

**CHAPTER 8****LAND AND BUILDING REGULATIONS****825. ZONING - ADMINISTRATION**

**Section 825.01. Title.** This Ordinance shall be known, cited and referred to as the Medina Zoning Code.

**Section 825.03. Intent and Purpose.** This Ordinance is adopted for the purpose of:

**Subd. 1.** Protecting the public health, safety, morals, comfort, convenience and general welfare by guiding the future development of land.

**Subd. 2.** Promoting orderly development of the residential, commercial, industrial, recreational and public areas.

**Subd. 3.** Conserving the natural and scenic beauty and attractiveness of the City.

**Subd. 4.** Conserving and developing natural resources.

**Subd. 5.** Providing for the compatibility of different land uses and the most appropriate use of land throughout the City.

**Section 825.05. Interpretation.** The language of this Ordinance shall be interpreted in accordance with the following rules of construction:

**Subd. 1.** The singular number includes the plural and the plural the singular.

**Subd. 2.** The present tense includes the past and future tenses, and the future the present.

**Subd. 3.** The word "shall" is mandatory, and the word "may" is permissive.

**Subd. 4.** The masculine gender includes the feminine and neuter genders.  
Medina City Code

**Subd. 5.** Whenever a word or term defined hereinafter appears in the text of this Ordinance, its meaning shall be construed as set forth in such definition.

**Subd. 6.** All measured distances expressed in feet shall be to the nearest tenth of a foot. In the event of conflicting provisions, the more restrictive provision shall apply.

**Section 825.07. Definitions.** The following words and terms shall have the meanings ascribed to them:

**Subd. 1. Accessory Use or Structure** - A use or structure or portion of a structure subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.

**Subd. 2. Administrator** - The duly appointed person charged with enforcement of this Ordinance.

**Subd. 3. Agricultural Use** - The use of land for the growing and/or production of field crops, livestock, and livestock products for the production of income including but not limited to the following:

- (a) Field crops, including: barley, soybeans, corn, hay, oats, potatoes, rye, sorghum, and sunflowers.
- (b) Livestock, including: dairy and beef cattle, goats, horses, sheep, hogs, poultry, game birds and other domestic animals including ponies, deer, rabbits, and mink, except dogs.
- (c) Livestock products, including: milk, butter, cheese, eggs, meat, fur and honey.
- (d) Horticulture - The use of land for the growing or production of fruits, vegetables, flowers, cultured sod and nursery stock, including ornamental plants and trees, for the production of income.
- (e) Aquaculture - The raising and production of fish and other water related products.
- (f) Drainage Systems, Tiling, and Irrigation.

**Subd. 4. Airport or Heliport** - Any land or structure which is used or intended for use, for the landing and take-off of aircraft, and any appurtenant land or structure used or intended for use for port buildings or other port structure or rights-of-way.

**Subd. 4.1. Apartment** - A dwelling unit in a building containing three or more dwelling units.

**Subd. 4.1.1. Animal Unit.** A unit of measure that determines the number of livestock or traditional farm animals that are allowed on certain parcels.

**Subd. 5. Auto or Motor Vehicle Reduction Yard** - A lot or yard where one or more unlicensed motor vehicle(s), or the remains thereof, are kept for the purpose of dismantling, wrecking, crushing, repairing, rebuilding, sale of parts, sale as scrap, storage, or abandonment. (See also Junk Yard.)

**Subd. 6. Basement** - Any area of a structure, including crawl spaces, having its floor or base

subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

**Subd. 7. Bluffline** - A line along the top of a slope connecting the points at which the slope becomes less than 12% over a distance of at least 50 feet. This applies to those slopes within the land use district(s) which are beyond the setback provisions from the ordinary high water level.

**Subd. 8. Boathouse** - A one (1) story structure not to exceed 10 feet in height, exclusive of safety rails, used or intended for use for the of storage of boats and accessories.

**Subd. 8.1. Boarding house (Rooming or Lodging House)** - A building other than a motel or hotel where, for compensation and by prearrangement for definite periods, meals or lodgings are provided for three or more persons, but not to exceed ten persons.

**Subd. 9. Building** - A structure having a roof supported by columns or walls.

**Subd. 10. Building Line** - A line parallel to the street Medina City Code right-of-way at any story level of a building and representing the minimum distance which all or any part of the building is set back from said right-of-way line.

**Subd. 11. Building Line, Shoreland** - A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

**Subd. 12. Building Height** - The vertical distance measured from the average grade around the building (points measured every 10 feet around the building), to the top cornice of a flat roof, to the deck line of a mansard roof, to a point on the roof directly above the highest point of a shed roof, to the uppermost point on a round roof, and to the mean elevation between the eave and peak for the highest pitched, hipped or gambrel roof. If the average grade exceeds the building's grade along the front of the lot by more than three feet, the lowest grade shall be used.

**Subd. 13. Building Setback** - The minimum horizontal distance between the building and a lot line.

**Subd. 14. Business** - Any occupation, employment or enterprise wherein merchandise is exhibited or sold, or where services are offered for compensation.

**Subd. 15. Carport** - An automobile shelter having one or more sides open.

**Subd. 16. Church** - A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

**Subd. 17. Club and Lodge** - A public or private building in which the members of one or

more public or private organizations regularly assemble.

**Subd. 18. Comprehensive Plan or Policies** - A compilation of goals, policy statements, standards, programs and maps for guiding the physical, social and economic development, both public and private, of the county and its environs, as defined in the Minnesota City Planning Act, and includes any unit or part of such plan separately adopted and any amendment to such plan or parts Medina City Code thereof.

**Subd. 19. Commissioner** - Commissioner of the Minnesota Department of Natural Resources.

**Subd. 20. Community Residential Facility** - A state licensed group home or foster home serving mentally retarded or physically handicapped persons.

**Subd. 21. Conditional Use** - The conditional use is a permitted use within the zone, and maintains itself as a permitted use as long as the conditions set down by the City Council are not violated. The Council has the authority to set conditions on the granting of a conditional use permit because, although the use is permitted in the zone, it may be detrimental to the adjoining properties in certain instances, unless various conditions are attached. A conditional use permit runs with the land and can be maintained by subsequent owners as long as the conditions are not violated. There may be instances where a conditional use permit is reviewed annually by a City Council, but this procedure is effective only to determine whether the conditions are being violated. The permit cannot be revoked, on an annual review, if all conditions are being complied with.

**Subd. 22. County Board** - Hennepin County Board of Commissioners.

**Subd. 23. Curb Level** - The grade elevation established by the governing body of the curb in front of the center of the building. Where no curb level has been established, the engineering staff shall determine a curb level or its equivalent for the purpose of this Ordinance.

**Subd. 23.1. Deck** - A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and extending at any point more than three feet above ground.

**Subd. 24. Drive-In** - Any use where products and/or services are provided to the customer under conditions where the customer does not have to leave the car or where fast service to the automobile occupants is a service offered regardless of whether Medina City Code service is also provided within a building.

**Subd. 25. Dwelling Unit** - A residential building or portion thereof which is arranged, designed, used or intended for use as the living quarters for one family, but not including hotels, motels, or boarding or rooming houses.

**Subd. 25.1. Dwelling Unit, Accessory** – a second dwelling unit located within the same structure as a principal single-family home or which is detached but located upon the same parcel as a principal single-family home.

**Subd. 26. Dwelling, Attached** - a dwelling which is joined to another dwelling at one or more sides by a party wall or walls.

**Subd. 27. Dwelling, Detached** - A dwelling which is entirely surrounded by open space on the same lot.

**Subd. 28. Easement** - A grant by a property owner for the use of a strip of land by the public or any person for any specific purpose or purposes.

**Subd. 28.1. Equal Degree of Encroachment** - this term is defined within the Definition section of the Floodplain Management Ordinance, Section 826.74.

**Subd. 29. Essential Services** - Overhead or underground electric, gas, communication, steam or water transmission or distribution systems and structures, by public utilities or governmental departments or commissions or as are required for protection of the public health, safety or general welfare, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, and accessories in connection therewith, but not including buildings or any personal wireless service facilities or unlicensed wireless service facilities, as defined in 47 U.S.C. § 332(c)(7)(C). Notwithstanding the above, a building may be constructed as an accessory structure to an essential service provided that it may be used only to provide weather protection for stationary equipment, may not exceed 400 square feet and may not exceed 15 feet in height. If a building is constructed as an accessory structure to an essential service, the exterior building materials must be in compliance with Section 828.04 and the site must be landscaped in accordance with Section 828.09 of this ordinance.

**Subd. 30. Exterior Storage (Includes Open Storage)** - The storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.

**Subd. 31. Deleted** (Ord. 401)

**Subd. 32. Family** - Family is any one of the following:

- (a) An individual;
- (b) Two or more persons related by blood, marriage or adoption and maintaining a common household;
- (c) A group of not more than five unrelated persons maintaining a common household.

**Subd. 33. Farm** - A tract of land 10 acres or more in size which is principally used for

agricultural activities such as the production of cash crops, livestock or poultry farming. Such farm may include agricultural dwellings and accessory buildings and structures necessary to the operation of the farm.

**Subd. 33.1. Farm, Hobby.** A small farm or tract of land typically less than 10 acres in size that is maintained without expectation of being a primary source of income, that gives the property owner the ability to provide reasonable space for a small number of animals or livestock, small garden plots, or small fields of typical row crops, hay, alfalfa or similar products.

**Subd. 34. Feedlots, Livestock** - The place of confined feeding of livestock or other animals for food, fur, pleasure, or resale purposes in yards, lots, pens, buildings, or other areas not normally used for pasture or crops and in which substantial amounts of manure or related other wastes may originate by reason of such feeding of animals.

**Subd. 35. Fence** - A fence is defined for the purpose of this Ordinance as any partition, structure, wall or gate erected as a dividing marker, barrier or enclosure and located along the boundary, or within the required yard.

**Subd. 36. Flood** - this term is defined within the Definition section of the Floodplain Management Ordinance, Section 826.74.

**Subd. 37. Flood Frequency** - this term is defined within the Definition section of the Floodplain Management Ordinance, Section 826.74.

**Subd. 38. Flood Fringe** - this term is defined within the Definition section of the Floodplain Management Ordinance, Section 826.74.

**Subd. 39. Flood Proofing** - this term is defined within the Definition section of the Floodplain Management Ordinance, Section 826.74.

**Subd. 40. Floodplain** - this term is defined within the Definition section of the Floodplain Management Ordinance, Section 826.74.

**Subd. 41. Floodway** - this term is defined within the Definition section of the Floodplain Management Ordinance, Section 826.74.

**Subd. 41.1 Floor Area** – The sum of the horizontal areas of the several floors of a building, as measured to the outer surface of exterior walls.

**Subd. 42. Floor Plan - General** - A graphic representation of the anticipated utilization of the floor area within a building or structure but not necessarily as detailed as construction plans.

**Subd. 43. Forestry** - The use and management including logging, of a forest woodland or plantation and related research and educational activities, including the construction,

alteration or maintenance of woodroads, skidways, landings, and fences.

**Subd. 44. Frontage** - That boundary of a lot which abuts an existing or dedicated public street.

**Subd. 45. Garage, Private** - An accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles of the family or families resident upon the premises.

**Subd. 46. Garbage** - All discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food.

**Subd. 47. Governing Body** - Medina City Council.

**Subd. 47.1. Grazable Acres.** Open, non-treed, lands consisting of pasture or other vegetation which can support grazing by livestock or farm animals. For the purpose of this subdivision, the number of grazable acres on a property shall be determined by a survey, which shall exclude hardcover, wooded areas unable to support vegetation for grazing by livestock or farm animals, and wetlands. Type 1 wetlands, as described in U.S. Fish and Wildlife Service Circular 39 Document, shall be counted as Grazable Acres.

**Subd. 47.2. Habitable Space** – A space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.

**Subd. 48. Highway** - Any public thoroughfare or vehicular right-of-way with a Federal or State numerical route designation; any public thoroughfare or vehicular right-of-way with a Hennepin County numerical route designation.

**Subd. 49. Home Occupation** - Any gainful occupation or profession engaged in by any occupant of a dwelling which is clearly incidental and secondary to the use of the dwelling for residential purposes and subject to the following limitations:

- (a) no person not residing in the dwelling may be employed on-site in the home occupation;
- (b) no over-the-counter retail sales;
- (c) no exterior signs or signs visible from the exterior advertising the home occupation;
- (d) no outside storage;
- (e) the home occupation must be conducted solely within the principal structure and may not occupy more than 500 square feet or 25 percent of the principal floor, whichever is less;

- (f) no customers, clients, patients or students may visit the site in connection with the home occupation;
- (g) no deliveries associated with the home occupation may be made in commercial vehicles over one ton capacity;
- (h) no equipment or devices not customarily used in residential dwellings may be used in connection with the home occupation;
- (i) entrance to the space used for the home occupation must be within the dwelling;
- (j) no interior or exterior alterations may be made to the dwelling to accommodate the home occupation except as may be customarily found in a dwelling;
- (k) no vehicle displaying the name of the home occupation may be used unless it is customarily parked within an enclosed garage;
- (l) the home occupation may not produce any light, glare, noise or vibration perceptible beyond the boundaries of  
the property which is not customarily associated with residential use; and
- (m) the home occupation must be operated in compliance with all other applicable federal, state and local statutes, ordinances, codes and regulations.

**Subd. 49.1. Home Occupation (Conditional)** - Any gainful occupation or profession engaged in by any occupant of a dwelling which is clearly incidental and secondary to the use of the dwelling for residential purposes and subject to the following limitations:

- (a) not more than one person not residing in the dwelling may be employed on-site in the home occupation, regardless of the number of hours worked by the individual;
- (b) no over-the-counter retail sales;
- (c) only such signs as are permitted under Section 815.09 of this ordinance;
- (d) no outside storage;
- (e) the home occupation must be conducted solely within the principal structure;
- (f) limited customer, client, patient or student visits to the site in connection with the home occupation;
- (g) there must be adequate off-street parking for the anticipated number of persons on the site at any one time and the parking area must be screened from view from adjacent properties or rights-of-way;



- (h) limited deliveries associated with the home occupation in commercial vehicles over one ton capacity;
- (i) no equipment or devices not customarily used in residential dwellings may be used in connection with the home occupation;
- (j) entrance to the space used for the home occupation must be within the dwelling;
- (k) no interior or exterior alterations may be made to the dwelling to accommodate the home occupation except as may be customarily found in a dwelling;
- (l) any vehicle displaying the name of the home occupation must be parked in an enclosed garage or in an area screened from view from adjacent properties or rights-of-way;
- (m) the home occupation may not produce any light, glare, noise or vibration perceptible beyond the boundaries of the property which is not customarily associated with residential use;
- (n) hours of business activity may be limited by the city council to protect the public health, safety and welfare;
- (o) the home occupation must be operated in compliance with all other applicable federal, state and local statutes, ordinances, codes and regulations; and
- (p) the city council may require compliance with any other conditions, restrictions or limitations it deems to be reasonably necessary to protect the residential character of the neighborhood.

**Subd. 49.2 Hotel** - A building which provides a common entrance, lobby, halls and stairway and in which ten or more people are, for compensation, lodged with or without meals.

**Subd. 49.3. Individual Sewage Treatment System** - A sewage treatment system, or part thereof, serving a dwelling or other small living or business unit, or group, thereof, which utilizes soil treatment and disposal.

**Subd. 49.4. Intensive Vegetation Clearing** - The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

**Subd. 49.5. Interim Use** – A temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

**Subd. 50. Junk Yard** - An open area where waste, used, or secondhand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to, scrap iron and other metals, paper, rags, rubber, tires, and bottles. A junk yard includes an auto wrecking yard but does not include uses established entirely within enclosed buildings. This definition does not include sanitary landfills.

**Subd. 51. Kennel** - Any structure or premises on which three (3) or more dogs over six (6) months of age are kept requiring a license.

**Subd. 52. Landscaping** - Planting such as trees, grass and shrubs.

**Subd. 52.1. Loading Dock** – An area measuring at least 12 feet wide which provides a portal for a truck through the outside wall of a building. The portal may allow the truck to enter into the building or allow the truck to the edge of the building with a portal into the building.

**Subd. 52.2. Lodging Room** - A room rented as sleeping and living quarters, but without cooking facilities. In a suite of rooms, without cooking facilities, each room which provides sleeping accommodations shall counted as one lodging room.

**Subd. 53. Lot** - A parcel or portion of land in a subdivision or plat of land separated from other parcels or portions by description as on a subdivision or record of survey map, for the purpose of sale or lease or separate use thereof.

**Subd. 54. Lot of Record** - Any lot which is one unit heretofore duly approved and filed that has been recorded in the office of the County Recorder for Hennepin County, Minnesota, prior to the effective date of this Ordinance.

**Subd. 55. Lot Area** - The area of a lot in a horizontal plane bounded by lot lines, but not including any area occupied by an floodplain as designated on the adopted HUD/DNR Floodplain Map or area occupied by a wetland as designated on the Hennepin County Soil and Water Conservation District Map.

**Subd. 56. Lot, Corner** - A lot situated at the junction of, and abutting on two or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed one hundred thirty-five degrees.

**Subd. 57. Lot Depth** - The mean horizontal distance between the front lot line and the rear lot line of a lot.

**Subd. 57.1. Lot, Flag** – A lot with a narrow appendage for the purpose of providing access to a public or private right-of-way.

**Subd. 58. Lot Line** - The property line bounding a lot except that where any portion of a lot extends into the public right-of-way. The public right-of-way shall be the lot line for applying this Ordinance.

**Subd. 59. Lot Line, Front** - That boundary of a lot which abuts an existing or dedicated public street. For purposes of addressing a corner lot it shall be the shortest dimension on a

public street. If the dimensions of a corner lot are equal, the front line shall be designated by the owner and filed with the City Council.

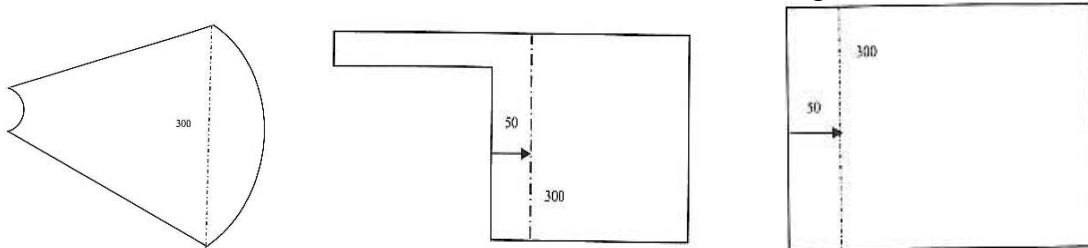
**Subd. 60. Lot Line, Rear** - That boundary of a lot which is opposite the front lot line. If the rear line is less than ten feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten feet in length within the lot, parallel to, and at the maximum distance from the front lot line.

**Subd. 61. Lot line, Side** - Any boundary of a lot which is not a front lot line or a rear lot line.

**Subd. 62. Lot, Substandard** - A lot or parcel of land for which a deed has been recorded in the office of the Hennepin County Recorder upon or prior to the effective date of this Ordinance which does not meet the minimum lot area, structure setbacks or other dimensional standards of this Ordinance.

**Subd. 63. Lot, Through** - A lot which has a pair of opposite lot lines abutting two substantially parallel streets, and which is not a corner lot. On a through lot, both street lines shall be front lines for applying this Ordinance.

**Subd. 64. Lot Width** - Lot width shall be measured as follows: (1) For lots located entirely on the turn-around portion of a cul-de-sac or for pie-shaped lots, lot width is the maximum horizontal distance between the side lot lines measured at any point in the lot. (2) For flag lots or lots not having frontage on a public or private right-of-way, lot width is the maximum horizontal distance between the side lot lines measured at the point equal in distance to the front yard setback from the first lot line generally parallel to the front lot line or to the right-of-way. (3) For all other lots, lot width is the maximum horizontal distance between the side lot lines measured at the front building setback line.



**Subd. 65. Metes and Bounds** - A method of property description by means of their direction and distance from an easily identifiable point.

**Subd. 66. Mining** - The extraction of sand, gravel, rock, soil, black dirt or other material from the land in the amount of one thousand cubic yards or more and the removing thereof from the site without processing shall be mining. The only exclusion from this definition shall be removal of materials associated with construction of a building, provided such removal is an approved item in the building permit.

**Subd. 66.1. Mobile Home** - A dwelling unit bearing the seal of the state building inspector classifying it as a mobile home.

**Subd. 67. Mobile Home Park** - Any site, lot, field, or tract of land under single ownership, designed, maintained or intended for the placement of two (2) or more occupied mobile homes. "Mobile Home Park" shall include any buildings structure, vehicle, or enclosure intended for use as part of the equipment of such mobile home park.

**Subd. 67.1. Modular Home** - A dwelling unit bearing the seal of the state building inspector classifying it as a modular home.

**Subd. 67.2. Motel** - A building or group of detached semi-detached, or attached buildings containing guest rooms or dwellings, with garage or parking space conveniently located to each unit, and which is designed, used or intended to be used primarily for the accommodation of automobile transients.

**Subd. 68. Multiple Residence** - Three or more dwelling units in one structure.

**Subd. 69. Nursery, Landscape** - A business growing and selling trees, flowering and decorative plants and shrubs and which may be conducted within a building or without, for the purpose of landscape construction.

**Subd. 69.1. Nursing Home** - A building with facilities for the care of children, the aged, infirm, or place of rest for those suffering bodily disorder. Said nursing home shall be licensed by the state board of health as provided for in Minnesota Statutes, section 144.50.

**Subd. 69.2. Obstruction** - Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

**Subd. 70. Official Map** - The map established by the governing body in accordance with the City Planning Act (MSA 462.354), showing streets, highways, parks and drainage, both existing and proposed.

**Subd. 71. Off-Street Loading Space** - A space accessible from a street, alley, or driveway for the use of trucks or other vehicles while loading or unloading merchandise or materials. Such space shall be of a size as to accommodate one vehicle of the type typically used in the particular business.

**Subd. 72. Open Sales Lot (Exterior Storage)** - Any land used or occupied for the purpose of buying and selling goods, materials, or merchandise and for the storing of same under the open sky prior to sale.

**Subd. 73. Ordinary High Water Level** - The boundary between public waters and wetlands at an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominately aquatic to predominately terrestrial. For

watercourses, the ordinance high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

**Subd. 74. Parking Space** - A suitably surfaced and permanently maintained area on privately owned property either within or outside of a building of sufficient size to store one standard automobile.

**Subd. 75. Pedestrian Way** - A public or private right-of-way across or within a block, to be used by pedestrians.

**Subd. 75.1. Planned Unit Development:**

(a) As a conditional use permit, a development procedure whereby internal site design standard deviations from this Code may be allowed in order to accommodate two (2) or more principal structures, and/or facilitates improved site design and operation.

(b) As a zoning district, a development procedure whereby a mixing of buildings and uses can occur which cannot be otherwise addressed under this Code, and/or whereby internal site design standard deviations from this Code may be allowed to improve site design and operation.

**Subd. 76. Planning Commission** - The Planning Commission of Medina except where otherwise designated.

**Subd. 77. Principal Structure or Use** - One which determines the predominant use as contrasted to accessory use or structure.

**Subd. 78. Property Line** - The legal boundaries of a parcel of property which may also coincide with a right-of-way line of a road, cartway, and the like.

**Subd. 79. Protective Covenant** - A contract entered into between private parties which constitute a restriction of the use of a particular parcel of property.

**Subd. 80. Public Land** - Land owned or operated by municipal, school district, county, state or other governmental units.

**Subd. 80.1. Public Waters** - Any waters as defined in Minnesota Statutes, section 105.37, subdivisions 14 and 15.

**Subd. 80.2. Reach** - this term is defined within the Definition section of the Floodplain Management Ordinance, Section 826.74.

**Subd. 81. Recreation, Public** - Includes all uses such as tennis courts, ball fields, picnic areas, and the like that are commonly provided for the public at parks, playgrounds, community centers, and other sites owned and operated by a unit of government for the purpose of providing recreation.

- Subd. 82. Recreation, Commercial** - Includes all uses such as bowling alleys, golf courses, driving ranges, and movie theaters that are privately owned and operated with the intention of earning a profit by providing entertainment for the public.
- Subd. 83. Recreation Equipment** - Play apparatus such as swing sets and slides, sandboxes, poles for nets, unoccupied boats and trailers not exceeding twenty feet in length, picnic tables, lawn chairs, barbecue stands, and similar equipment or structures but not including tree houses, swimming pools, play houses exceeding twenty-five square feet of floor area or sheds utilized for storage of equipment.
- Subd. 84. Deleted** (Ord. 401).
- Subd. 85. Refuse** - All putrescible and nonputrescible solid wastes, except body wastes, and including garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, and market and industrial solid wastes.
- Subd. 86. Regional Flood** - this term is defined within the Definition section of the Floodplain Management Ordinance, Section 826.74.
- Subd. 87. Registered Land Survey** - A survey map of registered land designed to simplify a complicated metes and bounds description, designating the same into a tract or tracts of a Registered Land Survey Number. See Minnesota Statutes 508.47.
- Subd. 88. Regulatory Flood Protection Elevation** - this term is defined within the Definition section of the Floodplain Management Ordinance, Section 826.74.
- Subd. 89. Riding Stable - Commercial** - Where horses are boarded for a fee or which has facilities for providing riding instructions, training, and sale of horses.
- Subd. 90. Riding Stable - Private** - Stables, barns and facilities for the keeping and riding of horses, both indoor and outdoor, as an Accessory Use to a Single Family Dwelling, and for no commercial use.
- Subd. 91. Riding Stable - Public** - Where horses are boarded but which provide horses for rent, for recreational use and operate as a livery stable.
- Subd. 92. Road** - A public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place or however otherwise designated, Ingress and egress easements shall not be considered roads.
- Subd. 93. Sanitary Landfill** - A method of disposing of solid waste on land in accordance with a preconceived plan and without creating nuisances or hazards to public health or safety but utilizing the principles of environmental planning and engineering to confine solid waste to the proper and smallest practical area, to reduce it to the smallest volume, and

to cover it with an adequate layer of earth at the conclusion of each day's operation, or at such more frequent intervals as may be required.

**Subd. 94. Selective Cutting** - The removal of single scattered trees.

**Subd. 94.1. Shore Impact Zone** - Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback.

**Subd. 95. Shoreland** - Land located within the following distances from public waters: 1,000 feet from the normal high water level of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on such a river or stream, whichever is greater. The practical limits of shorelands may be less than the statutory limits whenever the waters involved are bounded by natural topographic divides which extend landward from the water for lesser distances and when approved by the commissioner.

**Subd. 96. Shoreland Setback** - The minimum horizontal distance between a structure and the normal high water level.

**Subd. 97. Street** - A public right-of-way which affords primary means of access to abutting property, and shall also include avenue, highway, road or way.

**Subd. 98. Street, Collector** - A street which serves or is designed to serve as a traffic-way for a neighborhood or as a feeder to a major road.

**Subd. 99. Street, Major or Thoroughfare** - A street which serves, or is designed to serve, heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic.

**Subd. 100. Street, Local** - A street intended to serve primarily as an access to abutting properties.

**Subd. 101. Street Pavement** - The wearing or exposed surface of the roadway used by vehicular traffic.

**Subd. 102. Street Width** - The width of the right-of-way, measured at right angles to the centerline of the street.

**Subd. 103. Story** - That portion of a building included between the surface of any floor and the surface of the floor next above. A basement shall be counted as a story.

**Subd. 104. Structure** - Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/vehicles not meeting the exemption criteria specified in Section 826.89 of this ordinance and other similar items.

**Subd. 104.1. Structure, Multiple Family** - A building designed with 3 or more dwelling units exclusively for occupancy by 3 or more families living independently of each other, but sharing hallways and main entrances and exits.

**Subd. 105. Structural Alteration** - Any change, other than incidental repairs, which would prolong the life of the supporting members of a structure, such as bearing walls, columns, beams, girders or foundations.

**Subd. 106. Subdivision** - A subdivision is the dividing of a parcel of land into two or more parcels.

- (a) **Platted Subdivision** - if any resultant parcel is less than five (5) acres in area and less than three hundred (300) feet in width and the subdividing was done for the purpose of transfer of ownership to effectuate building development or if a new street or road is involved, regardless of the size of the parcel and/or its width, subsequent parcels must be platted in accordance with the terms and procedure of the City of Medina's Subdivision Regulations.
- (b) **Unplatted Subdivision** - A division of any parcel of land into two or more parts wherein all parts are at least five (5) acres and at least three hundred (300) feet in width and where no new road is involved. These do not require platting.

**Subd. 107. Travel Trailer** - A vehicle without motor power used or adaptable for living, sleeping, business, or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses, or skirting, which does not meet building code requirements and has been or reasonably may be equipped with wheels or other devices for transporting the structure from place to place. The term "Trailer" shall include camp car, camp bus, camper and house car. A permanent foundation shall not change its character unless the entire structure is erected in accordance with the Minnesota Building Code.

**Subd. 107.1. Townhouse** - A single family building attached by party walls with other single family buildings, and oriented so that all exits open to the outside.

**Subd. 108. Use** - The purpose or activity for which the land or building thereon is designated, arranged or intended, or for which it is occupied, utilized or maintained.

**Subd. 109. Use, Accessory** - A use subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.

**Subd. 110. Use, Non-Conforming** - Use of land, buildings or structures legally existing at the time of adoption of this Ordinance which does not comply with all the regulations of this Ordinance or any amendments hereto governing the zoning district in which such use is located.

**Subd. 111. Use, Permitted** - A public or private use which of itself conforms with the purposes, objectives, requirements, regulations and performance standards of a particular district.



**Subd. 112. Use, Principal** - The main use of land or buildings as distinguished from subordinate or accessory uses. A "Principal Use" may be either permitted or conditional.

**Subd. 113. Use, Conditional** - See Conditional Use.

**Subd. 114. Variance** - A variation of the provisions of this Ordinance where it is determined that strict application of the Ordinance would cause an undue hardship.

**Subd. 115. Wetland** - Land transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. Wetlands must have a predominance of hydric soils, be inundated or saturated by surface water or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions and, under normal circumstances, support a prevalence of hydrophytic vegetation.

**Subd. 115.1 Wind Energy Conversion System (WECS)** - A device or generating facility that is designed to convert the kinetic energy of wind power to electrical energy. The energy produced by such device may be used on site or distributed into the local electrical grid. These devices may also be referred to by such common names as wind charger, wind turbine and windmill.

**Subd. 116. Yard** - A required open space on a lot which is unoccupied and unobstructed by a structure from its lowest level to the sky except as permitted in this Ordinance. The yard extends along the lot line at right angles to such lot line to a depth or width specified in the setback regulations for the zoning district in which such lot is located.

**Subd. 117. Yard, Rear** - The portion of the yard on the same lot with the principal building located between the rear line of the building and the rear lot line and extending for the full width of the lot.

**Subd. 118. Yard, Side** - The yard extending along the side lot line between the front and rear yards to a depth or width required by setback regulations for the zoning district in which such lot is located.

**Subd. 119. Yard, Front** - A yard extending along the full width of the front lot line between side lot lines and extending from the abutting street right-of-way line to depth required in the setback regulations for the zoning district in which such lot is located.

**Subd. 120. Zoning Amendment** - A change authorized by the City either in the allowed use within a district or in the boundaries of a district.

**Subd. 121. Zoning District** - An area or areas within the limits of the City for which the regulations and requirements governing use are uniform.

#### **Section 825.09. General Provisions - Application of this Ordinance.**

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

welfare.

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

**Subd. 3.** Except as in this Ordinance specifically provided, no structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used, for any purpose nor in any manner which is not in conformity with this Ordinance.

**Section 825.11. Separability.** It is hereby declared to be the intention that the several provisions of this Ordinance are separable in accordance with the following:

**Subd. 1.** If any court of competent jurisdiction shall adjudge any provisions of this Ordinance to be invalid, such judgment shall not affect any other provisions of this Ordinance not specifically included in said judgment.

**Subd. 2.** If any court of competent jurisdiction shall adjudge invalid the application or any provision of this Ordinance to a particular property, building, or structure, such judgment shall not affect other property, buildings, or structures.

**Section 825.13. Existing Lots.** A lot or parcel of land in an unsewered residential district which was of record as a separate lot or parcel in the Office of the Hennepin County Recorder on or before the date of adoption of this ordinance may be used for single-family detached dwelling purposes provided it is at least one acre in size, and provided:

**Subd. 1.** it has frontage on a public right-of-way or private roadway.

**Subd. 2.** it was under separate ownership from abutting land upon or prior to the effective date of this Ordinance.

**Subd. 3.** all setback requirements of this Ordinance can be met;

**Subd. 4.** it can be demonstrated that safe and adequate sewage treatment systems can be installed to serve such permanent dwelling.

**Section 825.15. Non-Conforming Uses and Structures.**

**Subd. 1.** It is recognized that there are uses of land and structures which were lawful when established but which are no longer permitted under this ordinance. While such uses will not be summarily terminated, it is the purpose and intent of this ordinance to discourage the continuation of Types A and B nonconforming uses. Types A and B nonconforming uses are hereby declared to be incompatible with this ordinance and with the comprehensive plan. It is also the purpose and intent of this ordinance to discourage the enlargement, expansion or extension of Types A or B nonconforming uses or any increase in the impact of such uses on neighboring property.

It is further recognized that there are nonconforming uses in which the uses continue to be permissible but which are operated on sites or in structures which do not fully meet the development standards of this ordinance. It is the intent of this ordinance to distinguish between uses which are not permitted and those in which development standards or other incidents of development are not in full compliance with this ordinance. Types A and B nonconforming uses will be discouraged and not allowed to expand while Type C nonconforming uses will be allowed to continue in existence and expand under carefully regulated conditions.

**Subd. 2.** Types of nonconforming uses. This ordinance recognizes the following three types of nonconforming uses:

- (a) Type A nonconforming uses include land which is undeveloped or which contains improvements valued by the city assessor at less than \$10,000 and which is devoted to a use not permitted by this ordinance.
- (b) Type B nonconforming uses include land with improvements valued by the city assessor at \$10,000 or more and which is devoted to a use not permitted by this ordinance.
- (c) Type C nonconforming uses include developed property which is devoted to a use permitted by this ordinance but in which the site or structure is not in compliance with one or more development standard applicable within the zoning district.

**Subd. 3. Regulation of Type A Nonconforming Uses.** Type A nonconforming uses shall be regulated in accordance with the following:

- (a) No such use shall be expanded or enlarged to use a greater land area;
- (b) No such use shall be moved to a different area or portion of the lot;
- (c) No such use shall be reestablished if the use has been discontinued for more than 30 days;
- (d) No structure or improvement shall be enlarged, repaired or replaced; and
- (e) For the purposes of this subdivision, time shall be calculated as beginning on the day following the last day in which the nonconforming use was in full operation and shall run continuously thereafter.

**Subd. 4. Regulation of Type B Nonconforming Uses.** Type B nonconforming uses shall be regulated in accordance with the following:

- (a) There shall be no expansion, enlargement, intensification, replacement, structural change or relocation of any nonconforming use or any site element of any such use except to make it a permitted use. Normal building maintenance and non-structural repairs are excepted from this prohibition;

- (b) No nonconforming use shall be resumed if normal operation of the use has been discontinued for a period of more than one year. Following the expiration of one year, only uses which are permitted by this ordinance shall be allowed to be established;
- (c) Full utilization of the nonconforming use shall not be resumed if the amount of land or floor area dedicated to the use is lessened or if the intensity of the use is in any manner diminished for a period of more than one year. Following the expiration of one year, the nonconforming use may be used only in the manner or to the extent used during the preceding year. For the purposes of this subdivision, intensity of use shall be measured by factors including, but not be limited to, hours of operation, traffic, noise, exterior storage, signs, exterior lighting, types of goods or services offered, odors and number of employees;
- (d) Removal or destruction of a nonconforming use to the extent of more than 50 percent of its market value, excluding land, as determined by the city assessor, shall terminate the right to continue the nonconforming use;
- (e) If a nonconforming use is superseded or replaced by a permitted use, the nonconforming status of the property and any rights related thereto which arise under this ordinance shall terminate;
- (f) For the purposes of this subdivision, time shall be calculated as beginning on the day following the last day in which the nonconforming use was in full operation and shall run continuously thereafter; and
- (g) Notwithstanding anything to the contrary in this subdivision, a nonconforming use may be changed to another nonconforming use of lesser intensity. The planning commission shall hold a public hearing to consider a request to change nonconforming uses. The hearing shall be held following such notice as is required under this ordinance for an amendment to the zoning ordinance. The planning commission shall consider the relative intensities of the nonconforming uses based on the factors listed in this subdivision and other relevant matters and shall make a recommendation regarding the application to the city council. The planning commission may condition its approval if it deems such necessary to ensure compliance with this ordinance. The city council shall consider the matter after receipt of the recommendation of the planning commission or 60 days after completion of the application if the planning commission fails to make a recommendation. In all instances the applicant has the burden of proof regarding the relative intensities of uses.

**Subd. 5. Regulation of Type C Nonconforming Uses.** Type C nonconforming uses shall be regulated in accordance with the following:

- (a) A Type C nonconforming use which is destroyed to the extent of more than 60 percent of its market value, excluding land, as determined by the city assessor, shall be

replaced only in compliance with the development standards of the zoning district. A Type C nonconforming use destroyed to the extent of less than 60 percent of its market value, excluding land, as determined by the city assessor, may be rebuilt to previously existing dimensions.

- (b) Expansion of an existing structure, construction of a new structure or other intensification of a Type C nonconforming use may be permitted upon a finding by the city council of the following:
  - (1) the number and extent of nonconformities will be reduced in conjunction with the proposed construction; and
  - (2) the impact of nonconformities upon neighboring property will be reduced in conjunction with the proposed construction.
- (c) The planning commission shall consider a request to expand or intensify a Type C nonconforming use following such hearing as it deems appropriate. The planning commission may condition its approval if it deems such necessary to ensure compliance with this ordinance. The city council shall consider the matter after receipt of the recommendation of the planning commission or 60 days after completion of the application if the planning commission fails to make a recommendation.

**Subd. 6. Nonconformity; Eminent Domain.** When the taking under eminent domain of a portion of the land upon which there existed a lawful use prior to such taking results in such use becoming unlawful under this ordinance, such use is a nonconforming use and may be continued only under the provisions of this ordinance.

**Section 825.17. Zoning Coordination.** Any zoning district change on land adjacent to or across a public right-of-way from an adjoining community shall be referred to the Planning Commission, and the adjacent community for review and comment prior to action by the City Council granting or denying the zoning district classification change. A period of at least thirty days shall be provided for receipt of comments; such comments shall be considered as advisory only.

**ACCESSORY STRUCTURES**

**Section 825.19. Accessory Buildings.**

**Subd. 1.** No accessory building or structure shall be constructed on any residential lot prior to the time of construction of the principal building to which it is accessory.

**Subd. 2.** No accessory building shall exceed 30 feet in height, with the exception of buildings where agricultural use or farming is at the discretion of the City the primary use of the property. Building projections or features, such as chimneys, cupolas, and similar decorations that do not exceed 35 feet in height are permitted in residential districts. Accessory building height shall be measured as set forth in section 825.07, subdivision 12 of the city code.

**Subd. 3.** In residential districts, accessory buildings shall not be attached to, or erected, altered, or moved within 10 feet of the principal building. Accessory buildings in residential districts shall be governed by the following regulations:

<u>Lot Size</u>	<u>Bldg. Size*</u>	<u>No. Permitted</u>
10,000 sq. ft. or less	1,000 sq. ft.	one
10,001 sq. ft. to 20,000 sq. ft.	1,200 sq. ft.	one
20,001 sq. ft. to 43,560 sq. ft.	1,500 sq. ft.	one
more than one and up to three acres	2,000 sq. ft.	one
more than three and up to five acres	4,000 sq. ft.	two
more than 5 acres	5,000 sq. ft.	two

\* Building size shall be calculated by determining the footprint of the building.

**Subd. 4.** On residential properties more than five acres in area, the city council may grant a conditional use permit to allow accessory buildings which exceed an aggregate of 5,000 square feet in size or two in number. Conditional use permits shall be reviewed in accordance with the requirements of sections 825.39, et seq. of the city code and shall be subject to the additional accessory building standards set forth in section 826.98, subdivision 2 (o) of the city code.

**Subd. 5.** One additional accessory building that has a footprint of 120 square feet or less, such as a shed or similar type of building, is permitted. The footprint of this type of accessory building shall not count towards the maximum accessory building size allowance for the property as required above. In residential and agricultural districts, any detached accessory

building of less than 120 square feet may be located within five feet of the rear or side lot line. All detached accessory buildings exceeding 120 square feet must meet the setbacks required for principal buildings in the district.

**Subd. 6** In commercial and industrial districts, all accessory buildings shall meet the same front, side, and rear yard setback requirements as the principal building.

**Subd. 7.** The exterior materials and design features of accessory buildings in commercial or industrial districts must be compatible with the materials and features of the principal building.

**Subd. 8.** All accessory buildings in residential and agricultural districts shall be designed to be architecturally compatible with other buildings on the property. Accessory buildings should be designed to reflect the rural design and character of the city. The visual impact of the accessory building upon neighboring properties shall be minimized by the building's design and siting and by providing screening or additional landscaping, which shall be approved by the zoning administrator.

**Subd. 9.** The following residential improvements shall be excluded from the maximum allowed building sizes noted under Subd. 3 of this section:

- (a) unenclosed playhouses;
- (b) gazebos up to 120 sq. ft. in size and a maximum 12 feet in overall height;
- (c) outdoor swimming pools;
- (d) detached decks up to 120 sq. ft. in size;
- (e) patios;
- (f) tennis courts; and
- (g) loafing sheds used exclusively for horses and which are up to 300 square feet in size and meet setbacks for structures used to house, exercise or accommodate animals for the zoning district in which they are located.

**Section 825.21. Required Yards and Open Space.**

**Subd. 1.** No yard or other open space shall be reduced in area or dimension so as to make such yard or other open space less than the minimum required by this ordinance, and if the existing yard or other open space as existing is less than the minimum required, it shall not be further reduced.

**Subd. 2.** No required yard or other open space allocated to a building or dwelling group shall be used to satisfy yard, other open space, or minimum lot area requirements for any other building.

**Subd. 3.** The following shall not be considered to be encroachments on yard requirements.

- (a) Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, mechanical devices, cornices, eaves, gutters and the like, provided they do not extend more than two feet into a yard.

- (b) Yard lights and name plate signs as regulated herein.
- (c) Terraces, steps, uncovered porches, stoops or similar structures which do not extend in elevation above the height of the ground floor elevation of the principal building and do not extend to a distance of less than five feet from any lot line.
- (d) In rear yard: bays not to exceed a depth of two feet nor to contain an area of more than 20 square feet; fire escapes not to exceed a width of three feet; balconies, breezeways, detached outdoor picnic shelters and recreational equipment, and off-street parking except as regulated in Section 11.05, Subd. 3.

**Subd. 4.** Buildings may be excluded from side yard requirements if party walls are utilized or if the adjacent buildings are planned to be constructed as an integral structure and a conditional use permit is secured.

**Subd. 5.** Lots which abut on more than one street shall provide the required front yards along every street.

**Subd. 6.** Where adjoining structures existing on the effective date of this Chapter have a different setback from that required, the front setback of a new structure shall conform to the average prevailing setback in the immediate vicinity. On undeveloped lots in the shoreland overlay district which have two (2) adjacent lots with existing principal structures on both such adjacent lots, any new principal structure may be set back the average setback of the adjacent structures from the ordinary high water level but not within the shore impact zone, provided all dimensional and sanitary provisions of this ordinance are met.

**Subd. 7.** In areas served by private wells or private sewage disposal systems, the Zoning Administrator may require larger lots than required by the zoning districts if soil tests indicate that a larger lot is necessary to insure the sanitary function of such system.

**Subd. 8.** Structures utilizing an individual sewage treatment system shall be set back from the ordinary high water level of all public waters designated in section 827.03 of this ordinance the distance required by section 827.06 of this ordinance or such greater distance as may be required by any other applicable ordinance or regulation. No structure, except boat houses, piers, and docks, shall be placed at an elevation such that the lowest level, including basement floors, is less than three feet above the ordinary high water level or the highest known water level, whichever is greater. All structures shall also be constructed in compliance with section 826.75 et seq. of this ordinance.

**Subd. 9.** No building permit shall be issued for any lot or parcel which does not abut a dedicated street, or a private roadway in conformance with City regulations.

**Subd. 10.** No lot area shall be developed with impervious cover such as parking lot or driveway or buildings covering 60% or more of the lot area.



**Subd. 11.** No antenna exceeding a height of 1-1/2 times the principal structure's height or twice the distance of a structure's side yard setback, whichever is less, shall be permitted. All antennas in height five feet above the principal structure shall require a conditional use permit.

**Section 825.23. Access Drives and Access.**

**Subd. 1.** Access drives may not be placed closer than five (5) feet to any side or rear lot line. No access drive shall be closer than three (3) feet to any single or two family residence, no closer than five (5) feet to any multiple family building or commercial building. The number and types of access drives onto major streets may be controlled and limited in the interests of public safety and efficient traffic flow.

**Subd. 2.** Access drives onto county roads shall require a review by the County Engineer. The County Engineer shall determine the appropriate location, size, and design of such access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow.

**Subd. 3.** All lots or parcels shall have direct adequate physical access for emergency vehicles along the frontage of the lot or parcel from either an existing dedicated public roadway, or an existing private roadway approved by the City Council.

**Section 825.27. Essential Services.** Essential services and public utilities shall be permitted as authorized and regulated by State law and the City Code, it being the intention that such are exempt from the application of this Chapter when located within public easements.

**Section 825.29. Administration.**

**Subd. 1. Enforcing Officer.** The governing body of Medina shall appoint a Zoning Administrator who shall serve at the pleasure of the governing body.

**Subd. 2.** The Zoning Administrator shall enforce this Ordinance and shall perform the following duties:

- (a) Conduct inspections of buildings and use of land to determine compliance with the Zoning, Subdivision, Sewage Disposal and other land use regulations and issue required permits and keep necessary records thereof.
  - (i) Building permit applications shall be reviewed by the Zoning Administrator to determine compliance with the codes described in this subparagraph.
  - (ii) The Zoning Administrator shall describe in writing on the application any such code deficiencies and forward the application to the Building Inspector.
  - (iii) The Building Inspector, upon issuing the permit shall return the permit and the application to the Zoning Administrator who shall deliver the permit to the applicant only upon the correction or other resolution of the deficiencies.

- (b) Maintain permanent and current records of this Ordinance, including but not limited to, all maps, amendments, and special uses, variances, appeals and applications therefore.
- (c) Receive, file and forward all applications for appeals, variances, special uses or other matters to the designated official bodies.
- (d) Institute in the name of the City, any appropriate actions or proceedings against a violator as provided for.
- (e) Serve as an ex-officio non-voting member of the Planning Commission.

**Section 825.31. Board of Adjustments and Appeals.**

**Subd. 1. Establishment.** A board of adjustments and appeals is established. The city council shall serve as the board of adjustments and appeals.

**Subd. 2. Powers.** The board of adjustments and appeals shall have the following powers:

- (a) to hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the zoning administrator or any other person in the enforcement of this ordinance; and
- (b) to hear requests for variances pursuant to Section 825.45 of the City Code.

**Subd. 3. Staff Liaison.** The zoning administrator shall serve as staff liaison to the board of adjustments and appeals. The zoning administrator shall prepare reports and information for the board, and may attend its meetings and participate in hearings or discussions held by the board but shall not vote on any item before the board.

**Subd. 4. Procedures.** The board of adjustments and appeals shall consider all matters before it at a hearing. The board shall make its decision within a reasonable time and shall serve a copy of its order upon the appellant or petitioner by mail. The board may establish procedures for the conduct of proceedings before it. The board shall provide for a record of its proceedings which shall include the minutes of its meetings, its findings and the action taken on each matter heard by it, including the final order. The board shall make no decision on an appeal or petition for a variance until the planning commission has had a reasonable opportunity, not to exceed 60 days, to review and report to the board regarding the appeal or petition.

**Section 825.33. Planning Commission.**

**Subd. 1. Establishment.** A planning commission of seven members is established and shall constitute the planning agency of the city. Members of the planning commission shall be persons who have resided in the city for at least three years immediately preceding appointment. Members shall be appointed by the city council, shall serve staggered terms of three years and may be removed by a vote of two-thirds of the full city council. Terms shall

begin January 1. No person shall serve more than nine consecutive years on the planning commission. Any person who has served nine consecutive years may be appointed again after an interruption in service of at least one year.

**Subd. 2. Powers and Duties.** The planning commission shall have such powers and duties as may be conferred upon it by statute or ordinance. All of the planning commission's actions shall be advisory to the city council.

**Subd. 3. Organization.** The planning commission may elect from among its members such officers as it may deem appropriate. The planning commission may adopt bylaws or operational procedures for the conduct of its business. The bylaws or operational procedures may pertain to such matters as the planning commission deems appropriate but shall not be in conflict with any ordinance or statute.

**Subd. 4. Staff Liaison.** The zoning administrator or such other person as may be designated by the city administrator shall serve as staff liaison to the planning commission. The staff liaison shall prepare reports and information for the planning commission, and may attend its meetings and participate in hearings and discussions held by the commission but shall not vote on any item before the planning commission.

**Subd. 5. Recommendations.** The planning commission shall make recommendations to the city council on items before it within a reasonable time or such time as is prescribed by statute or ordinance. Failure by the planning commission to make a recommendation within the required period shall be deemed to be a denial unless the delay is agreed to by the applicant. The planning commission may condition its recommendations in order to effect the intent of the land use controls of the city. The planning commission shall accompany any recommendation of denial of an application with a statement of its findings regarding the matter.

**Subd. 6. Council Action.** The city council may adopt, modify or reject the recommendations of the planning commission by vote of a simple majority of those present, unless otherwise required by statute or ordinance.

## STAGING OF DEVELOPMENT TO BE SERVED BY CITY UTILITIES

### **Section 825.34. Staging and Growth.**

**Subd. 1. Purpose and Intent.** The purpose of this ordinance is to regulate the timing of growth and development within the city consistent with the Comprehensive Plan. Such regulations are in the public interest to ensure the preservation of the rural heart of the City and to promote contiguous growth in order to provide efficient and cost-effective services to residents.

### **Subd. 2. Urban Services Phasing Plan.**

- (a) Property shall not be served by city water or sanitary sewer utilities prior to the date described within the Urban Services Phasing Plan, except as regulated herein. The Urban Services Phasing Plan, herein referred to as the “Phasing Plan,” can be found within the Comprehensive Plan and is hereby incorporated by reference as if fully set forth herein and as it may be amended from time to time.
- (b) The city council, following consultation of the planning commission, may consider requests for flexibility to the date which city water and sanitary sewer utility services are available according to the Phasing Plan, as permitted within the Comprehensive Plan. Properties shall only be prioritized for early development when it is determined by the city that a proposed project significantly achieves the criteria described below in Subd. 4. Such flexibility shall be at the sole discretion of the city council, and be considered as described herein.

### **Subd. 3. Review Process for Phasing Plan Flexibility.**

- (a) In order for a project to be granted flexibility to the Phasing Plan, the property shall require rezoning to a Planned Unit Development (PUD) district, unless the city council waives this requirement. The council shall only waive the PUD requirement upon a determination that review and regulation of the project can be accomplished through the development standards, review procedures, and other relevant regulations of the existing zoning district.
- (b) The city council shall deny a request for flexibility to the Phasing Plan, except upon a finding that the proposed project significantly achieves the criteria identified in Subd. 4 below. The following represents the minimum standard which must be met in order for the city council to consider flexibility to the Phasing Plan. The city council shall have the discretion to require achievement of additional city objectives during the review process.
- (1) The crucial factor described in Subd. 4(a) shall be determined to be achieved; and
- (2) Fifty or more points shall be achieved amongst the various primary and secondary factors described in Subd. 4(b) and Subd. 4(c). The city may grant a maximum of ten points for each primary factor and a maximum of five points for each secondary factor.
- (c) The project proposer shall be responsible to reimburse the city for the costs incurred by the city in reviewing the request, including any additional costs of analyzing the extent to which the project meets the review criteria for Phasing Plan flexibility.

**Subd. 4. Criteria for Reviewing Requests for Phasing Plan Flexibility****(a) Crucial factor: Infrastructure Capacity.**

The city shall review existing sanitary sewer, water, and street infrastructure to determine if sufficient capacity exists to support all three of the following: 1) existing development previously approved by the City; 2) the proposed project; and 3) all other development which has been identified in the Comprehensive Plan for the current Phasing period. If existing capacity is determined to be insufficient for the proposed project, but the project proposes to make necessary improvements, the city may give consideration to such proposal, provided the improvements are constructed at no cost to the city or other property owners. The improvements shall also be consistent with city infrastructure plans and policies and be designed to serve other future development when appropriate.

**(b) Primary factors (maximum of 10 points per item):**

- (1) Sustainability. To achieve this objective, the project shall incorporate sustainable practices such as high energy efficiency, responsible construction materials and processes, site design which supports multiple transportation options, and other sustainable practices.
- (2) Natural resource protection and low impact development. To achieve this objective, the project shall incorporate low impact development practices and exceptional natural resource and ecological preservation. Meeting the minimum tree preservation and wetland protection regulations shall be equivalent to one point, with additional points granted for additional preservation.
- (3) Proximity to existing development. To achieve this objective, the project shall be adjacent to or a short distance from existing development which is served by city utility services. Property which is immediately adjacent to existing development shall be granted the most points, with fewer points granted with increased distance.
- (4) Open Space Protection. To achieve this objective, the project shall permanently protect open space from development. The number of points granted shall be based on the relative size of the open space area protected and the ecological value of the open space.
- (5) Limited impacts on city services. Points for this objective shall be based upon the expected need for city services, with fewer points granted for projects which have a higher potential impact. For example:
  - (i) Projects which can access regional roadways with limited distance on city streets may be granted additional points.
  - (ii) Commercial uses which create lower levels of traffic, particularly truck traffic, may be granted additional points.
  - (iii) Commercial uses with lower water usage may be granted additional points.

**(c) Secondary factors (maximum of 5 points per item):**

- (1) High quality architectural design and materials. Points may be granted for this objective for a number of different elements. Meeting the minimum requirements of the underlying zoning district with regards to building

materials, modulation, and other relevant standards would be equivalent to one point. Additional elements may include:

- (i) Varying types of home within a single-family development.
  - (ii) Utilization of more high quality building materials, such as brick and stone, than is required by the underlying zoning district.
  - (iii) Four-sided architecture.
- (2) Community amenities. Points may be granted for this objective based on a number of different amenities, examples of which include:
- (i) Private trails, recreational, or gathering areas beyond which is required as part of park dedication requirements.
  - (ii) High quality signage and lighting fixtures, to be maintained by the property owner(s).
- (3) Affordable housing (residential development only). To achieve this objective, affordability shall be guaranteed by a covenant or similar means approved by the city. The amount of points granted shall be based on the level of affordability as well as the proportion of units which are affordable.
- (4) Employment opportunities (commercial/business development only). Points for this objective shall be based on the number of employees, especially new positions which will be filled after the user begins operations within the city.
- (5) Other factors. The City may grant additional points to projects that meet objectives which are not specifically described above.

**Section 825.35. Zoning Amendments; Criteria for Granting Zoning Amendments.** The City Council may adopt amendments to the Zoning Ordinance and zoning map. Such amendments shall not be issued indiscriminately but shall only be used as a means to reflect changes in the goals and policies of the community as reflected in the Plan or changes in conditions in the City.

**Section 825.37. Procedure on Zoning Amendments.**

**Subd. 1.** An amendment to the text of the Ordinance or zoning map may be initiated by the City Council, the Planning Commission or by application of a property owner. Any amendment not initiated by the Planning Commission shall be referred to the Planning Commission for review and may not be acted upon by the Council until it has received the Planning Commission recommendations. Individuals wishing to initiate an amendment to the Zoning Ordinances shall fill out a zoning amendment application form signed by the property owner and submit it to the Zoning Administrator.

**Subd. 2.** The property owner applying for a zoning amendment shall fill out and submit to the Administrator a rezoning application form. A survey shall be attached if requested by the Zoning Administrator. A site plan must be attached at a scale large enough for clarity showing the following information:

- (a) location and dimensions of: lot, building, driveways, and off-street parking.
- (b) Distance between: building and front, side, and rear lot lines; principal building and

accessory buildings; principal building and principal buildings on adjacent lots.

- (c) Location of: signs, easements, underground utilities, septic tanks, tile fields, water wells, etc.
- (d) Any additional information as may reasonably be required by the Administrator and applicable sections of the Zoning Ordinance.

**Subd. 3.** A public hearing on the rezoning application shall be held by the Planning Commission within a reasonable time after the request for the zoning amendment has been received. Notice of said hearing shall be published in the official newspaper designated by the City Council at least ten (10) days prior to the public hearing. For land located in the RR, RR-1, RR-2 or RR-UR zoning districts, the City Clerk-Treasurer shall mail notice to the owners of property located within 1000 feet of the outer boundaries of the land proposed to be rezoned. For land located in any other zoning district, the City Clerk-Treasurer shall mail notice to the owner of property located within 350 feet of the outer boundaries of the land proposed to be rezoned. The notice shall include the description of the land and the proposed changes in zoning. The City Council may waive the mailed notice requirement for a city-wide amendment initiated by the Planning Commission or City Council. The Planning Commission shall make its report to the City Council within a reasonable time following the hearing recommending approval, disapproval or modified approval of the proposed amendment.

**Subd. 4.** The Medina City Council must take action on the application within the time period prescribed by state law. The person making the application shall be notified of the action taken. The Zoning Administrator shall maintain records of amendments to the text and zoning map of the Ordinance.

**Subd. 5.** No application of a property owner for an amendment to the text of the Ordinance or the zoning map shall be considered by the Planning Commission within the one-year period following a denial of such request, except the Planning Commission may permit a new application, if in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it.

## **CONDITIONAL USE PERMITS**

**Section 825.39. Conditional Use Permits; Criteria for Granting Conditional Use Permits.** In granting a conditional use permit, the Medina City Council shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use upon the health, safety, morals, and general welfare of occupants or surrounding lands. Among other things, the City Council shall consider the following:

- Subd. 1.** That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity.
- Subd. 2.** That the establishment of the conditional use will not impede the normal and orderly development of surrounding vacant property for uses predominant in the area.
- Subd. 3.** That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.
- Subd. 4.** That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.
- Subd. 5.** That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.
- Subd. 6.** The use, in the opinion of the City Council, is reasonably related to the overall needs of the City and to the existing land use.
- Subd. 7.** The use is consistent with the purposes of the zoning code and the purposes of the zoning district in which the applicant intends to locate the proposed use.
- Subd. 8.** The use is not in conflict with the policies plan of the City.
- Subd. 9.** The use will not cause traffic hazard or congestion.
- Subd. 10.** Existing businesses nearby will not be adversely affected by intrusion of noise, glare or general unsightliness.
- Subd. 11.** The developer shall submit a time schedule for completion of the project.
- Subd. 12.** The developer shall provide proof of ownership of the property to the Zoning Officer.



**Section 825.41. Additional Conditions.** In permitting a new conditional use or the alteration of an existing conditional use, the City Council may impose, in addition to those standards and requirements expressly specified in this Ordinance, additional conditions which the City Council considers necessary to protect the best interests of the surrounding area or the community as a whole. These conditions may include, but are not limited to the following:

- Subd. 1.** Increasing the required lot size or yard dimensions.
- Subd. 2.** Limiting the height, size or location of buildings.
- Subd. 3.** Controlling the location and number of vehicle access points.
- Subd. 4.** Increasing the street width.
- Subd. 5.** Increasing the number of required off-street parking spaces.
- Subd. 6.** Limiting the number, size, location or lighting of signs.
- Subd. 7.** Required diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
- Subd. 8.** Designating sites for open space.

Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the conditional use permit issued shall require an amended conditional use permit and all procedures shall apply as if a new permit were being issued. The Zoning Administrator shall maintain a record of all conditional use permits issued including information on the use, location, and conditions imposed by the City Council; time limits, review dates, and such other information as may be appropriate.

**Section 825.43. Procedure on Conditional Use Permits.**

**Subd. 1.** The applicant applying for a conditional use permit shall fill out and submit to the Zoning Administrator a conditional use application form. A site plan must be attached at a scale large enough for clarity showing the following information:

- (a) Location and dimensions of: lot, building, driveways, and off-street parking spaces.
- (b) Distance between: building and front, side and rear lot lines; principal building and accessory buildings; principal building and principal buildings on adjacent lots.
- (c) Location of: signs, easements, underground utilities, septic tanks, tile fields, water wells, etc.

- (d) Any additional information as may reasonably be required by the Administrator and applicable sections of the zoning ordinance, including but not limited to the following:
- (i) site plan drawn at scale dimensions with setback noted.
  - (ii) location of all buildings, heights, and square footage.
  - (iii) curb cuts, driveways, parking spaces.
  - (iv) drainage plan.
  - (v) type of business, proposed number of employees by shift.
  - (vi) proposed floor plan with use indicated and building elevations.
  - (vii) sanitary sewer and water plan with estimated use per day.
  - (viii) a lighting plan showing the lighting of parking area, walks, security lighting and driveway entrance lights.
  - (ix) a landscape plan with a schedule of the plantings.
  - (x) a survey.

**Subd. 2.** The Zoning Administrator shall refer the application to the Planning Commission for review.

**Subd. 3.** The Planning Commission shall hold a public hearing on the proposal. Notice of the public hearing shall be published in the official newspaper designated by the City at least ten (10) days prior to the hearing. For land located in the RR, RR-1, RR-2 or RR-UR zoning districts, notice of the hearing shall also be mailed to owners of property located within 1000 feet of the outer boundaries of the land to which the conditional use will be applicable. For land located in any other zoning district, notice shall be mailed to the owners of property located within 350 feet of the outer boundaries of the land to which the conditional use will be applicable. The notice shall include a description of the land and the proposed conditional use.

**Subd. 4.** The City Council must take action on the application within the time period prescribed by state law. The person making the application shall be notified of the action taken.

**Subd. 5.** If the City Council grants the conditional use permit, the City Council may impose conditions it considers necessary to protect the public health, safety and welfare, and such

conditions may include a time limit for the use to exist and operate.

**Subd. 6.** An amended conditional use permit application shall be administered in a manner similar to that required for a new conditional use permit. Amended conditional use permits shall include requests for changes in conditions and as otherwise described in this Ordinance.

**Subd. 7.** No application for a conditional use permit shall be resubmitted for a period of six (6) months from the date of said order of denial unless substantial new facts or information can be presented.

**Subd. 8.** If periodic review is included as a condition by which a conditional use permit is granted, the Zoning Administrator shall investigate and report to the City Council on the need for a public hearing to consider any failure of the applicant to meet the conditions imposed by the City Council. Such public hearing, if required, shall follow the procedure set forth in Section 825.43, Subd. 3 of this Code.

**Subd. 9.** In the event that the applicant violates any of the conditions set forth in the conditional use permit, the City Council shall have the authority to revoke the permit.

**Subd. 10.** Upon a change of tenancy in an existing conditional use permit in commercial or industrial uses, the Zoning Administrator is authorized to allow the new tenant to continue upon the same terms and conditions, making only such changes as are reasonably required to implement the intent of the City Council in issuing the original permit.

## VARIANCES

### **Section 825.45. Variances.**

**Subd. 1.** A variance from the provisions of the zoning ordinance may be granted by the board of appeals and adjustments consistent with this section, pursuant to Minn. Stat. section 462.357, subd. 6, as it may be amended from time to time.

#### **Subd. 2. Criteria for Granting Variances.**

- (a) A variance shall only be granted when it is in harmony with the general purposes and intent of the ordinance.
- (b) A variance shall only be granted when it is consistent with the comprehensive plan.
- (c) A variance may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. Economic considerations alone do not constitute a practical difficulty. In order for a practical difficulty to be established, all of the following criteria shall be met:
  - (1) The property owner proposes to use the property in a reasonable manner. In determining if the property owner proposes to use the property in a reasonable manner, the board shall consider, among other factors, whether the variance requested is the minimum variance which would alleviate the practical difficulty and whether the variance confers upon the applicant any special privileges that are denied to the owners of other lands, structures, or buildings in the same district;
  - (2) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
  - (3) The variance, if granted, will not alter the essential character of the locality.

**Subd. 3.** No variance may permit any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located, except that the city may permit as a variance the temporary use of a one family dwelling as a two family dwelling.

#### **Subd. 4. Procedures for the review of Variances.**

- (a) Application materials. The person applying for a variance must fill out and submit to the zoning administrator a variance request form. The applicant shall submit the following information along with the request form:
  - (1) A site plan at a scale large enough for clarity showing the following information:
    - (i) Location and dimensions of lot lines, buildings, driveways, and off-street parking spaces;
    - (ii) Distances between buildings and front, side, and rear lot lines; principal buildings and accessory buildings; and principal buildings and principal buildings on adjacent lots;
    - (iii) Location of any signs, easements, underground utilities, septic tanks, tile fields,

- water wells, or similar features;
  - (iv) Existing topography of the site and area within 100 feet of the property boundaries with contours at 2-foot intervals, including lot corner elevations;
  - (v) Proposed grading plan with contours at 2-foot intervals; and
  - (vi) Other information required by City Code.
- (2) A survey, if requested by the zoning administrator.
- (3) A narrative describing the requested variance and describing how the applicant believes the criteria described above have been satisfied.
- (4) Any other information requested by the zoning administrator, the planning commission, or the Board in order to allow reasonable review of the requested variance.
- (b) The planning commission must hold a meeting on the proposal and may provide a recommendation to the board. For land located in the RR, RR-1, RR-2, RPS or RR-UR zoning districts, notice of the meeting must be mailed at least 10 days prior to the meeting to owners of property located within 1000 feet of the outer boundaries of the land to which the variance will be applicable. For land located in any other zoning district, notice shall be mailed at least 10 days prior to the meeting to owners of property located within 350 feet of the outer boundaries of the land to which the variance will be applicable. The notice must include a description of the land and the proposed variance.
- (c) After the planning commission has completed its review or after 60 days have elapsed since the commission began its review, whichever occurs first, the variance must be referred to the board of adjustment and appeals. The board shall hold a hearing after which the board may grant, deny or condition approval of the variance on such terms as it considers reasonably necessary to protect the public health, safety or welfare and to limit the impacts created by the variance. Such conditions may include a limit on the period of time the use benefiting from the variance may exist or operate. Conditions shall be directly related to and shall bear a rough proportionality to the impact created by the variance. The board must make its decision within the time period prescribed by state law. The applicant shall be notified of the action taken.
- (d) Any variance granted by the board of adjustment and appeals is valid for one year following final action by the board and must be used within such period of time. After such period, the variance is null, void and of no effect unless the board grants an extension upon request by the variance holder prior to the expiration of the year. Prior to granting any extension, the board must find that the owners of neighboring properties will not be adversely affected by the extension. A variance is deemed to have been used if, prior to the expiration of one year or such extension as the board may grant, a building permit has been issued and work has begun.

**Section 825.47. RESERVED.**

## **BUILDING PERMITS**

### **Section 825.48. Building Permits.**

**Subd. 1.** For the purpose of enforcing this Ordinance, a building permit shall be required of all persons intending to erect, alter, or move any building or structure, including agricultural buildings or structures.

**Subd. 2.** Persons requesting a building permit shall fill out a building permit form available from the Zoning Administrator.

**Subd. 3.** Completed building permit forms and a fee as may be established by resolution of the City Council shall be submitted to the Zoning Administrator. If the proposed development conforms in all respects to the Zoning Ordinance and all other codes and regulations of the City, a building permit shall be issued by the Zoning Administrator within a reasonable time.

**Subd. 4.** For any required screening, landscaping, or other improvements, the City Council may request that any applicant file with the Clerk-Treasurer a bond or other financial guarantee in the amount of one and one-half times the Engineer's estimate of the cost of the required improvement.

### **Section 825.51. Permit Fees and Expenses.**

**Subd. 1.** Any person submitting an application for a zoning amendment, plat or other subdivision of land, conditional use permit, variance, appeal, building permit, or other approval required by this Code, shall submit the following: (a) a completed application; (b) the administrative fee deposit established by the city council; by resolution and (c) an agreement, on the form provided by the city, to reimburse the city for its costs, including all engineering, planning, legal, administrative and inspection expenses incurred by the city in processing the application. Notwithstanding any fee deposit schedule established by the city council, the zoning administrator is authorized to require a larger deposit in an amount not to exceed one hundred (100%) percent of the actual expenses estimated by the zoning administrator likely to be incurred by the city. Payment of the administrative fee deposit and execution of the fee agreement shall be required prior to an application being considered filed and subject to the processing. All deposits shall be a credit against the obligation of the applicant as set forth in the agreement.

**Subd. 2.** As the city processes the application, the zoning administrator shall from time to time review the adequacy of the deposit with respect to the expenses already incurred and likely to be incurred by the city and shall require the applicant to submit such supplemental deposit as the zoning administrator deems necessary to reimburse the city for all expenses. If the applicant does not submit the supplemental deposit required by this subdivision within a reasonable period of time after notification by the zoning administrator, the city may suspend processing the application until the deficiency is corrected.

**Subd. 3.** Upon the termination of the application, by approval, denial, withdrawal, or any other means, all expenses incurred by the city shall be immediately payable by the applicant. Any deposit in excess of the city's expenses shall be refunded to the applicant. No permits shall be issued, no construction or development shall commence, and no use of the property shall be made until all fees are paid in full. In the event that payment of expenses is not made within a reasonable time after demand, the zoning administrator is authorized to file a lien upon the subject property or other property of the applicant pursuant to Minnesota Statutes, § 514.67.

### **PRINCIPAL USE**

**Section 825.53. Principal Use.** No lot or parcel shall contain more than one principal use unless permitted by planned unit development under section 827.25 of this code. Advertising signs shall be considered the principal use of the lot or parcel upon which they are located. Nothing in this section shall be deemed to make advertising signs a permitted or conforming use. For purposes of this section only, agriculture shall not be considered a principal use.

## SITE PLAN REVIEW

### **Section 825.55. Site Plan Review – Application.**

**Subd. 1.** All new commercial, business, and multiple family residential uses and developments shall require site plan review under this section prior to the issuance of any permits. In addition, all changes, additions and expansions of existing commercial, business, and multiple family residential uses and developments shall require site plan review prior to the issuance of any permits unless the change, addition or expansion qualifies for review by city staff as a minor change pursuant to Subd. 4 of this Section.

**Subd. 2.** The owner or developer shall submit an application for site plan review to the zoning administrator. The application shall be accompanied by the following information and documentation to the extent it is not otherwise required by another land use application made by the owner or developer for the same site at the same time:

- (a) legal description of the property;
- (b) identification of developer and owner, if different;
- (c) survey showing property boundaries; existing improvements, including utilities, drainage tiles and wells; topography of the site and area within 100 feet of the property boundaries with contours at 2-foot intervals; significant trees and existing vegetation which would meet ordinance landscaping requirements; easements of record, including the dimensions thereof; and wetlands;
- (d) site plan of proposed improvements showing all buildings, including details of loading docks; parking areas; driveways; access points; berms; easements; and adjacent public or private streets;
- (e) floor plans and building elevations, including list of building materials, showing a sketch or computer-generated image of proposed buildings as viewed from surrounding uses;
- (f) site plan of existing uses on property in non-residential zones adjacent to the site and on property in residential zones within 720 feet of the site, measured at the closest point, showing buildings, including loading docks, entrances and other significant features and illustrating sight lines to proposed uses;
- (g) proposed grading plan with contours at 2-foot intervals;
- (h) soils map;
- (i) tree preservation plan;
- (j) landscaping plan, including species and sizes;



- (k) drainage and storm water plan;
- (l) utility plan;
- (m) sign plan;
- (n) lighting plan;
- (o) table of all proposed uses by type and square footage, including estimated water and sanitary sewer usage;
- (p) schedule of staging or timing of development; and
- (q) application fee.

Upon receipt of an application for site plan review, the zoning administrator may determine that, due to the nature or scale of the development, not all of the above information must be submitted or that additional information must be submitted in order to allow reasonable review of the development.

**Subd. 3.** Upon receipt of an application for site plan review, the zoning administrator shall determine whether the application is complete. If the application is not complete, the zoning administrator shall notify the applicant in writing that the application is not complete and shall specify the additional documentation or information that the applicant will be required to submit before the application will be considered complete. When the application is complete, the zoning administrator shall refer the matter to the planning commission for review.

**Subd. 4. Minor changes:**

- (a) The following changes may be reviewed and approved by the zoning administrator or their designee upon a written finding and filing the report in the property file that the proposal meets the requirements of the district and is in compliance with the relevant ordinance standards. The zoning administrator may determine that review of minor changes by the Planning Commission and City Council is required if deemed appropriate based upon the nature of the changes. Review by the Planning Commission and City Council shall be required if made in connection with another request which requires review, including but not limited to conditional use permits, subdivisions, and variances.
  - 1. Change in the use of the property if the proposed use complies with relevant ordinance standards.
  - 2. Expansion of an existing building, provided the proposed expansion complies with relevant ordinance standards and does not exceed the greater of the following amounts in a single year:
    - (a) 10% of the existing floor area, or
    - (b) 1,000 square feet of floor area.

3. Changes to the exterior walls or surface of the building, if the proposed exterior surface complies with relevant ordinance standards.
  4. Expansion(s) of an existing parking lot which complies with relevant ordinance standards and which do(es) not cumulatively exceed the greater of the following amounts within a consecutive 24-month period:
    - (a) 25% of the existing parking lot area; or
    - (b) 10,000 square feet.
  5. Outdoor lighting changes provided the new lighting complies with relevant ordinance standards, including maximum output or photometric requirements.
  6. Changes to the topography involving less than 1,000 cubic yards of disturbance, provided such changes comply with relevant ordinance standards.
  7. An addition to exposed rooftop equipment if the addition is less than 64 cubic feet and complies with relevant ordinance standards.
  8. Construction of an accessory structure which complies with relevant ordinance standards and which does not exceed the lesser of the following:
    - (a) 20% of the floor area of the principal structure; or
    - (b) 1,000 square feet of floor area.
- (b) A request for site plan review of minor changes shall include all information described in 825.55 Subd. 2, including relevant City fees.
- (c) Any person aggrieved by a decision of the staff under this subdivision may appeal to the city council. Appeals must be submitted in writing and must be received by the staff within 30 days of the date the staff's written report is filed. The city council shall decide an appeal within 60 days of the date of receipt of the appeal.

#### **Section 825.56. Site Plan Review - Planning Commission Review.**

**Subd. 1.** Except as provided in Section 825.55, Subd. 4, the planning commission shall review the proposed site plan on the basis of the information and documentation submitted by the applicant and any other information available to it. The review may occur separately or in conjunction with any other city hearing or review required under state statute, this ordinance or other applicable law regarding the same property or development and occurring at the same time.

**Subd. 2.** Except as provided in Section 825.55, Subd. 4, the planning commission shall review the proposed site plan to determine whether it is consistent with the requirements of this ordinance, including the applicable development standards and the purpose of the zoning district in which the property is located. Following the review, the planning commission shall recommend that the site plan be approved, approved with conditions or denied. The planning commission shall forward its recommendation to the city council.

#### **Section 825.59. Site Plan Review - City Council Review.**

**Subd. 1.** Except as provided in Section 825.55, Subd. 4, the city council shall consider the recommendation of the planning commission after receipt of its report and may consider any additional information or conduct such additional review, if any, as it determines would serve the public interest. The city council shall make its decision to approve, approve with conditions or deny the site plan. The city council may condition its approval in any manner it deems reasonably necessary in order to promote public health, safety or welfare, to

achieve compliance with this ordinance, or to accomplish the purposes of the district in which the property is located.

**Subd. 2.** Any site plan approval granted by the city council shall be valid for a period of one year following final action by the city council or such longer period, not to exceed one additional year, as the council may specify. After the expiration of that period, the approval granted by the city council shall be null and void and no permits may be issued pursuant to the approval. Prior to the expiration of the period, the city council may grant an extension for good cause upon Medina City Code written request by the applicant.

**Subd. 3.** An application to amend an approved site plan shall be reviewed under this section in the same manner as an initial application for a site plan review except that any change, addition or expansion which qualifies as a minor change as specified in the standards applicable for the district in which the property is located shall be subject to an administrative site plan review by the zoning administrator.

## **CONCEPT PLAN REVIEW**

**Section 825.61. Concept Plan Review.** Concept plan review is an initial presentation of a land use application which involves a modification to the city’s established land use policy, a substantial public investment in infrastructure improvements or a project of community-wide significance.

**Section 825.63. Purpose.** Concept plan review serves as the basis for informal conceptual discussion between the city and the applicant regarding a specific land use proposal. It is designed to assist the applicant in preparing a formal land use application for the city’s consideration. The purpose of the concept plan review is to identify significant issues, suggest design considerations and discuss requirements of the city’s official controls. Concept plan review is optional, not mandatory, for qualified applicants.

**Section 825.65. Projects Eligible For Concept Plan Review.** The city has well-established review procedures for all land use applications and finds that, in most instances, such procedures are adequate and appropriate. It is not the city’s intent to replace regular land use reviews with concept plan reviews. However, in certain circumstances, projects may benefit from concept plan review prior to regular application. Such applications are generally limited to those involving the exercise of legislative discretion by the city council, requiring public expenditures or likely to have community-wide significance. Accordingly, applications involving the following are eligible for concept plan review:

- (a) Rezoning;
- (b) Comprehensive Plan amendments;
- (c) Projects requiring significant public investment in infrastructure improvements or which are requesting financial assistance from the city in order to support achievement of established city goals or objectives;
- (d) Projects which require flexibility from general design or development standards when such flexibility is described in the zoning ordinance; and
- (e) Planned Unit Developments involving more than 10 acres.

Other projects are not generally eligible for concept plan review. However, the city reserves the right to consider concept plan review for other projects if it deems it to be in the city’s best interest. Nothing herein shall be deemed to supercede section 834.09, subd.1 of the code of ordinances regarding concept plan review for projects within the Uptown Hamel area.

**Section 825.67. Application for Concept Plan Review.** Concept plan review applications shall be submitted to the zoning administrator and be accompanied by relevant fees as established by the city. Concept plans are not expected to be fully designed and are not required to be completed by engineers and architects. However, the concept plan shall clearly and accurately convey the proposed concept in relation to existing conditions on the site. Applicants should be aware that the feedback which may be provided by city staff and officials is heavily dependent on the specificity and quality of the information submitted for review. General information on the following subjects shall be submitted unless deemed unnecessary by the zoning administrator:

- (a) A short narrative from the applicant which includes an overview of the project;
- (b) A project location map, including layout of the proposed property and/or structures with references to existing development on adjacent properties;
- (c) General information related to existing site conditions, especially approximate locations of natural resources such as wetlands, floodplains, and areas of significant trees;
- (d) General topographic and grading information. Although surveyed topography is not required in all circumstances, it is important that the concept plan reflects the potential impact on site topography;
- (e) Tentative street arrangements;
- (f) Amenities to be provided such as recreational areas, open space, and trails;
- (g) Conceptual sanitary sewer, water and storm drainage facilities;
- (h) Proposed density of the project, including the number of housing units and square footage of other uses;
- (i) Conceptual exterior building elevation appearance;
- (j) Staging and timing of the project; and
- (k) Such other information as the city may suggest.

**Section 825.69. Review; Resubmission.**

**Subd. 1.** Upon receipt of application for concept plan review, the zoning administrator shall review the application and make such comments or recommendations as may be appropriate.

**Subd. 2. Planning Commission Review.** The planning commission shall hold a public hearing on the concept plan after receipt of a report from the zoning administrator.

- (a) Notice of the public hearing shall be mailed by the city at least ten days prior to the date of the public hearing to each owner of property situated wholly or partly in Medina and within 1,000 feet of the property to which the review applies, if the applicant's property is zoned RR, RR-1 or RR-2. For property located in any other zoning district, notice shall be mailed to each owner of property situated wholly or partly in Medina and within 350 feet of the property to which the review applies.
- (b) The presentation to the planning commission by the applicant shall be conducted in accordance with such procedures as may be established by the planning commission. The planning commission may make such comments or recommendations regarding the concept plan it deems appropriate.

**Subd. 3. City Council Review.** The city council shall review the application following review by the planning commission. The presentation to the city council by the applicant shall be conducted in accordance with such procedures as may be established by the city council. The city council may offer such comments or suggestions regarding the concept plan as it deems appropriate.

**Subd. 4. Resubmitted Concept Plans.** An applicant may revise a concept plan and submit it again for a second review following receipt of the city council's comments. Planning

commission review of the revised concept plan shall be subject to the notice and public hearing requirements of Subd. 2 above. However, the applicant must show considerable change from the first concept plan, and comments received through the first concept review must be addressed prior to review of a second concept plan. No concept plan for the same or a similar project shall be accepted or reviewed by the city more than twice within 12 months of the date of the initial application.

**Section 825.71. Effect of Concept Plan Review.** Concept plan review is for the purpose of discussion and comment only. Any opinions, comments or observations provided to the applicant by the city staff, planning commission or city council shall be considered advisory only and shall not constitute a binding decision on the proposed project. The applicant may not infer any future approval of a formally submitted land use application based upon the concept plan review and no vested rights shall accrue as a result thereof.

## **INTERIM USES**

**Section 825.73. Interim Uses- Purpose.** The purpose of this ordinance is to allow the establishment or continuation of interim uses under specific and regulated conditions. Interim uses may be allowed by permit if the following conditions are met:

- (a) the use conforms to the zoning regulations;
- (b) the date or event that will terminate the use can be identified with certainty;
- (c) permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future; and
- (d) the user agrees to any conditions that the city council deems appropriate for permission of the use.

**Section 825.75. Application.**

**Subd. 1.** The land owner or user shall submit an application for an interim use permit to the zoning administrator. The application shall be accompanied by the following information and documentation:

- (a) legal description of the property;
- (b) identification of the owner and user, if different;
- (c) survey showing property boundaries; existing improvements, including buildings, parking areas, storage areas, utilities, drainage tiles and wells; topography of the site and area within 100 feet of the property boundaries with contours at 2-foot intervals; significant trees and existing vegetation; easements of record, including the dimensions thereof; and wetlands;
- (d) site plan of proposed improvements showing all buildings, parking areas, storage areas, driveways, access points, berms, easements, and adjacent public or private streets;
- (e) floor plans and building elevations, including list of building materials, showing a sketch or computer-generated image of proposed buildings as viewed from surrounding uses;
- (f) site plan of existing uses on property in non-residential zones adjacent to the site and on property in residential zones within 720 feet of the site, measured at the closest point, showing buildings, entrances and other significant features and illustrating sight lines to the proposed use;
- (g) proposed grading plan with contours at 2-foot intervals;

- (h) soils map;
- (i) tree preservation plan;
- (j) landscaping plan, including species and sizes;
- (k) drainage and storm water plan;
- (l) utility plan;
- (m) sign plan;
- (n) lighting plan;
- (o) table of all proposed uses by type and square footage, including estimated water and sanitary sewer usage;
- (p) statement of the date or event terminating the use; and
- (q) application fee.

**Subd. 2.** Upon receipt of an application for an interim use permit, the zoning administrator shall review the material submitted and determine whether the application is complete. If the application is not complete, the zoning administrator shall notify the applicant in writing and shall specify the additional documentation or information that the applicant will be required to submit before the application will be considered complete. When the application is complete, the zoning administrator shall refer the matter to the planning commission for review and public hearing.

#### **Section 825.77. Planning Commission Review; Public Hearing.**

**Subd. 1.** The planning commission shall review the proposed interim use permit on the basis of the information and documentation submitted by the applicant and any other information available to it. The planning commission shall hold a public hearing on the proposed interim use. Notice of the time, place and purpose of the hearing shall be published in the city's official newspaper at least ten days prior to the date of the hearing. For land located in the RR, RR-1, RR-2 or RR-UR zoning districts, notice shall also be mailed at least ten days prior to the hearing to each owner of affected property and property situated wholly or partly within 1000 feet of the property to which the interim use relates. For land located in any other zoning district, notice must also be mailed at least 10 days prior to the hearing to each owner of property situated wholly or partly within 350 feet of the property to which the interim use permit relates.

**Subd. 2.** The planning commission shall review the proposed interim use to determine whether it is consistent with the requirements of this ordinance. Following the public hearing, the planning commission shall recommend that the interim use be approved with conditions or denied. The planning commission shall forward its recommendation to the



city council along with a list of suggested conditions if it recommends approval of the permit.

**Section 825.79. City Council Review; Amendment.**

**Subd. 1.** The city council shall consider the recommendation of the planning commission after receipt of its report and may consider any additional information or conduct such additional review, if any, as it determines would serve the public interest. The city council shall approve with conditions or deny the interim use permit. The city council shall condition its approval in any manner it deems reasonably necessary in order to promote public health, safety or welfare and to achieve compliance with this ordinance. The city council may require the applicant to enter into an agreement including such provisions as it deems reasonably required to ensure compliance with this ordinance and the terms and conditions of the city's approval.

**Subd. 2.** An application to amend an approved site plan shall be reviewed under this section in the same manner as an initial application for an interim use permit.

**Section 825.81. Termination.** An interim use shall terminate upon the date or the occurrence of the event established in the permit or upon such other condition specified by the city. Notwithstanding anything herein to the contrary, an interim use may be terminated by a change in zoning regulations applicable to the use or land upon which it is located.

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**Amendment History of this Section**

*February 19, 1985 – Ord. 217-A – Amended 825.07 Subd. 8 regarding the definition of a boathouse. Also amended 825.21, Subd. 6 and 825.21 Subd. 8 regarding setbacks in the Shoreland District.*

*June 16, 1987 – Ord. 224 – Amended Subd. 12 of Subsection 825.07 and Subsection 828.25 regarding residential building height.*

*January 15, 1986 – Ord. 226 – Amended Subsection 825.19 regarding Accessory Buildings.*

*August 4, 1987 – Ord. 235 – Amended Subsection 825.19 regarding Accessory Buildings*

*February 4, 1992 – Ord. 261 – Amended Subd. 29 of Subsection 825.07 regarding accessory structures to an essential service.*

*March 9, 1992 – Ord. 262 – Added Subd. 49.1 to Subsection 825.07 and amended Subd. 29 of Subsection 825.07 regarding Home Occupations.*

*March 9, 1992 – Ord. 263 – Amended Subsection 825.47 regarding the valid time of variances.*

*February 2, 1993 – Ord. 274 – Amended Subd. 1, 2, and 3 of Subsection 825.51 relating to the payment of application fees.*

*June 1, 1993 – Ord. 275 – Amended Shoreland restrictions. Amended Subsection 825.07: subd. 8*

*(height changed, “exclusive of safety rails” added), 11 (shoreland measurement change), 23.1 (addition), 25 (“hotel, motel...” exclusions added, language change), 31 (shoreland overlay language addition), 49.3 (addition), 49.4 (addition), 73 (redefinition of “ordinary high water mark”), 80.1 (addition), 94.1 (addition), 96.1 (addition), 115 (redefinition of “wetland”). Amended Subsection 825.21: subd. 6 (slight requirement change for shoreland setbacks), 8 (change of structure setback/placement requirements with regard to water). Amended 827.01 (near total rewriting of the shoreland ordinance), Subd. 3 of Subsection 827.29 (“subdivision does not apply to setbacks req’d by 827.01”), and 828.63 (part b added to existing language). Many pedestrian organizational and small grammar edits throughout.*

**April 19, 1994** – Ord. 278 – Amended Subsection 825.31: subd. 1 and 2 (total rewrite of board of adjustments role and powers), 3 (zoning administrator as liaison to board of adj.), 4 (board of adj. procedures added). Amended Subsection 825.33: subd 1,2 and 3 (total rewrite of planning commission description and powers/duties), 4 (zoning administrator as liaison to plg. comm.), 5 and 6 (add procedure for recommendations to council).

**October 4, 1994** – Ord. 280 – Added Subd. 75.5 to Subsection 825.07 for Planned Unit Developments.

**February 7, 1995**—Ord 283—Replaced previous language of Section 825.15 relating to nonconforming uses with the language from Ord. 283.

**November 19, 1996**—Ord 293—Added and amended definitions in Subsection 825.07 regarding the floodplain district.

**June 3, 1997** – Ord. 295 – Amended Subsection 825.07 regarding land excavation and reclamation.

**May 20, 1997** – Ord. 296 – Amended Subsection 825.45 regarding individual sewage treatment systems.

**March 2, 1999** – Ord 308—Added new Subsection 825.53 relating to principle uses.

**March 20, 2001** - Ord. 332 – Added Subsections 825.55, 825.57, and 825.59 regarding site plan review.

**June 19, 2001** - Ord. 344 - Amended Subd. 29 of Subsection 825.07 regarding essential services and wireless service facilities.

**December 16, 2003** – Ord. 360 – Added Subsections 825.61, 825.63, 825.65, 825.67, 825.69, and 825.71 regarding Concept Plan Review Procedures.

**February 17, 2004** – Ord. 363 – Added Subd. 49.5 to Subsection 825.07 and Subsections 825.73, 825.75, 825.77, 825.79, and 825.81 regarding Interim Uses.

**July 20, 2004** – Ord. 371 – Amended Subd. 12 of Subsection 825.07 regarding the definition of building height.

**August 3, 2004** – Ord. 372 – Amended Subsection 825.69, by adding clause b) regarding the resubmission of Concept Plan Reviews.

**August 3, 2004** – Ord. 373 – Amended Subd. 1 of Subsection 825.33., changing the number of members on the planning commission from nine to seven.

**March 1, 2005** – Ord. 383 – Amended Subds. 1 and 4 of Subsection 825.33, setting the beginning of a

*planning commission member's term at January 1 and also allowing the city administrator the ability to appoint a designated staff liaison to the Commission.*

**March 21, 2006** – Ord. 401 – Deleted Subds. 31 and 84 of Subsection 825.07, regarding definitions of excavation and land reclamation.

**April 18, 2006** – Ord. 403 – Amended Subds. 57.1 and 64 of subsection 825.07 regarding definitions of Flag Lots and Lot Width.

**August 15, 2006** – Ord. 411 – Amended subsection 825.69 regarding Concept Plans, adding a public hearing at the Planning Commission and mailed notifications to be sent.

**October 17, 2006** – Ord. 417 – Amended sections 825.37; 825.43; 825.47; and 825.77 relating to notice requirements.

**August 8, 2007** – Ord.428 – Added Subsection 106.1 defining Therapy, Animal-Assisted (or “AAT”).

**January 15, 2008** – Ord. 436 – Amended Section 825.07, deleting Subd. 106.1 relating to AAT.

**October 7, 2008** – Ord. 451 – Amended Sections 825.07 and 825.19 regarding definitions and accessory buildings.

**March 17, 2009** – Ord. 458 – Added Section 825.07 Subd. 41.1 Floor Area and Subd. 52.1 Loading Dock.

**July 21, 2009** – Ord. 465 – Amended Section 825.07 Subd 47.1 Grazable Acres.

**September 15, 2009** – Ord. 468 – Amended Section 825.07 Subd 104.1 Structure, Multiple Family.

**November 4, 2009** – Ord. 470 – Amended Sections 825.61 through 825.71 regarding concept plan review process.

**February 16, 2010** – Ord. 477 – Amended Sections 825.55, 825.56, and 825.59 regarding site plan review.

**August 17, 2010** – Ord. 487 – Added Section 825.34 pertaining to the timing of growth and development to be served by city utilities.

**November 15, 2011** – Ord. 514 – Added Subds. 25.1 and 47.2 of Subsection 825.07 regarding definitions of Dwelling Units, Accessory and Habitable Space.

**January 17, 2012** – Ord. 518 – Deleted Section 825.25 regarding street setbacks on property abutting county or state highways.

**October 16, 2012** – Ord. 537 – Amended 825.31, 825.45 and 825.47 regarding variances.

**August 5, 2015** – Ord. 585 – Amended 825.55, 825.56, and 825.59 regarding site plan review processes.

**September 20, 2016** – Ord. 603 – Amended 825.07 regarding definitions that had been moved to the Definition section of the Floodplain Management Ordinance, Section 826.74.