems.
- (74) Public Hearing Notice: A notice published in the official newspaper of New Germany, other qualified newspaper or communication method available to the general public as allowed by State law, at least 10 days before the date of the hearing. The notice shall specify the general time, purpose, and place of the hearing.
- (75) Public Buildings and Facilities: Public utility structures including, but not limited to, transformers, lift stations, water towers and public utility buildings.

- (76) Religious Institution: A building, together with any accessory buildings and uses where persons regularly assemble for religious service and are maintained and controlled by an organized group for public worship.
- (77) Retail Use: The sale of goods and products in small quantities directly to the consumer and rendering services incidental to the sale of these items all occurring within an enclosed building. Examples of retail uses includes stores selling apparel, health and beauty products, food, appliances, furniture, tools, hardware, toys, and sporting goods.
- (78) Right-of-Way: An area or strip of land, either public or private, on which an irrevocable right-of-passage has been recorded for the use of vehicles or pedestrians or both.
- (79) Road/Street: A vehicular way lying within public right-of-way which affords primary access to abutting properties further defined as a local, collector or minor arterial as established in the Comprehensive Plan.
- (80) Road, Collector: Roads that provide connections between cities and minor business concentrations within the County, as designated in the Comprehensive Plan and the Carver County Transportation Plan, as may be amended.
- (81) Road, Local: City and township roads that serve the shortest trips and providing access to adjacent property, as designated in the Comprehensive Plan and the Carver County Transportation Plan, as may be amended.
- (82) Road, Minor Arterial: Roadways that serve medium to short trips as designated in the Comprehensive Plan and the Carver County Transportation Plan, as may be amended.
- (83) Setback: The minimum horizontal distance between a structure and the nearest property line or right-of-way line.
- (84) Setback, Front: The shortest horizontal distance from the forward-most point of a building to the nearest point on the front lot line.
- (85) Setback, Rear: The shortest horizontal distance from any part of a building to the nearest point on a rear lot line.
- (86) Setback, Side yard: The shortest horizontal distance from any part of a building to the nearest point on a side lot line.
- (87) Setback, Street: The shortest horizontal distance from any part of a building to the nearest point on a side lot line that adjoins a street.
- (88) Sign: Any structure either stationary or movable, containing any writing, number, illustration, decoration, symbol, insignia, or illumination which is displayed for informational or communicative purposes for commercial and non-commercial speech. It does not include any official court or other public notices, nor shall it include the flag, emblem or insignia of a nation, political unit, school or religious, service or fraternal group.

- (89) Sign, Awning: A sign constructed of awning material which incorporates a written message or graphics on the exterior.
- (90) Sign, Copy: The portion of a sign that contains characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign, or incorporates a technology or an electronic method to allow the sign face to change the image without having to physically or mechanically replace the sign face or its components.
- (91) Sign, Flashing: A sign where light is not maintained as stationary or constant in intensity and color at all times when the sign is in use and exhibits changing light or color effect, outside the copy area, by any means, so as to provide intermittent illumination. Also any mode of lighting which resembles zooming, twinkling, or sparkling.
- (92) Sign, Freestanding: A self-supporting sign affixed to a supporting frame structure or anchored in the ground and not attached to a building.
- (93) Sign, Off-premise: A commercial speech sign that directs the attention of the public to any type of business, activity or product that is not located on the same premises where such sign is located.
- (94) Sign, Temporary: A sign which is designed or intended to be displayed for a short period of time and is not permanently installed.
- (95) Sign, Wall: A single faced sign attached to or erected against an exterior wall of a building with the face in a parallel plane to the plane of the building wall and which does not project more than 18 inches.
- (96) Sketch Plan Review: An informal, nonbinding review of a conceptual subdivision or a development of property referenced in the Planned Unit Development (PUD) District.
- (97) Site Plan: A development plan for property showing the existing and proposed conditions of the property, including topography, floodplain, wetlands, open spaces, means of ingress/egress, parking, grading, drainage, utilities, structures, building elevations and other information which may reasonably be required by the city.
- (98) Speech, Commercial: Speech advertising a business, profession, commodity, service or entertainment.
- (99) Speech, Noncommercial: Dissemination of messages not classified as commercial speech which include, but are not limited to, messages concerning political, religious, social, ideological, public service and informational topics.
- (100) State: State of Minnesota
- (101) Structure: Anything built or constructed, an edifice or building of any kind, or any piece of work composed of parts joined together in some definite manner, except parking lots and driveways.

- (102) Structure, Principal: A building in which the principal use of the lot on which the building is located is conducted.
- (103) Telecommunication Facilities: Licensed wireless services used for commercial purposes including cellular, personal communication telecommunication services, specialized mobilized radio, enhanced specialized mobilized radio, paging, and similar services.
- (104) Telecommunication Tower: A free-standing, self-supporting lattice, guyed, or monopole structure constructed from grade intended to support antennas, except towers used for amateur radio operations
- (105) Use: The purpose or activity for which the land or building thereon is designated, arranged, or intended, or for which it is occupied, utilized or maintained, and shall include the performance of such activity as defined by this Ordinance.
- (106) Use, Accessory: A subordinate use which is secondary and associated with the principal use and is located on the same lot as the principal building or use.
- (107) Use, Conditional: A use permitted in a particular zoning district only upon showing that such use in a specified location will comply with all standards of this Ordinance for the location or operation of such use. The City may impose additional conditions in specific instances to protect the public health, safety or welfare.
- (108) Use, Interim: An interim use is a temporary use of property until a certain date established by the City Council or until the use is no longer permitted by this Ordinance.
- (109) Use, Non-Conforming: The use of land, buildings or structures existing at the time of adoption of this Ordinance or subsequent amendments that do not comply with all the regulations of this Ordinance governing the zoning district in which the use is located.
- (110) Use, Permitted: A use that conforms to the requirements of this Ordinance.
- (111) Use, Principal: The primary use of land or structures as distinguished from accessory uses.
- (112) Utility Building: A detached accessory building, not used for vehicle storage, is one-story in nature, is used or intended for the storage of hobby tools, garden equipment, etc., and which is incidental to the principal dwelling structure.
- (113) Variance: Any modification or variation of official controls where it is determined that because of practical difficulty (as defined in this Ordinance) that strict enforcement of official control is impractical.
- (114) Warehousing: The storage of materials or equipment within an enclosed building.
- (115) Water Management Plan, Carver County: The Carver County Water Management Plan, as may be amended.

- (116) Water Management Plan, City: The City of New Germany 2007 Stormwater Management Plan, as may be amended.
- (117) Wetland Conservation Act: An Act adopted by the State, as amended, classifying, governing and defining wetlands within the State.
- (118) Windmills (Wind Energy Conversion Systems): An apparatus capable of converting wind energy into electricity.
- (119) Yard: An unoccupied and unobstructed open space between a building and the adjoining lot lines.
- (120) Zoning Amendment: A change authorized by the City Council either in the text of the Zoning Ordinance or in the boundaries or location of a zoning district.
- (121) Zoning District: An area of the City designated in the Zoning Ordinance text and delineated on the Official Zoning Map, in which requirements for the use of land and building and development standards are prescribed and uniform.
- (122) Zoning Map, Official: The map or maps incorporated into this Ordinance designating the zoning districts.
- (123) Zoning Officer: The City of New Germany City Clerk or other individual, as appointed by the City Council.

CHAPTER VI. ADMINISTRATION

Section 1. Enforcement and Penalties

- A. Any person who violates or refuses to comply with or assists, directs or permits the violation of a provision of this Ordinance or who knowingly makes or submits a false statement or document in connection with an application or procedure required by this Ordinance is guilty of a misdemeanor, and upon conviction shall pay the maximum fine for every offense or imprisonment permitted by law. Each day that a violation is permitted to exist constitutes a separate offense.
- B. All fines for violation shall be paid to the City and shall be credited to the general revenue funds.
- C. In the event of a violation or a threatened violation of this Ordinance, the City Council, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct, or abate such violations or threatened violations.

Section 2. Enforcement Officer and Duties

- A. The City Clerk shall serve as the zoning officer for the City of New Germany and shall be responsible for the administration and enforcement of this Ordinance as directed by the City Council. The City Clerk may consult with other governmental agencies, the City's building official and other City consultants in the administration and enforcement of this Ordinance.
- B. The duties of the City Clerk shall include the following:
 - 1. Determine that all uses of land and building permits comply with the terms of this Ordinance, including the interpretation of this Ordinance;
 - 2. Authorize the City's building inspector to conduct the inspection of buildings and use of land, as allowed by State statute, to determine compliance with the terms of this Ordinance;
 - 3. Maintain permanent and current records of this Ordinance, including but not limited to all maps, zoning ordinance and map amendments, variances, conditional use and interim use permits, applications, other permits and appeals;
 - 4. Receive, file and forward all applications for zoning ordinance and map amendments, variances, conditional use and interim use permits, appeals, or other related matters to the Planning Commission, City Council, other governmental reviewing agency and other designated parties;
 - 5. Prepare for publication all public hearing notices and other notifications required by this Ordinance.
 - 6. Receive and deposit in the City account all required fees for zoning applications and building permits, and manage any financial security as required by the City Council.
 - 7. Any person aggrieved by any procedure or decision of the City Clerk may appeal to the City Council.

Section 3. Deadlines for City Actions and Voting Requirements

A. Deadlines for City Actions

- 1. The City Council shall act upon all applications required by this Ordinance within 60 days of the submission of a complete application or such longer period agreed to by the applicant.
- 2. The City may take an additional 60 days for a decision after notifying the applicant of the

reasons for such an extension.

3. If an application is denied by the City Council, the reasons for denial shall be stated in the record of the Council proceedings and the applicant shall be provided with a written statement on the reasons for denial.
4. If the City Council fails to make a timely decision, the application shall be deemed to have been approved.

B. Voting Requirements

1. All applications for a conditional use permit, variance, interim use permit, site plan or an amendment to the text of this Ordinance shall be issued on the affirmative vote of a majority of the entire City Council.
2. Any amendment to this Ordinance that changes the boundary of any zoning district (rezoning) or changes the regulation of any existing zoning district requires an affirmative vote of 2/3 of the entire City Council.

Section 4. Public Hearing Requirements

A. The following requirements shall apply to all public hearings required by this Ordinance:

1. The City Clerk publish a notice of the public hearing in the official newspaper at least 10 days prior to the date of the hearing, after submission of a complete application for the requested action to the City by the applicant.
2. The City Clerk shall mail notice of the public hearing for complete applications pertaining to a zoning amendment which involves a change in the boundaries of a zoning district, variance, or conditional or interim use at least 10 days prior to the date of a hearing to:
 - a. The current owners of all property, as shown in the certified records of the Carver County Office of Taxpayer Services, that are located within 350 feet of the property that is the subject of the application, and
 - b. Any other governmental agency required to review the application as specified by State law or applicable Ordinance.

B. Failure to mail the notice or failure of the property owners to receive the notice shall not invalidate the proceedings required by this Ordinance.

Section 5. Fees

Fees, established by the City Council, for all building permits, zoning ordinance and map amendments, variances, conditional use and interim use permits, and other related applications or permits shall be payable at the time of filing any application with the City and are not refundable.

Section 6. Single Family Detached Dwelling Unit Requirements

- A. All single family detached dwellings, including manufactured homes, shall have a width of at least 22 feet for at least 50 percent of their depth, and a depth of at least 22 feet for at least 50 percent of their width.
- B. All dwellings shall have a permanent foundation in conformance with the State Building Code.
- C. The use and occupancy of a tent, recreational vehicle, unfinished dwelling, or other temporary dwelling for the purpose of living quarters or residency is prohibited.

Section 7. Lot, Yard and Height Provisions and Exceptions

- A. Lots of Record: A lot of record shall be considered a buildable lot for the permitted uses within the zoning district the lot is located even though the lot area and/or dimensions are

less than those required for the district provided:

1. The width of such lot is not less than 40 feet
 2. The lot fronts on a public street
 3. No adjacent lot or land is owned by the owner of the lot of record lot, or has been sold by the owner since the effective date of this Ordinance.
- B. Principal Uses and Buildings: No more than one principal building shall be located on a single lot, except as provided for in Chapter VII (Zoning Districts) of this Ordinance.
- C. Yard and Setback Requirements and Exceptions:
1. No required yard or open space allocated to a structure or parcel of land in compliance with this Ordinance shall be used to satisfy yard, other open spaces, or minimum lot area requirements for any other structure or land.
 2. On double frontage lots the required front yard setback shall be provided on both streets.
 3. The following shall be exceptions on minimum yard requirements:
 - a. Chimneys, flues, sills, gutters, mechanical devices, eaves, bay windows, ornamental features and other similar features may extend into the required yard setback area no more than three feet
 - b. Patio slabs, public utility and flag poles, mail boxes, plantings, recreation equipment, and means of access such as sidewalks, driveways, and steps may occupy any part of a required yard setback
 - c. Detached retaining walls that are less than five feet in height, including staged walls which cumulatively do not exceed five feet in height
 - d. Yard lights may extend into the required yard setback areas provided the direct light source is not visible from a public right-of-way or an adjacent residential property.
- D. Height Exceptions: Height limitations established in the A-1 Agricultural, R-I Single Family Residential District, and R-2 Multiple Family District may be increased by 50 percent when applied to the following:
1. Personal receive only satellite dish antennas, other personal antenna devices, and amateur radio devices.
 2. Spires, steeples and belfries on religious and educational institutions or public uses containing uninhabitable space
 3. Chimneys
 4. Flag poles
 5. Public water towers
 6. Wind mills used in conjunction with agricultural uses
 7. Telecommunications facilities, if located on an existing structure.

CHAPTER VII. ZONING ORDINANCE PROCEDURES

Section 1. Zoning Ordinance Text and Map (Rezoning) Amendment

A. General

1. The Zoning Ordinance may be amended whenever the City Council finds it consistent with the intent of this Ordinance, the Comprehensive Plan, and the public health, safety or

general welfare. An amendment to this Ordinance may be initiated in accordance with the following:

- a. An application by the owner or owners of the property of the zoning of which is proposed to be changed,
 - b. A recommendation of the Planning Commission, or
 - c. Action of the City Council.
2. All zoning amendments shall require a public hearing before the City Council.

B. Zoning Amendment Application

1. All applications for zoning amendments which are initiated by the owner or owners of the property to be rezoned shall be filed with the City Clerk.
2. When the petition involves the changing of a zoning district and its boundaries, it shall be accompanied by an application form provided by the City and be accompanied by the following:
 - a. A map or plat showing the property proposed to be changed,
 - b. The legal description and address of the property,
 - c. Evidence of ownership or an interest in the property,
 - d. A list of the names and addresses of all property owners within 350 feet from the Carver County Office of Taxpayer Services,
 - e. The fee as established by the City Council, and
 - f. Other information as may be required by the City.
3. An application for a change in the boundaries of a zoning district which would result in the creation of a zoning district which is inconsistent with the land use designation of the property in the Comprehensive Plan must be accompanied by an application for an amendment to the Comprehensive Plan.
4. All complete applications for zoning ordinance text and map (rezoning) amendments to this Ordinance shall be referred to the Planning Commission for review.
5. Review by the Planning Commission
 - a. The Commission shall make a recommendation to the City Council after consideration of a complete application for the request or any continuance which is not appealed by the applicant.
 - b. The Planning Commission shall base its recommendation to the City Council upon the following criteria:
 - 1.) Compliance with the text and maps of the Comprehensive Plan
 - 2.) Adherence of the property and any proposed use(s) to the provisions of the zoning district proposed for the property that is subject to the rezoning application.
 - c. The Planning Commission may recommend that the City Council attach conditions to zoning map (rezoning) amendments to carry out the intent of this Ordinance.
6. Action by the City Council
 - a. The Planning Commission shall provide a report to the City Council of its findings and recommendations on the application.
 - b. The City Council shall hold a public hearing to consider the Planning Commission's

recommendation.

- c. The City Council shall act upon the amendment within the appointed time or such longer period agreed to by the applicant of the zoning amendment, and shall state the reasons for the approval, denial or other action.
- d. The City Council may attach conditions to zoning map (rezoning) amendments to carry out the intent of this Ordinance.

Section 2. Variances

A. General

1. The City Council may grant variances from strict application of the provisions of this Ordinance in cases where strict enforcement would cause practical difficulties in complying with the requirements of this Ordinance applicable to the individual property under consideration when it is demonstrated that the variance would be consistent with the spirit and intent of this Ordinance and the Comprehensive Plan. Economic considerations do not constitute practical difficulties.
2. No variance shall be granted to declare a substandard lot buildable unless, in addition to meeting the requirements of subpart 1., above, the applicant has exhausted all reasonable possibility of combining the lot with an adjacent vacant lot.
3. No variance shall be granted to permit a use which is not allowed as a permitted, accessory or conditional use under this Ordinance for property in the zoning district in which the land is located.
4. All variance requests shall require an official public hearing before the City Council.

B. Variance Application Procedure

1. An application for a variance shall be filed with the City Clerk stating the practical difficulties applicable to the individual property along with the following information:
 - a. A map or plat of the property which shows all lot lines, existing and proposed structures, driveways and parking areas, and any significant features,
 - b. The legal description and address of the property,
 - c. Evidence of ownership or an interest in the property,
 - d. A list of the names and addresses of all property owners within 350 feet from the Carver County Office of Taxpayer Services,
 - e. The fee as established by the City Council, and
 - f. Other information as may be required by the City.
2. After the application for a variance has been found complete, the variance application shall be referred to the Planning Commission for review.

C. Planning Commission Review:

1. The Commission shall make a recommendation to the City Council for the variance request or any continuance which is not appealed by the applicant, after consideration of the following criteria:
 - a. The health, safety and welfare of the existing and anticipated land use and character of New Germany,
 - b. Traffic conditions, light and air, danger of fire, risk to the public safety,
 - c. Whether or not the conditions applying to the structure or land of the application

present practical difficulties associated with the property or immediately adjoining property and do not apply generally to other land or structures in the zoning district in which the property of the application is located,

- d. That granting the proposed variance will not in any way impair health, safety, comfort or in any other respect be contrary to the intent of this Ordinance,
 - e. That the granting of such variance will not merely serve as a convenience to the applicant but is necessary to alleviate demonstrated practical difficulty associated with the property, and
 - f. That the variance request is not required for solely economic purposes.
2. The Planning Commission may recommend that the City Council attach conditions to the variance to carry out the intent of this Ordinance.

D. City Council Action

1. The City Council shall consider the Planning Commissions recommendation and any conditions, the criteria listed in subpart A of this Section, and comments received at the public hearing.
2. The City Council shall act upon the variance request within the appointed time or such longer period agreed to by the applicant of the variance request, and shall state the reasons for the approval, denial or other action.
3. The City Council may attach conditions to the variance to carry out the intent of this Ordinance.

E. Variance Term and Conditions

1. Any variance granted by the City shall run with the land and shall be perpetual unless prior to December 31 of the year following the year of approval and no building permit has been issued or substantial work performed on the project that is subject to the variance, in which case the variance shall be null and void.
2. The City Council may extend the period for construction upon finding that the interest of the owners of neighboring properties will not be adversely affected by such extension.
3. The variance shall be valid only for the project for which it was granted and construction of the project shall be in substantial compliance with the plans approved by the City Council.
4. A certified copy of the variance or notice of the variance shall be filed by the applicant with the Carver County Office of Taxpayer Services, in accordance with State law requirements.

Section 3. Conditional Use Permits

A. General

1. It shall be unlawful to use any structure or land for any purpose requiring a conditional use permit in the zoning district in which the property is located without first obtaining a conditional use permit from the City.
2. All conditional use permits shall require a public hearing before the City Council.

B. Conditional Use Permit Application: An application for a conditional use permit shall be filed with the City Clerk accompanied with the following information:

1. The legal description and address of the property,
2. Evidence of ownership or an interest in the property by the applicant,

3. A list of the names and addresses of all property owners within 350 feet from the Carver County Office of Taxpayer Services,
4. A narrative explaining the characteristics of the proposed conditional use,
5. A site plan drawn at scale showing the proposed use and the location of all existing and proposed buildings, curb cuts, driveways, parking space and loading areas, or other relevant conditions of the property,
6. If the proposed conditional use involves a new development or redevelopment, the following shall be submitted:
 - a. Elevation drawings indicating the architectural materials and design of all proposed buildings and structures.
 - b. A landscaping plan including the location, size and type of all proposed planting materials.
 - c. A general floor plan of all proposed buildings and structures.
 - d. Stormwater drainage plan, and public sewer and water utility plan,
7. The fee as established by the City Council, and
8. Other information as may be required by the City.

C. Planning Commission Review

1. All complete applications for conditional use permits shall be referred to the Planning Commission for review of the application according to the standards found in Chapter IX (Conditional Use Permit Standards) of this Ordinance.
2. The Planning Commission shall make its recommendation to the City Council after consideration of the application for the conditional use permit or any continuance which is not appealed by the applicant.
3. The Planning Commission may recommend that the City Council attach conditions to the conditional use permit to carry out the intent of this Ordinance.

D. City Council Action

1. The City Council shall consider the conditional use permit application, the Planning Commissions recommendation, conditions for the conditional use permit, if any, and comments received at the public hearing.
2. The City Council shall act upon the conditional use permit request within the appointed time or such longer period agreed to by the applicant.
3. In evaluating the conditional use permit application, the City Council must consider and adopt findings regarding compliance with the standards for the use as established in Chapter IX (Conditional Use Permit Standards) of this Ordinance.
4. The City Council may attach conditions to the conditional use permit to carry out the intent of this Ordinance.

E. Conditional Use Permit Conditions

1. A certified copy of the conditional use permit shall be recorded by the applicant with the Carver County Office of Taxpayer Services.
2. The City Council may revoke a permit upon violation of any condition of the permit, any State or federal law, county regulation or any City ordinance.
3. The conditional use permit shall remain in effect for so long as the conditions agreed upon

by the applicant are observed, and shall expire if:

- a. Normal operation of the use has been discontinued for 12 or more months from the date the conditional use permit is approved by the City Council.
- b. If the conditional use permit involves new development or redevelopment, substantial construction has not been completed within 12 months from the date the conditional use permit is approved by the City Council, unless an extension has been granted by the City Council.

4. Complaints and Violations

- a. The City Clerk shall refer all documented complaints of potential violations of any conditional use permit to the Planning Commission for review.
- b. The Planning Commission shall forward a recommendation to the City Council for appropriate action of violation, if any.

Section 4. Interim Use Permits

A. General: This section establishes interim use permit procedures to allow flexibility in the use of land or structures in the City when such uses are not permanent and when such uses meet appropriate conditions and performance standards that protect the public health, safety, and welfare. The intent of the interim use permit procedure is:

1. To allow a use for a brief period of time until a permanent location is obtained or while the permanent location is under construction.
2. To allow a use that is presently judged acceptable by the City Council, but that with anticipated development or redevelopment, will not be acceptable in the future or will be replaced in the future by a permitted or conditional use.
3. To establish standards for interim uses in the location and circumstances under which the uses may be established without detriment to the public health, safety, and welfare of neighboring property owners or occupants.

B. Interim Use Application and Procedural Requirements

1. The application and procedure requirements for interim use permits shall be the same as those for amendments to this Ordinance, as established in Section 1 of this Chapter.
2. If a proposed interim use is not listed as a permitted interim use in this Ordinance, an amendment to this Ordinance will be required, as established in Section 1 of this Chapter, before an interim use permit may be considered by the City.

C. Standards

1. The interim use must be allowed in the zoning district where the property is located.
2. The interim use must meet or exceed the standards established in Chapter X (Performance Standards) this Ordinance and other applicable City regulations.
3. The interim use must comply with the specific standards for the use identified in this Ordinance, and must comply with all conditions of approval of the permit.

D. Conditions: The City Council may impose conditions on granting the interim use permit in order to ensure compliance with the criteria or to effect the purpose of this Ordinance.

E. Termination: All interim use permits shall terminate on the occurrence of any of the following events, whichever occurs first:

1. The termination date established by the City Council and stated in the interim use permit.

2. A violation of the conditions under which the interim use permit was issued.
3. A change in this Ordinance that causes the use to become nonconforming.

Section 5. Site Plan Review

- A. A site plan must be reviewed by the Planning Commission and approved by the City Council is required for all new non single family residential development and redevelopment in any zoning district prior to the issuance of any building permit to ensure compliance with the standards of this Ordinance.
- B. Site Plan Application Requirements: Applications for site plan review shall include the following minimum submittal requirements:
 1. Legal description and ownership of the property
 2. A narrative description of the proposed property uses
 3. Scaled drawings of the existing property including property dimensions, easements, the locations and setbacks of all existing buildings, and the locations and setbacks of all other structures and uses, such as driveways, parking areas and utilities
 4. Scaled drawings of the proposed uses, easements, and buildings including all dimensions and property setbacks
 5. Scaled drawings of building elevations and descriptions of exterior building materials
 6. Scaled locations and descriptions of any proposed fencing, screening, signage, landscaping, or site lighting
 7. A site grading and drainage plan, including erosion and sedimentation control plans including scaled delineations of any wetlands or floodplain areas
 8. Identification of any wetland or floodplain encroachments and detailed mitigation plans
- C. Planning Commission Review
 1. All complete applications for site plans shall be referred to the Planning Commission for review of the application according to the standards found in this Ordinance.
 2. The Planning Commission shall make its recommendation to the City Council after consideration of the site plan application or any continuance which is not appealed by the applicant.
 3. The Planning Commission may recommend that the City Council attach conditions to the site plan to carry out the intent of this Ordinance.
- D. City Council Action
 1. The City Council shall consider the site plan application, the Planning Commission recommendation and any recommended conditions.
 2. The City Council shall act upon the site plan application within the appointed time or such longer period agreed to by the applicant.
 3. The City Council may attach conditions to the site plan to carry out the intent of this Ordinance.

CHAPTER VIII. ZONING DISTRICTS

Section 1. Official Zoning Map

- A. Interpretation of the Official Zoning Map

1. The boundaries for the zoning districts listed in this Ordinance are indicated on the official zoning map which includes the map and all notations, references and data, which is hereby adopted by reference and may be amended by reference. The boundaries of the official zoning map shall be modified in accordance with Chapter VII, Section 1 (Zoning Text and Map Amendment) of this Ordinance.
 2. Zoning district boundary lines are intended to follow lot lines, or be parallel or perpendicular to a lot line; or along the centerlines of streets, rights-of-way; or follow the boundaries of water features; unless such boundary lines are fixed by dimensions shown on the official zoning map.
 3. Where a zoning district boundary line divides a lot, the location of any such zoning district boundary line, unless indicated by dimensions shown on the zoning map or rezoning description shall be determined by the map scale shown on the official zoning map.
 4. The City Clerk shall make an interpretation of the map upon request of any person where there is an uncertainty, contradiction or conflict regarding the intended location of any zoning district boundary shown on the official zoning map due to the scale, lack of detail, illegibility, or other conflicting information. The City Clerk's interpretation may be appealed to the City Council.
 5. All property within the City shall have a zoning designation shown on the official zoning map. If there is any discrepancy or inconsistency between the official zoning map and any other map, ordinance or source which purports to indicate the zoning of property, the official zoning map shall take precedence.
- B. Establishment and Classification of Zoning Districts: For purposes of this Ordinance, the City shall be divided into the following districts:
1. A - Agricultural District
 2. R-1 - Single Family Residential District
 3. R-2 - Multiple Family Residential District.
 4. B - Business/Commercial District
 5. I - Industrial District
 6. PUD - Planned Unit Development

Section 2. Zoning District Regulations

A. A - Agricultural District

1. Purpose: The A - Agricultural District is established to allow agricultural activities as a transitional use of the land until such time that municipal services are available to serve the property. Because of the limited long-term duration of the agricultural uses within this zoning district and the incompatibilities, which often exist between agricultural and non-agricultural land uses, permitted uses in the A - Agricultural District are oriented towards non-intensive agricultural uses. This zoning district applies to properties that are annexed into the City limits in accordance with orderly annexation agreements or other municipal adjustment proceedings with Camden and Hollywood Townships.
2. Permitted Uses: Within any A - Agricultural District, no structure or land shall be used except for one or more of the following uses:
 - a. Single family detached residential dwellings at a density not exceeding one dwelling per 40 acres
 - b. Agriculture and horticulture land uses, except feedlots, including existing agricultural

- buildings and equipment typically associated with agriculture activities
- c. A State licensed residential facility or housing with services establishment registered to serve six or fewer persons, except those as provided for under State Statute 462.357, subd. 7
 - d. A State licensed day care facility serving 12 or fewer persons or a group family day care facility serving 14 or fewer children and licensed under Minnesota Rules, parts 9502.0315 to 9502.0445.
 - e. Cemeteries
 - f. Public parks and playgrounds
3. Accessory Uses: Within any A - Agricultural District, the following uses shall be permitted accessory uses:
- a. Private garages and parking spaces, utility buildings, detached decks, gazebos and fences and similar structures
 - b. Private swimming pools meeting any State rules, tennis courts and other recreational facilities for exclusive use by the property owner
 - c. Solar collection and geo-thermal heating and cooling systems used in conjunction with permitted uses
 - d. Roadside stands for sale of agricultural products grown on the property provided sufficient off-street parking is available
 - e. Personal receive-only satellite dish antennas, other personal antenna devices, and amateur radio devices
 - f. Home occupations meeting the definition of "home occupation" found in Chapter V (Definitions)
 - g. Telecommunication facilities that meet the height requirements of this district if freestanding or may be allowed up to 70 feet in height if located on an existing structure
 - h. Signs, as regulated in Chapter X (Performance Standards) of this Ordinance
4. Conditional Uses: Within the A - Agricultural District, no structure or land shall be used for the following uses except by conditional use permit and in conformance with the standards found in Chapter IX (Conditional Use Permit Standards) of this Ordinance:
- a. Religious institutions that may include State licensed day care facilities serving more than six persons
 - b. Public buildings and facilities that are greater than 1,000 sq. ft. in area such as water treatment facilities, wastewater treatment plants, water towers and other similar uses
 - c. Home occupations that do not meet the definition of a "home occupation" as found in Chapter V (Definitions)
5. Interim Uses
- *Reserved for Future Use*
6. District Standards: No building or land in the A - Agricultural District shall be used except in conformance with the following:
- a. Minimum lot area: 2 acres
 - b. Minimum lot width: 150 feet of frontage on a public road

- c. Maximum structure height: 35 feet
- d. Minimum setbacks (all structures):

<u>Front</u>	<u>Corner Lot</u>	<u>Interior Side</u>	<u>Rear</u>
75'	30'	30'	30'
- e. All uses shall comply with the provisions of Chapter X (Performance Standards) of this Ordinance.

B. R-1 - Single Family Residential District

1. Purpose: The purpose of the R-1 Single Family Residential District is to provide areas for single-family detached homes consistent with the low-density residential land use designation in the Comprehensive Plan. Residential development within the R-1 Single Family Residential District shall occur at densities that are less than four dwelling units per net acre and shall be served by municipal sanitary sewer and water facilities.
2. Permitted Uses: Within any R-1 Single Family Residential District, no structure or land shall be used except for one or more of the following uses:
 - a. Single family detached residences
 - b. A State licensed residential facility or housing with services establishment registered to serve six or fewer persons, except those as provided for under State Statute 462.357, subd. 7
 - c. A State licensed day care facility serving 12 or fewer persons or a group family day care facility serving 14 or fewer children licensed under Minnesota Rules, parts 9502.0315 to 9502.0445
 - d. Public and private parks, athletic fields, playgrounds and open space
3. Accessory Uses: Within any R-1 Single Family Residential District, the following uses shall be permitted accessory uses:
 - a. Private garages and parking spaces, utility buildings, detached decks, gazebos, private boathouses, fences and similar structures
 - b. Private swimming pools meeting State rules, tennis courts and other recreational facilities for exclusive use by the property owner
 - c. Solar collection and geo-thermal heating and cooling systems used in conjunction with permitted uses
 - d. Personal receive-only satellite dish antennas, other personal antenna devices, and amateur radio devices
 - e. Home occupations meeting the definition of "home occupation" found in Chapter V (Definitions)
 - f. Telecommunication facilities that meet the height requirements of this district if freestanding or may be allowed up to 70 feet in height if located on an existing structure
 - g. Signs, as regulated in Chapter X (Performance Standards) of this Ordinance
4. Conditional Uses: Within the R-1 Single Family Residential District, no structure or land shall be used for the following uses except by conditional use permit and in conformance with the standards found in Chapter IX (Conditional Use Permit Standards) of this Ordinance:
 - a. Double family residential dwellings

- b. Educational facilities and religious institutions that may include State licensed day care facilities serving more than six persons
- c. Public buildings and facilities greater than 1,000 sq. ft. in area such as water treatment facilities, wastewater treatment plants, water towers and other similar uses
- d. Home occupations not meeting the definition of a "home occupation" as found in Chapter V (Definitions)
- e. Community boathouses

5. Interim Uses

Reserved for Future Use

6. District Standards: No building or land in the R-1 Single Family Residential District shall be used except in conformance with the following:

- a. Minimum lot area: 10,000 square feet per dwelling unit
- b. Minimum lot width: 70 feet
- c. Maximum structure to lot coverage: 35%
- d. Maximum structure height: 35 feet
- e. Minimum front yard setbacks requirements (all structures) from property line:
 - 1.) Front yards abutting right of way of new minor arterial or collector roadways constructed after the date of adoption of this Ordinance: 50 feet
 - 2.) Front yards abutting right of way of local streets: 25 feet
 - 3.) Minimum setbacks:

	<u>Corner Lot</u>	<u>Interior Side</u>	<u>Rear</u>
a.) Principal Structures	25'	10'	30'
b.) Accessory Structures	15'	5'	10'
- f. All uses shall comply with the provisions of Chapter X (Performance Standards) of this Ordinance.

C. R-2 - Multiple Family Residential District

- 1. Purpose: The purpose of the R-2 Multiple Family Residential District is to provide area for multiple family dwelling units consistent with the medium density residential land use designation in the Comprehensive Plan. Residential development within the R-2 Multiple Family Residential District shall occur at densities that are more than four dwelling units per net acre but do not exceed ten dwelling units per net acre. Greater densities per net acre may be allowed at the discretion of the City Council to achieve City goals for life cycle and affordable housing.
- 2. Permitted Uses: Within any R-2 Multiple Family Residential District, no structure or land shall be used except for one or more of the following uses:
 - a. Double family residential dwellings, townhouses and multiple family dwellings
 - b. Public and private parks, athletic fields, playgrounds and open space
- 3. Accessory Uses: Within any R-2 Multiple Family Residential District, the following uses shall be permitted accessory uses:
 - a. Private garages and parking spaces, detached decks, gazebos, fences and similar structures

- b. Private swimming pools meeting State rules, tennis courts and other recreational facilities for exclusive use by the residents of the property
 - c. Solar collection and geo-thermal heating and cooling systems used in conjunction with permitted uses
 - d. Personal receive-only satellite dish antennas, other personal antenna devices, and amateur radio devices
 - e. Signs as regulated by Chapter X (Performance Standards) of this Ordinance
 - f. Telecommunication facilities that meet the height requirements of this district if freestanding or may be allowed up to 70 feet in height if located on an existing structure
 - g. Home occupations meeting the definition of "home occupation" found in Chapter V (Definitions)
4. Conditional Uses: Within the R-2 Multiple Family Residential District, no structure or land shall be used for the following uses except by conditional use permit and in conformance with the standards found in Chapter IX (Conditional Use Permit Standards) of this Ordinance:
- a. A State licensed residential facility serving from seven through 16 persons
 - b. A State licensed day care facility serving from 13 through 16 persons
 - c. Educational facilities and religious institutions that may include State licensed day care facilities serving more than six persons
 - d. Public buildings and facilities greater than 1,000 sq. ft. in area such as water treatment facilities, wastewater treatment plants, water towers and other similar uses
 - e. Home occupations not meeting the definition of a "home occupation" as found in Chapter V (Definitions)
5. Interim Uses
- *Reserved for Future Use*
6. District Standards: No building or land in the R-2 Multiple Family Residential District shall be used except in conformance with the following:
- a. Minimum lot area
 - 1.) Double family residential dwelling: 12,000 square feet per building
 - 2.) Townhomes: 20,000 square feet per building
 - 3.) Multiple family dwellings: 35,000 square feet per building
 - b. Density
 - 1.) Minimum of four dwelling units per net acre to a maximum of 10 dwelling units per net acre
 - 2.) The City Council, at its discretion, may allow additional density up to 16 units per net acre to achieve City goals for life cycle and affordable housing
 - c. Minimum lot width: 150 feet
 - d. Maximum structure-to-lot coverage: 50%
 - e. Maximum structure height: 35 feet

- f. Minimum front yard setbacks requirements (all structures) from property line:
 - 1.) Front yards abutting right of way of new minor arterial or collector roadways constructed after the date of adoption of this Ordinance: 50 feet
 - 2.) Front yards abutting right of way of local streets: 30 feet
 - 3.) Minimum rear yard setback from property line: 30 feet
 - 4.) Minimum side yard setback from property line: 15 feet plus 2 feet for every foot by which the building exceeds 25 feet in height
 - 5.) Minimum building spacing: If more than one multiple-family building is proposed for one lot of record, building spacing for the structures shall be equal to one-half the average height of each structure
- g. All uses shall comply with the provisions of Chapter X (Performance Standards) of this Ordinance.

D. B - Business/Commercial District

- 1. Purpose: The B - Business/Commercial District is established to provide areas for business and mixed residential/commercial uses in the downtown area where apartments are located above businesses as designated in the Comprehensive Plan. The B - Business/Commercial District standards are designed to accommodate retail, commercial and office uses as well as residential uses located above business establishments.
- 2. Permitted Uses: Within any B - Business/Commercial District, no structure or land shall be used except for one or more of the following uses:
 - a. Retail, office or business service uses within an enclosed building
 - b. Residential dwelling units within the same building as a retail, office or business service use
 - c. Hotels and motels, and associated recreational uses for guests
 - d. Restaurants and on-sale liquor establishments within an enclosed building
 - e. Automobile service stations and other retail uses having service bays and/or gas pump islands
 - f. Automobile repair garages
 - g. Municipal buildings
 - h. Public parks, athletic fields, playgrounds and open space
- 3. Accessory Uses: Within any B - Business/Commercial District, the following uses shall be permitted accessory uses:
 - a. Private garages, off-street parking and loading spaces
 - b. Fences
 - c. Storage, manufacturing and servicing related to a permitted use and occupying no more than 30 percent of the gross floor area of the principal structure.
 - d. Solar collection and geo-thermal heating and cooling systems used in conjunction with permitted uses.
 - e. Signs as regulated by Chapter X (Performance Standards) of this Ordinance
 - f. Personal receive-only satellite dish antennas, other personal antenna devices, and

amateur radio devices

- g. Telecommunication facilities that meet the height requirements of this district if freestanding or may be allowed up to 80 feet in height if located on an existing structure
- 4. Conditional Uses: Within the B - Business/Commercial District, no structure or land shall be used for the following uses except by conditional use permit and in conformance with the standards found in Chapter IX (Conditional Use Permit Standards) of this Ordinance:
 - a. A state licensed day care facility
 - b. Outdoor dining areas associated with restaurants and on-sale liquor establishments
 - c. Uses having a drive-up window
 - d. Telecommunication facilities that exceed 80 feet in height
- 5. Interim Uses
 - *Reserved for Future Use*
- 6. District Standards: No building or land in the B - Business/Commercial District shall be used except in conformance with the following:
 - a. Maximum structure height: 40 feet
 - b. Side and rear yard setback adjacent to a residential district: 10 feet
 - c. All uses shall comply with the provisions of Chapter X (Performance Standards) of this Ordinance.

E. I - Industrial District

- 1. Purpose: The I - Industrial District is established to provide areas for industrial uses that are separate from residential land uses and located adjacent to major road networks as designated in the Comprehensive Plan. The Industrial District standards are designed to accommodate business, warehouse, and manufacturing uses.
- 2. Permitted Uses: Within any I - Industrial District, no structure or land shall be used except for one or more of the following uses:
 - a. Research and development within an enclosed building
 - b. Business service uses and offices within an enclosed building
 - c. Manufacturing, assembly, warehousing, storage and fabricating within an enclosed building
 - d. Public buildings and facilities such as maintenance facilities, water treatment facilities, wastewater treatment plants, water towers and other similar uses
 - e. Public parks, athletic fields, playgrounds and open space
- 3. Permitted Accessory Uses: Within any I - Industrial District, the following uses shall be permitted accessory uses:
 - a. Private garages, off-street parking and loading spaces
 - b. Fences
 - c. Solar collection and geo-thermal heating and cooling systems used in conjunction with permitted uses.
 - d. Signs as regulated by Chapter X (Performance Standards) of this Ordinance

- e. Personal receive-only satellite dish antennas, other personal antenna devices, and amateur radio devices
- f. Telecommunication facilities that meet the height requirements of this district if freestanding or may be allowed up to 80 feet in height if located on an existing structure
- 4. Conditional Uses: Within any I - Industrial District, no structure or land shall be used for the following uses except by conditional use permit and in conformance with the standards found in Chapter IX of this Ordinance:
 - a. Telecommunication facilities that exceed 80 feet in height
 - b. Permanent outside storage of materials
 - c. Adult uses
- 5. Interim Uses
 - *Reserved for Future Use*
- 6. District Standards: No building or land in the B - Business/Commercial District shall be used except in conformance with the following:
 - a. Minimum lot area: 30,000 square feet
 - b. Minimum lot width: 100 feet
 - c. Maximum hard surface lot coverage: 85%
 - d. Maximum structure height: 40 feet
 - e. Minimum front yard setbacks requirements (all structures) from property line:
 - 1.) Front yards abutting right of way of new minor arterial or collector roadways constructed after the date of adoption of this Ordinance: 50 feet
 - 2.) Front yards abutting right of way of local streets: 30 feet
 - f. Minimum setbacks (all structures) from property line:
 - 1.) Corner lot: 30 feet
 - 2.) Interior lot side yard: 15 feet
 - 3.) Rear yard: 30 feet
 - g. All uses shall comply with the provisions of Chapter X (Performance Standards) of this Ordinance.

F. Planned Unit Development (PUD) District

- 1. Purpose: The Planned Unit Development (PUD) District is established to allow flexibility in the design, density and intensity of development within areas served by municipal sewer, water and services. The PUD District is designed to be utilized in areas that are newly annexed to the City and where mixed uses require greater flexibility in the application of zoning standards to achieve the goals and policies of the Comprehensive Plan.

The City will apply the PUD District to new development areas or redevelopment to allow for a greater variety of uses, varying residential density within the development, and phasing of development and public improvements. Developments that utilize the PUD approach shall demonstrate high quality and sustainable development practices when compared to the use of the other applicable zoning districts.

2. General PUD District Standards and Requirements:
 - a. Dimensional requirements of the City zoning districts may be modified or varied for a PUD in exchange for higher design standards, site preservation techniques, extraordinary parkland development, pedestrian circulation, trails linkage to other neighborhoods and community destinations, and other unique development considerations.
 - b. Variations from the dimensional standards of the zoning district standards and other standards of this Ordinance shall only be approved when it is determined by the City Council that such variations are commensurate with benefits to the planned neighborhood and overall community. Such a determination shall include but not be limited to the following considerations:
 - 1.) Master site planning and creative design in the proposed development of the land and uses
 - 2.) Variety in housing styles and housing types including provisions for life-cycle and affordable housing opportunities
 - 3.) Architectural design components and controls for all planned uses and structures
 - 4.) Protection and incorporation of unique natural features into the planned development
 - 5.) Creation of larger expanses of usable public and private open spaces, recreational facilities, and pedestrian accesses throughout the proposed development
 - 6.) Landscaping for all proposed land uses, public and private parks, major transportation corridors and transition areas between land uses
 - 7.) Screening of residential uses from major transportation corridors and dissimilar land uses
 - 8.) Compatibility with the Comprehensive Plan and the goals and policies of the City
 - 9.) Compatibility with existing and potential development patterns, and transitions between land uses within and adjacent to the proposed development
 - 10.) Consistency with the general intent of this Ordinance and compliance with Chapter X (Performance Standards) of this Ordinance
 - c. The City shall require the following items be satisfied, as determined by the City Council, for any PUD District:
 - 1.) Private homeowner covenants to guarantee adherence to architectural standards, to implement master planning components of the proposed development, and to satisfy required private and public area maintenance provisions.
 - 2.) Financial participation in off-site improvements required to connect the proposed development to existing and planned neighborhoods, and existing and planned public utility and transportation infrastructure.
 - d. The review and approval of a PUD is a discretionary action by the City Council and the eligibility of a proposed development as a PUD shall be determined solely by the City.
3. Uses and Development Standards
 - a. Permitted, accessory and conditional uses:
 - 1.) Each PUD District shall only be used for the use or uses for which the site is designated in the Comprehensive Plan, except that the City may permit up to 25

percent of the gross floor area of all buildings in a PUD District to be used for land uses for which the site is not designated in the Comprehensive Plan if the City Council finds that such use is in the best interests of the City and is consistent with the requirements of this section.

- 2.) Within residential areas of PUD Districts:
 - a.) All permitted uses and accessory uses of the R-1 Single Family Residential District and R-2 Multiple Family Residential District are allowed.
 - b.) All uses allowed by conditional use permit within the R-1 Single Family Residential District and R-2 Multiple Family Residential District are allowed by conditional use permit, subject to the standards of Chapter IX (Conditional Use Permit Standards) of this Ordinance.
 - 3.) Within commercial areas of PUD Districts:
 - a.) All permitted uses and accessory uses of the B - Business/Commercial District are allowed in the business areas of the PUD District.
 - b.) All uses allowed by conditional use permit within the B - Business/Commercial District are allowed by conditional use permit within the business areas of the PUD District, subject to the standards of Chapter IX (Conditional Use Permit Standards) of this Ordinance.
 - 4.) Within industrial areas of PUD Districts:
 - a.) All permitted uses and accessory uses of the I- Industrial District are allowed in the industrial areas of the PUD District.
 - b.) All uses allowed by conditional use permit within the I - Industrial District are allowed by conditional use permit within the industrial areas of the PUD District, subject to the standards of Chapter IX (Conditional Use Permit Standards) of this Ordinance.
- b. Design of development:
- 1.) PUD's shall require compatible street landscaping, street lighting and parking lot lighting throughout the development. The quality and amount of landscaping, screening, and buffering between dissimilar uses shall be a major component of the PUD master development plan, and final site and building plan reviews.
 - 2.) Architectural features and controls shall be a major component of all PUD's and all mixed-use PUD's will require compatibility of architectural features between dissimilar uses.
- c. Residential density:
- 1.) Each residential PUD or the residential portion of each mixed-use PUD shall have a density within the range specified in the Comprehensive Plan for the property.
 - 2.) If the property is designated for non-residential use in the Comprehensive Plan, the appropriate density shall be determined by the City Council based upon the housing and land use policies of the Comprehensive Plan and the design of the Master Development Plan.
 - 3.) An increase in the density allowed by the Comprehensive Plan for the property for any residential uses shall result in corresponding increase in the amount or quality of the following:
 - a.) Usable open space, recreational amenities, and pedestrian ways
 - b.) Architectural features, housing styles, and housing variety.

- c.) Landscaping, screening, and streetscape amenities
 - d.) Environmental protection and controls
 - e.) Site design and development control.
- d. Dimensional standards:
- 1.) The dimensional standards applied to lots, uses and structures within a PUD District shall be established by the City in the review and approval process, except as follows:
 - a.) The setback for all buildings from the exterior boundary of the PUD District shall be 30 feet, except if abutting a new collector or arterial street as designated in the Comprehensive Plan, the setback shall be 50 feet
 - b.) Building setbacks from internal public or private streets within the PUD shall be determined by the City based on characteristics of the specific design of the PUD
 - c.) Parking lots and driving lanes shall be set back at least 20 feet from all exterior boundary of a PUD District
 - 2.) The City shall have total discretion in establishing dimensional criteria, and departures from the standards of this Ordinance shall be based upon the level of site plan detail, architectural quality and controls, overall master planning, utility and roadway capacity, neighborhood and community benefit, public safety issues, and overall development controls.
- e. Open space and park requirements:
- 1.) Each residential PUD District or residential area of a mixed-use PUD District shall provide a minimum of ten percent of the gross project area in open space, recreational uses, or public recreation and park uses in accordance with Section 6, Subd. 7 of Ordinance 71 (Subdivision Ordinance)
 - 2.) The City shall determine whether open space provisions and recreational amenities shall be publicly dedicated or privately owned and maintained
- f. Subdivision and public utilities: The City may modify the design standards for streets, utilities, public facilities and other standards as established in Ordinance 71 (Subdivision Ordinance) due to the uniqueness of the PUD provided the City finds that strict adherence to such requirements or specifications is not required to meet the intent of this section or to protect the health, safety or welfare of the residents of the PUD, the surrounding area or the city as a whole.
- g. Other requirements:
- 1.) Private covenants, restrictions, homeowner association agreements or other acceptable mechanisms to the City are required for private open space and recreation areas, and specific improvements on public property, such as landscaped medians or subdivision monuments and design features within public rights-of-way, that guarantee perpetual private maintenance of such areas and improvements.
 - 2.) Signs shall be restricted to those which are permitted in a sign plan approved by the City and shall be regulated by permanent covenants.
- h. Nothing in this subpart shall be construed to approve or permit variations in construction materials, quality, building codes, electrical codes, plumbing codes, fire codes, design or construction of public improvements, which in any way suggest substandard or inferior development or construction.

4. PUD District Review Process and Procedure

a. Review process:

- 1.) All PUD Districts requiring the subdivision of land shall follow the platting requirements of Ordinance 71 (Subdivision Ordinance)
- 2.) Mandatory or discretionary review of the potential environmental effects of the proposed development may be required prior to the submission of a PUD sketch plan and preliminary plat.
- 3.) A property shall be rezoned to PUD District by the City concurrent with the adoption of a master plan for development of the property by the City.
- 4.) No building or grading permit shall be issued by the City for property that is zoned PUD District unless a master development plan has been approved for development of the property, and the applicant has received approval by the City of a final site plan for the development or applicable phase of development of the property.

b. Procedure

1.) Sketch plan review

- a.) The applicant may submit a sketch plan for review and comment by the Planning Commission and City Council Prior to submission of a formal application for a master development plan. Comments made by the Planning Commission and the City Council shall not bind the City to approve any applications for development of the property.
- b.) The Planning Commission and City Council shall review the sketch plan after a complete application has been submitted to the City Clerk. The application shall be accompanied by the following information:
 - i.) The name and address of the owner and applicant (if different) of the property
 - ii.) A map depicting the existing physical conditions of the property including all improvements, existing development, mature tree locations, and location of wetlands and any water feature
 - iii.) Existing land uses and zoning of properties within 350 feet of the property
 - iv.) General schematic drawings of the proposed development of the property including approximate building, parking area and road/driveway locations; use, height, bulk, and area of buildings; the number and density of dwelling units; and the location of open space
- c.) Prior to the Planning Commission meeting, the City Clerk shall mail notice at least ten days prior to the meeting to residents within 350 feet of the property advising of the date and time of the commission meeting that the sketch plan review is scheduled.
- d.) The Planning Commission shall forward its comments regarding the sketch plan to the City Council within 30 days of the Planning Commission meeting.
- e.) The City Council shall review the sketch plan and Planning Commission comments and provide advisory direction to the applicant regarding the sketch plan.

2.) Master development plan and PUD District zoning amendment application and review

- a.) The applicant shall submit an application for the review of a master

development plan and rezoning to the City Clerk.

- b.) The application shall be deemed complete when accompanied by the following information submitted by the applicant that collectively represents the master development plan:
 - i.) A map depicting the location and characteristics of existing physical conditions of the property including but not limited to all improvements and development, mature trees, topography at two foot contours, the delineation of wetlands, and any water features
 - ii.) Existing land uses and zoning of properties within 350 feet of the property
 - iii.) Proposed land uses and building locations along with the height, bulk and gross square footage of the uses including the number and size of any dwelling units
 - iv.) The location and design of proposed parking areas, roadways, access drives, trails and walkways
 - v.) Type and square footage of required open space, park and recreational areas
 - vi.) Preliminary grading and drainage plan, including water storage areas, drainage calculations and erosion control measures
 - vii.) Preliminary landscape plan indicating the species, size and planting specifications, and tree preservation
 - viii.) A narrative or drawing describing the preliminary exterior elevations of the proposed buildings (principal and accessory) including the type and color of building materials, floor plans, and overall lighting and signage scheme;
 - ix.) A preliminary plat of the property in conformance with the procedures and requirements of Ordinance 71 (Subdivision Ordinance), unless modified by this subpart;
 - x.) A narrative describing the development objectives of the project, proposed development features, all proposed exceptions to or departures from conventional development standards as defined within this Ordinance, anticipated development timing or phases, a description of covenants or other restrictions proposed for the development; and
 - xi.) A traffic impact analysis, if determined to be necessary by the city.
- c.) The procedures to review on the master development plan shall occur concurrently with the review of a rezoning to PUD District and shall follow the same procedures as a zoning amendment established in Chapter VII (Zoning Ordinance Procedures), Section 1 of this Ordinance.
- d.) The Planning Commission shall base their comments and the City Council shall base their actions regarding the application for a master development plan and zoning amendment on consideration of:
 - i.) The effect of the development on the neighborhood and surrounding area of the City,
 - ii.) The impacts of the development on community facilities including but not limited to adjacent roadways, utilities and parks,
 - iii.) The quality of design of the project and its relationship to adjacent planned uses,
 - iv.) The compliance of the application with the purpose and requirements of the PUD District as specified above, and
 - v.) Other such factors as the City finds relevant to the evaluation of the

application.

- e.) The Planning Commission shall recommend and the City Council shall approve, approve with modifications, deny, or extend action if agreed to by the applicant, the application for the master development plan and zoning amendment. The City Council shall state the reasons for any extension of consideration of the application and the anticipated length of the extension in a written notice to the applicant.
 - f.) The City Council shall state its reasons for approval, approval with modifications or denial of the application with written notice of the action and reasons provided to the applicant.
 - g.) If approval or approval with modifications of the application is granted, the Planning Commission may recommend and City Council may attach reasonable conditions to ensure that implementation of the master development plan is consistent with the representations made by the applicant to the City for the project and other conditions deemed necessary and convenient to accomplish the purposes of this zoning district.
- 3.) Final site plan
- a.) Approval of a final site plan by the City is required for each master development plan or each phase of the master development plan.
 - b.) A complete final site plan application shall be submitted to the City Clerk, containing the following information:
 - i.) Final development plan details, including grading and drainage, erosion control, landscaping and required modifications, except for phased developments.
 - ii.) Detailed site and exterior architectural plans for all non-single family detached residential uses. The City Clerk may require the submission of additional information necessary to evaluate the final site and building plans with the approved master plan.
 - iii.) Draft covenants and documents for a homeowners association, condominium association, or other joint maintenance mechanism for review by the city attorney and approval by the City that includes ownership and membership requirements; organization of the association; time at which the applicant turns the association over to the members; approximate monthly or yearly association fee for members; specific listing of items owned in common including such items as roads, recreational facilities, parking, common open spaces, and utilities; and any public areas subject to association maintenance.
 - c.) The final site and building plan shall be consistent with the approved Master Plan, except as modified and approved by the City.
 - d.) The applicant may request review and consideration of a combined master development plan and final site plan by the Planning Commission and City Council by submitting all information required for both reviews simultaneously to the City in accordance with the procedures established above.
 - e.) The Planning Commission shall recommend and the City Council shall approve, approve with modifications, or deny the final site plan. The action shall be based upon the determination that the final site plan is consistent or inconsistent with the approved master development plan.

5. Development Agreement and Financial Security:

- a. A development agreement shall be entered into with the City to ensure compliance with the terms and conditions of an approved master development plan. The development agreement shall include the uses permitted in the master development plan and all other special conditions and features of the master development plan. The development agreement may be combined with the development agreement required for subdivisions as established in Ordinance 71 (Subdivision Ordinance) to assure conformance with all ordinance requirements and financial guarantees.
 - b. Financial security shall be submitted to the City in a form acceptable to the city attorney prior to the issuance of any permits by the City to assure that all improvements are constructed consistent with the master development plan and any conditions placed on the approval of the master development plan by the City Council.
 - 1.) The financial security may be combined with that required for subdivision improvements, as established in the development agreement and approved by the City Council.
 - 2.) The City may reduce the financial security after completion of specific segments of the improvements on the PUD District property provided that such improvements are installed in a satisfactory manner as determined by the City.
6. Amendments
- a. An amendment to the master development plan shall be required for any proposed development that does not substantially comply with the master development plan approved by the City. Substantial compliance shall mean:
 - 1.) There is no change in use of any areas of the master development plan;
 - 2.) There is no change to the phases of development, if a phased master development plan is approved by the city;
 - 3.) The location of buildings, parking areas or roads are generally in the same location as approved in the master development plan;
 - 4.) There is no increase or decrease in the:
 - a.) The number of residential dwelling units by more than five percent;
 - b.) The gross floor area of non-residential buildings by more than five percent or of any individual building by more than ten percent;
 - 5.) The number of stories of any building has not increased;
 - 6.) The amount of open space is not altered in such a way as to change its original design or intended use; or
 - 7.) Any change creates non-compliance with any condition attached to the approval of the master development plan.
 - b. Any other amendment may be made approved by the City Clerk, however the City Clerk may request final review and approval of the amendment by the City Council.
 - c. The application and review of the amendment to the master development plan requiring City Council review shall follow the same procedure as for the original review of the master development plan.
7. Term of Approval
- a. If the applicant fails to obtain final site plan review for all or a part of the property within one year from the date of master development plan and rezoning approval, the City Council may rezone the property to the original zoning classification at the time

of the PUD District rezoning application or to a zoning classification consistent with the Comprehensive Plan designation for the property. In the absence of a rezoning, the approved master development plan shall remain the legal control governing development of the property.

- b. The applicant may request in writing and the City Council may approve an extension of time for the applicant to obtain final site plan review for all or a part of the property. The request for extension must be considered by the City Council before one year has elapsed from the date of master development plan and PUD District rezoning approval.

CHAPTER IX. CONDITIONAL USE PERMIT STANDARDS

Section 1. Purpose

The City of New Germany has established conditional uses within the zoning districts for uses that typically possess unique characteristics that have the potential to impact adjacent land uses and City services. The City has adopted general standards and specific criteria for conditional uses to ensure that their location, size and design are consistent with the standards, purposes and procedures of this Ordinance and the Comprehensive Plan.

In accordance with the provisions of State law and to effect the purpose of this Ordinance the Planning Commission may recommend and the City Council may impose conditions on such uses to achieve the purpose of this Ordinance.

Section 2. General Conditional Use Permit Standards

- A. No conditional use permit shall be granted unless the City Council finds that:
 - 1. All of the standards contained in this Chapter and this Ordinance will be met,
 - 2. The use is consistent with goals and policies of the Comprehensive Plan,
 - 3. The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements,
 - 4. The use will not negatively impact the use and enjoyment of other properties and uses in the immediate vicinity,
 - 5. The use will not impede planned development and improvement of the property, including the provision of municipal utilities, stormwater drainage, roadways and access; or the planned development of surrounding properties in accordance with the Comprehensive Plan and the standards of this Ordinance, and
 - 6. The use does not have an undue adverse impact on the public health, safety or welfare.
- B. A conditional use shall conform to the following specific standards according to the zoning district in which it is located:
 - 1. A - Agricultural District
 - a. Religious institutions that may include State licensed day care facilities serving more than six persons shall meet the following conditions:
 - 1.) No building or structure shall be located within 35 feet of any lot line of an R-1 Single Family Residential District except for buildings, and structures that contain less than 1,000 square feet in area
 - 2.) The use shall have access on a collector or arterial roadway or be designed to minimize excessive traffic on local residential streets
 - 3.) The parking setbacks shall be the same as required for permitted structures

- 4.) Outdoor recreation and play areas shall be located a minimum of 20 feet from properties zoned R-1 Single Family Residential District
 - 5.) All maintenance-related equipment shall be kept within an enclosed structure
 - 6.) Play areas located adjacent to public right-of-way shall be separated from the right of way by a landscaped yard area of at least 20 feet or a fence that meets the requirements of Chapter X (Performance Standards)
 - 7.) Landscaping be provided that is in keeping with the neighborhood and provides screening where appropriate
 - 8.) Site plan review approval by the City Council
- b. Public buildings and facilities that are greater than 1,000 sq. ft. in area such as water treatment facilities, wastewater treatment plants, water towers and other similar uses shall meet the following conditions:
- 1.) No building or structure shall be located within 35 feet of any lot line of an R-1 Single Family Residential District except for buildings, and structures that contain less than 1,000 square feet in area
 - 2.) The use shall have access on a collector or arterial roadway or be designed to minimize excessive traffic on local residential streets
 - 3.) The parking setbacks shall be the same as required for permitted structures
 - 4.) All maintenance-related equipment shall be kept within an enclosed structure
 - 5.) Landscaping be provided that is in keeping with the neighborhood and provides screening where appropriate
 - 6.) Site plan review approval by the City Council
- c. Home occupations not meeting the definition of a "home occupation" as found in Chapter V (Definitions) shall meet the following conditions:
- 1.) Only limited retail sales activity
 - 2.) No exterior signs
 - 3.) Maximum of one outside employee
 - 4.) Adequate off-street parking is available based on the number of employees and customers per day
 - 5.) Parking area screened from off site views
 - 6.) No outside storage
 - 7.) Shall not result in significant levels of noise, air or other pollution
 - 8.) Business hours restricted to no earlier than 8:00 a.m. and no later than 9:00 p.m.
 - 9.) Outside parking of no more than one commercial type vehicle or vehicle identified for business purposes and meeting the following requirements:
 - a.) The vehicle shall not exceed one and one-half ton capacity, and
 - b.) The vehicle shall be owned and registered by an occupant of the property and parked in a paved parking area
2. R-1 - Single-Family Residential District
- a. Double family residential dwellings shall meet the following conditions:

- 1.) Shall meet the district standards found in Chapter VIII (Zoning Districts), Section 2, subd. B, subpart 6 of this Ordinance
 - 2.) Shall meet the parking standards found in Chapter X, (Performance Standards) of this Ordinance
 - 3.) Site plan review approval by the City Council
- b. Educational facilities and religious institutions that may include State licensed day care facilities serving more than six persons shall meet the conditions listed in subd. B, subpart 1, item a. for religious institutions of this Section
 - c. Public buildings and facilities greater than 1,000 sq. ft. in area such as water treatment facilities, wastewater treatment plants, water towers and other similar uses shall meet the conditions listed in subd. B, subpart 1, item b. of this Section
 - d. Home occupations not meeting the definition of a "home occupation" as found in Chapter V (Definitions) shall meet the conditions listed in subd. B, subpart 1, item c. of this Section
 - e. Community boathouses shall meet the following conditions:
 - 1.) No retail or commercial activity may occur on the premises
 - 2.) If bathrooms or kitchen facilities are constructed within the building, the building shall be connected to the public sanitary sewer and water system
 - 3.) Sufficient parking shall be provided based on estimated usage of the facility
 - 4.) Storage or use of the community boathouse by persons not residing within the planned residential community shall be prohibited
 - 5.) Shall meet the setback requirements for a principal building
3. R-2 - Multiple Family Residential District
- a. A state licensed residential facility serving from seven through 16 persons shall meet the following conditions:
 - 1.) The facility must be in compliance with all applicable State licensing requirements, and City and State building and fire codes
 - 2.) The facility shall have adequate off-street parking to accommodate one parking space for each employee on the major shift
 - b. A state licensed day care facility serving from 13 through 16 persons shall meet the following conditions:
 - 1.) The facility must be in compliance with all applicable State licensing requirements, and all applicable City and State building and fire codes
 - 2.) The facility shall have adequate off-street parking to accommodate one parking space for each employee on the major shift
 - 3.) The site shall have loading and drop off points designed to avoid interference with traffic patterns and pedestrians
 - 4.) Outdoor recreation and play areas shall be located at least 20 feet from properties zoned R-1 Single Family Residential District and buffered or screened by appropriate landscape and/or fencing materials
 - 5.) Play areas located adjacent to public right-of-way shall be separated from the right of way by a landscaped yard area of at least 20 feet or a fence that meets

the requirements of Chapter X (Performance Standards) of this Ordinance.

- c. Educational facilities and religious institutions that may include state licensed day care facilities serving more than six persons shall meet the conditions listed in subd. B, subpart 1, item a. for religious institutions of this Section
 - d. Public buildings and facilities greater than 1,000 sq. ft. in area such as water treatment facilities, wastewater treatment plants, water towers and other similar uses shall meet the conditions listed in subd. B, subpart 1, item b. of this Section
 - e. Home occupations not meeting the definition of a "home occupation" as found in Chapter V (Definitions) shall meet the conditions listed in subd. B, subpart 1, item c. of this Section
4. B - Business/Commercial District
- a. A state licensed day care facility shall meet the following conditions:
 - 1.) The building shall have access on a collector or arterial roadway or be designed to minimize excessive traffic on local residential streets
 - 2.) The facility must be in compliance with all applicable State licensing requirements, and all applicable City and State building and fire codes
 - 3.) The parking setbacks shall be the same as required for permitted structures
 - 4.) Outdoor recreation and play areas shall be located a minimum of 20 feet from properties zoned R-1 Single Family Residential District and R-2 Multiple Family Residential District.
 - 5.) All maintenance-related equipment shall be kept within an enclosed structure
 - 6.) Play areas located adjacent to public right-of-way shall be separated from the right of way by a landscaped yard area of at least 20 feet or a fence that meets the requirements of Chapter X (Performance Standards) of this Ordinance
 - 7.) Landscaping be provided that is in keeping with the neighborhood and provides screening where appropriate
 - b. Outdoor dining areas associated with restaurants and on-sale liquor establishments shall meet the following conditions:
 - 1.) The design and placement of the outdoor dining area shall comply with the following:
 - a.) Shall not be located to obstruct parking spaces or replace the number of required parking spaces
 - b.) Shall comply with building setback requirements
 - c.) Railings or fencing shall be used to surround the outdoor dining area and access to the outdoor dining area shall be only through the principal building
 - d.) Refuse containers shall be provided and periodically patrolled for litter pickup
 - e.) All exterior lighting shall be directed away from any residential property
 - 2.) Outdoor dining may be allowed between the hours of 11:00 a.m. to 1:00 a.m. or as established by the City Council as part of issuance a liquor license
 - 3.) Noise levels from the outdoor dining area shall maintain compliance with this Ordinance, City ordinances and state law
 - 4.) Shall be in compliance with of the provisions of the liquor license issued by the

City Council and State law requirements

- c. Uses having a drive-up window shall meet the following conditions:
 - 1.) Shall not be located adjacent to any residential lot lines
 - 2.) Shall be provided with a suitable visual screen from adjacent properties
 - 3.) Stacking for a minimum of two cars per aisle shall be provided within applicable parking lot setbacks
- d. Telecommunication facilities that exceed 80 feet in height shall meet the following conditions:
 - 1.) New telecommunications antennae must be co-located on existing structures in the City, unless it can be documented that it is impractical to co-locate on an existing structure because of:
 - a.) Technical performance,
 - b.) System coverage or system capacity,
 - c.) An existing structure cannot support co-location from a structural engineering standpoint, or
 - d.) The lease rate of an existing structure is not "rate reasonable." Rate reasonable shall mean that the co-location lease rate is not more than 150 percent of the co-location lease rate for towers within ten miles for which such lease rate information can be obtained.

The determination that co-location on an existing structure is not practical because of technical performance, system coverage or system capacity shall be supported by findings from a qualified engineer
 - 2.) New telecommunication towers shall be designed and constructed to permit the future co-location of other commercial wireless telecommunication services.
 - 3.) The height of a new telecommunication tower shall not be greater than 150 feet in height, unless the applicant demonstrates to the City Council the need for the increased height. The reason for the increase in height must be supported by findings from a qualified engineer.
 - 4.) Telecommunications tower and antenna design shall meet the following requirements:
 - a.) Towers and antennae shall be located and designed to blend into the surrounding environment to the maximum extent possible.
 - b.) Towers shall be of a monopole design unless it is determined that an alternative design would be appropriate for the particular site or circumstances.
 - c.) All towers shall be painted in a color best determined by the City to blend into the particular environment.
 - 5.) Telecommunications tower setbacks shall meet the following:
 - a.) All towers shall be setback from structures, rights-of-way and property lines at a distance equal to the height of the towers and antenna.
 - b.) The setbacks may be reduced to a distance agreed upon by the City, if the applicant for the tower furnishes a registered engineer's certification that the tower is designed to collapse or fall within a distance or zone shorter than the total tower height.
 - c.) The City may waive or modify setback requirements for antennae proposed

to be co-located on existing towers or structures.

- 6.) Telecommunication towers and antennas shall not be illuminated unless required by the State or any federal agency.
 - 7.) The site area for telecommunications towers and accessory facilities shall be totally fenced in to discourage access by unauthorized persons. The City shall review and approve or modify all plans for fencing and security measures.
5. I - Industrial District
- a. Telecommunication facilities that exceed 80 feet in height shall meet the conditions listed in subd. B, subpart 4, item d of this Section.
 - b. Permanent outside storage of materials shall meet the following standards:
 - 1.) The materials must be utilized in conjunction with the business occurring on the property.
 - 2.) All outdoor storage areas shall be completely screened from roads or developed areas with a solid fence or a 20 foot wide landscaped area consisting of coniferous plantings that are a minimum of six feet in height when planted. The fence or landscaped area shall be maintained in good condition on a continual basis.
 - 3.) No outdoor storage areas shall be located closer than 50 feet to any R-1 Single Family Residential or R-2 Multiple Family Residential District.
 - 4.) All storage areas open to vehicles must be paved with asphalt surfacing, crushed rock or other dust-free materials.
 - 5.) No outside storage of maintenance equipment, trucks over 1 1/2 tons in weight, or stockpiling of materials shall be permitted.
 - c. Adult Uses shall meet all requirements of Chapter XI (Adult Uses) of this Ordinance.

CHAPTER X. PERFORMANCE STANDARDS

Section 1. Purpose

The purpose of this Chapter is to establish minimum standards to guide development in a manner that promotes a compatible relationship of uses, minimizes pollution, and protects public health and safety provided certain standards are maintained to manage the impacts of the development, design and use of property. Permitted, conditional use, accessory and interim uses within all zoning districts shall conform to standards within this section.

Section 2. Traffic Visibility

- A. No wall, fence, structure, tree, shrub, vegetation or other obstruction shall be permitted in any yard or setback which poses a danger to traffic by obscuring the view from any street or roadway.
- B. Visibility from any street or roadway shall be unobstructed above the height of two and one-half feet within the triangle described as beginning from a point at the paved edge of the intersection, two sides of which extend a distance of 30 feet along the edge of each street and the third side being a line connecting the other sides.

Section 3. Accessory Buildings and Structures

- A. A building permit is required for any building larger than 120 square feet, or as regulated by the Minnesota State Building Code, as may be amended from time to time.

- B. No accessory buildings or structures shall be permitted on any lot without a principle building except as follows:
 - 1. Fences, in compliance with Section 5 of this Chapter
 - 2. A temporary construction office for development of the property provided the temporary construction office shall be removed immediately following completion of the project.
- C. Setbacks shall be a minimum of five feet from all property lines, or as allowed by the zoning district.
- D. Accessory structures shall not be used as an occupied dwelling unit.
- E. The maximum size of the combined area of all accessory structures on one lot shall not exceed 1,200 square feet.
- F. No pole shed type buildings containing pole style footings and a dirt floor are permitted in any zoning district.

Section 4. Swimming Pools

- A. No swimming pool shall be constructed, erected, repaired or altered without first obtaining the necessary building, plumbing, and/or electrical permits from the City.
- B. Detailed plans and specifications are required to be submitted with permit application for a swimming pool. Plans shall include details for site excavation, construction, plumbing, electrical, and fencing. The City Building Official shall determine the plan detail necessary to obtain permits for proposed swimming pool construction.
- C. Standards
 - 1. Swimming pools shall meet all yard setback requirements for the zoning district in which they are located. No part of the pool or deck shall encroach into the required yard.
 - 2. Water lines to a swimming pool shall not be located closer than ten feet from any sanitary sewer line or sanitary sewer system.
 - 3. Swimming pools shall not be located closer than ten feet from any sanitary sewer line.
 - 4. Swimming pools and pool equipment such as filters, pumps and heaters shall not be located in any front or side yard, except in the A - Agricultural zoning district
 - 5. Discharge from swimming pools shall not overflow onto any adjacent property and must meet Minnesota Pollution Control Agency discharge standards for chlorinated water.
 - 6. Security fencing for swimming pools shall meet the following requirements:
 - a. All private swimming pools shall be enclosed with five foot high security fencing (chain link or decorative) that discourages climbing and all fence gates shall be equipped with self-closing and self-latching devices. All gates shall have the latch mounted no less than 54 inches above the walking surface on either side of the gate.
 - b. In the A - Agricultural zoning district, the requirement for security fencing may be waived for a private swimming pool, provided the swimming pool is fitted with an automatic safety cover. The City shall have complete discretion in determining whether a particular proposed automatic safety cover is adequate to waive the requirement for security fencing. Manufacturer's detailed information including the weight resistance shall be submitted with the pool permit application
 - 7. Swimming pool construction, operation and maintenance shall be consistent with all federal, state, and City laws and regulations.
 - 8. All public swimming pools must meet the requirements of the Minnesota Department of

Health requirements and any other federal, state and local laws and regulations.

9. Lighting at all outdoor swimming pools shall be shrouded and downcast to minimize ambient lighting or direct lighting on adjacent property.
10. The use of any outdoor swimming pool shall not disturb the peace of neighboring properties or cause a public nuisance.

Section 5. Fences

- A. No property owner shall construct or relocate a permanent fence on his/her property without first obtaining a fence permit from the City, in accordance with the following:
 1. The applicant for a permanent fence permit shall submit a site plan to the City Clerk showing the location of the fence and describing the type and method of anchoring the fence on the property.
 2. The City Clerk may require the submission of a survey or other information with the permanent fence permit application to establish the boundary lines of the property on which the fence will be located.
- B. Electric and barb wire fencing is not allowed on property in any zoning district except for property located within the A- Agricultural District.
- C. Fencing in all zoning districts shall conform to the following:
 1. No fence shall be permitted on a public right-of-way or boulevard area.
 2. Fences shall be located entirely upon the applicant's property and the applicant shall be responsible for maintaining any property located between the fence and his/her property line.
 3. Fences located on any corner lot erected within 30 feet of the intersecting curb lines and shall comply with Section 2 of this Chapter.
 4. Permanent fences shall be constructed and maintained so that the exposed outer surface shall be uniformly painted or stained and face abutting property.
 5. Temporary snow fencing may be erected from November 1st to April 1st on an annual basis.
- D. Fencing in R-1 Single Family Residential and R-2 Multiple Family Residential Districts
 1. Fences shall not exceed a maximum height of six feet along the side and rear lot lines behind the front edge of a house, and shall not exceed four feet along the side and front lot lines from the front edge of a house to the street right-of-way.
 2. A fence shall be setback a minimum of two feet from all property lines.
- E. Fencing in B-Business/Commercial and I - Industrial Districts
 1. No setback is required for fences, except a minimum setback of two feet from the property line is required abutting any residential zoning district.
 2. Fences shall not exceed a maximum height of six feet except if abutting any residential zoning district, the City may permit a maximum height of eight feet, provided a building permit is obtained prior to construction.

Section 6. Sewer and Water Facilities

- A. All new development shall be connected to City sanitary sewer and water facilities.
- B. No wells for the purpose of providing domestic water for human household use shall be drilled, installed or constructed, and no existing well shall be further developed to provide potable water.

- C. New wells may be drilled for agricultural use, excluding use for a domestic water supply, in the A - Agricultural District, provided a permit is obtained from the State.

Section 7. Grading and Erosion Control

- A. Purpose: To require the preparation and implementation of grading and erosion control plans for land disturbing activity to protect, preserve, and maintain public and private property to the extent possible from the adverse impacts of uncontrolled erosion.
- B. A grading permit is required for all land disturbing activities, except as provided below:
 - 1. Minor land disturbance activities such as home gardens and individuals' landscaping, repairs, and maintenance work.
 - 2. Construction, installation, and maintenance of public or private utility lines or private service connections to these utilities, except where more than 10,000 square feet of land is anticipated to be disturbed, or where more than 50 cubic yards of materials are anticipated to be moved in such activities.
 - 3. Tilling, planting, or harvesting of agricultural or horticultural crops except where such practices have resulted in the deposition of sediment into a natural or artificial water storage or retention area including public waters
 - 4. Preparation of land for individual single family home construction, unless:
 - a. The property is part of planned construction within a subdivision development, or
 - b. 10,000 or more square feet of land is anticipated to be disturbed or where 50 or more cubic yards of materials are anticipated to be moved in such activities.
 - 5. Disturbed land areas of less than 10,000 square feet in size from any use or where 50 or more cubic yards of materials are anticipated to be moved in such activities, except where any wetland areas or public waters are anticipated to be filled or drained
 - 6. Installation of fence, sign, utility poles and other kinds of posts or poles
 - 7. Emergency work to protect life, limb or property and emergency repairs, provided the land area disturbed is adequately shaped and stabilized when appropriate in accordance with the requirements of the City.
- C. A grading and erosion control plan is required as part of an application for a grading permit, preliminary plat, or a building permit for an addition or new construction, if at least 50 cubic yards of material is moved or material is moved from an area or areas encompassing at least 10,000 square feet.
- D. No person may undertake, authorize or permit any excavating, grading, filling or other change in the earth's topography that violates or is not in compliance with a City approved grading and erosion control plan or a required grading permit issued by the City, including the approved plans and all terms and conditions of the permit.
- E. All grading and erosion control activities requiring a permit shall comply with Ordinance No. 70 (Storm Water Management Ordinance), the City's Stormwater Management Plan and other City, County, State, and federal laws and regulations.
- F. Grading Permit Application and Review
 - 1. All applications for a permit to conduct a land disturbing activity shall be accompanied by a Resource Management Plan, a fee established by the City, and a cash escrow to reimburse the City for any expenses incurred in the review of the application and grading activity.
 - 2. No developer shall conduct any land disturbing activity, unless exempted in B above, prior

to receiving an approved permit from the City Council.

3. After receipt of a complete application for a grading permit, the City shall review the application and a Resource Management Plan for compatibility with this Ordinance, Ordinance No. 70 (Storm Water Management Ordinance), the City's Stormwater Management Plan and other City, county, state, and federal laws and regulations. The City may consult with the City Engineer or other City consultants, the County or State in the review of the submitted information. If the City determines that the proposed activities are in compliance with all regulations, the City shall approve the application permit.
- G. The Resource Management Plan must comply with all of the following control measures:
1. All work must conform to the Ordinance No. 70 (Storm Water Management Ordinance), the City's Stormwater Management Plan, County requirements, current Minnesota Pollution Control Agency rules regarding protecting water quality in urban areas, and current Best Management Practices.
 2. If permits are required for land disturbing and water management activities from the County or the State, those permits must be on file with the City before construction activity begins. Any signs that are required must be posted in public view.
 3. The work must be scheduled so as to minimize the amount of soil exposed at any one time.
 4. Temporary rock construction driveways may be required wherever vehicles enter and exit the property.

Section 8. Surface Water Management

- A. Purpose: To promote, preserve and enhance the water resources within the City and to protect them from the adverse effects of development or activities by regulating land disturbing or development activities that would have an adverse effect and potentially irreversible impact on water quality and water quantity.
- B. All new development shall comply with the provisions of Ordinance No. 70 (Storm Water Management Ordinance), the City Surface Water Management Plan, County, state and federal requirements.
- C. Stormwater for new development shall be managed in accordance with the National Urban Runoff Program standards for the design of new stormwater ponds and the Minnesota Pollution Control Agency's "Protecting Water Quality in Urban Areas" to reduce non-point source pollutant loadings in stormwater runoff.
- D. Existing natural drainageways, natural water storage or retention areas, and vegetated soil surfaces should be used to the greatest extent possible to store, filter and retain stormwater runoff before discharge occurs into any public waters.
- E. When natural features and vegetation are not available to handle stormwater runoff, constructed facilities such as diversions, settling basins, skimming devices, dikes, and manmade waterways and ponds may be used. Preference shall be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and manmade materials and facilities.

Section 9. Wetland Conservation

- A. Purpose: To preserve and protect wetlands within and around the City in accordance with the requirements of the Wetland Conservation Act, as established in Minnesota State Statute 103G, as may be amended, and the accompanying rules of the Minnesota Board of Water and Soil Resources established in Minnesota Rules chapter 8420, as may be amended.
- B. The following regulations shall apply to all wetland areas within the City:

1. All development within the City shall comply with the requirements of Ordinance No. 70 (Stormwater Management Ordinance), the City Stormwater Management Plan and County wetland information and requirements.
2. Prior to approval of any development affecting wetlands, a grading plan is required that includes wetland delineations prepared in accordance with the City Stormwater Management Plan and County requirements.
3. New development around existing wetland areas shall maintain a minimum vegetated buffer region around the delineated wetland boundary in accordance with the following:
 - a. The buffer area shall consist of a "natural" area that will contain undisturbed vegetation, to the extent reasonable.
 - b. In the event that disturbance of the buffer area is necessary for site grading, the buffer area shall be restored at a slope no greater than 5:1 and re-seeded with a native seed mix approved by the City.
 - c. The width of the required buffer will be dependent on the wetland value as determined by the functional value assessment performed at the time of wetland delineation. The functional value assessment will be reviewed and approved by the County and the City.

C. The wetland buffers shall be established according to the wetland value, as follows:

<u>Wetland Value</u>	<u>Minimum Buffer Width</u>
Low:	25 feet
Medium and High:	35 feet
Exceptional:	50 feet

1. All newly constructed wetlands shall have a minimum 35 foot wide vegetated buffer region, regardless of type of wetland replaced.
2. The buffer region shall consist of a "natural" area with planted materials for vegetated buffers recommended by the Minnesota Board of Water and Soil Resources, or City approved seed mix.
3. The wetland buffer shall not be routinely maintained or mowed by the landowner.
4. Wetland monument signs stating: "wetland buffer - no mow, no fill" shall be posted along the buffer boundary at a minimum of every other lot corner.
5. The following minimum setbacks are established from the edge of the buffer area:
 - a. Principal building: 35 feet
 - b. Accessory building: 10 feet

Section 10. Off-street Parking and Loading

A. General

1. No change of use, tenancy or occupancy of a parcel of land or building, including construction of a new building or an addition to a building, which requires additional parking spaces, shall be allowed until such additional parking is approved and furnished.
2. Existing off-street parking spaces shall not be reduced in numbers unless the number of remaining parking stalls meets the requirements of this Section for the existing use.
3. Required parking facilities accessory to residential structures in a residentially zoned district shall not be used for the storage of commercial vehicles, except as permitted by this Ordinance.

4. Required off-street parking spaces shall not be utilized for the open storage of materials or for the storage of vehicles that are inoperable.
5. Required off-street parking in residential zoning districts shall be on the same lot as the principal building.
6. In all residential districts, parking of vehicles shall be prohibited in any portion of the property except designated driveways.

B. Parking Setback Requirements:

<u>Location</u>	<u>B - Business/Commercial District</u>	<u>I - Industrial District</u>
1. Street right of way line:	Eight feet	Ten feet
2. Interior, side or rear lot line:	Five feet	Five feet
3. Abutting any residential zoning district lot line:	Ten feet	20 feet
4. Across the street from a residential zoning district:	Not applicable	20 feet

C. Dimensional Requirements

1. The dimension of each parking space shall be not less than nine feet wide and 20 feet in length and shall be clearly marked.
2. The minimum required aisle width for accessing parking stalls is as follows:

<u>Angle of Parking Stall</u>	<u>Aisle Width</u>
90 degree stall	24 foot aisle width
60 degree stall	18 foot aisle width
45 degree stall	13 foot aisle width
30 degree stall	10 foot aisle width

D. Parking Space Requirements

1. Calculating the number of spaces shall be in accordance with the following:
 - a. If the number of off-street parking spaces results in a fraction, each fraction of one-half or more shall constitute another space.
 - b. In religious institutions and other places of public assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each 24 inches of such seating shall be counted as one seat for the purpose of this Section.
2. Except where joint parking arrangements have been approved by the City, if a structure contains two or more uses, each use shall be calculated separately in determining the total number of required off-street parking spaces.
3. The City may allow reductions in the number of parking spaces constructed on the property provided a proof of future parking plan showing the location for all minimum required parking spaces in conformance with applicable setback requirements is submitted and approved by the City. The City may require the property owner to install additional parking spaces whenever the need arises.
4. The following minimum number of off-street parking spaces shall be provided and maintained by ownership, easement and/or lease for each respective use:
 - a. Automobile repair, service or gas stations: A minimum of three outside spaces, plus two spaces for each enclosed service stall, and one

- space for each 250 square feet of gross building area used for the sale of goods or services
- b. Educational institutions, elementary and junior high: One space for each classroom plus one additional space for each 100 student capacity.
 - c. Educational institutions, high schools: One space for each classroom plus one additional space for five students based on design capacity
 - d. Hotels and motels: One space per unit, plus one additional space for each four units.
 - e. Licensed day care facility: One space for each six children based on the licensed capacity of the facility;
 - f. Manufacturing, assembly, fabricating or processing: Three spaces per 1,000 square feet of gross floor area plus one space for each company vehicle stored on the property.
 - g. Multiple family dwellings (apartments and condominiums): Two spaces per unit plus additional spaces shall be provided for visitor parking based on the specific characteristics of the development and the anticipated demand for visitor spaces.
 - h. Multiple family housing developments designed for senior citizens: One space per unit and the City may require proof of parking of two spaces per unit if conversion to general housing appears possible. The visitor parking requirements for multiple family dwellings shall apply.
 - i. Office buildings or uses, including banks and other service uses: One space per 250 square feet of gross floor area
 - j. Religious institutions, funeral homes and places of assembly: One space for each three seats based on the design capacity of the main sanctuary or assembly space.
 - k. Residences (single family, double family and townhouse dwellings): Two spaces per unit
 - l. Restaurants and on-sale liquor establishments: One space for every three seats
 - m. Retail sales: Four spaces per 1,000 square feet of gross floor space, less storage space
 - n. Warehousing and storage: Three spaces plus one for each 2,000 square feet of gross floor area.
 - o. The parking requirement for uses not listed in this subpart may be established by the City based on the characteristics and information on parking demand for the use.
- E. Drive-up Facilities: Businesses containing drive-up facilities, including restaurants and financial institutions, shall provide a stacking area for vehicles on the site in accordance with the following:
1. A minimum of three vehicle spaces per staking lane shall be provided.
 2. All stacking lanes shall be entirely on the property and shall be in addition to parking spaces required for the principal use.

3. The vehicle stacking area shall not extend beyond the street right-of-way line and shall be delineated in such a manner that vehicles waiting in line will not interfere with nor obstruct the primary driving, parking and pedestrian facilities on the property.

F. Parking Area Design

1. All parking, loading and driveway areas shall be surfaced with asphalt, concrete or equivalent material approved by the City. The City may require the submittal of a grading and drainage plan for new parking areas containing more than four spaces for review by the City engineer. Catch basins, sumps and underground storm sewers may be required.
2. Any lighting used to illuminate an off-street parking area shall be shaded or diffused to reflect the light away from adjoining property, abutting residential uses and public rights-of-way.
3. All off-street parking areas shall be designed and constructed with a means of vehicular access to a public street.
4. In the B - Business/Commercial District and I-Industrial District all off-street parking areas shall be equipped with curbing to prevent any vehicle from encroaching into the required setback area and to control drainage.

G. Driveway Requirements

1. The distance from a driveway to the intersection of two or more streets shall be not less than 25 feet.
2. Curb cuts to local public streets shall require a permit from the City and shall be a minimum of five feet from the side lot line in all zoning districts.
3. Permits for driveways to any County road must be obtained from the County prior to issuance of any building or grading permits for property that access County roads. A turnaround is required on driveways that access a County road.
4. Access driveways for residential dwellings shall not exceed 24 feet in width as measured along the property line. All other access driveways shall not exceed 30 feet wide as measured along the property line unless otherwise recommended by the City or County engineer.

H. Off-street Loading and Unloading

1. All required loading berths shall be located off-street and shall be located on the same lot as the building or use to be served.
2. A loading berth shall not be located less than 25 feet from the intersection of two street right-of-ways; nor less than 50 feet from residential property unless screened by plantings or a fence.
3. Loading berths shall not occupy the required front yard setback area.
4. Any loading berth or access drive shall not be used for storage of goods, inoperable vehicles or to satisfy the required number of parking spaces for the property.

Section 11. Signs

A. Purpose

The purpose of this Section is to establish reasonable regulations to govern the placement, design and lighting of signs and other related informational devices within the City. The sign regulations are not intended to restrict, limit, or control the content or message of signs. Specifically, the sign regulations are intended to:

1. Regulate the number, location, size, type, illumination and other physical characteristics of signs in order to promote the public health, safety and welfare, and pleasing visual appearance of the City.
2. Maintain, enhance and improve the visual appearance of the City while providing for effective means of communication, consistent with constitutional guarantees, and the city's goals for public safety and aesthetics.
3. To encourage creative and well-designed signs that contribute to the effective use of signs as a means of communication.
4. To protect, conserve, and enhance property values.

B. General Provisions

1. Signs existing on the effective date of this Ordinance that do not conform to the regulations established in this section are nonconforming and are regulated according to Chapter III (General Provisions), Section 7 of this Ordinance.
2. The following are the setback and height regulations for all permanent signs unless specifically modified by this Section:
 - a. The setbacks of all signs shall be the same as the principal building setbacks for the zoning district in which the sign is located
 - b. The height of all signs shall not exceed the height of the principal building on the property
3. Prohibited Signs and Lights
 - a. Signs are prohibited within the public right-of-way except for the following:
 - 1.) Public identification, directional, or traffic control signs
 - 2.) A temporary banner or decoration approved by the City for a period of time not to exceed 60 days in accordance with State law requirements.
 - b. Illuminated flashing signs
 - c. Any sign, device, lamp or light which is so constructed, operated or used that illumination emanating there from is concentrated or beamed
 - d. Off- premise signs
4. Unpainted signs, broken signs and signs on vacated buildings shall be repaired in compliance with this Ordinance or removed from the premises on order of the City Council.

C. Sign Permits

1. No permanent or temporary sign shall be erected, altered, reconstructed, maintained or moved in the City without first obtaining a permit from the city, except a permit shall not be required for the following signs:
 - a. Signs that do not exceed six square feet
 - b. Signs erected by a governmental agency
 - c. The changing of the copy on the surface or face of a sign structure
2. An application for a permit shall contain the following information:
 - a. The name and address of the applicant, owners of the sign and the address at which the sign is to be placed,

- b. A sign plan that shows the location, setbacks, size, the type (i.e. wall sign, monument sign, etc.), and the sign design, and
 - c. A fee as established by the City Council.
3. The City Clerk shall issue a permit within 30 days following the receipt of a complete application to the City.

D. Permanent Signs

1. Within the A - Agricultural, R-1 Single Family Residential, R-2 Multiple Family Residential districts and the residential portions of PUD - Planned Unit Development Districts the following signs are permitted:
- a. One wall sign for each dwelling which shall not exceed two square feet in area per surface
 - b. One freestanding sign for each permitted or conditional use other than a single-family detached double family residential dwelling, home occupation or community boathouse which shall not exceed 32 square feet in area per surface
 - c. Symbols, statuettes, sculptures and integrated architectural features on non-residential buildings may be illuminated by floodlights, provided the direct source of light is not visible from the public right-of-way or adjacent residential property
2. Within the B - Business/Commercial, I - Industrial, and commercial/industrial portions of PUD - Planned Unit Development Districts the following signs are permitted:
- a. Freestanding signs: One freestanding sign is allowed per lot in accordance with the following:
 - 1.) The maximum height of the sign shall not exceed 15 feet or the height of the principal building, whichever is greater
 - 2.) The maximum sign area shall not exceed 32 square feet
 - 3.) Signs may be illuminated provided that the source of lighting is shielded to prevent visibility of the light source by translucent material, diffusion or placement to prevent glare
 - b. Wall signs:
 - 1.) For single tenant buildings, one wall sign shall be permitted per building except for buildings located on a corner lot where one wall sign shall be permitted per road frontage, not to exceed two wall signs per building.
 - 2.) For multi-tenant buildings, one wall sign per tenant space is permitted.
 - 3.) Wall signs shall meet the following requirements:
 - a.) A maximum of ten percent of the building face or 32 sq. ft., whichever is less, may be used for a wall sign
 - b.) Wall signs shall not project above the roof line
 - c.) Wall signs may be illuminated provided that the source of lighting is shielded to prevent visibility of the light source by translucent material, diffusion or placement to prevent glare.
 - c. Awning signs:
 - 1.) One awning sign shall be allowed per lot provided the sign area of the awning does not exceed eight square feet.
 - 2.) The sign area of any awning sign shall reduce, square foot for square foot, the

sign area of any permitted wall signs on the same building face.

E. Temporary Signs

1. Temporary signs less than six square feet in area may be displayed for no longer than 30 days for occupied premises and in the case of unoccupied properties, indefinitely until the premises is occupied.
2. Temporary signs more than six square feet in area but less than 32 sq. ft. in area may be displayed no longer than 30 days.
3. Temporary signage for projects under construction within R-2 Multiple Family Residential, B - Business/Commercial, I - Industrial and the PUD - Planned Unit Development Districts shall comply with the following:
 - a. One temporary sign no more than 32 square feet in area may be installed at a construction site for the period of the construction
 - b. The temporary sign must be removed within ten days of issuance of a certificate of occupancy for the property
 - c. The temporary sign shall be located within the front yard of the property under construction and shall be setback a minimum of 15 feet from the front lot line.

F. Signs Containing Non-commercial Speech

1. During even numbered years, all signs of any size containing non-commercial speech may be posted in any number from 46 days before the state primary until ten days following the State general election.
2. For a special election, all signs of any size containing non-commercial speech may be posted in any number between 30 days before and until ten days after a special election.
3. Signs containing non-commercial speech signs must comply with the fair campaign practices specified in Minnesota State Statute 211B, as may be amended.

G. Design and Maintenance Standards

1. All signs shall be constructed in accordance with the following:
 - a. The Minnesota State Building Code, as applicable to each sign.
 - b. All electric signs shall be approved and labeled as conforming to the standards of the Underwriters' Laboratories, Inc., the Federal Bureau of Standards or other similar institutions of recognized standing. All illuminating elements shall be kept in working condition or immediately repaired or replaced. Signs that are partly illuminated shall meet all electrical requirements for that portion which is illuminated.
 - c. All permanent freestanding signs shall have self-supporting structures erected on and permanently attached to concrete foundations.
 - d. For wall signs, the wall must be designed for and have sufficient strength to support the sign.
 - e. Signs shall be constructed to withstand applicable wind loads.
2. All signs shall be maintained in a safe, presentable and good structural condition at all times, including the replacement of defective parts, cleaning and other items required for maintenance of the sign. Vegetation around, in front of, behind, and underneath the base of ground signs for distance of ten feet shall be neatly trimmed and free of weeds, and no rubbish or debris that would constitute a fire or health hazard shall be permitted under or near the sign.

Section 12. Pollution Control and Nuisances

A. Noise and Vibration:

1. Noises emanating from any use shall be in compliance with and regulated by the standards of the Minnesota Pollution Control Agency.
 2. Vibrations from all uses established after the effective date of this ordinance shall comply with the following:
 - a. Shall be operated in a manner to prevent vibration discernable at any point beyond the lot line of the property on which such use is located.
 - b. Ground vibration and noise caused by motor vehicles, trains, aircraft operations or temporary construction or demolition shall be exempt from these regulations.
- B.** No use shall produce or emit smoke, dust or particulate matter exceeding applicable regulations established by the Minnesota Pollution Control Agency.
- C.** No use or operation shall emit a concentration of toxic or noxious matter across the property line which exceeds applicable regulations of the Minnesota Pollution Control Agency.
- D.** No use shall produce unreasonable or disturbing odors beyond the property line exceeding applicable regulations established by the Minnesota Pollution Control Agency.
- E.** No use shall produce any unreasonable, disturbing or unnecessary emissions of heat or humidity beyond the property line which cause material distress, discomfort or injury to persons of ordinary sensitivity.
- F.** No operation that produces radiation and other health hazards shall be conducted which exceeds the standards established by applicable regulations of the Minnesota Department of Health.
- G.** All uses shall be subject to the fire prevention requirements of the city and applicable regulations established by the Minnesota Pollution Control Agency.
- H.** All uses shall be subject to applicable regulations of the city, county, the Metropolitan Council and state governing discharge of liquid and solid waste material into a public storm or sanitary sewer, waterway or stream.

CHAPTER XI. ADULT USES

Section 1. Purpose

The City finds it necessary to provide for the regulation of businesses or commercial enterprises which operate as massage parlors, saunas, rap parlors, conversation parlors, adult sensitivity groups, adult encounter groups, escort services, dancing services, hostess services, and similar adult uses operating under different names in order to protect the public health, safety, and welfare, and to guard against the inception and transmission of disease. The City further finds that commercial enterprises such as the type described above, and all other similar establishments whose services include sessions offered to adults, conducted in private by members of the same or the opposite sex, and employing personnel with no specialized training, are susceptible to operating in a manner contravening, subverting, or endangering the morals of the community by being sites of acts of prostitution, illicit sex, and occurrences of violent crimes, thus requiring close inspection, licensing and regulation.

The City finds that control and regulation of commercial enterprises of these types, in view of the abuses often perpetrated, require intensive police and public health efforts by the City and local governmental units contracting with the City to provide such services. As a consequent, the concentrated use of such services in such control detracts from and reduces the level of services

available to the rest of the community and thereby diminishes the ability of the City to promote the general health, welfare, morals, and safety of the community. The City finds that the regulations of this Ordinance will protect property values, eliminate or reduce blight, prevent deterioration of neighborhoods, prevent the exodus of residents and businesses from City neighborhoods, and prevent the increase of crime and juvenile delinquency.

Section 2. Definitions

For the purposes of this Section the following terms shall have the following meanings:

- A. Adult Uses: Adult uses include adult bookstores, adult motion picture theaters, adult motion picture rental, adult mini-motion picture theaters, adult massage parlors, adult steam room/bathhouse/sauna facilities, adult companionship establishments, adult rap/conversation parlors, adult health/sport clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios, and other premises, enterprises, establishments, businesses or places open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas" (as such terms and phrases are defined below) which are capable of being seen by members of the public:
1. Specified Anatomical Areas:
 - a. Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breast(s) below a point immediately above the top of the areola; and
 - b. Human male genitals in a discernible turgid state, even if completely and opaquely covered.
 2. Specified Sexual Activities:
 - a. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or
 - b. Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence; or
 - c. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or
 - d. Fondling or touching of nude human genitals, pubic region, buttocks, or female breast; or
 - e. Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such persons; or
 - f. Erotic or lewd touching, fondling, or other sexually-oriented contact with an animal by a human being; or
 - g. Human excretion, urination, menstruation, vaginal or anal irrigation
- B. Adult Uses - Accessory: A use, business, or establishment having ten percent or less of its stock in trade or floor area allocated to, or 20 percent or less of its gross receipts derived from movie rentals, magazine sales, or sales of other merchandise in which there is an emphasis on "specified sexual activities" or "specified anatomical areas."

- C. Adult Uses - Principal: A use, business, or establishment having more than ten percent of its stock in trade or floor area allocated to, or more than 20 percent of its gross receipts derived from, any adult use.
- D. Adult Use - Body Painting Studio: An establishment or business which provides the service of applying paint or other substance, whether transparent or non-transparent, to or on the body of a patron when such body is wholly or partially nude in terms of "specified anatomical areas."
- E. Adult Use - Bookstore: A building or portion of a building used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape, or motion picture file if such building or portion of a building is not open to the public generally but only to one or more classes of the public excluding any minor by reason of age and if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas."
- F. Adult Use - Cabaret: A building or portion of a building used for providing dancing or other live entertainment, if such building or portion of a building excludes minors by virtue of age and if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas."
- G. Adult Use - Companionship Establishment: A companionship establishment, which excludes minors by reason of age and which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment, and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- H. Adult Use - Conversation/Rap Parlor: A conversation/rap parlor which excludes minors by reason of age and which provides the service of engaging in or listening to conversation, talk, or discussion, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- I. Adult Use - Health/Sport Club: A health/sport club which excludes minors by reason of age and if such club is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- J. Adult Use - Hotel or Motel: Adult hotel or motel means a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."
- K. Adult Use - Massage Parlor, Health Club: A massage parlor or health club which restricts minors by reason of age and which provides the services of massage, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- L. Adult Use - Mini-Motion Picture Theater: A building or portion of a building with a capacity for less than 50 persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age and if such material is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
- M. Adult Use - Modeling Studio: An establishment whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in "specified sexual activities" or display "specified anatomical areas" while being observed, painted, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

- N. Adult Use - Motion Picture Arcade: Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled or operated still or motor picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas."
- O. Adult Use - Motion Picture Theater: A building or portion of a building with a capacity of 50 or more persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age and if such material is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
- P. Adult Use - Novelty Business: A business which has as a principal activity the sale of devices which stimulate human genitals or devices which are designed for sexual stimulation.
- Q. Adult Use - Sauna: A sauna which excludes minors by reason of age and which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- R. Adult Use - Steam Room/Bathhouse Facility: A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent if such building or portion of a building restricts minors by reason of age and if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- S. Educational Facility: A public school as defined in Minnesota Statute, Section 120A.05, as amended or a nonpublic school or a nonsectarian nonpublic school as defined in Minnesota Statute, Section 123B.41, as amended.
- T. Religious institution: A building or structure, or group of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and associated accessory uses.
- U. Youth Facility: A public playground, park, public swimming pool, public library or licensed day care facility.

Section 3. Adult Uses

- A. Purpose: The nature of adult uses is such that they are recognized as having adverse secondary characteristics, particularly when they are accessible to minors and located near residential property or related residential uses such as schools, day care centers, libraries or parks. Furthermore, the nature of adult uses requires that they not be allowed within certain zoning districts, or within minimum distances from each other or residential uses. Special regulation of adult uses is necessary to ensure that the adverse secondary effects do not contribute to the blighting or downgrading of the surrounding property and lessening of its value.
- B. General: Adult uses as defined in this Chapter shall be subject to the following general provisions:
 - 1. Adult uses, either principal or accessory, shall be prohibited from locating in any building which is also utilized for residential purposes.
 - 2. Adult uses, either principal or accessory, shall be prohibited from locating in any place which is also used to dispense or consume alcoholic beverages.

3. An adult use which does not qualify as an accessory use pursuant to subsection D of this Section shall be classified as an adult use - principal.

C. Adult Uses - Principal

1. Adult use-principal shall be located at least 1,000 feet, as measured in a straight line from the closest point of the property line of the building upon which the adult use-principal is located, from the property line of:
 - a. A licensed day care center;
 - b. A public or private educational facility classified as a preschool, or an elementary, junior high or senior high school;
 - c. A public library;
 - d. A public park;
 - e. Another adult use - principal;
 - f. An on-sale liquor establishment;
 - g. Any religious institution, or related facility or organization; or
 - h. Any residential property
2. Adult use-principal activities will be allowed only by Conditional Use Permit in the Industrial land use category as specified in the Comprehensive Plan and the I - Industrial District as specified in this Ordinance.
3. Adult use-principal activities, as defined by this Ordinance, shall be classified as one use. No two adult uses-principal shall be located in the same building or upon the same property and each use shall be subject to this Chapter.
4. Adult use-principal shall adhere to the following sign regulations.
 - a. Sign messages shall be generic, not graphic in nature and shall only identify the type of business which is being conducted.
 - b. Sign messages shall not contain material classified as advertising.
 - c. Signs shall comply with the requirements of size and number for the district in which they are located.
5. Adult use-principal shall be limited to 10 a.m. to 10 p.m. for its hours of operation. A differing time schedule may be approved by the City if it can be satisfactorily demonstrated by the operator to the City that extended operational hours:
 - a. Will not adversely impact or affect uses or activities within 1,000 feet
 - b. Will not result in increased policing and related service calls
 - c. Are critical to the operation of the business

D. Adult Uses - Accessory

1. Adult use-accessory shall:
 - a. Comprise no more than ten percent of the floor area of the establishment in which it is located.
 - b. Comprise no more than 20 percent of the gross receipts of the entire business operation.
 - c. Not involve or include any activity except the sale or rental of merchandise.

2. Adult use-accessory shall be located at least 1,000 feet, as measured in a straight line from the closest point of the property line of the building upon which the adult use-principal is located, from the property line of:
 - a. A licensed day care center;
 - b. A public or private educational facility classified as a preschool, or an elementary, junior high or senior high school;
 - c. A public library;
 - d. A public park;
 - e. Another adult use - principal;
 - f. An on-sale liquor establishment;
 - g. Any religious institution or related facility or organization; or
 - h. Any residential property.
3. Adult use-accessory shall be restricted from and prohibit access to minors by the physical separation of such items from areas of general public access:
 - a. Movie Rentals. Display areas shall be restricted from general view and shall be located within a separate room, the access of which is in clear view and under the control of the persons responsible for the operation of the business.
 - b. Magazines. Publications classified or qualifying as adult uses shall not be physically accessible to minors and shall be covered with a wrapper or other means to prevent display of any material other than the publication title.
 - c. Other Use. Adult Uses-Accessory not specifically cited shall comply with the intent of this Section, subject to the approval of the City.
4. Adult Use-Accessory shall be prohibited from both internal and external advertising and signing of adult materials and products.

CHAPTER XII. EFFECTIVE DATE

This Ordinance was adopted by the New Germany City Council on November 15, 2011 and shall be effective upon publication according to law.

ATTEST:

Jason Kamerud, Mayor

Joan Guthmiller, City Clerk

Summary of this Ordinance published in the Herald Journal on _____, 2011