

CHAPTER 9

LAND USE REGULATION (ZONING)

Section 9.01. Purposes and intent. This chapter is enacted for the following purposes: to promote the health, safety, morals, convenience, and general welfare of the inhabitants of the City by lessening congestion in the public right of ways; securing safety from fire, panic, and other dangers; providing adequate light and air; preventing the overcrowding of land; avoiding undue concentration of population; facilitating the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; conserving the value of properties; and encouraging the most appropriate use of land.

Section 9.02. Scope and interpretation.

Subdivision 1. Scope. From and after the effective date of this chapter, the use of all land and every building or portion of a building erected, altered with respect to height and area, added to, or relocated, and every use within a building or use accessory thereto, in the City shall be in conformity with the provisions of this chapter. Any existing building or structure and any existing use of properties not in conformity with the regulations herein prescribed shall be regarded as non-conforming, but may be continued, extended, or changed subject to the special regulations herein provided with respect to non-conforming properties or uses.

Subd. 2. Interpretation. In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public health, safety, morals, convenience, and general welfare. Where the provisions of this chapter impose greater restrictions than those of any statute, other ordinance, or regulation, the provisions of this chapter shall be controlling. Where the provisions of any statute, other ordinance, or regulation impose greater restrictions than this chapter, the provisions of such statute, other ordinance, or regulation shall be controlling.

Section 9.03. Definitions. The following terms, as used in this chapter, shall have the meanings stated:

Subdivision 1. The term "accessory building" means a subordinate building or portion of the main building which is located on the same lot as the main building and the use of which is clearly incidental to the use of the main building.

Subd. 2. The term "agriculture" shall be considered to mean the growing of soil crops in the customary manner on open tracts of land; the term shall include incidental retail selling by the producer of products raised on the premises, provided that space necessary for parking of vehicles of customers shall be furnished off the public right of

1 way.

2 **Subd. 3.** The term "alley" means a public right of way of not less than 20 nor more than
3 30 feet in width which provides secondary access to abutting property.

4 **Subd. 4.** The term "apartment" means a part of a building consisting of a room or suite of
5 rooms, which is designed for, intended for, or used as a residence for one family or an
6 individual and is equipped with cooking facilities.

7 **Subd. 5.** The term "apartment building" means 3 or more apartments grouped in one
8 building.

9 **Subd. 6.** "Automobile wrecking": See "junkyards".

10 **Subd. 7.** The term "basement" means a portion of a building located partly underground.

11 **Subd. 8.** A "bed and breakfast inn" is an owner-occupied single family dwelling where
12 lodging in guest rooms and breakfast are provided to the traveling public by the resident
13 owner for compensation.

14 **Subd. 9.** The term "block" means a tract of land bounded by streets, or a combination of
15 streets and public parks, cemeteries, railroad right of ways, shorelines, waterways, or
16 boundary lines of the corporate limits of the City.

17 **Subd. 10.** The term "boarding house" means any dwelling other than a hotel, motel, or
18 bed and breakfast inn, where meals or lodgings and meals for compensation are
19 provided for five or more persons, pursuant to previous arrangements and not to anyone
20 who may apply.

21 **Subd. 11.** The term "building" means any structure for the shelter, support, or enclosure
22 of persons, animals, chattel, or property of any kind; and when separated by party walls
23 without openings, each portion of such building so separated shall be deemed a separate
24 building.

25 **Subd. 12.** The term "building height" means the vertical distance from the average of the
26 highest and lowest point of that portion of the lot surface covered by the building to the
27 highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean
28 height between eaves and ridge for gable, hip, and gabrel roofs.

29 **Subd. 13.** The term "corner lot" means a lot situated at the junction of and fronting on two
30 or more streets.

31 **Subd. 14.** The term "court" means an open, unoccupied space bounded on two or more
32 sides by the exterior walls of a building or buildings on the same lot.

33 **Subd. 15.** The term "curb level" means the level of the established curb in front of the
34 building. Where no curb level has been established, the City Engineer shall establish
35 such curb level or its equivalent for the purposes of this chapter.

36 **Subd. 16.** The term "depth of lot" means the mean horizontal distance between the mean
37 front street and the mean rear lot line. The greater frontage of a corner lot is its depth,
38 and its lesser frontage is its width.

39 **Subd. 17.** The term "depth of rear yard" means the mean horizontal distance between
40 the rear line of the building and the center line of an alley, where an alley exists;
41 otherwise, a rear lot line.

42 **Subd. 18.** The term "district" means a section of the City for which the land use and
43 zoning regulations are the same.

44 **Subd. 19.** The term "dwelling" means any building or part thereof that is designed or

1 used exclusively for residential purposes by one or more human beings, either
2 permanently or transiently.

3 **Subd. 20.** The term "single family dwelling" means a building designed for or occupied
4 exclusively by one family. Mobile homes or trailer houses, whether on wheels or
5 foundation, shall not be considered part of this definition.

6 **Subd. 21.** The term "two family dwelling" means a building designed for or occupied by
7 two separate families. Mobile homes or trailer houses, whether on wheels or foundation,
8 shall not be considered part of this definition.

9 **Subd. 22.** The term "multiple family dwelling" means a building designed for or occupied
10 by more than two families.

11 **Subd. 23.** The term "family" means any number of individuals living together on the
12 premises in a single housekeeping unit, as distinguished from a group occupying a
13 boarding house, lodging house, or hotel, as herein described.

14 **Subd. 24.** "Farming": See "agriculture".

15 **Subd. 25.** The term "floor area" means the sum of the gross horizontal areas of the
16 several floors of a building measured from the exterior walls, including basements and
17 attached accessory buildings.

18 **Subd. 26.** The term "private garage" means a garage with a maximum of 1,000 square
19 feet of floor space and a maximum total height of 16 feet, and which is erected as a
20 detached accessory building on premises on which a dwelling is also erected.

21 **Subd. 27.** The term "public garage" means any premises, except those described as a
22 private garage, used for the storage or care of power-driven vehicles, or where any such
23 vehicles are equipped for operation or repair, or are kept for remuneration, hire, or sale.

24 **Subd. 28.** The term "group residential facility" means a state-licensed facility, public or
25 private, which regularly provides a planned combination of living conditions, services, and
26 resources for the treatment, rehabilitation, training, supervision, or care of persons
27 residing on the premises. The term does not include any type of residential or non-
28 residential facility for persons convicted of crimes, or for persons accused of crimes who
29 are diverted to the facility before conviction.

30 **Subd. 29.** The term "home occupation" means any occupation of a service character
31 which is clearly secondary to the main use of the premises as a dwelling, does not
32 change the character thereof or have any exterior evidence of such secondary use, and
33 does not utilize any accessory building. This occupation shall be carried on or conducted
34 only by members of a family residing in the dwelling and in connection with which there is
35 kept no stock in trade or commodity for sale except such as may be produced by
36 members of the immediate family residing on the premises.

37 **Subd. 30.** The term "hotel" means any building or portion thereof where lodging is offered
38 to transient guests for compensation and in which there are more than five sleeping
39 rooms, with no cooking facilities in an individual room or apartment.

40 **Subd. 31.** The term "junkyard" means land or buildings where waste or discarded or
41 salvaged materials are bought, sold, exchanged, stored, cleaned, packed, disassembled,
42 or handled, including but not limited to scrap metal, rags, paper, rubber products, glass
43 products, lumber products, and products resulting from the wrecking of automobiles or
44 other vehicles.

1 **Subd. 32.** The term "loading space" means that portion of a lot or plot designed to serve
2 the purpose of loading or unloading all types of vehicles.

3 **Subd. 33.** The term "lodging house" means a building or premises where lodging is
4 provided for compensation for five or more persons, but not exceeding 25 persons.

5 **Subd. 34.** The term "lot" means one unit of a recorded plat or subdivision, occupied or to
6 be occupied by a building and its accessory buildings, and including as a minimum such
7 open spaces as are required under this chapter and having frontage on a public street.

8 **Subd. 35.** The term "lot area" means the total land area within the lot lines.

9 **Subd. 36.** The term "lot area per family" means the lot area required by this chapter to be
10 provided for each family in a dwelling.

11 **Subd. 37.** The term "double frontage lot" means an interior lot having frontage on two
12 streets.

13 **Subd. 38.** The term "interior lot" means a lot other than a corner lot.

14 **Subd. 39.** The term "lot lines" means the lines bounding a lot, as defined herein. When a
15 lot line abuts a street, avenue, park, or other public property, except an alley, such line
16 shall be known as a "street line", and when a lot line abuts an alley, it shall be known as
17 an "alley line".

18 **Subd. 40.** The term "lot width" means the mean width of a lot measured at right angles.

19 **Subd. 41.** The term "motel" means a building or group of buildings used primarily for the
20 temporary residence of motorists or travelers for compensation.

21 **Subd. 42.** The term "municipal water and sewer systems" means utilities systems serving
22 a group of buildings, lots, or an area of the City, with the design and construction of such
23 utilities systems as approved by the City Engineering Department, New Ulm Public
24 Utilities Commission, Minnesota Department of Health, and/or Minnesota Pollution
25 Control Agency.

26 **Subd. 43.** The term "non-conforming use" means a use lawfully in existence on the
27 effective date of this chapter and not conforming to the regulations for the district in which
28 it is situated, except that such a use is not non-conforming if it would be authorized under
29 conditional use permit where located.

30 **Subd. 44.** The term "plot" means a tract other than one unit of a recorded plat or
31 subdivision, occupied and used or intended to be occupied and used as a home site, and
32 improved or intended to be improved by the erection thereon of a dwelling and accessory
33 buildings, and having a frontage upon a public street or upon a highway or upon a
34 traveled or used road, and including as a minimum such open spaces as required under
35 this chapter.

36 **Subd. 45.** The term "premises" means a lot or plot with the required front, side, and rear
37 yards for a dwelling or other use as allowed under this chapter.

38 **Subd. 46.** The term "setback line" means the mean horizontal distance between the front
39 street line and the front line of the foundation of a building or the allowable building line as
40 defined by the front yard regulations of this chapter.

41 **Subd. 47.** The term "sign" means a name, identification, description, display, illustration,
42 or device which is affixed to or represented directly or indirectly upon a building, structure,
43 or land, in view of the general public and which directs attention to a product, place,
44 activity, person, institution, or business.

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2 **Subd. 48.** The term "advertising sign" means a sign that directs attention to a business,
3 commodity, service, activity, or entertainment that is conducted, sold, or offered upon the
4 premises where such sign is located.

5 **Subd. 49.** The term "business sign" means a sign that directs attention to a business or
6 profession, or to a commodity, service, or entertainment sold or offered upon the
7 premises where such a sign is located.

8 **Subd. 50.** The term "flashing sign" means any illuminated sign on which such illumination
9 is not kept stationary or constant in intensity and color at all times when such sign is in
10 use.

11 **Subd. 51.** The term "illuminated sign" means any sign that has characters, letters,
12 figures, designs, or outlines illuminated by electric lights or luminous tubes as a part of
13 the sign.

14 **Subd. 52.** The term "name plate sign" means any sign that states the name or address,
15 or both, of the business or occupant of the lot where the sign is placed.

16 **Subd. 53.** The term "pylon sign" means a free-standing sign erected upon a single pylon
17 or post that is in excess of 10 feet in height with a sign mounted on top thereof.

18 **Subd. 54.** The term "rotating sign" means a sign that revolves or rotates on its axis by
19 mechanical means.

20 **Subd. 55.** The term "surface area of sign" means the entire area within a single,
21 continuous perimeter enclosing the extreme limits of the actual sign surface. It does not
22 include any structural elements outside the limits of such sign and not forming an integral
23 part of the display. Only one side of the double-face or V-type sign structure shall be used
24 in computing total surface area.

25 **Subd. 56.** The term "story" means that portion of a building included between the surface
26 of any floor and the surface of the next floor above it or, if there is not floor above it, the
27 space between the floor and the ceiling next above it.

28 **Subd. 57.** The term "half story" means that portion of a building under a gable, hip, or
29 gambrel roof, the wall plates of which, on at least two opposite exterior walls, are not
30 more than two feet above the floor of such story.

31 **Subd. 58.** The term "structure" means anything constructed or erected, the use of which
32 requires location on the ground or attachment to something having a location on the
33 ground.

34 **Subd. 59.** The term "structural alterations" means any change in the supporting members
35 of a building, such as bearing walls, columns, beams, or girders.

36 **Subd. 60.** The term "street" means a public right of way 30 feet or more in width.

37 **Subd. 61.** The term "use" means the purpose for which land or premises or a building
38 thereon is designated, arranged, or intended, or for which it is or may be occupied or
39 maintained.

40 **Subd. 62.** The term "accessory use" means a use incidental or accessory to the principal
41 use of a lot or a building located on the same lot as the accessory use.

42 **Subd. 63.** The term "variance" means a modification or variation of the provisions of this
43 chapter, as applied to a specific piece of property, except that modification in the
44 allowable uses within a district shall not be considered a variance.

1 **Subd. 64.** The term "yard" means an open space on the same zoning lot with a building
2 or structure, which yard is unoccupied and unobstructed from its lowest level to the sky,
3 except as otherwise permitted in section 9.14.

4 **Subd. 65.** The term "front yard" means a yard extending across the front of the lot
5 between the side yard lines and lying between the front street line of the lot and the
6 nearest line of the building.

7 **Subd. 66.** The term "rear yard" means an open space unoccupied except for accessory
8 buildings on the same lot with a building, between the rear lines of the building and the
9 rear line of the lot, for the full width of the lot.

10 **Subd. 67.** The term "side yard" means an open, unoccupied space on the same lot with a
11 building between the building and the side line of the lot and extending from the front lot
12 line to the rear of the back yard.

13 **Subd. 68.** The term "fence" means a barrier enclosing or bordering a parcel of real
14 property or any portion thereof, made of vegetation, wood, stone, masonry, metal, or
15 synthetic materials. The term "hedge" is included within the definition of "fence".

16 **Subd. 69.** The term "hedge" means a boundary formed by a row or series of shrubs,
17 bushes, trees, or other vegetation that encloses, divides, or protects an area or that
18 prevents a person from passing between any combination of individual shrubs, bushes,
19 trees, or other vegetation.

20 **Subd. 70.** "Split rail fence" means a fence consisting of vertical posts not greater than
21 thirty-six inches in height connected by not more than two horizontal rails that are not
22 greater than six inches in width.

23 **Subd. 71.** The term "billboard" means a sign that directs attention to a business,
24 commodity, service, activity, or entertainment that is not conducted, sold, or offered upon
25 the premises where such sign is located.

26 **Subd. 72.** The term "commercial kennel" means a facility conducted as a business and
27 licensed by the City under Section 4.59 of this City Code for the boarding, breeding,
28 raising, grooming, selling, training, or other animal husbandry activities for dogs, cats, or
29 other household pets.

30 31 **Section 9.04. Classification of districts.**

32 **Subdivision 1. Districts.** For the purpose of this chapter, the City is hereby divided into
33 classes of districts that shall be designated as follows:

34 **A. Residence districts:**

- 35 1. R-A Agricultural Residence District.
- 36 2. R-1 Single Family Residence District.
- 37 3. R-2 Single and Two Family Residence District.
- 38 4. R-3 Multiple Family Residence District.

39 **B. Business districts:**

- 40 1. B-1 Limited Business District.
- 41 2. B-2 Service Business District.
- 42 3. B-3 General Business District.

43 **C. Industrial districts:**

- 44 1. I-1 Planned Industrial District.

1 **2. I-2 General Industrial District.**

2 **Subd. 2. Zoning map.** The following-described property, heretofore zoned R-A
3 (Agricultural Residence District), is hereby redesignated and rezoned to R-1 (Single
4 Family Residence District): That part of Outlots 127 and 131, in the City of New Ulm,
5 Brown County, Minnesota, described as follows: Beginning at the most westerly corner of
6 Lot 8, Block 2, FAIRHILLS FIFTH ADDITION; thence South 55 degrees 31 minutes 11
7 seconds West bearings based on the Brown County Coordinate System NAD83(07) on
8 the northwesterly line of Maplewood Drive, as dedicated per MAPLEWOOD DRIVE
9 FIRST ADDITION, a distance of 46. 22 feet; thence Southwesterly a distance 103. 89 feet
10 on a tangential curve to the right having a radius of 1310.00 feet and a central angle of 04
11 degrees 32 minutes 37 seconds; thence North 34 degrees 28 minutes 49 seconds West
12 not tangent to said curve, a distance of 762. 93 feet; thence North 54 degrees 37 minutes
13 39 seconds East, a distance of 150.02 feet to the most westerly corner of Lot 1 of said
14 Block 2; thence South 34 degrees 28 minutes 49 seconds East on the southwesterly line
15 of said Block 2, a distance of 769.42 feet to the point of beginning. Said parcel contains
16 2.65 acres of land.

17 **Subd. 3. District boundaries.** The boundaries between districts are, unless otherwise
18 indicated, either the center lines of streets, alleys, or railroad rights of way, or such lines
19 extended or lines parallel or perpendicular thereto. Where figures are shown on the
20 Zoning Map between a street and a district boundary line, they indicate that the district
21 boundary line runs parallel to the street line at a distance therefrom equivalent to the
22 number of feet so indicated, unless otherwise indicated.

23 **Subd. 4. Future annexation.** Any land annexed to the City in the future shall initially be
24 placed in the R-A Agricultural Residence District, unless placed in another district by
25 action of the City Council after recommendation of the City Planning Commission.
26

27 **Section 9.05. Agricultural Residence District.**

28 **Subdivision 1. Purpose.** The R-A Agricultural Residence District is intended to provide a
29 district which: (1) will allow extensive areas of the community to be retained in a rural use
30 in advance of the need for these lands for urban purposes; (2) will prevent scattered,
31 haphazard urban growth and will guide orderly transition; and (3) will secure economy in
32 governmental expenditures for municipal services, utilities, and schools.

33 **Subd. 2. Permitted uses.** Within an R-A Agricultural Residence District, unless
34 otherwise provided in this chapter, no building or land shall be used except for one or
35 more of the following uses:

36 **A.** Single family detached dwellings.

37 **B.** Agricultural land uses.

38 **C.** Nurseries, landscape gardening, tree farms, and greenhouses, all for the growing of
39 plants, but not to include retail sales.

40 **D.** Parks and recreational areas owned or operated by governmental agencies.

41 **E.** Public schools, elementary or high, or private schools having a curriculum equivalent
42 to or higher than a public elementary school or public high school.

43 **F.** Golf courses, except club houses, miniature courses, and driving ranges operated for
44 commercial purposes.

1 **G.** Churches, provided that no church shall be located within 50 feet of any lot line of an
2 abutting lot in any of the classes of residence districts.

3 **Subd. 3. Uses by conditional use permit.** Within an R-A Agricultural Residence District,
4 a building or land may be used for one or more of the following uses only by conditional
5 use permit:

6 **A.** Municipal administration buildings, airports, police and fire stations, community
7 center buildings, public libraries, museums, art galleries, post offices, and other
8 community service buildings, except those customarily considered industrial in use, and
9 provided that no buildings shall be located within 50 feet of any lot line of an abutting lot
10 in any of the classes of residence districts.

11 **B.** Water supply buildings, reservoirs, wells, elevated tanks, and similar essential public
12 utility and service structures.

13 **C.** Golf club house, country club, public swimming pool, private swimming pool serving
14 more than one family, provided that no principal structure shall be located within 50 feet
15 of any lot line of an abutting lot in any of the classes of residence districts.

16 **D.** Offices of professional persons and home occupations, when such use does not
17 exceed one-third of the main floor space of a dwelling and is conducted entirely within
18 the dwelling and incidental to the benefit of such premises as a bona fide home, but
19 only if no article is sold or offered for sale nor any service provided except as may be
20 produced or provided by members of the immediate family residing in the premises.

21 **E.** Cemetery or memorial garden.

22 **F.** Extraction of materials, provided that the land is left in a usable condition when the
23 use ceases to operate.

24 **G.** Stables and riding academies.

25 **H.** Radio or television towers or antennae.

26 **Subd. 4. Permitted accessory uses.** Within an R-A Agricultural Residence District, the
27 following uses shall be permitted accessory uses:

28 **A.** Private garage.

29 **B.** Barns, stables, and other buildings used for agricultural purposes, except
30 commercial feedlot operations.

31 **C.** Private swimming pool, when completely enclosed within a chain link or similar fence
32 at least five feet high.

33 **D.** Keeping of not more than two boarders and/or roomers by a resident family.

34 **E.** Living quarters of persons employed on the premises.

35 **F.** Signs, as regulated by section 9.14.

36 **G.** Off-street parking, as regulated by section 9.14.

37 **H.** Accessory uses customarily incident to the uses permitted in subdivisions 2 and 3 of
38 this section.

39 **Subd. 5. Height, yard, area, and lot width and depth regulations.**

40 **A. Height regulations.**

41 1. No single family detached dwelling hereafter erected or altered shall exceed two
42 and one-half stories.

43 2. For agricultural accessory buildings, no height regulations shall be required.

1 **B. Front yard regulations.**

2 1. There shall be a front yard having a depth of not less than 30 feet, unless 30% or
3 more of the frontage on the same side of the street between two intersecting streets is
4 improved with buildings that have observed a lesser depth of front yard, in which
5 instance no new building or portion thereof shall project beyond a straight line drawn
6 between the front building lines of the residences upon either side of the proposed
7 structure or, if there be residences upon only one side, then beyond a line determined
8 by the average setback of residences in that block.

9 2. Where a lot is located at the intersection of two or more streets, there shall be a
10 front yard on each street side of each corner lot. No accessory buildings shall project
11 into the front yard bordering either street.

12 **C. Side yard regulations.** There shall be a side yard on each side of a building, each
13 yard having a width of not less than 10 feet.

14 **D. Rear yard regulations.** There shall be a rear yard having a depth of not less than
15 20% of the depth of the lot.

16 **E. Lot area regulations.** Every lot or plot of land on which a single family dwelling is
17 erected shall contain an area of not less than 40 acres.

18 **F. Lot width and depth regulations.** Every lot or plot of land on which a single family
19 dwelling is erected shall have a minimum width of not less than 130 feet at the building
20 setback line and a minimum depth of not less than 125 feet.

21 **Subd. 6. General regulations.** Additional regulations in the R-A Agricultural Residence
22 District are set forth in section 9.14.

23
24 **Section 9.06. Single Family Residence District.**

25 **Subdivision 1. Purpose.** The R-1 Single Family Residence District is intended to provide
26 a district which will allow residential development in those areas where such development
27 fits the land use plan and policies, and where municipal utilities are available.

28 **Subd. 2. Permitted uses.** Within an R-1 Single Family Residence District, unless
29 otherwise provided by this chapter, no building or land shall be used except for one or
30 more of the following uses:

31 **A.** Single family detached dwellings.

32 **B.** Parks and public recreational areas owned or operated by governmental agencies.

33 **C.** Public elementary or high schools, private schools having a curriculum equivalent to
34 a public elementary school or a public high school, and post-secondary educational
35 institutions in existence as of the date of first enactment of this zoning provision.

36 **D.** Golf courses, except club houses, miniature courses, and driving ranges operated for
37 commercial purposes.

38 **E.** Churches, provided that no church shall be located within 50 feet of any lot line of an
39 abutting lot in any of the classes of residence districts.

40 **F.** Group residential facilities serving eight or fewer residents.

41 **Subd. 3. Uses by conditional use permit.** Within an R-1 Single Family Residence
42 District, a building or land may be used for one or more of the following uses only by
43 conditional use permit:

44 **A.** Municipal administration buildings, police and fire stations, community center

1 buildings, public libraries, museums, art galleries, post offices, and other community
2 service buildings, except those customarily considered industrial in use, and provided
3 that no buildings shall be located within 50 feet of any lot line of an abutting lot in any of
4 the classes of residence districts.

5 **B.** Water supply buildings, reservoirs, wells, elevated tanks, and similar essential public
6 utility and service structures.

7 **C.** Golf club house, country club, public swimming pool, private swimming pool serving
8 more than one family, provided that no principal structure shall be located within 50 feet
9 of any lot line of an abutting lot in any of the classes of residence districts.

10 **D.** Offices of professional persons and home occupations.

11 1. Dwellings may be used for a professional office or home occupation when such use
12 does not exceed one-third of the main floor space of a dwelling and is conducted
13 entirely within the dwelling and incidental to the benefit of such premises as a bona
14 fide home, but only if no article is sold or offered for sale nor any service provided
15 except as may be produced or provided by members of the immediate family residing
16 in the premises.

17 2. The conditional use permit for a home occupation shall be terminated when:

18 a. The home occupation has been discontinued for a period in excess of 60 days.

19 b. The City Council finds that there has been a violation of the conditions imposed
20 upon the issuance of the conditional use permit for a home occupation.

21 c. The City Council finds, upon recommendation of the Planning Commission, that
22 the home occupation has become a danger to the public health, safety, comfort,
23 convenience, or general welfare.

24 **E.** Cemetery or memorial garden.

25 **Subd. 4. Permitted accessory uses.** Within an R-1 Residence District, the following
26 uses shall be permitted accessory uses:

27 **A.** Private garage.

28 **B.** Private swimming pool, when completely enclosed within a chain link or similar fence
29 five feet high.

30 **C.** Keeping of not more than two boarders and/or roomers by a resident family.

31 **D.** Living quarters of persons employed on the premises.

32 **E.** Signs, as regulated by section 9.14.

33 **F.** Off-street parking, as regulated by section 9.14.

34 **G.** Accessory uses customarily incident to the uses permitted in subdivisions 2 and 3 of
35 this section.

36 **H.** Licensed bed and breakfast inns as provided for in section 4.65.

37 **Subd. 5. Height, yard, area, and lot width and depth regulations.**

38 **A. Height regulations.** No building hereafter erected or structurally altered shall
39 exceed two and one-half stories.

40 **B. Front yard regulations.**

41 1. There shall be a front yard having a depth of not less than 30 feet, unless 50% or
42 more of the frontage on the same side of the street between two intersecting streets is
43 improved with dwellings that have observed a lesser depth of front yard, in which
44 instance no new dwelling or portion thereof shall project beyond a straight line drawn

1 between the front building lines of the dwellings upon either side of the proposed
2 structure, or if there be dwellings upon only one side, then beyond a line determined
3 by the average setback of dwellings in that block.

4 **2.** Where a lot is located at the intersection of two or more streets, there shall be a
5 front yard on each street side of each corner lot. No accessory buildings shall project
6 into the front yard bordering either street.

7 **3.** Wherever a lot of record existing at the effective date of this chapter has a width of
8 less than 65 feet, the front yard on the side street side of a corner lot may be reduced
9 to a width of not less than 15 feet.

10 **4.** A front yard abutting the vehicle turn-around portion of a cul-de-sac, as defined in
11 Section 10.02, Subd. 7 of this Code, shall have a depth of not less than 15 feet;
12 provided, however, that if one or more existing structures have front yards abutting the
13 same turn-around, the minimum depth of a front yard for a new structure shall be the
14 lesser of: (1) the least depth front yard on that turn-around or (2) 30 feet.

15 **C. Side yard regulations.**

16 **1.** There shall be a side yard on each side of a building, each yard having a width of
17 not less than 10 feet.

18 **2.** Whenever a lot of record existing at the date of passage of this chapter has a width
19 of less than 65 feet, the side yard on each side of a building may be reduced to a
20 width of not less than 5 feet.

21 **D. Rear yard regulations.** There shall be a rear yard having a depth of not less than
22 20% of the depth of the lot.

23 **E. Lot area regulations.** Every lot on which a single family dwelling is erected shall
24 contain an area of at least 8,000 square feet.

25 **F. Lot width and depth regulations.** Every lot or plot of land on which a single family
26 dwelling is erected shall have a minimum width of 65 feet at the building set-back line
27 and a minimum depth of 125 feet.

28 **Subd. 6. General regulations.** Additional regulations in the R-1 Single Family Residence
29 District are set forth in section 9.14.

30
31 **Section 9.07. R-2 Single and Two Family Residence District.**

32 **Subdivision 1. Purpose.** The R-2 Single and Two Family Residence District is intended
33 to be a low density residential district which allows for one and two family dwellings where
34 such development fits the land use plan and where municipal utilities are available. An R-
35 2 district is not a multiple family or multiple residential district for purposes of planning
36 and development under this code, or for purposes of interpretation under any state,
37 federal, or local law or regulation.

38 **Subd. 2. Permitted uses.** Within an R-2 Single and Two Family Residence District,
39 unless otherwise provided by this chapter, no building or land shall be used except for
40 one or more of the following uses:

41 **A.** Any use permitted in subdivision 2 of the R-1 Single Family Residence District as
42 regulated therein.

43 **B.** Two family dwellings.

44 **Subd. 3. Uses by conditional use permit.** Within an R-2 Single and Two Family

1 Residence District a building or land may be used for one or more the following uses only
2 by conditional use permit:

3 **A.** Any use permitted in subdivision 3 of the R-1 Single Family Residence District, as
4 regulated therein.

5 **Subd. 4. Permitted accessory uses.** Within an R-2 Single and Two Family Residence
6 District, the following uses shall be permitted accessory uses:

7 **A.** Any use permitted in subdivision 4 of the R-1 Single Family Residence District, as
8 regulated therein.

9 **B.** Accessory uses customarily incident to the uses permitted in subdivisions 2 and 3 of
10 this section.

11 **Subd. 5. Height, yard, area, lot width and depth regulations.**

12 **A. Height regulations.** No building hereafter erected or altered shall exceed two and
13 one-half stories.

14 **B. Front yard regulations.**

15 **1.** There shall be a front yard having a depth of not less than 30 feet, unless 50% or
16 more of the frontage on the same side of the street between two intersecting streets is
17 improved with dwellings that have observed a lesser depth of front yard, in which
18 instance no new dwelling or portion thereof shall project beyond a straight line drawn
19 between the front building lines of the dwellings upon either side of the proposed
20 structure, or if there be dwellings upon only one side, then beyond a line determined
21 by the average setback of dwellings in that block.

22 **2.** Where a lot is located at the intersection of two or more streets, there shall be a
23 front yard on each street side of each corner lot. No accessory buildings shall project
24 into the front yard bordering either street.

25 **3.** Wherever a lot of record existing at the effective date of this chapter has a width of
26 less than 65 feet, the front yard on the side street side of a corner lot may be reduced
27 to a width of not less than 10 feet.

28 **4.** A front yard abutting the vehicle turn-around portion of a cul-de-sac, as defined in
29 Section 10.02, Subd. 7 of this Code, shall have a depth of not less than 15 feet;
30 provided, however, that if one or more existing structures have front yards abutting the
31 same turn-around, the minimum depth of a front yard for a new structure shall be the
32 lesser of: (1) the least depth front yard on that turn-around or (2) 30 feet.

33 **C. Side yard regulations.**

34 **1.** There shall be a side yard on each side of a building, each yard having a width of
35 not less than 10 feet.

36 **2.** Whenever a lot of record existing at the date of passage of this chapter has a width
37 of less than 65 feet, the side yard on each side of a building may be reduced to a
38 width of not less than 5 feet.

39 **D. Rear yard regulations.** There shall be a rear yard having a depth of not less than
40 20% of the depth of the lot.

41 **E. Lot area regulations.**

42 **1.** A corner lot on which there is erected a single family dwelling shall have an area of
43 not less than 4,000 square feet.

44 **2.** All other lots on which there is erected a single family dwelling shall have an area of

1 not less than 6,000 square feet.

2 **3.** A lot on which there is erected a two family dwelling shall have an area of not less
3 than 8,000 square feet.

4 **F. Lot width and depth regulations.**

5 **1.** A lot on which there is erected a single family dwelling shall have a minimum width
6 of not less than 50 feet at the building setback line and a minimum depth of not less
7 than 125 feet, excepting corner lots where single family dwelling can be built upon a
8 minimum depth of not less than 80 feet.

9 **2.** A lot on which there is erected a two family dwelling shall have a minimum width of
10 not less than 50 feet at the building setback line and a minimum depth of not less than
11 150 feet.

12 **Subd. 6. General regulations.** Additional regulations in the R-2 Single and Two Family
13 Residence District are set forth in section 9.14.

14
15 **Section 9.08. R-3 Multiple Family Residence District.**

16 **Subdivision 1. Purpose.** The R-3 Multiple Family Residence District is intended to
17 provide a district which will allow multiple family dwellings (apartments, row houses, town
18 houses, etc.) in those areas where such developments fit the land use plan, where
19 properly related to other land uses and streets, and where municipal utilities are
20 available.

21 **Subd. 2. Permitted uses.** Within an R-3 Multiple Family Residence District, unless
22 otherwise provided by this chapter, no building or land shall be used except for one or
23 more of the following uses:

24 **A.** Any use permitted in subdivision 2 of the R-2 Single and Two Family Residence
25 District, as regulated therein.

26 **B.** Multiple family dwellings, apartment buildings, town houses, and row houses.

27 **C.** Boarding and lodging houses, convalescent and nursing homes, and group
28 residential facilities serving 16 or fewer residents.

29 **D.** Hospitals, including medical clinics, ambulance services, medical helicopter services,
30 and other activities conducted in conjunction with the operation of hospitals.

31 **E.** Institutions of a religious, educational, charitable, or philanthropic nature.

32 **F.** Private clubs and lodges, except those of which the chief activity is a service
33 customarily carried on as a business.

34 **Subd. 3. Uses by conditional use permit.** Within an R-3 Multiple Family Residence
35 District, a building or land may be used for one or more of the following uses only by
36 conditional use permit:

37 **A.** Any use permitted in subdivision 3 of the R-2 Single and Two Family Residence
38 District, as regulated therein.

39 **B.** Trailer parks and mobile home parks and courts, subject to the requirements for
40 community unit projects as provided in subdivision 6 of this section.

41 **C.** Community unit projects as provided in subdivision 6 of this section.

42 **D.** School related uses.

43 **Subd. 4. Permitted accessory uses.** Within an R-3 Multiple Family Residence District,
44 the following uses shall be permitted accessory uses:

1 **A.** Any use permitted in subdivision 4 of the R-2 Single and Two Family Residence
2 District, as regulated therein.

3 **B.** Storage garages where the lot is occupied by a multiple family dwelling, hospital, or
4 institutional building.

5 **C.** Accessory uses customarily incident to the uses permitted in subdivisions 2 and 3 of
6 this section.

7 **Subd. 5. Height, yard, area, lot width and depth, and lot coverage regulations.**

8 **A. Height regulations.** Multiple family dwellings shall not exceed four stories or 45 feet
9 in height, except as provided in section 9.15, provided further that any building
10 exceeding three stories in height shall set back from all yard lines required in this
11 section an additional distance of one foot for every one foot that the building exceeds
12 the height of 30 feet.

13 **B. Front yard regulations.**

14 1. There shall be a front yard having a depth of not less than 30 feet.

15 2. There shall be a front yard on each street side of a corner lot. No accessory
16 building shall project into the front yard bordering either street.

17 **C. Side yard regulations.**

18 1. There shall be a side yard on each side of a building, each yard having a width of
19 not less than 15 feet for buildings not exceeding three stories in height.

20 2. For buildings exceeding three stories in height, there shall be a side yard on each
21 side of a building having a width of 15 feet plus one foot of side yard for each one foot
22 of building height over 30 feet.

23 **D. Rear yard regulations.** There shall be a rear yard having a depth of not less than
24 20% of the depth of the lot.

25 **E. Lot area regulations.**

26 1. The required total lot area shall not be less than the minimum lot area per dwelling
27 unit nor less than 10,000 square feet.

28 2. The minimum lot area per dwelling unit shall be 2,000 square feet, subject to the following
29 adjustments which shall not exceed 1,000 square feet per dwelling unit.

30 **a.** If the multiple family residence site adjoins a City street having an average traffic
31 volume per day in excess of 3,000 vehicles: subtract 200 square feet per dwelling
32 unit.

33 **b.** If the multiple site adjoins a City street having an average traffic volume per day in
34 excess of 7,000 vehicles: subtract 300 square feet per dwelling unit.

35 **c.** If property adjoining a side or the front of the multiple family residence site is
36 zoned for any business use (except B-1 Limited Business District): subtract 300
37 square feet per dwelling unit.

38 **d.** If the multiple family residence is a part of a community unit project as set forth in
39 this section: subtract 200 square feet per dwelling unit.

40 **e.** For each parking stall completely enclosed (garage): subtract 100 square feet.

41 **f.** If the total lot coverage is less than 15%: subtract 100 square feet per dwelling
42 unit.

43 **g.** For each bedroom in excess of two in any one dwelling unit: add 400 square feet.

44 3. Where a lot has less area or width than herein required, and was of record at the

1 time of the passage of this chapter, that lot may be used only for single family dwelling
2 purposes, unless such lot is re-platted in such a way as to provide the minimum area
3 and width required.

4 **F. Lot width and depth regulations.** A lot on which there is erected a multiple family
5 dwelling shall have a minimum width of not less than 80 feet at the building setback line
6 and a minimum depth of not less than 125 feet.

7 **G. Lot coverage regulations.** Not more than 35% of a lot or plot shall be occupied by
8 buildings.

9 **Subd. 6. General regulations.**

10 **A. Purposes.** The purpose of this subdivision is to make provision for group housing,
11 multiple family dwelling unit apartments, institutional projects, or mobile home parks
12 within the R-3 Multiple Family Residence District for larger tracts of land under single or
13 unified ownership. Such community unit projects shall be developed in accordance with
14 an overall design and an integrated general development plan, be consistent with the
15 intent and purposes of this chapter, and not adversely affect the property adjacent to
16 the land included in the project.

17 **B. Regulations.**

18 1. The project shall conform to all the regulations of the R-3 Multiple Family
19 Residence District.

20 2. The minimum area of land to be included in a community unit project shall be at
21 least two acres.

22 3. The community unit project shall be served by public sewer and water systems.

23 4. Private roadways within the project shall be installed to City specifications for public
24 roadways.

25 5. Mobile home parks shall contain a minimum gross lot area or trailer parking area of
26 5,000 square feet per unit. Such gross lot area shall include all private drives, parking
27 spaces, and open land and play space within the park or court, but shall not include
28 any surrounding public streets.

29 **C. Administrative procedure.**

30 1. The proponents of a community unit project shall submit a general development
31 plan, along with the application for rezoning or conditional use permit to, and secure
32 the approval of, the City Planning Commission and City Council. The general
33 development plan shall be drawn to scale with topography of a contour interval not
34 greater than two feet. The plan shall show:

35 a. The proposed site and existing development on adjacent properties.

36 b. Proposed size, location, and arrangement of buildings.

37 c. Parking areas and stall arrangement.

38 d. Entrance and exit drives.

39 e. Landscaping features.

40 f. Dimensions.

41 g. Proposed sewer and water systems.

42 2. If the zoning change is approved, the general development plan is attached to and
43 is a part of the ordinance establishing the zoning change. Any substantial change to
44 the plan will require a re-submission to the approval by the Planning Commission and

1 the City Council.

2 **3.** The owner or developer must agree to comply with all the requirements of the City
3 regarding lighting, noise abatement, traffic control, and regulations maintaining order
4 and keeping the premises free from debris.

5 **D.** Additional regulations for the R-3 Multiple Family Residence District are set forth in
6 section 9.14.

7
8 **Section 9.09. B-1 Limited Business District.**

9 **Subdivision 1. Purpose.** The B-1 Limited Business District is intended to provide a
10 district which is related to and may reasonably adjoin high density or other residential
11 districts for the location and development of administrative office buildings and related
12 office uses which are subject to more restrictive controls. The office uses allowed in this
13 district are those in which there is limited contact with the public and no manufacture,
14 exterior display, or selling of merchandise to the general public.

15 **Subd. 2. Permitted uses.** Within a B-1 Limited Business District, unless otherwise
16 provided in this chapter, no building or land shall be used except for one or more the
17 following uses:

18 **A.** Any use permitted in subdivision 2, subparagraph B, C, D, E, and F of the R-3
19 Residence District as regulated therein.

20 **B.** Medical offices and clinics.

21 **C.** Offices for administrative, executive, professional, research, or similar organizations,
22 and laboratories having only limited contact with the general public, provided that no
23 merchandise or merchandising services are sold on the premises, except such as are
24 incidental or accessory to the principal permissible use.

25 **Subd. 3. Uses by conditional use permit.** Within a B-1 Limited Business District, a
26 building or land may be used for one or more of the following uses only by conditional use
27 permit.

28 **A.** Banks and savings and loan institutions.

29 **B.** Motel, hotel, or apartment hotel.

30 **C.** Mortuaries.

31 **D.** Music studios.

32 **E.** Photographic studios.

33 **F.** Interior decorating studios.

34 **G.** Day nurseries, provided that no less than 50 square feet of outside play space per
35 pupil be provided, which shall be completely enclosed within a chain link or similar
36 fence 5 feet high.

37 **H.** Other business activities of the same general character as listed in subdivision 2 of
38 this section.

39 **Subd. 4. Permitted accessory uses.** Within a B-1 Limited Business District, the
40 following uses shall be permitted accessory uses:

41 **A.** Accessory uses customarily incident to the uses permitted in subdivisions 2 and 3 of
42 this section.

43 **B.** Off-street parking and loading, as regulated by section 9.14.

44 **C.** Signs, as regulated by section 9.14.

1 **Subd. 5. Height, yard and lot coverage regulations.**

2 **A. Height regulations.** No building shall hereafter be erected or structurally altered to
3 exceed four stories or 45 feet in height, provided further than any building exceeding
4 three stories in height shall set back from all yard lines required in this section an
5 additional distance of one foot for every one foot that the building exceeds the height of
6 30 feet.

7 **B. Front yard regulations.**

- 8 1. There shall be a front yard having a depth of not less than 20 feet.
- 9 2. Where a lot is located at the intersection of two or more streets, there shall be a
10 front yard on each street side of each corner lot. No accessory buildings shall project
11 into the front yard bordering either street.

12 **C. Side yard regulations.**

- 13 1. There shall be a side yard on each side of a building, each yard having a width of
14 not less than 10 feet.
- 15 2. Notwithstanding subparagraph 1 above, no building shall be located within 15 feet
16 of any side lot line abutting a lot in any R-A, R-1, R-2, or R-3 District.

17 **D. Rear yard regulations.**

- 18 1. There shall be a rear yard having a depth of not less than 20 feet.

19 **E. Lot coverage regulations.** Not more than 50% of a lot or plot shall be occupied by
20 buildings.

21 **Subd. 6. General regulations.** Additional regulations in the B-1 Limited Business District
22 are set forth in section 9.14.

23
24 **Section 9.10. B-2 Service Business District.**

25 **Subdivision 1. Purpose.** The B-2 Service Business District is intended to provide a
26 district for a wide range of services and goods which might be incompatible with the uses
27 permitted in retail business districts. It is intended that the B-2 Service Business District
28 be located in separate areas which may be adjacent to other retail business districts or in
29 close proximity to a major street.

30 **Subd. 2. Permitted uses.** Within a B-2 Service Business District, no building or land
31 shall be used except for one or more of the follows uses:

32 **A.** Automobile sales, used car lots, laundries, car washes, service stations, and repair
33 shops, subject to the following:

- 34 1. The parking area shall be surfaced with a dust-free material, and the arrangement
35 of entrances, exits, and parking stalls shall be subject to approval of the City
36 Engineer.
- 37 2. The lighting shall be accomplished in such a way as to have no direct source of
38 light visible from a public right of way or any of the classes of residence districts.

39 **B.** Armories, convention halls, or exhibition halls.

40 **C.** Billiard or pool halls.

41 **D.** Bowling centers.

42 **E.** Bakeries employing not more than four persons in the baking process.

43 **F.** Cabinet or carpenter shops employing not more than four persons engaged in the
44 manufacturing process.

1 **G.** Drive-in restaurants, drive-in theaters, or similar uses that provide goods and
2 services to patrons in automobiles, subject to the following requirements:

3 1. A solid screen fence of acceptable design, at least 5 feet in height, shall be
4 constructed along the property line when said use is abutting any of the classes of
5 residence districts.

6 2. The parking area shall be surfaced with a dust-free material, and the arrangement
7 of entrances, exits, and parking stalls shall be subject to the approval of the City
8 Engineer.

9 3. The lighting shall be accomplished in such a way as to have no direct source of
10 light visible from a public right of way or any of the classes of residence districts.

11 **H.** Dry cleaning establishments employing not more than four persons engaged in the
12 cleaning or pressing process.

13 **I.** Retail greenhouses, employing not more than four persons.

14 **J.** Laboratories, medical and dental.

15 **K.** Laundries and laundrettes, including automatic and self-service, employing not
16 more than four persons engaged in the laundering process.

17 **L.** Marine and boat sales and servicing establishments.

18 **M.** Miniature golf courses, par three golf courses, or archery or golf driving ranges
19 operated for commercial purposes.

20 **N.** Monument sales, including manufacturing within a building if such manufacturing
21 does not exceed 30% of the floor area.

22 **O.** Mortuaries or funeral homes.

23 **P.** Motels, hotels, or apartment hotels.

24 **Q.** Newspaper distribution agencies.

25 **R.** Nurseries, garden stores, and commercial greenhouses.

26 **S.** Orthopedic and medical appliance stores, but not including the assembly or
27 manufacture of such articles.

28 **T.** Offices.

29 **U.** Veterinary hospitals.

30 **V.** Plumbing showrooms and shops.

31 **W.** Printing shops.

32 **X.** Public utility structures, municipal and governmental buildings.

33 **Y.** Publishing shops.

34 **Z.** Radio and television service and repair shops.

35 **AA.** Recording studios.

36 **BB.** Restaurants.

37 **CC.** Schools: music, dance, and business.

38 **DD.** Skating rinks.

39 **EE.** Taverns.

40 **FF.** Taxidermists.

41 **GG.** Telephone booths (outside).

42 **HH.** Theaters.

43 **II.** Upholstering or furniture repair shops, employing not more than four persons
44 engaged in the upholstering or repair process.

1 JJ. Vending machines for ice and milk sales.

2 KK. Adult uses, per the restrictions of Section 9.85.

3 LL. Grocery, fruit, vegetable, or meat stores.

4 **Subd. 3. Uses by conditional use permit.** Within a B-2 Service Business District, a
5 building or land may be used for one or more of the following uses only by conditional use
6 permit:

7 A. Other business activities of the same general character as listed in subdivision 2 of
8 this section.

9 B. A collection center for the acceptance of recyclable materials and household items,
10 subject to approval of location by the City Council. Provided, however, that any such
11 conditional use permit shall be renewed annually and may contain such restrictions on
12 the method and nature of the operation of such center as are deemed necessary to
13 preserve and protect public health, safety, and comfort. Such restrictions may include,
14 without limitation, specifications for hours of operation, screening, staffing, removal of
15 collected materials, and collection of hazardous or dangerous materials.

16 **Subd. 4. Permitted accessory uses.** Within a B-2 Service Business District, the
17 following uses shall be permitted accessory uses:

18 A. Accessory uses customarily incident to the uses permitted in subdivisions 2 and 3 of
19 this section.

20 B. Off-street parking and loading, as regulated by section 9.14.

21 C. Signs, as regulated by section 9.14.

22 **Subd. 5. Height, yard and lot coverage regulations.**

23 **A. Height regulations.**

24 1. No building shall hereafter be erected or structurally altered to exceed four stories
25 or 45 feet in height.

26 2. Notwithstanding subparagraph 1 above, in a B-2 Service Business District, any lot
27 which is located adjacent to or adjoining any other district in which a height greater
28 than four stories or 40 feet in height is allowed, the height regulations of that district
29 may be used, provided further that on every lot that is located adjacent to or across
30 the street from any R-A, R-1, or R-2 class of residence district, no building shall
31 hereafter be erected or structurally altered to exceed two and one-half stories or 30
32 feet in height.

33 **B. Front yard regulations.**

34 1. There shall be a front yard having a depth of not less than 20 feet. For purposes of
35 this subparagraph only, when a lot fronts on two intersecting streets, the required front
36 yard depth shall apply only to the frontage along the narrower dimension of the lot,
37 and the frontage on the wider dimension of the lot shall be subject to side yard
38 regulation rather than front yard regulation.

39 2. Notwithstanding subparagraph 1 above, in a B-2 Service Business District, any lot
40 which is located adjacent to or adjoining any other district, in which a front yard of less
41 than 20 feet is allowed, the front yard regulations of that district may be used,
42 provided further that on every lot that is located across the street from any of the
43 classes of residence districts, there shall be a front yard of not less than 25 feet.

1 **C. Side yard regulations.**

2 1. There shall be a side yard on each side of a building, each yard having a width of
3 not less than 10 feet.

4 2. Notwithstanding subparagraph 1 above, in a B-2 Service Business District, any lot
5 which is located adjacent to or adjoining any other district, in which a side yard of less
6 than 10 feet is allowed, the side yard regulations of that district may be used, provided
7 further that on every lot that is located adjacent to any of the classes of residence
8 districts, there shall be a side yard of not less than 10 feet.

9 **D. Rear yard regulations.**

10 1. There shall be a rear yard having a depth of not less than 10 feet.

11 2. Notwithstanding subparagraph 1 above, in a B-2 Service Business District, any lot
12 which is located adjacent to or adjoining any other district in which a rear yard of less
13 than 10 feet is allowed, the rear yard regulations of that district may be used, provided
14 further that on every lot that is located adjacent to any of the classes of residence
15 districts, there shall be a rear yard of not less than 20 feet.

16 **E. Lot coverage regulations.**

17 1. Not more than 70% of the lot or plot area shall be occupied by buildings.

18 2. Notwithstanding subparagraph 1 above, in a B-2 Service Business District, any lot
19 which is located adjacent to or adjoining any other district in which a lot coverage
20 greater than 70% is allowed, the lot coverage regulations of that district may be used,
21 provided further that on every lot that is located adjacent to any of the classes of
22 residence districts, not more than 50% of the lot or plot area shall be occupied by
23 buildings.

24 **Subd. 6. General regulations.** Additional regulations in the B-2 Service Business District
25 are set forth in section 9.14.
26

27 **Section 9.11. B-3 General Business District.**

28 **Subdivision 1. Purpose.** The B-3 General Business District is designed to
29 accommodate the central retail and office activities, which are of city-wide and of regional
30 significance with a wide variety of retail shopping opportunities. The retail and office uses
31 that are allowed in this district are those that are basically retail in nature in order that a
32 convenient, compact regional shopping area can be provided.

33 **Subd. 2. Permitted uses.** Within a B-3 General Business District, unless otherwise
34 provided in this chapter, no building or land shall be used except for one or more of the
35 following uses:

36 **A.** Any use permitted in the B-1 Limited Business District, except that no dwelling shall
37 be permitted.

38 **B.** Animal or pet shops.

39 **C.** Antique or gift shops.

40 **D.** Apparel shops.

41 **E.** Appliance stores.

42 **F.** Art and school supply stores.

43 **G.** Artists' studios.

44 **H.** Bakery or pastry shops selling retail only.

- 1 I. Banks, savings institutions.
- 2 J. Barber or beauty shops.
- 3 K. Beverage stores.
- 4 L. Bicycle sales and repair shops.
- 5 M. Billboards, as regulated by section 9.14.
- 6 N. Billiard or pool halls.
- 7 O. Book or stationery stores.
- 8 P. Bowling centers.
- 9 Q. Bus stations.
- 10 R. Business, commercial, or trade schools.
- 11 S. Camera or photographic supply stores.
- 12 T. Candy, ice cream, soft drink, or confectionery stores, excluding drive-in type of
- 13 service.
- 14 U. Carpet and rug stores.
- 15 V. Clinics, for people only.
- 16 W. Clothing or ready-to-wear stores.
- 17 X. Commercial radio or television broadcasting stations or transmitting stations.
- 18 Y. Dancing schools.
- 19 Z. Delicatessens.
- 20 AA. Department stores.
- 21 BB. Drug stores.
- 22 CC. Dry cleaning or laundry collection stations.
- 23 DD. Dry goods or notion stores.
- 24 EE. Electrical appliance stores.
- 25 FF. Employment agencies.
- 26 GG. Florists or gift shops.
- 27 HH. Frozen food lockers for individual or family use.
- 28 II. Furniture stores.
- 29 JJ. Grocery, fruit, vegetable or meat stores.
- 30 KK. Hardware stores.
- 31 LL. Heliports.
- 32 MM. Hobby stores.
- 33 NN. Hotels.
- 34 OO. Jewelry stores.
- 35 PP. Launderettes or self-service laundries.
- 36 QQ. Leather goods and luggage shops.
- 37 RR. Libraries.
- 38 SS. Loan and finance companies.
- 39 TT. Medical supply stores.
- 40 UU. Music studios and musical instrument stores.
- 41 VV. Newsstands.
- 42 WW. Offices, business or professional, including ticket sales.
- 43 XX. Optical and dental laboratories.
- 44 YY. Paint, wallpaper stores.

1 **ZZ.** Photographers' studios.

2 **AAA.** Physical culture and health clubs, gyms.

3 **BBB.** Pipe and tobacco shops.

4 **CCC.** Plumbing, television, or radio repair, when operated as an accessory use to a
5 retail sales establishment.

6 **DDD.** Postal substations and post offices.

7 **EEE.** Printing, lithographing, publishing, blue printing, and photocopying.

8 **FFF.** Record shops.

9 **GGG.** Restaurants, tea rooms, cafes, taverns, excluding drive-in types of service.

10 **HHH.** Sewing machine sales and service shops.

11 **III.** Shoe stores or shoe repair shops.

12 **JJJ.** Sporting goods stores.

13 **KKK.** Stationery stores.

14 **LLL.** Tailor shops.

15 **MMM.** Telephone booths (outside).

16 **NNN.** Theaters, excluding drive-in type of service.

17 **OOO.** Toy stores.

18 **PPP.** Taxi stands.

19 **QQQ.** Variety stores.

20 **RRR.** Wearing apparel stores.

21 **Subd. 3. Uses by conditional use permit.** Within a B-3 General Business District, a
22 building or land may be used for one or more of the following uses only by conditional use
23 permit:

24 **A.** Any use permitted in subdivision 3 of the B-1 Limited Business District, as regulated
25 therein, except that no dwellings shall be permitted.

26 **B.** Other general business activities of the same general character as listed in
27 subdivision 2 of this section.

28 **C.** Apartment dwelling.

29 **D.** Automobile service stations and related facilities, subject to the following:

30 **1.** The parking area shall be surfaced with a dust-free material, and the arrangement
31 of entrances, exits, and parking stalls shall be subject to the approval of the City
32 Engineer.

33 **2.** The lighting shall be accomplished in such a way as to have no direct source of
34 light visible from a public right of way or any of the classes of residence districts.

35 **E.** A collection center for the acceptance of recyclable materials and household items,
36 subject to approval of location by the City Council. Provided, however, that any such
37 conditional use permit shall be renewed annually, and may contain such restrictions on
38 the method and nature of the operation of such center as are deemed necessary to
39 preserve and protect public health, safety, and comfort. Such restrictions may include,
40 without limitation, specifications for hours of operation, screening, staffing, removal of
41 collected materials, and collection of hazardous or dangerous materials.

42 **Subd. 4. Permitted accessory uses.** Within a B-3 General Business District, the
43 following uses shall be permitted accessory uses:

44 **A.** Accessory uses customarily incident to the uses permitted in subdivision 2 and 3 of

1 this section.

2 **B.** Off-street parking and loading, as regulated by section 9.14.

3 **C.** Signs, as regulated by section 9.14.

4 **Subd. 5. Height, yard, and lot coverage regulations.**

5 **A. Height regulations.** No building shall hereafter be erected or structurally altered to
6 exceed six stories or 75 feet in height.

7 **B. Yard regulations and lot coverage regulations.** In the B-3 General Business
8 District, there shall be no specific yard requirements or lot coverage requirements
9 except as necessary to provide off-street parking and loading if required.

10 **Subd. 6. General regulations.** Additional regulations in the B-3 General Business
11 District are set forth in section 9.14.

12
13 **Section 9.12. I-1. Planned Industrial District.**

14 **Subdivision 1. Purpose.** The I-1 Planned Industrial District is intended for industrial
15 areas which may be in close proximity to existing or anticipated residential
16 concentrations. To achieve compatibility with abutting residential districts, development in
17 the Planned Industrial District:

18 **A.** Is limited to administrative, wholesaling, manufacturing, and related uses that can be
19 carried on in an unobtrusive manner;

20 **B.** Is limited to a low concentration of activity;

21 **C.** Must provide suitable open spaces, landscaping, and parking areas; and

22 **D.** Must establish and maintain a high standard of appearance, and external effects
23 (such as noise, smoke, etc.) are to be limited.

24 **Subd. 2. Permitted uses.** Within a I-1 Planned Industrial District, unless otherwise
25 provided in this chapter, no building or land shall be used except for one or more of the
26 following uses, providing they comply with the performance standards set forth for this
27 district:

28 **A.** Airports.

29 **B.** Bottling establishments.

30 **C.** Building material sales and storage establishments.

31 **D.** Broadcasting antennae, television and radio.

32 **E.** Camera and photographic manufacturing establishments.

33 **F.** Cartage and express facilities.

34 **G.** Cartography and bookbinding establishments.

35 **H.** Dry cleaning and dyeing establishments.

36 **I.** Electric light or power generating stations.

37 **J.** Electrical and electronic products manufacturers.

38 **K.** Electrical service shops.

39 **L.** Engraving, printing, and publishing establishments.

40 **M.** Heliports.

41 **N.** Jewelry manufacturers.

42 **O.** Laundries.

43 **P.** Medical, dental, and optical laboratories.

44 **Q.** Public utility structures and municipal and governmental buildings.

- 1 **R.** Railroad rights of way.
- 2 **S.** Storage or warehousing facilities.
- 3 **T.** Wholesale business and office establishments.
- 4 **U.** Commercial kennels.

5 **Subd. 3. Uses by conditional use permit.** Within an I-1 Planned Industrial District, a
6 building or land may be used for one or more of the following only by conditional use
7 permit:

8 **A.** Any manufacturing, production, processing, cleaning, storage, servicing, repair, and
9 testing of materials, goods, or products similar to those listed in subdivision 2 of this
10 section which conform with the performance standards set forth for this district.

11 **B.** Retail and service establishments essential to the operation of an I-1 Planned
12 Industrial District, and providing goods and services which are primarily for the use of
13 persons employed in the district.

14 **Subd. 4. Permitted accessory uses.** Within an I-1 Planned Industrial District, the
15 following uses shall be permitted accessory uses:

16 **A.** All uses customarily incident to the uses permitted in subdivisions 2 and 3 of this
17 section.

18 **B.** Off-street parking and loading, as regulated by section 9.14.

19 **C.** Signs, as regulated by section 9.14.

20 **Subd. 5. Height, yard, frontage, area, and lot coverage regulations.**

21 **A. Height regulations.** No building shall hereafter be erected to exceed a height of four
22 stories or 45 feet in height.

23 **B. Front yard regulations.**

24 1. There shall be a front yard having a depth of not less than 30 feet between
25 buildings and the street right of way,

26 2. Notwithstanding subparagraph 1 above, where the district abuts or adjoins a
27 residential district across the street, there shall be a front yard having a depth of not
28 less than 50 feet.

29 **C. Side yard regulations.**

30 1. There shall be a side yard on each side of a building, each yard having a width of
31 not less than 15 feet.

32 2. Notwithstanding subparagraph 1 above, where the district abuts or adjoins a
33 residential district, the side yard abutting side residential district shall have a width of
34 not less than 25 feet.

35 **D. Rear yard regulations.**

36 1. There shall be a rear yard having a depth of not less than 15 feet.

37 2. Notwithstanding subparagraph 1 above, where the district abuts or adjoins a
38 residential district, there shall be a rear yard having a depth of not less than 30 feet.

39 **E. Lot area regulations.** Every individual lot, site, or tract shall have an area of not less
40 than 12,000 feet.

41 **F. Minimum district area regulations.** No I-1 Planned Industrial District shall be
42 established on any tract, the total area of which is less than 10 acres in a single
43 ownership or under unified control. This requirement may be waived where the tract
44 abuts or adjoins an existing I-1 Planned Industrial District or I-2 General Industrial

1 District.

2 **G. Frontage regulations.** Every lot or tract shall have a width of not less than 75 feet
3 abutting a public right of way.

4 **H. Lot coverage regulations.** Not more than 50% of the total area of lot shall be
5 covered by buildings.

6 **Subd. 6. Procedures and design standards.**

7 **A.** All petitions for rezoning to establish or expand an I-1 Planned Industrial District must
8 also concurrently follow subdivision platting procedures, and a complete preliminary plat
9 with all supporting data required must be filed with the Planning Commission.

10 **B.** All public rights of way within an I-1 Planned Industrial District shall be considered
11 collector streets.

12 **C.** Upon finding by the Planning Commission and Council that the proposed I-1 Planned
13 Industrial District and preliminary plat will constitute an industrial district of sustained
14 desirability, will be consistent with long-range Comprehensive Plan for the City, and will
15 meet the requirements of the I-1 Planned Industrial District, the City Council may
16 establish an I-1 Planned Industrial District on the property included in the preliminary
17 plat. The preliminary plat as approved, together with such covenants, deed restrictions,
18 controls, or special conditional use permits as may be attached to it, shall become a
19 part of the chapter establishing the zoning change. Any substantial change to the plan
20 will require re-submission to, and approval by, the Planning Commission and the City
21 Council.

22 **D.** The final platting of land zoned I-1 Planned Industrial District shall be subject to such
23 requirements for approval, recording, and the installation of improvements required by
24 other provisions of the City Code.

25 **E.** Prior to obtaining a building permit or constructing any building improvements on an
26 individual lot or site within an I-1 Planned Industrial District, five copies of the site plans
27 of proposed improvements shall be submitted to and reviewed by the Planning
28 Commission and the City Council. Such site plans shall show the location and extent of
29 proposed buildings, parking, loading, access drives, landscaping, sewage and water
30 systems, and any other improvements. Plans will be examined for compliance with the
31 recorded preliminary plat and attachments thereto, and the Planning Commission shall
32 consider the plans and make its recommendations to the City Council, which shall have
33 the power to approve or disapprove the same.

34 **Subd. 7. General regulations.** Additional regulations in the I-1 Planned Industrial District
35 are set forth in section 9.14.

36 **Subd. 8. Performance standards.**

37 **A. Intent.** It is the intent of this subdivision to provide that industry and related activities
38 shall be established and maintained with proper appearance from streets and adjoining
39 properties and to provide that each such permitted use shall be a good neighbor to
40 adjoining properties by the control of the following:

41 **B. Standards.**

42 **1. Landscaping.** All required yards shall either be open landscaped and green areas
43 or be left in a natural state. If any yards are to be landscaped, they shall be
44 landscaped attractively with lawn, trees, shrubs, etc. Any areas left in a natural state

1 shall be properly maintained in a sightly and well-kept conditions. Yards adjoining any
2 of the classes of residence districts shall be landscaped with buffer planting screens.
3 Plans of such screens shall be submitted for approval as a part of the site plan and
4 installed prior to issuance of a certificate of occupancy for any tract in the district.

5 **2. Noise.** These standards describe the limiting levels of sound and are established
6 on the basis of present knowledge for the preservation of public health and welfare.
7 These standards are consistent with speech, sleep, annoyance, and hearing
8 conservation requirements for receivers within the District. These standards do not, by
9 themselves, identify the limiting levels of impulsive noise needed for the preservation
10 of public health and welfare.

11 **a. Definitions.** The terms used in this Subdivision have the meanings given them in
12 this part.

13 **i.** "A-weighted" means a specific weighting of the sound pressure level for the
14 purpose of determining the human response to sound. The specific weighting
15 characteristics and tolerances are those given in American National Standards
16 Institute S1.4-1983, section 5.1 as now in force or as hereafter amended, revised,
17 or replaced by Minnesota Rules Chapter 7030.

18 **ii.** "dB(A)" means a unit of sound level expressed in decibels (dB) and Aweighted.

19 **iii.** "Decibel" means a unit of sound pressure level, abbreviated as dB.

20 **iv.** "Impulsive noise" means either a single sound pressure peak (with either a rise
21 time less than 200 milliseconds or total duration less than 200 milliseconds) or
22 multiple sound pressure peaks (with either rise times less than 200 milliseconds or
23 total duration less than 200 milliseconds) spaced at least by 200 millisecond
24 pauses.

25 **v.** "L₁₀" means the sound level, expressed in dB(A), which is exceeded ten percent
26 of the time for a one hour survey.

27 **vi.** "L₅₀" means the sound level, expressed in dB(A), which is exceeded 50 percent
28 of the time for a one hour survey.

29 **vii.** "Person" means any human being, any municipality or other governmental or
30 political subdivision or other public department or agency, any public or private
31 corporation, any partnership, firm, association, or other organization, any
32 employee, licensee, receiver, trustee, assignee, agency, legal entity, other than a
33 court of law, or any legal representative of any of the foregoing.

34 **viii.** "Sound pressure level", in decibels, means 20 times the logarithm to the base
35 10 of the ratio of the pressure to the reference pressure. The reference pressure
36 shall be 20 micronewtons per square meter.

37 **b.** No persons shall operate or cause or permit to be operated any source of noise in
38 such a manner as to create a noise level exceeding the following limits:

L ₅₀	L ₁₀
75	80

39
40
41 **c.** The following procedures must be used to obtain representative sound level
42 measurements:

43 **i.** Measurement of sound must be made at the point of human activity which is
44 nearest to the noise source. All measurements shall be made outdoors.

1 ii. All sound level measuring devices must meet Type O, I, II, or S specifications
2 under American National Standards Institute S1.4-1983 as now in force or as
3 hereafter amended, revised, or replaced by Minnesota Rules Chapter 7030.

4 iii. All sound level measuring devices must, at a minimum, be externally field
5 calibrated before and after monitoring using a calibration device of known
6 frequency and sound pressure level.

7 iv. Measurements must be made at least three feet off the ground or surface and
8 away from natural or artificial structures which would prevent an accurate
9 measurement.

10 v. Measurements must be made using the A-weighting and fast response
11 characteristics of the sound measuring device as specified in American National
12 Standards Institute S1.4-1983 as now in force or as hereafter amended, revised, or
13 replaced by Minnesota Rules Chapter 7030.

14 vi. Measurements must not be made in sustained winds or in precipitation which
15 results in a difference of less than ten decibels between the background noise
16 level and the noise source being measured.

17 vii. Measurements must be made using a microphone which is protected from
18 ambient conditions which would prevent an accurate measurement.

19 d. A summary sheet for all sound level measurements shall be completed and
20 signed by the person making the measurements. At a minimum, the summary sheet
21 shall include:

22 i. date;

23 ii. time;

24 iii. location;

25 iv. noise source;

26 v. wind speed and direction;

27 vi. temperature;

28 vii. humidity;

29 viii. make, model, and serial number of measuring equipment;

30 ix. field calibration results;

31 x. monitored levels; and

32 xi. site sketch indicating noise source, measurement location, directions,
33 distances, and obstructions.

34 **3. Odors.** No activity or operation shall cause at any time the discharge of odorous
35 matter in such concentrations as to be readily detectable at any point along the
36 property boundary line or in such concentration as to create a public nuisance or
37 hazard beyond such boundary line.

38 **4. Glare.** Glare, whether direct or reflected, such as from floodlights, spotlights, or
39 high temperature processes, and as differentiated from general illumination, shall not
40 be visible at any property line.

41 **5. Exterior lighting.** Any lights used for exterior illumination shall direct light away
42 from adjoining properties.

43 **6. Vibration.** Vibration shall not be discernible at any property line to the human
44 sense of feeling for three minutes or more duration in any one hour. Vibration of any

1 kind shall not produce at any time an acceleration of more than one-tenth (0.1)
2 gravities or result in any combination of amplitudes and frequencies beyond the "safe"
3 range of Table VII, United States Bureau of Mines Bulletin No. 442, "Seismic Effects
4 of Quarry Blasting," on any structure. The methods and equations of said Bulletin No.
5 442 shall be used to compute all values for the enforcement of this provision.

6 **7. Smoke.** Measurements shall be at the point of emission. The Ringelman Smoke
7 Chart published by the United States Bureau of Mines shall be used for the
8 measurement of smoke. Smoke not darker or more opaque than No. 4 on said chart
9 may be emitted, except that smoke darker or more opaque than No. 2 on said chart
10 may not be emitted for periods longer than 4 minutes in any 30 minutes. These
11 provisions, applicable to visible gray smoke, shall also apply to visible smoke of a
12 different color but with an equivalent apparent opacity.

13 **8. Dust.** Solid or liquid particles shall not be emitted at any point in concentrations
14 exceeding 0.3 grains per cubic foot of the conveying gas or air. For measurement of
15 the amount of particles in gases resulting from combustion, standard corrections shall
16 be applied to a stack temperature of 500 degrees Fahrenheit and 50% excess air.

17 **9. Fumes or gases.** Fumes or gases shall not be emitted at any point in
18 concentrations or amounts that are noxious, toxic, or corrosive. The values given in
19 Table I (Industrial Hygiene Standards--Maximum Allowable Concentration for eight
20 hour day, five days per week), Table III (Odor Thresholds), Table IV (Concentrations
21 of Substances Causing Pain in the Eyes), and Table V (Exposure to Substances
22 Causing Injury to Vegetation) in the latest revision of chapter 5, "Physiological
23 Effects," that contains such tables, in the "Air Pollution Abatement Manual," by the
24 Manufacturing Chemists Association, Inc., Washington, D.C. , are hereby established
25 as guides for the determination of permissible concentration or amounts. Detailed
26 plans for the elimination of fumes or gases may be required before the issuance of a
27 building permit.

28 **10. Hazard.** Every operation shall be carried on with reasonable precautions against
29 fire and explosion hazards.

30 **11. Water supply.** The design and construction of water supply facilities and water
31 supply source shall be in accord with City health standards and requirements.

32 **12. Waste.** All sewage and industrial wastes shall be treated and disposed of in such
33 manner as to comply with City health standards and requirements.

34 **C.** In order to insure compliance with the performance standards set forth above, the
35 City Council may require the owner or operator of any permitted use to have made such
36 investigations and/or tests as may be required to show adherence to the performance
37 standards. Such investigation and/or tests as are required to be made shall be carried
38 out by an independent testing organization selected by the City. The costs incurred in
39 such investigation or testing shall be shared equally by the owner or operator and the
40 City, unless the investigation and tests disclose noncompliance with the performance
41 standards, in which situation the entire investigation or testing cost shall be paid by the
42 owner or operator.

1 **Section 9.13. I-2 General Industrial District.**

2 **Subdivision 1. Purpose.** The I-2 General Industrial District is intended to provide a
3 district that will allow general industrial uses which, due to their size and nature, would
4 not conform in the Planned Industrial District.

5 **Subd. 2. Permitted uses.** Within an I-2 General Industrial District, no building or land
6 shall be used except for one or more of the following uses, providing they comply with the
7 performance standards set forth for this district:

8 **A.** Any use permitted in the I-1 Industrial District.

9 **B.** Breweries.

10 **C.** Contractors' offices, shops and yards for plumbing, heating, glazing, painting, paper
11 hanging, roofing, ventilating, air conditioning, masonry, electrical, and refrigeration.

12 **D.** Freight terminals.

13 **E.** Fuel and ice sales and storage facilities.

14 **F.** Garages for storage, repair, and servicing of motor vehicles.

15 **G.** Grain elevators.

16 **H.** Highway maintenance shops and yards.

17 **I.** Lumber yards and storage facilities.

18 **J.** Monument works.

19 **K.** Public service structures, including power substations, gas regulator stations,
20 sewage disposal plants, telephone exchanges, police or fire stations, elevated tanks,
21 and water works.

22 **L.** Manufacturing, processing, storage, servicing, and testing establishments.

23 **M.** Commercial kennels.

24 **Subd. 3. Use by conditional use permit.** Within an I-2 General Industrial District, a
25 building or land may be used for one or more of the following uses only by conditional use
26 permit:

27 **A.** Any manufacturing, production, processing, cleaning, storage, servicing, repair and
28 testing of materials, goods or products similar to those listed in subdivision 2 of this
29 section, which conform with the performance standards set forth for this district.

30 **B.** Extraction, processing, or storage of sand, gravel, stone, or other raw material.

31 **C.** Retail and service establishments essential to the operation of an I-2 General
32 Industrial District.

33 **D.** Junkyards, provided they are screened from view of all persons on all properties
34 located within 600 feet.

35 **Subd. 4. Permitted accessory uses.** Within an I-2 General Industrial District, the
36 following uses shall be permitted accessory uses:

37 **A.** Accessory uses customarily incidental to the uses permitted in subdivisions 2 and 3
38 of this section.

39 **B.** Off-street parking and loading, as regulated by section 9.14.

40 **C.** Signs, as regulated by section 9.14.

41 **Subd. 5. Height, yard and lot coverage regulations.**

42 **A. Height regulations.** No building shall hereafter be erected or structurally altered to
43 exceed six stories or 75 feet in height.

44 **B. Front yard regulations.** There shall be a front yard having a depth of not less than

1 10 feet, provided that on every lot that is located across the street from any of the
2 classes of residence districts, there shall be a front yard depth of not less than 25 feet.

3 **C. Side yard regulations.** There shall be a side yard on each side of a building, each
4 yard having a width of not less than 5 feet, provided further that no building shall be
5 located within 25 feet of any side lot line abutting any of the classes of residence
6 districts.

7 **D. Rear yard regulations.** There shall be a rear yard having a depth of not less than 5
8 feet, provided further that no building shall be located within 30 feet of any rear lot line
9 abutting a lot in any of the classes of residence districts.

10 **E. Lot coverage regulations.** Not more than 80% of the lot or plot shall be occupied by
11 buildings.

12 **Subd. 6. General regulations.** Additional regulations in the I-2 Industrial District are set
13 forth in section 9.14.

14 **Subd. 7. Performance standards.**

15 **A. Intent.** It is the intent of this subdivision to provide that industry and related activities
16 shall be established and maintained with proper appearance from streets and adjoining
17 properties, and to provide that each such permitted use shall be a good neighbor to
18 adjoining properties by the control of the following:

19 **B. Standards.** The performance standards set forth in subdivision 8, paragraph B of
20 section 9.12 shall be used for the I-2 General Industrial District.

21 **C. Compliance.** In order to insure compliance with the performance standards set forth
22 above, the City Council may require the owner or operator of any permitted use to have
23 made such investigations and/or tests as may be required to show adherence to the
24 performance standards. Such investigation and/or tests as are required to be made
25 shall be carried out by an independent testing organization selected by the City. The
26 costs incurred in such investigation or testing shall be shared equally by the owner or
27 operator and the City, unless the investigation and tests disclose noncompliance with
28 the performance standards, in which situation the entire investigation or testing cost
29 shall be paid by the owner or operator.

30
31 **Section 9.14. General regulations.**

32 **Subdivision 1. Sign regulations.** All signs hereafter erected or maintained, except
33 official traffic and street signs, shall conform to the provisions of this subdivision and any
34 other ordinances or regulations of the City.

35 **A. Signs in R-A, R-1, R-2, and R-3 Residence Districts.**

36 **1.** In all classes of residence districts, no sign, business sign, name plate sign, or
37 advertising sign except the following shall be erected on any lot:

38 **a.** A name plate sign or professional name plate sign identifying the owner or
39 occupant of a building or dwelling unit, provided the surface area of such sign does
40 not exceed two square feet. Such sign may be placed in any front yard, but in no
41 case may it be placed in any side yard. Such sign may be illuminated.

42 **b.** A sign pertaining to the lease or sale of a building or property, provided such sign
43 shall not exceed 12 square feet in surface area. Such sign shall not be illuminated.

44 **c.** Temporary signs advertising a new subdivision or development may be placed in

1 any front yard; in no case shall such sign be placed in any side yard, nor shall such
2 sign be illuminated. Each subdivision or development shall be allowed the following
3 signs:

4 i. One sign not to exceed 96 square feet in surface area, no more than 15 feet in
5 height nor less than two feet above ground.

6 ii. One sign not to exceed 12 square feet in surface area, no more than 15 feet in
7 height nor less than two feet above the ground.

8 iii. Directional signs not to exceed two square feet in surface area, provided that
9 each subdivision shall be limited to one such sign per major street approach to the
10 subdivision or development. No such sign shall be allowed on minor residential
11 streets.

12 d. Temporary signs identifying an engineer, architect, contractor, or product
13 engaged in or used in the construction of a building, provided such signs shall not
14 exceed 12 square feet each in surface area and shall be no more than 15 feet in
15 height nor less than two feet above ground, and provided such signs are removed
16 prior to occupancy of the building. Such signs may be placed in any front yard, but in
17 no case may they be placed in any side yard. Such signs shall not be illuminated.

18 e. One identification sign, not to exceed 30 square feet in area, for the following
19 uses: church, school, hospital, sanitarium, club, library, or similar uses. Such signs
20 shall be solely for the purpose of displaying the name of the institution and its
21 activities or services. Such sign may be illuminated. Such sign may be placed in any
22 front yard, but in no case may it be placed in any side yard.

23 f. Directional non-illuminated signs not to exceed two square feet in surface area for
24 the following uses: church, school, hospital, sanitarium, club, library, or similar uses,
25 provided that each shall be limited to one such sign per major street approach. No
26 such sign shall be allowed on minor residential streets.

27 g. One name plate sign for a dwelling group of five or more units, not exceeding five
28 square feet in surface area. Such signs may indicate the names and addresses of
29 the buildings, or it may be a directory for occupants. Such sign may be placed in any
30 front yard, but in no case may it be placed in any side yard. Such sign may be
31 illuminated.

32 h. Directional signs in any parking area necessary for the orderly movement of
33 traffic, provided that such sign shall not be used as advertising space and shall not
34 be illuminated.

35 **B. Signs in B-1 Limited Business Districts.**

36 1. In B-1 Limited Business Districts, business signs and name plate signs are
37 permitted, subject to the following regulations:

38 a. Signs as permitted and regulated in residence districts.

39 b. One identification sign, not to exceed 30 square feet in area, for private
40 educational institutions, community centers, rest homes, nursing homes, and
41 medical and dental offices. Such sign may be illuminated but not flashing.

42 c. One business sign for business and professional office buildings. Such sign shall
43 not exceed 30 square feet in area or 5% of the wall area upon which it is placed,
44 whichever is greater, and shall display only the name and address of the building,

1 occupant, or management. For corner lots, two such signs, one facing each street,
2 shall be permitted. Such signs may be illuminated.

3 **2.** Advertising signs (billboards) shall not be a permitted use in B-1 Limited Business
4 Districts.

5 **3.** Rotating and flashing signs shall not be a permitted use in B-1 Limited Business
6 Districts.

7 **4.** No sign shall project higher than the height of the building or 24 feet above average
8 grade at the building line, whichever is greater.

9 **C. Signs in B-2 Service Business Districts and B-3 General Business Districts.**

10 **1.** In the B-2 and B-3 Business Districts, business signs, name plate signs, and
11 advertising signs are permitted, subject to the following regulations:

12 **a.** The total surface area of all business signs on a lot shall not exceed the sum of
13 two square feet per lineal foot of lot frontage, or 10% of the building facing area, or
14 75 square feet in area, whichever is greater; nor shall two or more smaller signs be
15 so arranged and integrated as to create a surface area in excess of these
16 limitations. In the case of corner lots, the least width of a corner lot shall be the front
17 for purposes of this chapter. Such signs may be illuminated.

18 **b.** Advertising sign structures shall be limited to not more than one for a lot of 100
19 foot frontage or less, and to only one per each additional 100 feet of additional lot
20 frontage. Such structure may not contain more than two signs per facing, nor exceed
21 55 feet in total length. No advertising sign may be erected within 100 feet of an
22 adjoining residence district. Such signs may be illuminated.

23 **2.** No sign shall project higher than 6 feet above the height of the building, or 32 feet
24 above average grade at the building line, whichever is greater.

25 **3.** Rotating signs or flashing signs shall not be permitted in the B-2 and B-3 Business
26 Districts.

27 **4.** Signs lettered on the glass of windows or doors shall be exempt from the sign area
28 restrictions of the respective district.

29 **D. Signs in I-1 Planned Industrial Districts and I-2 General Industrial Districts.**

30 **1.** Within I-1 and I-2 Industrial Districts, business signs, name plate signs, and
31 advertising signs are permitted, subject to the following regulations:

32 **a.** The total surface area of all business signs on a lot shall not exceed three square
33 feet for each lineal foot of lot frontage, or 20% of the building facing area, or 300
34 square feet in area, whichever is greater; nor shall two or more smaller signs be so
35 arranged and integrated as to create a surface area in excess of these limitations. In
36 the case of corner lots, the least width of such a corner lot shall be the front, for
37 purposes of this chapter. Such signs may be illuminated.

38 **b.** Advertising signs shall be permitted as regulated in the B-3 General Business
39 District.

40 **2.** The height, illumination, rotating, and flashing sign provisions of the B-3 General
41 Business District shall apply in I-1 and I-2 Industrial Districts.

42 **E. General provisions.** The following regulations shall apply to all signs hereinafter
43 permitted in all districts.

44 **1.** Signs shall not be erected within the public right of way or easements, except that

1 the City Council may, after a report from the Planning Commission, grant a conditional
2 use permit for a period not to exceed one year to allow advertising on newspaper sale
3 stands and special permits for temporary signs and decorations to be strung across
4 the right of way.

5 **2.** Illuminated signs giving off intermittent or rotating beams shall not be permitted in
6 any district.

7 **3.** Signs painted on a building shall be governed by the square footage limitations
8 specified in the appropriate zoning districts. These shall be repainted when required to
9 be kept in good condition, and shall be repainted, removed or painted out when, in the
10 opinion of the City Council, they are not so maintained.

11 **4.** No sign shall project more than 36 inches over a public sidewalk, except business
12 signs that are placed on an awning, canopy, or marquee. Such business signs shall
13 be governed by the allowable sign area requirements of the respective district and
14 shall be not less than eight feet from the walk or ground grade line.

15 **5.** No sign shall project more than 24 inches across a required front or side yard,
16 except as allowed in this subdivision and except:

17 **a.** In a B-1 Limited Business District, no signs may be located within 20 feet of any
18 property line.

19 **b.** In B-2 and B-3 Business Districts, signs may not be located closer than 15 feet of
20 any property line that abuts any of the classes of residence districts.

21 **c.** In an I-1 Planned Industrial District, signs may not be located in any front yard or
22 in any side yard or rear yard that abuts any of the classes of residence districts, and
23 in no instance shall signs be located within 15 feet of a front, side or rear property
24 line.

25 **d.** In an I-2 General Industrial District, signs may not be located within 15 feet of any
26 property line that abuts any of the classes of residence districts.

27 **6.** No sign shall be placed that resembles any official marker erected by a
28 governmental agency or that displays such words as "stop" or "danger".

29 **7.** No sign shall be permitted to obstruct any door, fire escape, stairway, or opening
30 intended to provide light, air, ingress, or egress for any building or structure.

31 **8.** Political signs may be permitted for a period of not more than 45 days before and
32 10 days after an election.

33 **9.** The owner, lessee, or manager of a sign close to the ground, and the owner of land
34 on which the same is located, shall keep grass or weeds and other growth cut, and
35 debris and rubbish cleaned up and removed from the lot on which sign is located.

36 **10.** Advertising signs, business signs, and name plate signs which may be or may
37 hereafter become rotted, unsafe, or unsightly shall be repaired or removed by the
38 owner, lessee, or manager of the property upon which the sign stands, upon notice of
39 the City Manager.

40 **11.** Where a sign is illuminated, the source of light shall not shine upon any part of a
41 residence or into any of the classes of residence districts.

42 **12.** Billboards shall not be permitted in any zoning district.

43 **F. Licenses and permit fees.**

44 **1.** At the effective date of this chapter, the owner or other person having control of any

1 sign, except those otherwise provided for the subparagraphs F(2) and F(3) below,
2 shall be required to obtain from the City a permit for the erection and maintenance of
3 such sign. Application for such permit shall be accompanied by detailed plans and
4 such other information as may be necessary to determine the sign location and
5 compliance with all applicable regulations. All such applications shall be accompanied
6 by payment of a permit fee determined by the City Council.

7 **2.** No sign permit shall be required for any residential, professional, or institutional
8 plate sign not exceeding two square feet in surface area.

9 **3.** No sign permit shall be required for the erection of standard real estate "for sale"
10 signs approved by the Planning Commission and not exceeding three square feet in
11 area.

12 **Subd. 2. Off-street parking and loading regulations.**

13 **A. Minimum size regulations.** Each space shall contain a minimum area of not less
14 than 300 square feet including access drives, a width of not less than eight and one-half
15 feet, and a depth of not less than 20 feet. Each space shall be adequately served by
16 access drives. All loading spaces shall be sufficient to meet the requirements of each
17 use and shall provide adequate space for storage and maneuvering of the vehicles they
18 are designed to serve.

19 **B. Reduction and use of parking and loading space.** Except in the B-3 General
20 Business District, off-street parking facilities existing at the effective date of this chapter
21 shall not subsequently be reduced to an amount less than that required under this
22 chapter for a similar new building or use. Off-street parking facilities provided to comply
23 with the provisions of this chapter shall not subsequently be reduced below the
24 requirements of this chapter. Such required parking or loading space shall not be used
25 for storage of goods or for storage of vehicles that are inoperable or for sale or rent.

26 **C. Computing requirements.** In computing the number of such parking spaces
27 required, the following rules shall govern:

28 **1.** Floor space shall mean the gross floor area of the specific use.

29 **2.** Where fractional spaces result, the parking spaces required shall be construed to
30 be the nearest whole number.

31 **3.** The parking space requirement for a use not specifically mentioned herein shall be
32 the same as required for a use of similar nature, as determined by the City Planning
33 Commission.

34 **D. Yards.** Off-street parking and loading facilities shall be subject to the front yard, side
35 yard, and rear yard regulations for the use district in which the parking is located, except
36 that:

37 **1.** In B-1, B-2, and B-3 Business Districts, parking or loading space shall be located
38 not less than 15 feet from any property line that abuts or is across a street from any of
39 the classes of residence districts.

40 **2.** In an I-1 Planned Industrial District, no parking or loading space shall be located in
41 any front yard or in any side yard or rear yard that abuts any of the classes of
42 residence districts, and in no instance shall parking or loading space be located within
43 15 feet of a side or rear property line, except for railroad loading areas.

44 **3.** In an I-2 General Industrial District, parking or loading space shall be located not

1 less than five feet from any property line that abuts any of the classes of residence
2 districts, except for railroad loading areas.

3 **E. Buffer fences and planting screens.** Off-street parking and loading areas near or
4 adjoining residence districts shall be screened by a buffer fence of adequate design or a
5 planting buffer screen. Plans of such screen or fence shall be submitted for approval as
6 a part of the required site or plot plan, and such fence or landscaping shall be installed
7 as a part of the initial construction.

8 **F. Access.**

9 1. Parking and loading spaces shall have proper access from a public right of way.

10 2. The number and width of access drives shall be so located as to minimize traffic
11 congestion and abnormal traffic hazard.

12 3. In B-1, B-2, and B-3 Business Districts, direct access shall be provided by a street
13 or by a related service road.

14 4. Vehicular access for business or industrial uses across property in R-A, R-1, R-2,
15 and R-3 Residence Districts shall be prohibited.

16 **G. Location of parking facilities.** Required off-street parking space shall be provided
17 on the same property ownership as the principal building or use, except as provided by
18 this subdivision.

19 **H. Combined facilities.** Combined or joint parking facilities may be provided for one or
20 more buildings or uses in R-3 Residence Districts, in B-1, B-2, and B-3 Business
21 Districts, and in I-1 and I-2 Industrial Districts, provided that the total number of spaces
22 shall equal the sum of the requirements for each building or use.

23 **I. Exemption from parking regulations.**

24 1. In any business or industrial district, establishments that pay or have paid an
25 assessment for the provisions of off-street City parking lots shall be exempt from the
26 provisions of the subdivisions that refer to off-street parking.

27 2. The B-3 General Business District shall be exempt from the provisions of the
28 subdivisions that refer to off-street parking.

29 **J. Construction and maintenance.**

30 1. In R-3 Residence Districts, in B-1, B-2, and B-3 Business Districts, and in I-1 and I-
31 2 Industrial Districts, parking areas and access drives shall be covered with a dust-
32 free, all-weather surface, with proper surface drainage as required by the City
33 Engineering Department.

34 2. The operator of the principal building or use shall maintain parking and loading
35 areas, access drives, and yard areas in neat and adequate manner.

36 **K. Lighting.** Lighting shall be reflected away from the public right of way and nearby or
37 adjacent residence districts.

38 **L. Required site plan.** Any application for a building permit or for a certificate of
39 occupancy shall include a site plan or plot plan, drawn to scale and dimensioned,
40 showing off-street parking and loading space to be provided in compliance with this
41 chapter.

42 **M. Application of parking and loading regulations.** Off-street parking and loading
43 regulations shall apply to all buildings and uses of land established after the effective
44 date of this chapter.

1 **N. Required number of off-street parking spaces.** Off-street parking areas of
2 sufficient size to provide parking for patrons, customers, suppliers, visitors, and
3 employees shall be provided on the premises of each use. The minimum number of
4 required off-street parking spaces for the following uses shall be as follows:

5 **1. Single family dwelling:** One parking space. No garage shall be converted into
6 living space unless other acceptable off-street parking space is provided.

7 **2. Two family dwelling:** One parking space for each family or dwelling unit.

8 **3. Multiple family dwelling or community unit project:** One and one-half parking
9 spaces per dwelling unit or apartment unit.

10 **4. Boarding and lodging house:** One parking space for each two persons for whom
11 sleeping accommodations are provided.

12 **5. Convalescent or nursing home:** One parking space for each four beds for which
13 accommodations are offered.

14 **6. Public park and recreation area:** Five parking spaces for each acre of park,
15 playground or play field over two acres. Where a public recreation area has one or
16 more non-recreational uses, off-street parking shall be provided for each use.

17 **7. Hospitals:** One parking space for each two hospital beds, plus one parking space
18 for each employee on the major shift.

19 **8. Churches:** One parking space for each six seats, based on the design capacity of
20 the main seating area.

21 **9. Public senior high school or private high school:** One parking space for each
22 classroom, plus one parking space for each 10 students, based upon design capacity.

23 **10. Public elementary, junior high school, or similar private school:** Two parking
24 spaces for each classroom.

25 **11. Municipal administration buildings, community center, public library,
26 museum, art galleries, post offices, and other municipal service buildings:** Ten
27 parking spaces, plus one parking space for each 500 square feet of floor area in the
28 principal structure.

29 **12. Golf course, golf clubhouse, country club, swimming club, tennis club,
30 public swimming pool:** Twenty spaces plus one space for each 500 square feet of
31 floor area in the principal building.

32 **13. Professional offices, medical and dental clinics, and animal hospital:** Four
33 parking spaces, plus one parking space for each 500 square feet of floor area over
34 1,000 square feet of floor area.

35 **14. Office buildings:** Ten parking spaces, plus one parking space for each 500
36 square feet of floor area over 1,000 square feet of floor area.

37 **15. Shopping center:** Where several business uses are grouped together according
38 to a general development plan, off-street automobile parking shall be provided in a
39 ratio of not less than three square feet of gross parking area for each one square foot
40 of gross floor area. Separate off-street parking space shall be provided for loading and
41 unloading.

42 **16. Automobile service station:** Four parking spaces, plus two parking spaces for
43 each service stall. Such parking spaces shall be in addition to parking space required
44 for gas pump areas.

1 **17. Auto sales, trailer sales, marine and boat sales, implement sales, garden**
2 **supply stores, building materials sale (principal building), auto repair:** Six
3 parking spaces, plus one parking space for each 500 square feet of floor area over
4 1,000 square feet.

5 **18. Bowling center:** Five parking spaces for each bowling lane.

6 **19. Drive-in restaurant:** Twenty parking spaces, or one space for each 20 square
7 feet of floor area whichever is greater.

8 **20. Motel or motor hotel:** One parking space for each rental room or suite.

9 **21. Miniature golf course, archery range, or golf driving range:** Ten parking
10 spaces.

11 **22. Assembly or exhibition hall, auditorium, theater, or sports area:** One parking
12 space for each four seats, based upon design capacity.

13 **23. Restaurant, cafe, nightclub, tavern, or bar:** One parking space for each 100
14 square feet of floor area.

15 **24. Skating rink or dance hall:** One parking space for each 200 square feet of floor
16 area.

17 **25. Retail stores and service establishments:** Five off-street parking spaces for
18 each 1,000 square feet of floor area.

19 **26. Research, experimental or testing stations:** One off-street parking space for
20 each employee on the major shift, or one off-street parking space for each 500 square
21 feet of gross floor area within the building, whichever is the greater.

22 **27. Wholesale business establishments:** One off-street parking space for each
23 employee on the major shift, or one space for each 2,000 square feet of gross floor
24 area, whichever is greater, plus one off-street parking space for each company motor
25 vehicle when customarily kept on the premises.

26 **28. Storage or warehouse establishments:** One off-street parking space for each
27 two employees on the major shift, or one space for each 2,000 square feet of floor
28 area, whichever is larger, plus one space for each company motor vehicle when
29 customarily kept on the premises.

30 **29. Manufacturing or processing plant:** One off-street parking space for each
31 employee on the major shift, or one off-street parking space for each 350 square feet
32 of gross floor area within the building, whichever is the greater, plus one space for
33 each company motor vehicle when customarily kept on the premises.

34 **O. Required loading areas.** Loading and unloading areas for goods, supplies, and
35 services shall be sufficient to meet the requirements of each use.

36 **Subd. 3. Additional requirements, exceptions, and modifications.**

37 **A. Height regulations.**

38 1. Where the average slope of a lot is greater than one foot rise or fall in 7 feet of
39 horizontal distance from the established street elevation at the property line, one story
40 in addition to the number permitted in the district in which the lot is situated shall be
41 permitted on the down-hill side of any building.

42 2. For the following structures, height limitations set forth elsewhere in this chapter
43 may be increased by 100% where they will not conflict with airport requirements:

44 a. Monuments.

- 1 **b.** Flag poles.
- 2 **c.** Cooling towers.
- 3 **d.** Elevator penthouses.

4 **3.** For the following structures, height limitations set forth elsewhere in this chapter
5 may be increased with no limitation except airport requirements:

- 6 **a.** Church spires, belfries, or domes which do not contain usable space.
- 7 **b.** Water towers.
- 8 **c.** Chimneys or smokestacks.

9 **4.** Height limitations set forth in the R-3 and B-1 Districts may be increased to six
10 stories or 75 feet in height where the lot is not adjacent or closer than 300 feet to any
11 lot in any R-A, R-1, or R-2 District, and provided a conditional use permit is issued for
12 such height increase, as required by this chapter.

13 **B. Yard regulations.** Measurements shall be taken from the nearest point of the wall of
14 a building to the lot line in question, subject to the following qualifications:

- 15 **1.** Cornices, canopies, or eaves may extend into the required front yard a distance not
16 exceeding 4 feet, 6 inches.
- 17 **2.** Fire escapes may extend into the required front or rear yard a distance not
18 exceeding 4 feet, 6 inches.
- 19 **3.** A landing place or uncovered porch may extend into the required front or rear yard
20 to a distance not exceeding 6 feet or into the required side yard to a distance not
21 exceeding three feet, if the landing place or porch has its floor no higher than the
22 entrance floor of the building. An open railing no higher than 3 feet, 6 inches may be
23 placed around such place.
- 24 **4.** On double frontage lots, the required front yard shall be provided on both streets.
- 25 **5.** The required front yard of a corner lot shall not contain any wall, fence, or other
26 structure, tree, shrub, or other growth that may cause danger to traffic on a street or
27 public road by obscuring the view.
- 28 **6.** For each corner lot there shall be a triangular area formed by the side lines of the
29 two intersection streets and a third line crossing the first two at points 40 feet from
30 their intersection, in which areas shrubs, hedges, and bushes shall not be permitted
31 higher than three feet above curb level, and trees shall be pruned from the ground to
32 a height of 8 feet above curb level.
- 33 **7.** In determining the depth of rear yard for any building where the rear yard opens
34 onto an alley, one-half the width of the alley, but not exceeding 10 feet, may be
35 considered as a portion of the rear yard, subject to the following qualifications:
 - 36 **a.** If the door of any building or improvement, except a fence, opens toward an alley,
37 it shall not be erected or established closer to the center line of an alley than a
38 distance of 15 feet.

39 **C. Yard landscaping.** In all classes of Business Districts and in I-1 and I-2 Industrial
40 Districts, all required yards shall either be open landscaped and green areas or be left
41 in a natural state, except as provided by subdivision 2, subparagraph D of this section.
42 If any yards are to be landscaped, they shall be landscaped attractively with lawn, trees,
43 shrubs, etc. Any areas left in a natural state shall be properly maintained in a slightly
44 and well-kept condition. Non-residential yards adjoining any of the classes of residence

1 districts shall be landscaped with planting buffer screens. Plans for such screens shall
2 be submitted as a part of the plans for the initial construction.

3 **D. Storage of materials.** In all classes of Business Districts and all classes of Industrial
4 Districts, open storage of materials in any required front, side, or rear yard shall be
5 prohibited. Any other outside storage shall be located or screened so as not to be
6 visible from any of the classes of residence districts.

7 **E. Area regulations.** No lot shall be so reduced that the area of the lot or dimensions of
8 the open spaces shall be smaller than herein prescribed.

9 **F. Accessory uses.** The following accessory uses, in addition to those hereinbefore
10 specified, shall be permitted in any residential district if the accessory uses do not alter
11 the character of the premises in respect to their use for the purposes permitted in the
12 district.

13 1. The renting of rooms or the providing of table board in a dwelling as an incidental
14 use to that of its occupancy as a dwelling of the character permitted in the respective
15 district, but not to the extent of constituting a hotel as defined in this chapter, unless
16 permitted in the district.

17 2. The operation of necessary facilities and equipment in connection with schools,
18 colleges, universities, hospitals, and other institutions permitted in the district.

19 3. News and refreshments stands and restaurants in connection with railroad stations,
20 airports, bus stations, or passenger stations of other common carriers.

21 4. Recreation, refreshment, and service buildings in public parks and playgrounds.

22 5. Fallout shelters.

23 **G. Accessory buildings.**

24 1. In case an accessory building is attached to the main building, it shall be made
25 structurally a part of the main building and shall comply in all respects with the
26 requirements of this chapter applicable to the main building. An accessory building,
27 unless attached to and made a part of the main building, shall not be closer than five
28 feet to the main building, except as otherwise provided in this chapter.

29 2. A detached accessory building shall not be located in any required front or side
30 yard.

31 3. A detached accessory building not over one story and not exceeding 16 feet in
32 height shall occupy not more than 30% of the area of any rear yard, and shall comply
33 with the definition of "private garage" in Section 9.03, providing further that no
34 detached accessory building shall be located within 10 feet of any rear lot line.

35 **H. Awnings, canopies, marquees.** In the B-1 Limited Business District, B-2 Service
36 Business District, and B-3 General Business District, canopies or marquees may extend
37 over the public right of way for a distance not to exceed 36 inches. Such structures shall
38 not be less than eight feet from the sidewalk or ground grade line. A fully retractable
39 awning supported entirely from the exterior wall of a building may extend over public
40 property not more than seven feet from the face of a supporting building nor within two
41 feet of the curb line, measured horizontally. Structural portions of such awning shall be
42 at least seven feet above the public sidewalk.

43 **Subd. 4. Additional residential design standards.** All houses located in any residential
44 district shall conform to the following minimum requirements in addition to the specific

1 requirements applicable to the individual residential districts:

2 **A.** All houses shall be placed on a permanent foundation which complies with the
3 Minnesota State Building Code, and which are solid for the complete circumference of
4 the house.

5 **B.** All houses shall have a minimum width and depth of 20 feet, exclusive of porches,
6 entryways, or attached storage sheds.

7 **C.** All houses shall have a pitched roof of 3 inches of rise per 12 inches of run, which is
8 covered by shingles or tile and shall have eaves of not less than 6 inches.

9 **D.** In addition to standards applicable to all houses in residential districts, manufactured
10 homes, as defined by Minn. Statutes section 327.31, subdivision 6, shall be built in
11 compliance with the Minnesota Manufactured Homes Building Code, Minn. Statutes
12 sections 327.31-327.35. Violation of the provisions of this section shall be a
13 misdemeanor.

14 **Subd. 6. Fence regulations.**

15 **A. Purpose.** The purpose of this subdivision is to regulate the materials, location,
16 height, and maintenance of fences to ensure a compatible relationship between
17 abutting properties and the community at large, and to safeguard public health, safety,
18 and welfare.

19 **B. Applicability.**

20 **1.** In general. Unless exempted in accordance with subparagraph 2 below, the
21 provisions of this subdivision shall apply to the construction, reconstruction, or
22 replacement of all fences located within the City.

23 **2.** Exemptions. The following are exempted from the requirements of this subdivision:

24 **a.** Fences constructed before January 1, 1997. A nonconforming fence that existed
25 as of January 1, 1997, may be continued, including through repair, replacement,
26 restoration, maintenance, or improvement, but not including expansion, and shall be
27 subject to the conditions and provisions of Minnesota Statutes 462.357, subdivision
28 1e.

29 **b.** Fences that are located entirely outside of a setback area.

30 **c.** Fences that are less than 30 inches in height and less than 20 feet in length.

31 **d.** Fences that are a part of a permitted tennis court, athletic field or other
32 recreational facility and do not exceed 96 inches in height.

33 **e.** Temporary fencing:

34 **i.** Established around construction sites, demolitions or other site conditions unsafe
35 for pedestrians or vehicles, provided it is consistent with the building code.

36 **ii.** To protect existing trees, limit sedimentation or control erosion.

37 **f.** Within the R-A (Agricultural Residence District) zoning district only, fences that are
38 90 percent open (barb wire, chain link, woven wire and other similar type fences)
39 and are used to contain non-domestic animals.

40 **C. Permit required.**

41 **1.** A Fence Permit issued by the City is required prior to erection, construction, or
42 replacement of any fence, other than a fence exempted in paragraph B(2) above.

43 **2.** An application for a Fence Permit:

1 a. Shall be accompanied by a site plan providing lot dimensions, the location of
2 existing buildings, structures, and easements on the lot, and the location of the
3 proposed fence.

4 b. Shall be prepared and submitted to the City on such forms as the City may
5 prescribe, and shall be accompanied by the fee for such permit as established by
6 ordinance or resolution of the City Council.

7 **D. General fence requirements.**

8 **1. Materials.** All fences shall be constructed, maintained, and repaired in a
9 professional manner and of substantial materials reasonably suitable for the purpose
10 for which the fence is intended. The materials and design shall be compatible with
11 other structures in the area in which the fence is located. Property owners shall
12 maintain fences regularly and shall not allow a fence to become or remain in a
13 condition of disrepair, or to constitute a nuisance.

14 **2. Location.**

15 a. The owner of property upon which any fence is proposed to be erected shall be
16 solely responsible for:

17 i. Determining the location of property lines and property corner locations.

18 ii. Conformance of the proposed fence with the terms of this subdivision.

19 b. Prior to the issuance of a Fence Permit, the City may require that the applicant
20 secure a survey by a registered land surveyor of the property upon which the fence
21 is to be erected, such survey to be paid for by the applicant. Such a survey shall be
22 required if the fence is proposed to be located within 12 inches of an adjoining
23 property or right-of-way. Provided, however, that no such survey shall be required if
24 the owners of the property upon which such fence is to be located and the owners of
25 the adjoining property or right-of-way have entered into a written agreement
26 approving the proposed location of the fence, and such agreement has been
27 recorded in the office of the Brown County Recorder.

28 **3.** No fence shall be installed so as to block or divert a natural drainage flow onto or
29 off of any other land.

30 **4.** Fences within areas in which the City holds an easement are subject to removal
31 without compensation to the property owner if the City determines that access to the
32 area is needed for any purpose for which the easement was granted or reserved.

33 **5.** Chain link fences must have a top rail, and barbed ends must be placed at the
34 bottom of the fence.

35 **6.** The finished side of all fences shall face the adjoining property or right-of-way.

36 **7.** Electric, barbed wire, special purpose fences, and fences taller than the height
37 limitations established in this subdivision shall be permitted only with a Conditional
38 Use Permit.

39 **8.** In all cases, heights are measured from the finished grade of the proposed location
40 of the fence at each post point.

41 **E. Requirements for fences by zoning district type.**

42 **1.** All zoning districts.

43 a. A fence not exceeding 48 inches in height may be located within a front yard
44 setback area subject to the following:

1 i. A fence located within a front yard area of a corner lot shall not exceed 24 inches
2 in height within a triangle formed by the two side lines of the two intersecting
3 streets at the face of the curb and a third line crossing the first two at points 40 feet
4 from their intersection. This requirement shall not apply to a split rail fence.

5 ii. A fence with less than 50 percent transparency that is located within a front yard
6 setback area shall not be located within 25 feet, when measured at right angles, of
7 a parallel, or substantially parallel, public right-of-way or private driveway.

8 iii. A fence with transparency of 50 percent or more may be located in a front yard
9 setback area subject to other requirements in this subdivision.

10 iv. A diagonal fence within a front yard setback area which does not obstruct the
11 sight lines provided for in this subdivision shall be permitted.

12 v. Subject to the other restrictions of this subdivision, a fence may be located
13 within a public right-of-way adjoining a front yard area, so long as such fence is not
14 closer than 12 inches to the edge of any sidewalk within such right-of-way closest
15 to the property. This provision shall apply only to properties adjoining a right-of-
16 way upon which is located a sidewalk on the side of the right-of-way closest to the
17 property.

18 Notwithstanding the foregoing, a fence not exceeding 96 inches in height may be
19 located in a front, side, or rear yard of major utilities, wireless communications
20 towers, government facilities, and other public safety uses.

21 b. No fence in a rear yard area shall be located closer than 5 feet to an alley right-of-
22 way.

23 **2. Residential districts.**

24 a. A fence located within a side or rear yard setback area may not exceed 78 inches
25 in height.

26 b. A fence within a side or rear yard setback area may not exceed 48 inches in
27 height if:

28 i. It is located closer than 3 feet to an existing permanent dwelling structure on an
29 adjoining lot; and

30 ii. The fence will be constructed parallel to, or substantially parallel to, the property
31 line.

32 This provision shall not apply to a fence to be constructed perpendicular to, or
33 substantially perpendicular to, the property line.

34 c. Notwithstanding the above provisions, a fence not exceeding 96 inches in height
35 may be located along a property line directly abutting a commercial or industrial use
36 or zoning district, but not in a front yard setback area.

37 d. Temporary plastic fencing (i.e., snow fencing) is prohibited on residentially zoned
38 lots between April 1 and October 31 of each year.

39 **3. Business districts.**

40 a. A fence located within a side or rear yard setback area may not exceed 78 inches
41 in height.

42 **4. Industrial districts.**

43 a. A fence not exceeding 96 inches in height may be located in the rear yard area
44 and in the side yard setback area, so long as such fence does not extend further

1 toward the front yard area than the majority of the building front located on such
2 property.

3 **F. Public health and safety.** Notwithstanding any other provision in this subdivision,
4 upon a determination by the Safety Commission that a fence constitutes a potential
5 threat to public health or safety, and after notice to and opportunity for the owner of
6 property upon which such fence is located to be heard, the City Council may order the
7 removal of such fence at the expense of the property owner. Such a determination and
8 order may be made without regard to whether the fence was in existence prior to
9 January 1, 1997.

10 **Subd 7. Commercial kennel regulations.**

11 **A.** All buildings occupied by a commercial kennel shall be located at least one thousand
12 (1,000) feet from the boundary of any residential zoning district except the R-A
13 (Agricultural Residence) zoning district.

14 **B.** The commercial kennel shall be sufficiently insulated so that no unreasonable noise
15 or odor can be detected off the premises.

16 **C.** Accessory use to a commercial kennel may include retail sales of products for or
17 related to household pets, as long as the accessory use does not occupy more than 25
18 percent of the total gross floor area of the principal building.

19
20 **Section 9.15. Non-conforming uses.**

21 **Subdivision 1. Non-conforming buildings and uses.**

22 **A.** The lawful use of buildings or land existing at the effective date of this section that
23 does not conform to the provisions of this chapter shall be discontinued within a
24 reasonable period of amortization of the building. Uses of land that become non-
25 conforming by reason of change in this chapter shall also be discontinued within a
26 reasonable period of amortization of the building. A reasonable period of amortization
27 shall be construed to be normal life of the building after original construction, 60% of
28 normal life after the last major alternation prior to the effective date of this section, or
29 25% of normal life after the effective date of this section, whichever shall be longer.

30 **B.** Buildings found to be non-conforming only by reason of height, yard, or area
31 requirements shall be exempt from the provisions of subparagraph A of this subdivision.

32 **Subd. 2. Non-conforming signs.**

33 **A.** Signs existing on the effective date of this section which do not conform to the
34 regulations set forth in this chapter shall become a non-conforming use and shall be
35 discontinued within a reasonable period of amortization of the sign. Uses of signs that
36 become non-conforming by reason of a subsequent change in this chapter shall also be
37 discontinued with a reasonable period of amortization of the sign. The period of
38 amortization for signs shall be not more than:

39 1. Advertising signs: five years from the effective date of this section.

40 2. Business signs: ten years from the date of erection, or five years from the effective
41 date of this section, whichever is greater.

42 3. Advertising signs painted directly on building facings: five years from the effective
43 date of this section.

44 **B.** Business signs on the premises of a non-conforming building or use may be

1 continued, but such signs shall not be increased in number, area, height, or illumination.
2 New signs, not to exceed 35 square feet in aggregate sign area, may be erected only
3 upon the complete removal of all other signs existing at the time of the adoption of this
4 chapter. Such signs may be illuminated, but no flashing, rotating, or moving signs shall
5 be permitted.

6 **C.** No sign erected before the effective date of this section shall be rebuilt, altered, or
7 moved to a new location without being brought into compliance with the requirements of
8 this chapter.

9 **Subd. 3. Non-conforming junkyards.** No junkyard may continue as a non-conforming
10 use for more than one year after the effective date of this section, except that a junkyard
11 may continue as a non-conforming use in an Industrial District if within that period it is
12 completely enclosed within a building, fence, screen planting, or other device of such
13 height so as to screen completely the operations of the junkyard from all persons on all
14 properties within 600 feet. Plans of such a building or device shall be approved by the
15 City Planning Commission and the City Council before it is erected or put into place.

16 **Subd. 4. Discontinuance.** In the event that a non-conforming use of any building or
17 premises is discontinued, or its normal operation stopped for a period of one year, the
18 use of the same shall thereafter be required to conform to the regulations of the district in
19 which it is located.

20 **Subd. 5. Alterations.** If no structural alterations are made, a non-conforming use of a
21 building may be changed to another non-conforming use of the same or more restricted
22 classification. The foregoing provisions shall also apply to non-conforming uses in
23 districts hereafter changed. Whenever a non-conforming use of a building has been
24 changed to a more restricted use or to a conforming use, such use shall not thereafter be
25 changed to a less restricted use.

26 **Subd. 6. Restoration.** No building which has been damaged by fire, explosion, or act of
27 God to the extent of more than 50% of its value, shall be restored, except in conformity
28 with the regulations of this chapter.

29 **Subd. 7. Normal maintenance.** Maintenance of a building or other structure containing
30 or used by a non-conforming use will be permitted when it includes necessary non-
31 structural repairs and incidental alterations that do not extend or intensify the non-
32 conforming building or use. Nothing in this chapter shall prevent the placing of a structure
33 in safe condition when said structure is declared unsafe by the City Building Inspector.

34 **Subd. 8. Non-conforming canopies or marquees.** Canopies or marquees existing on
35 the effective date of this subdivision which do not conform to the regulations set forth in
36 this chapter shall become a non-conforming use, and shall be discontinued within a
37 reasonable period of amortization. The period of amortization for canopies or marquees
38 shall be not more than 10 years after the effective date of this subdivision. No canopies or
39 marquees erected before the passage of this subdivision shall be rebuilt, altered, or
40 moved to a new location without being brought into compliance with the requirements of
41 this chapter.

42 **Subd. 9. Conditional use permit.**

43 **A.** Within a commercial or industrial zone, a single family or two-family residence may
44 be reconstructed following destruction by an act of God (fire, flood, wind, earthquake),

1 or repaired following natural deterioration, through a conditional use permit.

2 **B.** Application for a conditional use permit for reconstruction following an act of God
3 shall be made within six months of such destruction. At the hearings on the application
4 for such a conditional use permit, the nature and extent of the damage to the single
5 family or two-family residence, and its cause, shall be considered.

6 **C.** A conditional use permit shall not be granted if the proposed reconstruction or repair
7 shall intensify or expand the one-family or two-family residence use beyond its original
8 size, and all conditional use permits granted shall so limit the reconstruction allowed. In
9 all other respects, the application and hearings on the application for the conditional use
10 permit shall be made in accordance with the provisions of the City Code.

11 **D.** The provisions of this section shall not be construed to allow a longer period of
12 amortization of such single family or two-family residence use than would have been
13 allowed under the provisions of subdivision 1 of this section had the building not been
14 destroyed or had it not deteriorated.

15
16 **Section 9.16. Conditional use permits.**

17 **Subdivision 1. Application.** Conditional use permits may be issued, pursuant to the
18 procedure set out in section 9.82, for any of the following:

19 **A.** Any of the uses or purposes for which such permits are required or permitted by the
20 provisions of this chapter.

21 **B.** Public utility or public service uses or public buildings in any district when found to be
22 necessary for the public health, safety, convenience or welfare.

23 **C.** Commercial excavating of natural materials used for building or construction
24 purposes in any district.

25 **D.** To classify as a conforming use, any non-conforming institutional use existing in any
26 district at the time of the establishment of such district.

27 **E.** To permit the location of any of the following uses in a district from which they are
28 excluded by the provisions of this chapter: airport, library, community center, church,
29 hospital, any institution of an educational, philanthropic, or charitable nature, cemetery,
30 or mausoleum.

31 **F.** An application for a conditional use permit for a home occupation shall be in such
32 form and in such detail as may be prescribed by the City Council.

33 **Subd. 2. Historic building conditional use permit.**

34 **A.** A structure which is of historical significance, and which has been or is being used in
35 a manner that does not conform to the provisions of this chapter, may be used, as
36 permitted by this section, upon issuance of a conditional use permit. Procedures for the
37 application for and consideration and issuance of such a conditional use permit shall be
38 as set forth in section 9.82, including at least one public hearing before the Planning
39 Commission.

40 **B.** A structure shall be deemed to be of historical significance if it has been accepted for
41 registration on the national or state historic registers, or if a Historic Preservation
42 Commission of the City certifies its historical significance. If there exists a Historic
43 Preservation Commission of the City, no conditional use permit shall be issued under
44 this Section except upon recommendation of such commission.

1 C. Any use which is allowed as a permitted use in the R-1, R-2, R-3, or B-1 zones, or
2 which is of the same or less intensity than that non-conforming use for which the
3 structure was or is being used, may be conditionally permitted. The conditional use shall
4 in all respects conform to the restrictions and requirements of this chapter for the zoning
5 classification consistent with the proposed conditional use, except as such restrictions
6 or requirements are modified by such variances as may be granted.

7 D. In considering an application for a conditional use permit under this section, the
8 following factors shall be considered: the age, appearance and structural integrity of the
9 structure; the historical significance and previous use of the structure since its
10 construction, and the desirability of maintaining its existence; the likelihood that the
11 structure could be preserved and used in a manner conforming with the underlying
12 zoning classification without the issuance of a conditional use permit; the nature and
13 extent of any rehabilitation planned for such structure and the likelihood that the same
14 will enhance or diminish the historical significance of the structure; the likely impact of
15 the proposed use on the health, safety, and comfort of the surrounding properties; the
16 number and nature of variances required for the proposed use. Any conditional use
17 permit granted under this section may contain conditions intended to address such
18 factors, or such other and additional factors as are reasonably intended to fulfill the
19 purposes of this chapter.
20

21 **Section 9.17. Certificate of occupancy.**

22 **Subdivision 1. Application.** A certificate of occupancy shall be obtained before any
23 building hereafter erected or structurally altered is occupied or used, and before the use
24 of any building is altered.

25 **Subd. 2. Procedure.**

26 **A.** Application for a certificate of occupancy for a new building, or for an existing
27 building which has been altered, shall be made to the Zoning Administrator as part of
28 the application for a building permit, as required in section 9.80. This certificate shall be
29 issued within 10 days after a written request for the same has been made to the Zoning
30 Administrator, after the erection or alteration of such building or part thereof has been
31 completed in conformity with the provisions of this chapter. Pending the issuance of
32 such a certificate, the Zoning Administrator may issue a temporary certificate of
33 occupancy for a period of not exceeding six months during the completion of the
34 erection or alteration of such building. A temporary certificate of occupancy may be
35 renewed once for an additional six-month period. The temporary certificate shall not be
36 construed as in any way altering the respective rights, duties, or obligations of the
37 owners or of the City relating to the use or the occupancy of the premises or any other
38 matter, except under such restrictions and provisions as will adequately insure the
39 safety of the occupants.

40 **B.** Every certificate of occupancy shall state that the building or proposed use of a
41 building or land complies with all provisions of law and of this chapter. A record of all
42 certificates of occupancy shall be kept on file in the office of the Zoning Administrator,
43 and copies shall be furnished on request to any person having a proprietary or tenancy
44 interest in the building or land affected. No fee shall be charged for a certificate of

1 occupancy.

2 **C.** No building permit for the erection or alteration of building shall be issued before
3 application has been made for a certificate of occupancy.

4 **D.** A certificate of occupancy shall be issued for all lawful non-conforming uses of land
5 or buildings created by adoption of this chapter or in existence at the effective date of
6 this chapter. Application for such certificate of occupancy for a non-conforming use shall
7 be filed with the Zoning Administrator by the owner or lessee of the building or land
8 occupied by such non-conforming use within one year of the effective date of the
9 chapter. It shall be the duty of the Zoning Administrator to issue a certificate of
10 occupancy for a lawful non-conforming use. Failure to apply for such certificate of
11 occupancy for a non-conforming use, or refusal of the Zoning Administrator to issue a
12 certificate of occupancy for such non-conforming use, shall be prima facie evidence that
13 such non-conforming use was either illegal or did not lawfully exist at the effective date
14 of this chapter.
15

16 **Section 9.18. Amendment.** This chapter may be amended whenever the public necessity
17 and convenience and the general welfare require such amendment, by following the
18 procedure specified as follows:

19 **Subdivision 1. Initiation of proceedings.** Proceedings for amendment of this chapter
20 shall be initiated by:

- 21 1. a petition of the owner or owners of the actual property, the zoning of which is
22 proposed to be changed;
- 23 2. a recommendation of the Planning Commission; or
- 24 3. by action of the City Council.

25 **Subd. 2. Fee.** To defray administrative costs of processing a request for an amendment
26 to this chapter, a fee shall be paid by the petitioner in an amount determined by
27 ordinance or resolution of the City Council.

28 **Subd. 3. Map.** All applications for changes in the boundaries of any zoning district which
29 are initiated by the petition of the owner or owners of property, the zoning of which is
30 proposed to be changed, shall be accompanied by a map or plat showing the lands
31 proposed to be changed, and all lands within 200 feet of the boundaries of the property
32 proposed to be rezoned.

33 **Subd. 4. Public hearing.** Before any amendment is adopted, the Planning Commission
34 shall hold at least one public hearing thereon, after a notice of the hearing has been
35 published in the official newspaper of the City at least 10 days before the hearing.
36 Following the hearing, the Planning Commission shall make a report of its findings and
37 recommendations on the proposed amendment, and shall file a copy with the City
38 Manager within 60 days after the hearing. If no recommendation is transmitted by the
39 Planning Commission within 60 days after the hearing, the City Council may take action
40 without awaiting such recommendation.

41 **Subd. 5. City Council approval.** Upon the filing of such report, the City Council shall
42 hold such public hearings upon the amendment as it deems advisable. After the
43 conclusion of the hearings, if any, the City Council may adopt the amendment or any part
44 thereof in such form as it deems advisable. The amendment shall be effective only if four-

1 fifths of all the members of the City Council concur in its passage.
2

3 **Section 9.19. Heritage preservation.**

4 **Subdivision 1. Declaration of public policy and purpose.** The City hereby declares as
5 a matter of public policy that the preservation, protection, perpetuation, and use of areas,
6 places, buildings, structures, lands, districts, and other objects having a special historical,
7 cultural, or aesthetic interest or value is a public necessity, and is required in the interest
8 of public health, prosperity, safety, and welfare of the people of the City. The purposes of
9 this section are to:

10 **A.** Safeguard the heritage of the City by preserving sites and structures that reflect
11 elements of the City's cultural, social, economic, political, engineering, or architectural
12 history;

13 **B.** Protect and enhance the City's attractions for residents, tourists, and visitors, and
14 serve as a support and stimulus to business and industry;

15 **C.** Enhance the economic viability of heritage preservation landmarks and districts
16 through the protection and promotion of their unique character;

17 **D.** Enhance the visual and aesthetic character, diversity, and interest of the City;

18 **E.** Foster civic pride in the beauty and notable accomplishments of the past; and

19 **F.** Promote the use and preservation of historic landmarks and districts for the
20 educational and general welfare of the people of the City.

21 **Subd. 2. Definitions.**

22 **A.** "Heritage preservation district" shall mean a contiguous collection or group of lands,
23 parcels, sites, structures, buildings, or objects that is determined to be historically,
24 culturally, or architecturally significant as a whole and has been locally designated as a
25 heritage preservation district pursuant to subdivision 3, paragraph A of this section.

26 **B.** "Heritage preservation guidelines" shall mean the established criteria by which any
27 proposed changes, including architectural or site modifications, shall be judged.

28 **C.** "Heritage preservation landmark" shall mean any individual property, parcel, place,
29 building, structure, work of art, or other object that has been determined to be
30 historically, culturally, or architecturally significant and has been locally designated as a
31 heritage preservation landmark pursuant to subdivision 3, paragraph A of this section.

32 **D.** "National Register of Historic Places" is the nation's official list of properties worthy of
33 preservation designated by the United States Department of the Interior, National Park
34 Service. Nominations to this list of properties within Minnesota are made through the
35 auspices of the State Historic Preservation Officer, Minnesota Historical Society.

36 **Subd. 3. Powers and duties of the Heritage Preservation Commission.** The Heritage
37 Preservation Commission established pursuant to section 3.31 (hereinafter referred to as
38 "Commission") shall have the following powers and duties:

39 **A. Designation of heritage preservation landmarks and districts.**

40 **1. Report.** Prior to recommending a site or district to the City Council for designation,
41 amending a designated site or district, or nominating a site or district to the National
42 Register of Historic Places, an investigation and report on the historical, cultural, and
43 architectural significance of the buildings, structures, sites, or objects proposed for
44 designation shall be made. Such report shall also attempt to determine the economic

1 status of the property or properties by providing such information as assessed value,
2 recent real estate transactions, and other appropriate data. The Commission may
3 conduct this investigation and prepare the report, or may require a person seeking
4 such designation to conduct the investigation and prepare the report.

5 **2. Criteria for designation.** The Commission shall recommend the designation of
6 heritage preservation landmarks and districts only when the property is found to meet
7 one or more of the following criteria:

8 a. It has character, interest, or value as part of the development, heritage, or
9 cultural characteristics of the City, State of Minnesota, or United States.

10 b. Its location was a site of a significant historical event.

11 c. It is identified with a person or persons who significantly contributed to the culture
12 or development of the City, State of Minnesota, or United States.

13 d. It embodies a distinguishing characteristic of an architectural type.

14 e. It is identified as the work of an architect or master builder whose individual work
15 has influenced the development of the City or State of Minnesota.

16 f. It embodies elements of architectural design, detail, materials, or craftsmanship
17 that represent significant architectural innovation.

18 g. Its unique location or singular physical characteristics represent an established
19 and familiar visual feature of a neighborhood, community, or the City as a whole.

20 **3. Planning Commission review.** The Commission shall receive the comments of
21 the Planning Commission regarding any proposed heritage preservation landmark or
22 district prior to forwarding its recommendation to the City Council. In its review and
23 recommendation, the Planning Commission shall consider any such designation's
24 potential effects on the surrounding neighborhood, economics, environment, and
25 other planning considerations. Said comments shall become part of the official record
26 and be submitted as part of the Commission's report to the City Council.

27 **4. Communication with the Minnesota Historical Society.** A copy of the
28 Commission's report on any proposed designation for a heritage preservation
29 landmark or district, including boundaries, shall be sent to the State Historic
30 Preservation Officer for review and comment in accordance with Minnesota Statutes,
31 section 471.193, subdivision 6, including any amendments thereto. Any comments
32 made by the State Historic Preservation Officer regarding a proposed designation
33 must be received and forwarded to the City Council prior to final designation.

34 **5. Heritage Preservation Commission hearings.** Prior to the Commission
35 recommending to the City Council the designation of any heritage preservation
36 landmark or district, the Commission shall hold a public hearing and seek the
37 recommendation of all concerned citizens. Prior to such hearing the Commission shall
38 cause to be published in the official newspaper of the City notice of said hearing at
39 least 10 days prior to the date of the hearing, and notice of the hearing shall be sent to
40 all owners listed on the current county records of property proposed to be designated
41 a heritage preservation landmark or district.

42 **6. Communication with City Council.** If the Commission recommends to the City
43 Council that a landmark or district be designated for heritage preservation, the
44 Commission shall transmit to the City Council a complete report on the recommended

1 heritage preservation landmark or district. Such communication shall include the initial
2 investigation report, comments made by the Planning Commission, required
3 comments by the State Historic Preservation Office and the proposed heritage
4 preservation guidelines.

5 **7. City Council designation.** The City Council may by ordinance designate a
6 heritage preservation landmark or district. Prior to such designation, the City Council
7 may hold a public hearing, notice of which shall be published in the official newspaper
8 of the City at least 10 days prior to the day of the hearing, and the notice of the
9 hearing shall be sent to the owners of all property proposed to be designated as a
10 heritage preservation landmark or district.

11 **B. Review of construction and demolition activity.**

12 **1. Type of activity.** Except as provided in paragraph C below, the Commission shall
13 review and approve or disapprove of construction and demolition activities, including
14 all street and utility activities, within any heritage preservation landmark or district. In
15 addition, the Commission shall review and approve or disapprove the issuance of City
16 permits to do any of the following in a heritage preservation landmark or district:

- 17 a. Remodel, repair, or alter in any manner that will change the exterior appearance,
18 including the installation, modification or removal of exterior signage;
- 19 b. New construction, including parking facilities;
- 20 c. Move a building;
- 21 d. Change the nature or appearance of a designated heritage preservation
22 landmark, building or district, including landscaping features;
- 23 e. Demolish any building, structure, or portion thereof.

24 The performance of any of the foregoing activities without a permit issued in
25 accordance with the requirements of this section, or the performance of any of the
26 foregoing activities in a manner contrary to the conditions, restrictions, or limitations of
27 a permit issued in accordance with the requirements of this section, shall constitute a
28 violation of this section.

29 **2. Permit application and plans.** Every application for any type of permit for exterior
30 renovation in relation to a property designated as a heritage preservation landmark or
31 district shall be accompanied by detailed plans or sketches for the proposed work to
32 be done. A copy of the application and plans or sketches submitted therewith shall be
33 immediately referred by the City's Zoning Administrator to the Commission. The
34 Zoning Administrator shall not issue permits in regard to an application until receiving
35 written approval from the Commission, subject, however, to subparagraphs 3, 6, and
36 7 of this paragraph.

37 **3. Commission review.** The Commission may, but is not required to, delegate to a
38 subcommittee of the Commission, or to a designated City official, its power to review
39 and recommend approval or denial of permit applications, such recommendation to be
40 based on the proposed action's compliance with the adopted heritage preservation
41 guidelines. The Commission shall review the permit application and such plans as
42 were submitted therewith and the recommendation of its subcommittee or designated
43 official if applicable, and shall render its decision thereon as a written order to the
44 Zoning Administrator. The Zoning Administrator shall not issue any approved permit

1 until after the 10-day appeal period, as provided for in subparagraph 5 below. In the
2 case of a denial of the requested permit, the Commission shall furnish the applicant
3 with a copy of the Commission's written order and decision, together with a copy of
4 any recommendations for changes necessary to be made before the Commission will
5 reconsider the permit application.

6 **4. Findings.** All decisions of the Commission with respect to construction and
7 demolition activity shall be based on explicit findings which are in accordance with the
8 adopted heritage preservation guidelines for each individual heritage preservation
9 landmark or district and the Secretary of the Interior's standards of rehabilitation.

10 **5. Appeal to City Council.** The Commission, in any written order denying a permit
11 application, shall notify the applicant of the appeal procedures provided herein. The
12 permit applicant or any party aggrieved by the decision of the Commission shall,
13 within 10 days of the date of the Commission's written order and decision, have a right
14 to appeal such order and decision to the City Council. Such appeal shall be
15 addressed to the City Council and submitted to the Zoning Administrator. Two copies
16 of a notice of appeal and statement of reasons setting forth the grounds for the appeal
17 shall be submitted by the appealing party. The Zoning Administrator shall transmit one
18 copy of the notice of appeal and statement to the City Council and one copy to the
19 Commission. The City Council may modify or overrule the Commission's decision, but
20 only if the project is found to be consistent with the U.S. Secretary of Interior's
21 recommended standards for preservation projects.

22 **6. Commission's failure to act on permit application.** If, within 60 days of receipt of
23 the permit application by the Commission, it has neither approved nor denied the
24 permit application, the applicant may request that such plans and permit application
25 be reviewed by the City Council, and if approved by the City Council, and if all other
26 requirements of the City have been met, the Zoning Administrator shall issue a permit
27 for the proposed work.

28 **7. Emergency repair.** In emergency situations where immediate repair is needed to
29 protect the safety of the structure, a neighboring structure, or any persons, the Zoning
30 Administrator may, without Commission action, approve the repair of only those items
31 needed to insure safety. In the case of a permit issued pursuant to this subparagraph,
32 the Zoning Administrator shall require that such repairs be made in conformance with
33 the U.S. Secretary of Interior's recommended standards for historic preservation
34 projects and adopted heritage preservation guidelines for the landmark or district to
35 the extent possible. In addition, the Zoning Administrator shall immediately notify the
36 Commission of the action and specify the facts or conditions constituting the
37 emergency situation.

38 **8. Building code enforcement.** One purpose of this section is to encourage the
39 sensitive rehabilitation, restoration, stabilization and/or preservation of historic
40 buildings throughout the City. These rehabilitation and preservation efforts should
41 provide for the upgrading and maintenance of the safety features of the building or
42 structure to provide a practical level of safety to the public and surrounding properties.
43 While ensuring this increased level of public safety, the Commission shall be open to
44 acceptable alternative solutions and alternative compliance concepts, where practical,

1 that will permit the continued use of existing buildings and structures without creating
2 overly restrictive financial burdens on owners or occupants. Nothing in this section
3 shall be construed to prevent the ordinary maintenance or repair of any exterior
4 elements of any building or structure required by the City Code.

5 **9. Priority of regulations.** To the extent that this section or any ruling or requirement
6 of the Commission conflicts with any other provision of the City Code or applicable
7 state, federal, or local rules or regulations, including building and fire codes, the
8 following shall apply: (a) all state, federal, or local rules or regulations which relate to
9 safety issues and the preservation or protection of life or property shall take priority
10 over any conflicting provision in this section or ruling or requirement of the
11 Commission; and (b) as to non-safety related regulations of this chapter, the same
12 may be modified through the variance process set forth in this chapter.

13 **C. Exception to requirement of Commission review.** If the Zoning Administrator
14 determines that a permit application is for ordinary repair or maintenance, or for
15 alteration, change, restoration, color, or removal of any exterior architectural feature that
16 does not involve significant changes in the architectural or historic value, style, general
17 design or appearance of the building or structure, the Zoning Administrator may, within
18 7 days of receipt of the application, tentatively approve the application and forward a
19 copy thereof to the chair of the Commission, or to the vice-chair if the Zoning
20 Administrator is aware that the chair is not available. The chair or vice-chair of the
21 Commission shall, within 3 business days, either approve the Zoning Administrator's
22 decision or call for a meeting of the Commission to consider the application. If such a
23 meeting is called, the provisions of paragraph B above shall apply. If the chair or vice-
24 chair approves the application or does not take any action within 3 business days, the
25 application shall be deemed to be approved by the Commission, and the Zoning
26 Administrator may notify the applicant of the approval of the application. Approval of an
27 application under this provision shall not affect the obligation to comply with the
28 standards required by this section.

29 **D. Additional powers and duties of the Commission.** The Commission shall have
30 the following powers and duties in addition to those otherwise specified in this section.

31 1. The Commission shall conduct a continuing survey of all areas, places, buildings,
32 structures, or similar objects in the City which the Commission, on the basis of
33 information available or presented to it, has reason to believe are or will be eligible for
34 designation as heritage preservation landmarks or districts.

35 2. The Commission shall work for the continuing education of the citizens of the City
36 with respect to the historic and architectural heritage of the City. It shall keep current
37 and public an official list of designated heritage preservation landmarks and districts.

38 3. Upon prior approval by the City Council, the Commission may retain the services,
39 on a permanent or part-time basis, of technical experts and other persons as may be
40 required to perform the Commission's duties.

41 4. The Commission shall have authority to solicit gifts and contributions to be made to
42 the City, and to assist in the preparation of applications for grant funds to be made to
43 the City for the purpose of heritage preservation.

1 **5.** The Commission may recommend to the City Council, after review and comment by
2 the City Planning Commission, that certain properties eligible for designation as
3 heritage preservation landmarks or districts be acquired by gift, negotiation, or other
4 legal means.

5 **6.** Upon final designation of a heritage preservation landmark or district by the City
6 Council, the Commission shall adopt heritage preservation guidelines specific to the
7 landmark or district. Such guidelines shall detail allowable architectural and/or site
8 modifications, essential features to be retained, and any other criteria by which future
9 proposals for modifications shall be judged. These guidelines are intended to provide
10 assurance to owners of properties within heritage preservation landmarks or districts
11 that any permit review process will be based on clear and objective standards rather
12 than the taste of individual Commission members.

13 **7.** The Commission may nominate a heritage preservation landmark or district to the
14 National Register of Historic Places, but only with the consent of the City Council.

15 **8.** The Commission shall make an annual report to the State Historic Preservation
16 Officer by October 31 of each year.

17 **Subd. 4. Violations.** An owner or occupant of any area, place, building, structure, or
18 other object within a locally designated heritage preservation landmark or district, who
19 violates any provision of this section, shall be guilty of a petty misdemeanor. Any person
20 who assists in the commission of a violation of this section shall be guilty of a petty
21 misdemeanor. Each day an owner or occupant of any area, place, building, structure, or
22 object within a heritage preservation landmark or district allows any work to be performed
23 on any area, place, building, structure or other object in violation of this section shall
24 constitute a separate violation of this section and will be punishable as such. Any
25 remodeling, repairing, altering, or construction activity of a heritage preservation
26 landmark or district in violation of this section is hereby declared a nuisance. The
27 imposition of the penalties herein prescribed shall not prevent the City from taking
28 appropriate action or proceeding to prevent unlawful alteration of the building, district,
29 and/or site in question. Such action may include restraining, correcting, and abating the
30 violation.

31 **Subd. 5. Filing of documents.**

32 **A.** The office of the Zoning Administrator shall keep at least one copy of all studies,
33 reports, recommendations, decisions and heritage preservation guidelines developed
34 by the Commission and City Council. In addition, the Zoning Administrator shall
35 maintain an official list of all locally designated heritage preservation landmarks and
36 districts and shall forward the same to the Minnesota State Historic Preservation
37 Officer. The Zoning Administrator shall also maintain an up-to-date copy of the U.S.
38 Secretary of Interior's recommended standards for historic preservation projects.

39 **B.** The Heritage Preservation Commission is designated as the repository for at least
40 one copy of all plans and reports required under subdivision 3 of this section. This
41 information shall be available to the public for inspection during normal business hours.

42 **Subd. 6. Recording heritage preservation sites.** The office of the Zoning Administrator
43 shall record or file with the Brown County Recorder the legal description of all properties
44 designated as heritage preservation landmarks or districts by the City.

1
2 **Section 9.20. Designated heritage preservation landmarks and districts.** Pursuant to
3 the procedures set forth in Section 9.19, the following parcels are designated as heritage
4 preservation landmarks or heritage preservation districts:

5 **Subdivision 1. Heritage preservation landmarks:**

6 **A.** Tausheck Grocery Store, 526 South Minnesota Street, legally described as: Front
7 Eighty-seven (87) feet of Lot Seven (7), Block Seventy-one (71) South of Center Street.

8 **B.** Defenders Monument, center island on Center Street between State Street and
9 Washington Street.

10 **C.** Wanda Gag House, legally described as: Front 1/2 of Lot 8, Block 108 North of
11 Center Street.

12 **D.** Hermann Monument, legally described as: Lot A, Outlot 245 North of Center Street.

13 **E.** John Lind House, legally described as: Balance of Lot A of Lot 2, Balance of Lot A of
14 Lot 1, and South 2.3' of East 34' of Lot B of Lot 2, Block 105 North of Center Street.

15 **F.** Frederick Kiesling House, legally described as: South 1/2 of Lot 9, Block 63 North of
16 Center Street.

17 **G.** New Ulm Library/Museum, legally described as Lot 10, Block 105 North of Center
18 Street.

19 **H.** Schroeder Residence, legally described as Lot 5, Block 107, North of Center Street.

20 **I.** Way of the Cross, legally described as Lot 11, Block One, Oak Bluffs First Addition.

21 **J.** Grand Hotel, 210 North Minnesota Street, legally described as Lot 10, Block 63,
22 North of Center Street.

23 **K.** Melges Bakery, 213 South Minnesota Street, legally described as Lot 11, Block 63,
24 South of Center Street.

25 **L.** Edward Kiecker House, 1026 North German, legally described as Lot 8, Block 36,
26 North of Center Street.

27 **M.** Henry Dietz House, 611 5th South Street, legally described as Rear 86 feet of Lot 1,
28 Block 100, South of Center Street.

29 **N.** August Epke House, 313 North Jefferson Street, legally described as Lot 4, Block
30 178, North of Center Street.

31 **O.** Arthur Mueller House, 824 North Minnesota Street, legally described as Lot 9, Block
32 57, North of Center Street.

33 **P.** Herman Krahmer House, 104 South Jefferson Street, legally described as Front 110
34 feet of Lot 2, Block 180, South of Center Street.

35 **Q.** New Ulm Oil Company, 500 North Broadway, legally described as Front One-Half of
36 Lot 14, Block 71, North of Center Street.

37 **R.** Retzlaff Service Station, 12 North Broadway, legally described as Lot A of Lots 1
38 through 3, Block 66, North of Center Street.

39 **S.** Riverside Park Building, formerly known as East Primary School and/or Franklin
40 School, 101 South Front Street (building only, not the surrounding park).

41 **T.** Minnesota National Guard Armory, 205 North Broadway Street, legally described as
42 Lots 1 and 2, Block 103, North of Center Street.

43 **Subd. 2. Heritage preservation districts:**

44 **A.** South Broadway Historic District including the following parcels:

- 1 1. J. Anton Ochs House, 122 South Broadway, legally described as: Front 120' of Lot
2 6 and of Lot 7, Block 104 South of Center Street.
- 3 2. August Gieseke House, 200 South Broadway, legally described as: East 105' x 50'
4 of Lot 1, Block 103 South of Center Street.
- 5 3. Eugene Koehler House, 204 South Broadway, legally described as: Lot 2, Block
6 103 South of Center Street.
- 7 4. John Buschers House, 208 South Broadway, legally described as: Lot 3, Block 103
8 South of Center Street.
- 9 5. George Schneider House, 212 South Broadway, legally described as: Lot 4, Block
10 103 South of Center Street.
- 11 6. Heimann-Hamman House, 216 South Broadway, legally described as: Lot 5, Block
12 103 South of Center Street.
- 13 7. Behnke-Silverson House, 224 South Broadway, legally described as: Lots 6 and 7,
14 Block 103 South of Center Street.
- 15 8. Ole & Frida Olsen House, 300 South Broadway, legally described as: North 1/2 of
16 Lot 2 and all of Lot 1, Block 102 South of Center Street.
- 17 9. Martin Hose Residence, 308 South Broadway, legally described as: South 1/2 of
18 Lot 2 and all of Lot 3, Block 102 South of Center Street.
- 19 10. August Gieseke Tenant House, 613 2nd South Street, legally described as: West
20 60' x 50' of Lot 1, Block 103 South of Center Street.

21 In addition to such other restrictions or regulations of structures within the South
22 Broadway Historic District as may exist, painting the exterior brick surface of any
23 structure within such District is specifically prohibited.

24 **B. Commercial Center Historic District.**

- 25 **1. Designation of district; guidelines.** The Commercial Center Historic District shall
26 consist of the following real property located within the City of New Ulm:
- 27 a. Lots 8, 9, 10, 11, 12, 13, and 14, Block 62 North of Center Street.
 - 28 b. Lots 8, 9, 10, 11, 12, 13, and 14, Block 63 North of Center Street.
 - 29 c. All of Block 64 North of Center Street.
 - 30 d. Lots 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13, Block 65 North of Center Street.
 - 31 e. All of Block 66 North of Center Street.
 - 32 f. Lots 1, 2, 3, 4, 5, 6, 7, 13, and 14, Block 67 North of Center Street.
 - 33 g. Lots 1, 2, 3, 4, 5, 6, and 7, Block 68 North of Center Street.
 - 34 h. Lots 1, 2, 3, 4, 5, 6, and 7, Block 69 North of Center Street.
 - 35 i. Lot 14, Block 64 South of Center Street.
 - 36 j. Lots 1, 2, 3, 4, 9, 10, 11, 12, and 13, Block 65 South of Center Street.
 - 37 k. Lots 4, 5, 6, 7, 8, 9, and 10, Block 66 South of Center Street.
 - 38 l. Lot 1, Block 67 South of Center Street.

39 In addition to restrictions or regulations that may exist in zoning ordinances, building
40 codes, etc., all properties within the Commercial Center Historic District shall be
41 subject to the guidelines relating to lighting, signage, and infill contained in the City of
42 New Ulm Downtown Preservation Design Guidelines dated August, 2005, including all
43 future amendments thereto, which document is incorporated by reference herein. A
44 copy of that document shall be available for review during regular business hours at
45 the office of the Building Official.

1 **2. Properties subject to additional guidelines.** The following properties shall, in
2 addition to the guidelines set forth in Subparagraph 1 above, also be subject to all
3 appropriate external structural, decorative, and facade guidelines contained in the City
4 of New Ulm Downtown Preservation Design Guidelines dated August, 2005, including
5 all future amendments thereto. The historic name of the property or structure is
6 provided herein for reference to that document and/or the National Register of Historic
7 Places Registration forms.

8 **a. Block 63 North of Center Street:**

- 9 i. South 1/2 of Lot 9 (Kiesling House).
10 ii. North 25' 7" of Lot 11 (Arbes Furniture).
11 iii. South Half of Lot 10 (Dengler Store).
12 iv. South 24' 5" x 165' of Lot 11 (Grand Theatre).
13 v. Lot 12 (Grand Hotel).
14 vi. Lot 13 (Henry Seifert Saloon; Theodore Mueller Cigar Factory).
15 vii. Lot C of Lot 14 (Schell's Hall).

16 **b. Block 64 North of Center Street:**

- 17 i. Lots 2 and 3, Block 1, Marktplatz 1st Addition.
18 ii. Lot 9, excepting the following: Commencing at the corner of said Lot 9 formed
19 by the intersection of the easterly line of Minnesota Street with the dividing line
20 between Lots 9 and 8 of Block 64 North of Center Street, thence South 34½
21 degrees East 7½", thence North 55½ degrees East 70', thence North 34½ degrees
22 West 7½", thence South 55½ degrees West 70' to the point of beginning (Wagner
23 Furniture; Citizens Bank).
24 iii. Lot 10, excepting the following: (1) Commencing at the intersection of the
25 centerline of Minnesota Street and the centerline of First North Street; then North
26 55 degrees 30 minutes 00 seconds East, an assumed bearing, along said
27 centerline of First North Street 205.18 feet; then North 34 degrees 28 minutes 22
28 seconds West along the westerly line of the alley in said Block 64 265.58 feet to
29 the point of beginning, being on the southerly line of the North Half of Lot 10; then
30 South 55 degrees 30 minutes 35 seconds West along said south line 5.90 feet;
31 then North 33 degrees 34 minutes 59 seconds West 25.06 feet to the northerly line
32 of said Lot 10; then North 55 degrees 30 minutes 38 seconds East along said
33 northerly line 5.50 feet to said westerly line; then South 34 degrees 28 minutes 22
34 seconds East along said westerly line 25.06 feet to the point of beginning; and (2)
35 Commencing at the intersection of the centerline of Minnesota Street and the
36 centerline of First North Street; then North 55 degrees 30 minutes 00 seconds
37 East, an assumed bearing, along said centerline of First North Street 205.18 feet;
38 then North 34 degrees 28 minutes 22 seconds West along the westerly line of the
39 alley in said Block 64 264.87 feet to the point of beginning; then South 55 degrees
40 41 minutes 22 seconds West 5.90 feet; then North 33 degrees 34 minutes 59
41 seconds West 0.68 feet to the northerly line of the South Half of said Lot 10; then
42 North 55 degrees 30 minutes 35 seconds East along said northerly line 5.90 feet to
43 said westerly line; then South 34 degrees 28 minutes 22 seconds East along said
44 westerly line 0.71 feet to the point of beginning (Stuebe Meat Market; John
45 Neumann Store).

1 iv. Lot 11 and North 20 feet of Lot 12, excepting the following: Commencing at the
2 intersection of the centerline of Minnesota Street and the centerline of First North
3 Street; then North 55 degrees 30 minutes 00 seconds East, an assumed bearing,
4 along said centerline of First North Street 205.18 feet; then North 34 degrees 28
5 minutes 22 seconds West along the westerly line of the alley in Block 64 North of
6 Center Street 170.33 feet to the point of beginning; then South 55 degrees 30
7 minutes 19 seconds West 65.31 feet; then North 33 degrees 25 minutes 05
8 seconds West 30.05 feet; then North 55 degrees 32 minutes 02 seconds East
9 31.07 feet; then North 34 degrees 16 minutes 04 seconds West 40.15 feet to the
10 northerly line of said Lot 11; then North 55 degrees 30 minutes 55 seconds East
11 along said northerly line 33.54 feet to said westerly line of the alley; then South 34
12 degrees 28 minutes 22 seconds East along said westerly line 70.18 feet to the
13 point of beginning (Crone Brothers Clothing; Theodore Crone Dry Goods).

14 v. Part of Lots 10, 11, and 12 described as follows: (1) Commencing at the
15 intersection of the centerline of Minnesota Street and the centerline of First North
16 Street; then North 55 degrees 30 minutes 00 seconds East, an assumed bearing,
17 along the said centerline of First North Street 205.18 feet; then North 34 degrees
18 28 minutes 22 seconds West along the westerly line of the alley in said Block 64 a
19 distance of 170.07 feet to the point of beginning; then South 55 degrees 15
20 minutes 49 seconds West 65.31 feet; then North 33 degrees 25 minutes 05
21 seconds West 0.52 feet; then North 55 degrees 30 minutes 19 seconds East 65.31
22 feet to said westerly line of alley; then South 34 degrees 28 minutes 22 seconds
23 East along said westerly line 0.26 feet to the point of beginning; and (2)
24 Commencing at the intersection of the centerline of Minnesota Street and the
25 centerline of First North Street; then North 55 degrees 30 minutes 00 seconds
26 East, an assumed bearing, along said centerline of First North Street 205.18 feet;
27 then North 34 degrees 28 minutes 22 seconds West along the westerly line of the
28 alley in Block 64 North of Center Street 170.33 feet to the point of beginning; then
29 South 55 degrees 30 minutes 19 seconds West 65.31 feet; then North 33 degrees
30 25 minutes 05 seconds West 30.05 feet; then North 55 degrees 32 minutes 02
31 seconds East 31.07 feet; then North 34 degrees 16 minutes 04 seconds West
32 40.15 feet to the northerly line of said Lot 11; then North 55 degrees 30 minutes 55
33 seconds East along said northerly line 33.54 feet to said westerly line of the alley;
34 then South 34 degrees 28 minutes 22 seconds East along said westerly line 70.18
35 feet to the point of beginning.

36 **c. Block 65 North of Center Street:**

37 i. Lot 1, Block 1, Marktplatz 1st Addition.

38 ii. Lot 8B (Wicherski Shoe Store).

39 iii. Lot 9A (Gebser's Hall).

40 iv. Lot 9B (Charles Gebser Store).

41 v. Lot 10A (Meridian Block).

42 vi. Lot 10B (Meridian Block).

43 vii. Lots 12A and 13A (Brown County Bank).

44 viii. Lots 12B and 13B (Henry Behnke Building).

45 ix. Lots 12C and 13C (Hummel-Maltzahn Block).

- 1 x. Lots 12D and 13D (Hummel-Maltzahn Block).
2 xi. Lots 12E and 13E (Boesch Block).
3 xii. Lots 12F and 13F (Roos and Sommers Block).

4 **d. Block 66 North of Center Street:**

- 5 i. Lot A of Lots 1 through 3 (Retzlaff Motor Company).
6 ii. Lot 1 excluding Lot A, Lot 2 excluding Lot A, and Lot 3 excluding Lots A, B, and
7 C (United States Post Office).
8 iii. Lots B and C of Lot 3 and Lots A and B of Lot 4 (F.H. Retzlaff and Sons).
9 iv. Sublot 4 of Lot 6 and of Lot 7 (Masonic Block).
10 v. Sublots 1 and 2 of Lot 6 and of Lot 7 (G.A. Ottomeyer Block; Schoch- Ottomeyer
11 Block).
12 vi. Sublot 3 of Lots 6 and 7, Northwest 75.2' of Sublot 7 of Lots 6 and 7, and
13 Northeast 7.7' of Southeast 39.1' of Lot 7 (Schoch-Ottomeyer Block).
14 vii. Sublots 5 and 6 of Lot 6 and of Lot 7 (Masonic Block).
15 viii. Part of Sublot 7 of Lots 6 and 7 lying South of the North 75.2' of said Sublot
16 (Jacob Pfenninger Store; Burg Cigar Company).
17 ix. Leased 3rd floor of Sublots 4, 5, and 6 of Lot 6 and of Lot 7 (Masonic Block).
18 x. Southeast 25 feet x 165 feet of Lot 8 (Amann's Saloon).
19 xi. Sublot B of Lot 9 (Retzlaff Hardware).
20 xii. Part of Lot 11 and of Lot 12 described as: Beginning at the northwesterly
21 corner of Lot 11, then easterly along the boundary line between Lot 11 and First
22 North Street 65 feet; then southerly at right angles with last line across Lots 11 and
23 12 and parallel with Broadway 110 feet; then at right angles with last line and
24 westerly parallel with First North Street 65 feet to the boundary line between Lot 12
25 and Broadway; then northerly on the boundary line between Lots 11 and 12 and
26 Broadway 110 feet to the point of beginning (Arbeiter Hall).
27 xiii. Lot 13 (Fesenmaier Service Station).

28 **e. Block 67 North of Center Street:**

- 29 i. Lot 1 (Fritsche Block).
30 ii. North 3" x 165' of Lot 4, South 15" x 165' of North 1/2 of Lot 5 and South 1/2 of
31 Lot 5 (Reim Jewelers), including as a designated object the freestanding clock.
32 iii. North 1/2 of Lot 5 excluding the South 15" x 165' (Backer Harness Shop).
33 iv. South 1/2 of Lot 6 (Loheyde Shoe Store).
34 v. North 1/2 of Lot 6 (Weigand Hauenstein Building).
35 vi. North 1/2 of Lot 7 (Weiser Block).
36 vii. South 1/2 of Lot 7 (Pioneer Drug Store).
37 viii. Lots 13 and 14 (New Ulm Municipal Building).

38 **f. Block 68 North of Center Street:**

- 39 i. Front 1/2 of Southeast 1/2 of Lot 1, and part of the Northwest half of Lot 1
40 described as: Commencing on the northeasterly line of Lot 1 at a point 25 feet
41 northwesterly from the southeast corner of said lot, then southwesterly parallel with
42 Second North Street 70 feet, then northwesterly at rights angles 8 inches, then
43 northeasterly parallel with Second North Street 70 feet to Minnesota Street, then
44 southeasterly 8 inches to the point of beginning (Doehne Block).

1 ii. Lot 2 and Northwest 1/2 of Lot 1 excluding the following: Commencing on the
2 northeasterly line of Lot 1 at a point 25 feet northwesterly from the southeast
3 corner of said lot, then southwesterly parallel with Second North Street 70 feet,
4 then northwesterly at rights angles 8 inches, then northeasterly parallel with
5 Second North Street 70 feet to Minnesota Street, then southeasterly 8 inches to
6 the point of beginning (Buenger Furniture Company).

7 iii. North 1/2 of Lot 3 (E.W. Baer Hardware).

8 iv. South 1/2 of Lot 3 (Weneeda Bakery).

9 v. North 1/2 of Lot 4 and Part of Lot 5 described as follows: Beginning at the
10 southeasterly corner of Lot 5; then northwesterly 8.13 feet along the easterly
11 boundary of Lot 5; then southwesterly 55.40 feet along the building line as
12 indicated on the recorded plat to a point 8.25 feet from the southerly boundary line
13 of Lot 5 measured parallel with Minnesota Street; then southwesterly
14 approximately 107.75 feet parallel with the southwesterly line of Lot 5 to the alley;
15 then southeasterly 8.25 feet along the alley to the southwesterly corner of Lot 5,
16 then northeasterly along the boundary line between Lot 5 and Lot 4 to the point of
17 beginning (Ulrich Electric).

18 vi. South 1/2 of Lot 4 (Ulrich Electric).

19 vii. Lot 6 and Lot 5 excepting the following: Beginning at the southeasterly corner
20 of Lot 5; then northwesterly 8.13 feet along the easterly boundary of Lot 5; then
21 southwesterly 55.40 feet along the building line as indicated on the recorded plat to
22 a point 8.25 feet from the southerly boundary line of Lot 5 measured parallel with
23 Minnesota Street; then southwesterly approximately 107.75 feet parallel with the
24 southwesterly line of Lot 5 to the alley; then southeasterly 8.25 feet along the alley
25 to the southwesterly corner of Lot 5, then northeasterly along the boundary line
26 between Lot 5 and Lot 4 to the point of beginning (Epple Meat Market and Veigel-
27 Moll Building).

28 viii. North 1/2 of Lot 7 (Louis Buenger Building (B)).

29 ix. South 1/2 of Lot 7 (Louis Buenger Building (A)).

30 **g. Block 69 North of Center Street:**

31 i. Lot 1A (Lohmann Building).

32 ii. Lots 6 and 7 (Glockenspiel; Schonlau Park).

33 **h. Block 65 South of Center Street:**

34 i. Lots 1, 2, 3, and 4 (George's Ballroom).

35 ii. Sublot B of Lot 9 and of Lot 10 (South Side Auto Garage).

36 iii. Sublot 1A and Sublot 1B of Lot 12 and of Lot 13 (City Meat Market).

37 iv. Sublot 2 and Sublot 3B of Lot 12 and of Lot 13 (American Theatre).

38 v. Sublot 3A and Sublot 4 of Lot 12 and of Lot 13 (Schoch Block).

39 **i. Block 66 South of Center Street:**

40 i. Lot 4 (George Kuhlmann House).

41 ii. Lot 5 and Lot 6B (Chrysler Garage).

42 iii. Lots 6A and 7A (John Zischka Saloon).

43 iv. Part of Lot 6 and of Lot 7 described as: Beginning at a point formed by the
44 intersection of Minnesota and Center Streets; then south 55½ degrees west along
45 Center Street a distance of 100 feet; then south 34½ degrees east a distance of 50

1 feet; then north 55½ degrees east 100 feet to Minnesota Street; then north 34½
2 degrees west and along Minnesota Street 50 feet to the point of beginning
3 (Schoch-Reinhart Block).

4 v. Part of Lot 6 and of Lot 7, described as: Commencing 75 feet south, 34½
5 degrees East from the corner of said Lot 7 formed by the intersection of Minnesota
6 and Center Streets; then South 34½ degrees East, 25 feet along Minnesota Street;
7 then South 55½ degrees West and at right angles with Minnesota Street, a
8 distance of 100 feet; then North 34½ degrees West, a distance of 25 feet; then
9 North 55½ degrees East, a distance of 100 feet to the point of beginning (F.C.
10 Schnobrich Meat Market).

11 vi. North 45' of Lot 8 (Engelbert Hardware Store).

12 vii. South 10' of Lot 8 and Lot 9 excepting the southerly 20 feet of the easterly 70
13 feet thereof (Chicago House).

14 viii. Rear 95' of Lot 10 (Graff Garage).

15 **C. Hauenstein Brewery Historic District including the following parcels:**

16 1. Hauenstein Brewery New Bottling House, 1600 South Franklin Street, legally
17 described as: Lots 1, 2, 3, and 4, including one-half of vacated alley abutting each lot,
18 Block 158 South of Center Street.

19 2. Hauenstein Original Brewery Building and Retaining Walls, 1604 Hauenstein Drive,
20 legally described as: Lots 10, 11, and 12, and Easterly Fifty-five Feet of Lots 13 and
21 14, and one-half of vacated alley abutting Lots 10, 11, 12, 13, and 14, and one-half of
22 vacated South Jefferson Street abutting Lots 10, 11, and 12, all of the foregoing in
23 Block 158 South of Center Street; and Southeasterly 8.6 Feet of Lot 1, Block 1,
24 Beranek Subdivision.

25 3. Hauenstein Brewery Gazebo and Retaining Wall, 1600 Hauenstein Drive, legally
26 described as: South Half of 16th South Street adjoining Lot 1, Block 1, Beranek
27 Subdivision and Northeast Twenty-five Feet of Lot 1, Block 1, Beranek Subdivision.

28 4. Hauenstein Brewery Fire House, 1610 South Jefferson Street, legally described as:
29 Southerly 68.1 Feet of Lot 2, Block 1, Beranek Subdivision.

30
31 **Section 9.21. Landscaping requirements and regulation.**

32 **Subdivision. 1. Purpose/intent.** The City hereby declares as a matter of public policy
33 that it is necessary and appropriate to establish minimum requirements and standards
34 relative to landscaping, buffering, and screening to be implemented concurrently with site
35 plans approved by the City of New Ulm. The objectives of this section are to:

36 **A.** Establish and maintain forestation of the City;

37 **B.** Provide appropriate ground cover, helping to control or reduce soil erosion,
38 sedimentation, and storm water run-off;

39 **C.** Improve air quality;

40 **D.** Enhance energy conservation through natural insulation and shading;

41 **E.** Reduce noise pollution;

42 **F.** Enhance the natural environment, particularly where the natural environment is
43 disturbed during the course of site development;

44 **G.** Increase and maintain property value; and

45 **H.** Create an urban forest.

1 **Subd. 2. Definitions.** The following terms, as used in this section, shall have the
2 meanings stated:

3 **A.** Berm: a mound of earth with ground cover or plant materials.

4 **B.** Boulevard: the portion of a right-of-way that is located between the concrete curb
5 and property line of adjacent private property, including the sidewalk or area reserved
6 for sidewalk.

7 **C.** Fencing: material supported by posts made of vinyl, wood or metal, forming a
8 boundary; or a hedge, which is a dense row of shrubs, forming a boundary.

9 **D.** Ground cover: grass (seeded or sod), organic mulch materials, small rocks or gravel
10 and low masses of plant material ground cover.

11 **E.** Intermittent: stopping and starting again at regular/irregular intervals.

12 **F.** Microclimate: the climate of a small, specific place within an area as contrasted with
13 the climate of the entire area.

14 **G.** Overstory tree: deciduous or coniferous tree of eight (8) feet or more in height at the
15 time it is initially planted; including such trees that are preexisting and will be retained in
16 the landscaping plan.

17 **H.** Right-of-way: property owned or controlled by the City, County, or State that is
18 designated to be used for streets, sidewalks, alleys, and boulevards.

19 **I.** Understory tree: ornamental tree that is, when mature, less than eight (8) feet in
20 height.

21 **Subd. 3. Required landscaping plan.** A landscaping plan, and an approved
22 implementation timetable for such plan, shall be required for all development activities
23 that are new construction or in which the existing condition of a property or structure is
24 substantially modified (i.e., the anticipated construction costs, exclusive of the cost of
25 implementing a landscaping plan, will exceed 25% of the then current assessed value of
26 the property), except that the requirement shall not apply to one- and two-family
27 dwellings.

28 **A.** No building permit shall be issued for development of property for which a
29 landscaping plan is required until such landscaping plan is submitted to and approved
30 by the Zoning
31 Administrator.

32 **B.** All landscaping plans shall be implemented and installed in accordance with the
33 timetable approved for such plan.

34 **Subd. 4. General landscaping and maintenance requirements.** All open areas of a lot
35 surrounding or within a principal or accessory use which are not used or improved for off-
36 street parking, loading and driving areas, sidewalks, patios, storage, gardens, and similar
37 uses, shall be landscaped with a combination of grass, ground cover materials, trees,
38 shrubs, or other ornamental landscape material. Undisturbed areas containing existing
39 viable natural vegetation may be left in their natural state but shall be kept free of litter,
40 debris, and noxious or unsightly weeds.

41 **A.** All planting material used shall be of good quality, of a species normally grown in
42 Minnesota and capable of withstanding the extremes of individual site microclimates. All
43 specifications for measurement, quality, and installation of trees and shrubs shall be in
44 accordance with the American Standards for Nursery Stock, published by the American
45 Nursery and Landscape Association.

1 **Subd. 5. Content of landscape plan.** All landscaping plans submitted for approval shall
2 contain or have attached the following information:

3 **A.** Name and address of developer/owner; name and address of landscape architect or
4 designer; date of plan preparation; date and description of all revisions; and name of
5 project or development.

6 **B.** The location and dimensions of all existing and proposed structures, parking lots and
7 drives, roadways and right-of-ways, sidewalks, bicycle paths, ground signs, refuse
8 disposal areas, bicycle parking areas, fences, freestanding electrical equipment, tot lots
9 and other recreational facilities, and other freestanding structural features as
10 determined necessary by the Zoning Administrator.

11 **C.** The location, including any special planting instructions, quantity, size, and botanical
12 and common names of all proposed planting materials.

13 **D.** The location of existing buildings, structures, and plant materials within forty (40) feet
14 of the site.

15 **E.** Existing and proposed grading of the site, including proposed berming, indicating
16 contours at two foot intervals.

17 **F.** Specification of the type and boundaries of all proposed ground cover.

18 **G.** Elevations and description of all fences proposed for location on the site.

19 **H.** Irrigation plans.

20 **I.** Elevations, cross sections, and other details as determined necessary by the Zoning
21 Administrator.

22 **Subd. 6. Design criteria: minimum requirements.**

23 **A.** The scale and nature of landscaping materials should be appropriate to the size of
24 the structures. Large scaled buildings should generally be complemented by larger
25 scaled plants.

26 **B.** Landscaping of larger areas, such as required setback areas, should be
27 accomplished by the use of both horizontal and vertical landscaping elements.
28 Horizontal elements are planting beds and vertical elements are trees. Berms and
29 fences may be considered in both categories depending on landscape design.

30 **C.** Plant material should be selected for its form, texture, color, and concern for its
31 ultimate growth and compatibility with climatic and urban conditions. The following trees
32 are prohibited from use:

<u>Botanical Name</u>	<u>Common Name</u>
Acer negundo	Box Elder
Catalpa speciosa	Northern Catalpa
Elaeagnus	Russian Olive
Gingko biloba F.	Gingko (female prohibited, male permitted)
Morus alba	Mulberry
Populus deltoids	Cottonwood (Siouxland species permitted)
Populus species	Poplars

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41 **D.** A variety of tree and shrub species should be utilized to provide visual, four-season
42 interest. Not more than fifty (50) percent of the required number of trees or shrubs may
43 be comprised of any one species. A list of recommended plant material is set forth in
44 the "City of New Ulm, Boulevard, Tree, and Shrub Policy."

1 **E.** Evergreens should be incorporated into the landscape treatment of the site,
2 particularly in those areas screening parking lots from dedicated public right-of-ways or
3 property zoned for residential use. All evergreens shall have a minimum height of four
4 (4) feet.

5 **F.** All overstory trees shall have a minimum trunk size of one and one-quarter (1 1/4")
6 inches in diameter upon installation, as measured six (6) inches above the established
7 ground level.

8 **G.** Plant material should be placed intermittently against long expanses of building
9 walls, fences, and other barriers to create a softening effect.

10 **H.** Planting beds should be mulched with bark chips, rock mulch, or similar materials.

11 **I.** Detention/retention basins and ponds shall be landscaped. Such landscaping may
12 include shade and ornamental trees, evergreens, shrubbery, hedges, and/or other
13 planting materials.

14 **J.** Energy Conservation.

15 1. Deciduous/overstory trees should be placed on the true south and true west sides
16 of buildings and parking lots to provide shade from the summer sun.

17 2. Coniferous trees and other similar plant materials should be concentrated on the
18 true north side of buildings to dissipate the effect of winter winds.

19 **K.** Existing plant material should, wherever practical as determined by the Zoning
20 Administrator, be incorporated into the landscape treatment of a site.

21 **L.** Earthen berms and existing topography should be, wherever determined practical by
22 the Zoning Administrator, incorporated into the landscape treatment of a site,
23 particularly when combined with plant material to facilitate screening from adjacent
24 residential uses. Berms should be designed to allow for maintenance, mowing, and
25 adequate drainage. The elevation and horizontal ground location of the berm should be
26 varied in order to mimic a natural topographical feature.

27 **M.** In instances where healthy plant materials of acceptable species exist on site prior to
28 its development, the application of the standards in this Section may be adjusted by the
29 Zoning Administrator to allow credit for such material provided that such adjustment is
30 consistent with the intent of this Section.

31 **N.** When fencing or walls are used for screening, the outside base of the fence or wall
32 shall be landscaped. All fences shall comply with Section 9.14, subdivision 6.

33 **O.** Boulevard areas, exclusive of sidewalks, shall not be covered with an impervious
34 material or filled with inorganic materials.

35 **P.** No landscaped area shall be used for the (i) parking of vehicles, (ii) storage or
36 display of materials, supplies or merchandise, or (iii) placement of permanent or
37 temporary signs for which no permit has been secured from the City.

38 **Q.** Adjacent residential land uses shall be screened by a combination of landscape
39 elements.

40 **R.** Landscaped buffer areas shall be established to provide separation between land
41 uses of differing intensity and between land uses adjacent to major streets.

42 **S.** Landscaping shall be provided at and around the base of all ground and pylon signs.

43 **T.** Plant materials shall not be placed within a public right-of-way, easement area or in
44 any area designated for a future sidewalk unless authorized by the Zoning
45 Administrator.

1 **U.** The City may require additional landscaping as necessary to provide adequate
2 screening and buffering, or to provide a complete quality landscape treatment of the
3 site.

4 **V.** For purposes of this Section, all calculations regarding the number of required
5 plantings shall be rounded up to the nearest whole number.

6 **W.** All site areas not covered by buildings, sidewalks, parking lots, driveways, patios or
7 similar hard surface materials shall be covered with sod or an equivalent ground cover
8 approved by the Zoning Administrator. This requirement shall not apply to site areas
9 preserved in a natural state.

10 **Subd. 7. Minimum site area requirements.**

11 **A.** A minimum of one overstory tree per fifty (50) feet of street frontage shall be required
12 primarily within the front setback area.

13 **B.** In addition to the required trees based on street frontage, four and one-half (4 1/2)
14 overstory trees shall be required per acre of lot covered by buildings, parking lots, and
15 exterior storage areas. Trees proposed to satisfy landscaping requirements within
16 parking lots may be applied toward meeting this requirement.

17 **C.** The minimum number of understory trees and shrubs shall not be less than the
18 perimeter of the lot divided by ten (10).

19 **Subd. 8. Minimum standards for perimeter landscaping for off-street parking lots.**

20 **A.** Every off-street parking lot containing four (4) or more parking stalls shall be buffered
21 and screened on each side of the parking area abutting or facing any property located
22 in a residential zoning district by perimeter landscaping consisting of an area at least
23 three (3) feet in width. The required perimeter landscaping area shall be measured from
24 the back of the curb abutting the parking surface, or edge of the parking surface if there
25 is no curb, and excludes any parking space overhang area.

26 **B.** The perimeter landscaping shall consist of a combination of ground cover, deciduous
27 or coniferous trees, shrubs, and/or appropriate screening devices such as decorative
28 walls, fences, or berms.

29 **C.** Subject to approval by the Zoning Administrator, ornamental trees and shrubs may
30 be substituted for deciduous and coniferous trees.

31 **D.** Areas not planted with shrubs, trees, or other appropriate screening devices shall be
32 maintained with living ground cover, or planting beds with acceptable mulch.

33 **Subd. 9. Minimum standards for interior landscaping for off-street parking lots.**

34 **A.** Every off-street parking lot providing fifty (50) spaces or more shall provide interior
35 landscaping.

36 **B.** Interior landscaping requirements shall be completed with the use of either planting
37 islands or vegetative medians, or both.

38 **C.** Planting islands shall have a minimum area of one hundred sixty-two (162) square
39 feet and a minimum width of nine (9) feet, measured from the back of the curbs abutting
40 the parking surfaces.

41 **D.** Where more than one planting island is provided, such islands shall be appropriately
42 spaced throughout the parking lot. Each such island shall be planted with at least one
43 overstory tree. The remainder of the landscaped area shall be covered with turf grass,
44 native grasses, mulch material, or other perennial flowering plants, vines, shrubs, or
45 trees

1 E. Vegetative medians, which are typically used to divide sections of parking, shall have
2 a minimum width of six (6) feet, so that trees and shrubbery located with in the median
3 will not be contacted by the front overhang of any vehicle.

4 F. Interior landscaping shall constitute at least two (2) percent of the total area devoted
5 to parking and shall be dispersed throughout the parking area.

6 G. Areas devoted to perimeter landscaping shall not be considered as any part of the
7 interior landscaping.

8 H. As part of building plan review, interior landscaping may be required for off-street
9 parking lots containing less than fifty (50) spaces.

10 **Subd. 10. Minimum standards for antennas and support structures.** Ground-
11 mounted antennas and antenna support structures shall be buffered and screened by a
12 fence or a denselyplanted evergreen hedge of not less than six (6) feet in height, along
13 with any other landscaping materials as needed. All such screening shall be provided
14 between any such ground-mounted antennas and antenna support structure and each lot
15 line of the property on which such antenna or antenna support structure is located.

16 **Subd.11. Minimum screening standards for refuse containers.** All refuse and
17 recyclable material containers shall be fully enclosed by a gated opaque fence or wall of a
18 sufficient height to completely screen such containers from view by all adjoining
19 properties and all streets. The fence or wall used for screening such containers shall have
20 an exterior finish that is similar to the material found on the exterior walls of the main
21 building on the property or other approved materials as determined by the Zoning
22 Administrator. The outside base of the wall or fence shall be landscaped if the wall or
23 fence fronts on a public street.

24 A. The provisions of this subdivision shall not apply to:

25 1. containers used by a one or two-family dwelling in connection with the municipal
26 refuse collection service;

27 2. containers used on a temporary basis for a construction or disposal activity; or

28 3. containers designated and intended for use by the public.

29 **Subd. 12. Maintenance and replacements.** Landscaping elements installed pursuant to
30 an approved landscaping plan shall be tended, maintained, and replaced as needed in
31 order to accomplish the purposes and intent set forth in subdivision 1. Vegetative
32 elements of a landscaping plan shall be replaced within one year of death or destruction
33 with replacements that conform to the approved landscaping plan.

34 **Subd. 13. Permitted variances.** A landscaping plan that conforms to the provisions of
35 subdivision 1, but that varies in specific detail from the strict requirements of this section,
36 may be approved by the Zoning Administrator upon a showing that the proposed plan
37 meets the purposes and intent of this section and addresses the unique characteristics of
38 the proposed development and surrounding areas.

39 A. The City may waive provisions of this Section for developments in the B-3 (General
40 Business District) where existing site limitations do not provide adequate areas for
41 landscaping.

42 **Subd. 14. Violations.** Violations of the terms of this section shall be deemed to be a
43 petty misdemeanor, and each day of violation shall be deemed to be a separate offense.
44 In addition, this section may be enforced through an action for injunctive relief and/or
45 specific performance.

1
2 **Section 9.25. Regulation of blufflands.**

3 **Subdivision 1. Purpose.** The purpose of this ordinance is to protect and preserve those
4 undeveloped areas in the community where bluffs abut or adjoin Flandrau State Park.
5 These bluffs represent an enhancement to the community and a risk of impairment to the
6 health, safety, tax base and general welfare of the community if left unprotected. The
7 intent of this ordinance is:

- 8 1. To establish reasonable regulations related to development upon and adjacent to
9 such bluff areas in the community.
10 2. To protect the scenic qualities and sensitive natural features of the bluffs.
11 3. To regulate alterations and minimize disruption of natural vegetation, topography,
12 soils, and water.
13 4. To conserve and protect the historical and cultural resources of the Cottonwood River
14 valley and Flandrau State Park.

15 **Subdivision 2. Definitions.**

16 **A. Bluff.** A natural topographic feature such as a hill, cliff, or embankment with an
17 average slope of thirty (30) percent or greater and with a vertical rise of fifty (50) feet or
18 greater.

19 **B. Toe of bluff.** The point of a bluff where there is, as visually observed, a clearly
20 identifiable break in the slope from steeper to gentler slope above. If no break in the
21 slope is apparent, the toe of bluff shall be determined to be the lowest end of the lowest
22 fifty (50) foot segment measured on the ground with an average slope exceeding
23 eighteen (18) percent.

24 **C. Top of bluff.** The point of a bluff where there is, as visually observed, a clearly
25 identifiable break in the slope from steeper to gentler slope above. If no break in the
26 slope is apparent, the top of bluff shall be determined to be the highest end of the
27 highest fifty (50) foot segment measured on the ground with an average slope
28 exceeding eighteen (18) percent.

29 **D. Bluff impact zone.** For any property abutting or adjoining Flandrau State Park, all
30 land located between the toe and the top of the bluff and the land located within 20 feet
31 measured horizontally from the highest point of the top of the bluff.

32 **E. Buffer zone.** A 10 foot strip of land measured horizontally from the top of bluff away
33 from the bluff into the property.

34 **D. Impervious surface.** A constructed hard surface that either prevents or retards the
35 entry of surface water into the soil or causes water to run off the surface in greater
36 quantities and at an increased rate of flow than prior to construction. Examples include
37 rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete,
38 asphalt, or gravel roads.

39 **G. Height of structure.** The vertical distance between the highest adjoining ground
40 level at the structure or ten feet above the lowest ground level, whichever is lower, and
41 the highest point of a roof.

42 **Subdivision 3. Standards.**

43 **A. Construction.** A site development plan for a lot subject to these regulations shall be
44 submitted to the City for review prior to issuance of a building permit or other
45 development approvals. The top of bluff shall be delineated in a site development plan

1 and verified prior to approval. In addition, a site development plan shall include the
2 proposed location of the structure(s) in proximity to the top of bluff, the existing and
3 proposed site elevations, the height of each proposed structure, the locations of utilities,
4 and a construction erosion control plan.

- 5 1. All structures including fences must be located outside the bluff impact zone.
- 6 2. No structure shall be located within 30 feet of the top of the bluff.
- 7 3. For all structures exceeding 25 feet in height, the structure must be outside the 30
8 foot setback area set forth in A(2) of this subdivision plus 3 feet for each additional
9 foot of structure height over 25 feet.
- 10 4. No tower shall be located within one-quarter (1/4) mile of the bluff impact zone,
11 except for water reservoirs owned and constructed by the City.
- 12 5. Impervious surface coverage of lots must not exceed thirty (30) percent of lot area.
- 13 6. Grading, filling, excavating or the location of an impervious surface is not permitted
14 within the bluff impact zone.
- 15 7. Each lot shall maintain a buffer zone.

16 **B. Vegetative Alterations.** The regulations set forth below apply both to requirements
17 for the approval process and to use of the property after approval and construction.

- 18 1. In the bluff impact zone, limited clearing of trees and shrubs and cutting, pruning
19 and trimming trees is allowed. Existing trees equal to or greater than six (6) inches in
20 diameter at four (4) feet in height may not be removed from the bluff impact zone.
21 Removal of more than ten (10) percent of existing trees smaller than six (6) inches in
22 diameter at four (4) feet in height as well as shrubs and other vegetation is prohibited.
23 The above provisions are not applicable to the removal of trees, limbs or branches
24 that are dead, diseased or pose safety hazards.
- 25 2. Removal of natural vegetation in the bluff impact zone shall be restricted to prevent
26 erosion. Clear cutting is prohibited. Selective clearing of trees and shrubs is allowed to
27 control non-native invasive plants. In cases where native vegetation does not exist
28 within a bluff impact zone, the landowner is to plant with native plant species.
- 29 3. In the buffer zone, the property owner shall be required to maintain undisturbed
30 original vegetation or enhanced or restored vegetation, typically containing grass or
31 herbaceous filter strips and providing the greatest water quality benefits by slowing
32 runoff, infiltrating water, filtering sediment and its associated chemicals, and protecting
33 the integrity of the top of the bluff. In cases where native vegetation does not exist
34 within a buffer zone, the landowner shall plant and maintain the buffer zone area with
35 native plant species. Vegetation should consist of a mix of plants that are native to the
36 region and well-adapted to the climactic, soil, and hydrologic conditions of the site.

37 **Subdivision 4. Penalty.** Violation of any provision of this section shall be a
38 misdemeanor.

39
40 **Section 9.80. Enforcement.**

41 **Subd. 4. Appeal.** Any person objecting to the ruling of any official on the administration of
42 the provisions of this chapter shall have the right to appeal to the Planning Commission.

43
44 **Section 9.81. Granting of variances and adjustments.**

1 **Subd. 2. Hearing.** Upon receipt of an application, the Zoning Administrator shall set a
2 time and place for a public hearing on such application before the Planning Commission.
3 At least 10 days before the date of hearing, a notice of the hearing shall be published
4 once in the official newspaper of the City. The Planning Commission shall conduct such
5 hearings, and shall make recommendations to the City Council concerning requested
6 adjustments in and exceptions to any of the provisions of this chapter to the extent of the
7 following and no further:

8 **Subd. 3. Findings.** The Planning Commission shall not recommend the granting of any
9 application, and the City Council shall not grant any application, unless the requirements
10 of Subdivision 2(A) above and the following factors are determined to be fulfilled. At the
11 hearing, the applicant shall present a statement and evidence in such form as the
12 Planning Commission may require to show compliance with these requirements:

13 **A.** That there are special circumstances or conditions affecting the land, building, or use
14 referred to in the application that justify a finding of practical difficulties as such term is
15 defined above.

16 **B.** That the granting of the application will not have a material adverse affect on the
17 health or safety of persons residing or working in the area adjacent to the property of
18 the applicant and will not be materially detrimental to the public welfare or injurious to
19 property or improvements in the area adjacent to the property of the applicant. The
20 Planning Commission may, in its discretion, continue a hearing for the purpose of
21 making further investigation or obtaining further information, from the applicant or
22 otherwise.

23 **Subd. 4. City Council approval.** In all cases in which adjustments or variances are
24 either recommended or opposed by the Planning Commission, a report of the
25 Commission's determination shall be made to the City Council at its next regular meeting.
26 Notwithstanding the recommendation of or opposition to a permit by the Planning
27 Commission, the City Council may grant or deny such a permit in conformance with the
28 requirements of this section. The City Council shall also specify conditions that are
29 necessary to substantially secure the objectives of the regulation or provision to which the
30 adjustment or variance is granted. The City Council shall require such evidence and
31 guarantees as it may deem necessary to insure compliance with the conditions
32 designated in connection therewith.

33 **Section 9.82. Granting of conditional use permits.**

34 **Subdivision 1. Application and hearing on conditional use permit.** Application for the
35 issuance of a conditional use permit shall be made to the Planning Commission, except
36 that any proceedings to classify certain uses as conforming uses may be initiated either
37 by such application, by the City Council, or by the Planning Commission. To defray
38 administrative costs of processing applications for conditional use permits, a fee shall be
39 paid by the applicant, in an amount determined by the City Council. The Planning
40 Commission may hold such hearings on an application as it may consider necessary, but
41 at least one public hearing shall be held on any application for a conditional use permit for
42 the establishment of any use listed in section 9.16, subdivision 1E.

43 **Subd. 2. Findings.** The Planning Commission shall not recommend the granting of a
44

1 conditional use permit, and the City Council shall not grant a conditional use permit,
2 unless the following facts are determined. At the hearing, the applicant shall present a
3 statement and evidence in such form as the Planning Commission may require to show
4 these facts:

5 **A.** That the conditional use will not substantially diminish or impair property values
6 within the immediate vicinity.

7 **B.** That the conditional use will not, under the circumstances of the particular case, be
8 detrimental to the health, safety, morals, and welfare of the persons residing in and
9 working in the area.

10 **C.** That the establishment of the conditional use will not impede the normal and orderly
11 development of surrounding property for uses predominant in the area.

12 **D.** That adequate utilities, access roads, drainage, and sanitary facilities have been
13 planned and will be provided.

14 **E.** That adequate measures have been taken to provide parking and loading space, and
15 that storage and accessory structures, necessary to serve the proposed use, are built.

16 **F.** That adequate measures are taken to protect against odor, noise, and sight pollution.

17 **G.** That the ecology of the area is maintained by protection against water, air, and
18 general erosion.

19 The Planning Commission may, in its discretion continue a hearing for the purpose of
20 conducting further investigation or obtaining further information, from the applicant or
21 otherwise.

22 **Subd. 3. City Council approval.** In all cases in which a conditional use permit is either
23 recommended or opposed by the Planning Commission, a report of such action shall be
24 made to the City Council at its next regular meeting. Notwithstanding the
25 recommendation of or opposition to a permit by the Planning Commission, the City
26 Council may grant or deny such a permit in conformance with the requirements of this
27 section. The City Council may require appropriate conditions and guarantees in the
28 granting of use permits. Any use permitted under the terms of a conditional use permit
29 shall be established and conducted in conformity to the terms of such permit and of any
30 conditions designated in connection therewith.

31 **Section 9.85. Adult uses.**

32 **Subdivision 1. Definitions.** The following definitions shall apply to this section:

33 **A. Adult Uses.** "Adult uses" means adult bookstores, adult motion picture theaters,
34 adult motion picture rental or sale, adult mini-motion picture theaters, adult massage
35 parlors, adult steam room/bathhouse/sauna facilities, adult companionship
36 establishments, adult rap/conversation parlors, adult health/sport clubs, adult cabarets,
37 adult novelty businesses, adult motion picture arcades, adult modeling studios, adult
38 hotels/motels, adult body painting studios, and other premises, enterprises,
39 establishments, businesses or places open to some or all members of the public, at or
40 in which there is an emphasis on the presentation, display, depiction or description of
41 "specified sexual activities" or "specified anatomical areas" (as those terms are defined
42 below) which are capable of being seen by members of the public.
43

1 **1. Specified anatomical areas:**

2 a. Less than completely and opaquely covered human genitals, pubic region,
3 buttock, anus, or female breast(s) below a point immediately above the top of the
4 areola.

5 b. Human male genitals in a discernibly turgid state, even if completely and
6 opaquely covered.

7 **2. Specified sexual activities:**

8 a. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-
9 anal copulation, bestiality, direct physical stimulation of unclothed genitals,
10 flagellation or torture in the context of a sexual relationship, or the use of excretory
11 functions in the context of a sexual relationship, and any of the following sexual-
12 oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus,
13 fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or

14 b. Clearly depicted human genitals in the state of sexual stimulation, arousal or
15 tumescence.

16 c. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or
17 masturbation.

18 d. Fondling or touching of nude human genitals, pubic region, buttocks, or female
19 breast.

20 e. Situations involving a person or persons, any of whom are nude, clad in
21 undergarments or in sexually revealing costumes, and who are engaged in
22 activities involving the flagellations, torture, fettering, binding or other physical
23 restraint of any such persons.

24 f. Erotic or lewd touching, fondling or other sexually-oriented contact with an animal
25 by a human being.

26 g. Human erection, urination, menstruation, vaginal or anal irrigation.

27 **B. Adult uses - accessory.** A use, business, or establishment having ten percent
28 (10%) or less of its stock in trade or floor area allocated to, or twenty percent (20%) or
29 less of its gross receipts derived from, motion picture rentals or sales or magazine sales
30 containing specified sexual activities or specified anatomical areas, and which has no
31 other adult use upon the premises.

32 **C. Adult uses - principal.** A use, business, or establishment having more than 10% of
33 its stock in trade or floor area allocated to, or more than twenty percent (20%) of its
34 gross receipts derived from, any adult use.

35 **D. Adult use - body painting studio.** An establishment or business that provides the
36 service of applying paint or other substance, whether transparent or non-transparent, to
37 or on the body of a patron when such body is wholly or partially nude in terms of
38 specified anatomical areas.

39 **E. Adult use - bookstore.** A building or portion of a building used for the barter, rental
40 or sale of items consisting of printed matter, pictures, slides, records, audio recordings,
41 video recordings, or motion pictures if a substantial or significant portion of such items
42 are distinguished or characterized by an emphasis on the depiction or description of
43 specified sexual activities or specified anatomical areas.

44 **F. Adult use - cabaret.** A building or portion of a building used for providing dancing or

1 other live entertainment if such dancing or other live entertainment is distinguished or
2 characterized by an emphasis on the presentation, display, depiction or description of
3 specified sexual activities or specified anatomical areas.

4 **G. Adult use - companionship establishment.** A companionship establishment which
5 provides the service of engaging in or listening to conversation, talk or discussion
6 between an employee of the establishment and a customer, if such service is
7 distinguished or characterized by an emphasis on specified sexual activities or specified
8 anatomical areas.

9 **H. Adult use - conversation/rap parlor.** A conversation/rap parlor which provides the
10 service of engaging in or listening to conversation, talk, or discussion, if such service is
11 distinguished or characterized by an emphasis on specified sexual activities or specified
12 anatomical areas.

13 **I. Adult use - health/sport club.** A health/sport club that is distinguished or
14 characterized by an emphasis on specified sexual activities or specified anatomical
15 areas.

16 **J. Adult use - hotel or motel.** Adult hotel or motel means a hotel or motel wherein
17 material is presented which is distinguished or characterized by an emphasis on matter
18 depicting, describing or relating to specified sexual activities or specified anatomical
19 areas.

20 **K. Adult use - massage parlor, health club.** A massage parlor or health club that
21 provides the services of massage, if such service is distinguished or characterized by
22 an emphasis on specified sexual activities or specified anatomical areas.

23 **L. Adult use - mini-motion picture theater.** A building or portion of a building with a
24 capacity for fewer than 50 persons used for presenting material if such material is
25 distinguished or characterized by an emphasis on specified sexual activities or
26 specified anatomical areas for observation by patrons therein.

27 **M. Adult use - modeling studio.** An establishment whose major business is the
28 provision, to customers, of figure models who are so provided with the intent of
29 providing sexual stimulation or sexual gratification to such customers and who engage
30 in specified sexual activities or display specified anatomical areas while being observed,
31 painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise
32 depicted by such customers.

33 **N. Adult use - motion picture arcade.** Any place to which the public is permitted or
34 invited wherein coin or slug-operated or electronically, electrically or mechanically
35 controlled or operated still or motor picture machines, projectors, or other image-
36 producing devices are maintained to show images to five (5) or fewer persons per
37 machine at any one time, and where the images so displayed are distinguished or
38 characterized by an emphasis on depicting or describing specified sexual activities or
39 specified anatomical areas.

40 **O. Adult use - motion picture theater.** A building or portion of a building with a
41 capacity of 50 or more persons used for presenting material if such material is
42 distinguished or characterized by an emphasis on specified sexual activities or specified
43 anatomical areas for observation by patrons therein.

44 **P. Adult use - novelty business.** A business which has as a principal activity the sale

1 of devices which stimulate human genitals or devices which are designated for sexual
2 stimulation.

3 **Q. Adult use - sauna.** A sauna which provides a steam bath or heat bathing room used
4 for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a
5 cleaning, relaxing or reducing agent, if the service provided by the steam
6 room/bathhouse facility is distinguished or characterized by an emphasis on specified
7 sexual activities or specified anatomical areas.

8 **R. Adult use - steam room/bathhouse facility.** A building or portion of a building used
9 for providing a steam bath or heat bathing room used for the purpose of pleasure,
10 bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or
11 reducing agent if such building or portion of a building is distinguished or characterized
12 by an emphasis on specified sexual activities or specified anatomical areas.

13 **S. Motion Picture.** Any visual representation of images in motion, however displayed,
14 stored or produced, including images stored or produced using photographic, analog,
15 digital or electronic equipment, techniques or technologies.

16 **Subd. 2. Purpose.** The nature of adult uses is such that they are recognized as having
17 adverse secondary characteristics and impacts, particularly when they are (a) accessible
18 to minors, (b) located near residential property or related residential uses such as
19 schools, day care centers, places of worship, libraries or parks, or (c) are in proximity to
20 on-sale liquor, wine, or beer establishments. Furthermore, the concentration of adult uses
21 has an adverse effect upon the use, value and enjoyment of adjacent areas. The nature
22 of adult uses require that they not be allowed within certain zoning districts, or within
23 minimum distances from each other or certain other uses which would be adversely
24 impacted by proximity to such adult uses. Special regulation of adult uses is necessary to
25 ensure that the adverse secondary effects will not contribute or enhance criminal activity
26 in the area of such uses nor will it contribute to the blighting or downgrading of the
27 surrounding property, lessening of its value or diminishing the quality of life of the
28 occupants thereof.

29 **Subd. 3. General provisions.** Adult uses as defined in this chapter shall be subject to
30 the following general provisions

31 **A.** Activities classified as obscene are not permitted and are prohibited. In no instance
32 shall the application or interpretation of this ordinance be construed to allow an activity
33 otherwise prohibited by law.

34 **B.** Adult uses, either principal or accessory, shall be prohibited from locating in any
35 building that is also utilized for residential purposes.

36 **C.** An adult use that does not qualify as an accessory use pursuant to Section 9.85,
37 subd. 5, shall be classified as an adult use - principal.

38 **Subd. 4. Adult use - principal.**

39 **A.** Adult use - principal shall be a permitted use in the B-2, Service Business District,
40 subject to the location criteria outlined in subd. 4(B).

41 **B.** Adult use - principal shall be located at least four hundred thirty (430) radial feet, as
42 measured in a straight line from the closest point of the property line of the building
43 upon which the adult use - principal is located to the property line of:

44 **1.** A zoning district in which residential uses are specifically listed as a permitted or

1 conditional use, unless the district is located in a flood plain area.

2 2. A licensed day care center.

3 3. A public or private educational facility classified as a pre-school, elementary, junior
4 high, middle school, or senior high.

5 4. A public library.

6 5. A public park, playground or other public recreational facility.

7 6. Another adult use business.

8 7. Any church or hall of religious congregation or worship.

9 8. An on-sale liquor, wine, or beer establishment.

10 **C.** No adult use - principal shall be located in the same building or upon the same
11 property as another adult use - principal. This limitation does not apply to any business
12 or establishment that contained more than one adult use - principal as of April 1, 2003.

13 **D.** Adult use - principal shall adhere to the following sign regulations in addition to the
14 sign regulations of Section 9.14:

15 1. Sign messages shall be generic in nature and shall only identify the name of
16 business and may contain no other images.

17 2. Signs shall comply with the requirements of size and number for the district in
18 which they are located.

19 **E.** Adult use - principal shall be limited to 9:00 a.m. to 12:30 a.m. for its hours of
20 operation. A different time schedule may be approved by the City Council, if it can be
21 satisfactorily demonstrated by the operator to the City Council that all the following
22 apply:

23 1. Will not adversely impact or affect uses or activities within four hundred thirty (430)
24 feet.

25 2. Will not result in increased policing or related service calls.

26 3. Is critical to the operation of the business.

27 **Subd. 5. Adult use - accessory.** Adult uses - accessory shall be a permitted use in the
28 B-2, Service Business District, and B-3, General Business District provided the accessory
29 use conforms to the provisions of this subdivision.

30 **A.** Adult use - accessory shall:

31 1. Comprise no more than ten percent (10%) of the floor area of the establishment in
32 which it is located.

33 2. Comprise no more than twenty percent (20%) of the gross receipts of the entire
34 business operation.

35 3. Not involve or include any activity except the sale or rental of merchandise.

36 **B.** Adult use - accessory shall restrict from and prohibit access to minors by the physical
37 separation of such items from areas of general public access:

38 1. Motion picture rentals or sale. Display areas shall be restricted from general view
39 and shall be located within a separate room, the access of which is in clear view and
40 under the control of the persons responsible for the operation.

41 2. Magazines. Publications classified or qualifying as adult uses shall not be physically
42 accessible to minors and shall be covered with a wrapper or other means to prevent
43 display of any material other than the publication title.

44 3. Other Use. Adult use - accessory not specifically cited shall comply with the intent

1 of this section subject to the approval of the Zoning Administrator.

2 **C.** Adult use - accessory shall be prohibited from both internal and external advertising
3 and signage of adult materials and products.

4 **Subd. 6. Nonconforming adult use - principal or accessory.** Adult uses which were in
5 existence prior to April 1, 2003, shall be classified as legal nonconforming uses and may
6 continue in accordance with the provisions of this chapter. If an adult use becomes
7 nonconforming because of rezoning or the establishment of a use listed in subd. 3, the
8 adult use shall be considered a legal nonconforming use and may continue in accordance
9 with the provisions of this chapter. In no instance shall a legal nonconforming adult use
10 be allowed to structurally expand the use on the lot on which it is located when the use
11 became legally nonconforming, or expand the adult use to include another lot on which
12 the adult use was not located when it became legally nonconforming. If the building in
13 which a legal nonconforming adult use is located is destroyed by any means to an extent
14 of greater than fifty percent (50%) of its market value, or if the building in which the legally
15 nonconforming adult use is vacant for more than twelve (12) months, an adult use shall
16 not be re-established unless it is in conformance with this section.

17 **Subd. 7. Enforcement.**

18 **A.** Any person who owns or operates an adult use business, establishment, or premises
19 in violation of any provision of this section is guilty of a misdemeanor and upon
20 conviction shall be punished by not more than the maximum penalty for a misdemeanor
21 as prescribed by Minnesota law. Each day of violation of this section shall be deemed a
22 separate offense.

23 **B.** Any violation of this section shall be a basis for the suspension or revocation of the
24 certificate of occupancy for the property or building in or on which the adult use is
25 located. In the event the City Council proposes to revoke or suspend a certificate of
26 occupancy, the property owner shall be notified in writing of the basis for such proposed
27 suspension or revocation. The City Council shall hold a hearing for the purpose of
28 determining whether to revoke or suspend the certificate of occupancy, which hearing
29 shall be within 30 days of the date of the notice.

30 **C.** The City Council shall determine whether to revoke or suspend a certificate of
31 occupancy within thirty (30) days after the close of the hearing or within sixty (60) days
32 of the date of the notice, whichever is sooner, and shall notify the property owner of its
33 decision within that period.

34 **D.** The provisions of this section shall apply to:

- 35 1. the owner of the property upon which an adult use is located;
- 36 2. the owner or proprietor of an adult use business, establishment, or premises; and
- 37 3. each employee of an adult use business.

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ZONING MAP

CITY OF NEW ULM, MINNESOTA
As Last Amended

