

**CHAPTER 8**

**LAND AND BUILDING REGULATIONS**

**827. ZONING - ZONING DISTRICTS**

**SHORELAND OVERLAY DISTRICT**

**Section 827.01. Shoreland Overlay District - Purpose and Authorization.**

- (a) The City recognizes the consequences to the public health, safety and general welfare from the indiscriminate use of the shorelands of public waters. The purpose of this district is to control the density and location of development in the shorelands of the public waters of the City in order to preserve and enhance the quality of surface waters, preserve the economic and natural environmental characteristics of shorelands, and provide for the wise use of public waters and related land resources in the City.
  
- (b) This ordinance is adopted in compliance with the Shoreland Development Act, Minnesota Statutes, sections 103F.201 et seq. and the regulations promulgated thereunder and the Municipal Planning Act, Minnesota Statutes, § 462.351 et seq. It is intended to be in conformance with state requirements and to establish minimum standards for development within the shoreland overlay district.

**Section 827.03. Water Bodies Included in the Shoreland Overlay District.**

- (a) The regulations of the shoreland overlay district in the City of Medina shall apply to all lands within 1000 feet of the ordinary high water level of the following public waters:

			DNR PROTECTED WATERS
<u>NAME OF LAKE</u>	<u>CLASSIFICATION</u>	<u>INVENTORY ID#</u>	
Mooney	RD	27-134P	
Peter	RD	27-147P	
Winterhalter	NE	27-148P	
Spurzem	NE	27-149P	
Unnamed	NE	27-150P	
School	NE	27-151W	
Half Moon	NE	27-152P	
Ardmore	RD	27-153P	
Katrina	NE	27-154P	
Unnamed	NE	27-155W	
Thies	NE	27-156W	
Wolsfeld	NE	27-157P	
Holy Name	RD	27-158P	
Independence	RD	27-176P	

NE - Natural Environment Lake  
 RD - Recreational Development Lake

- (b) The regulations of the shoreland overlay district shall apply to all lands within 300 feet of the following tributary streams:

NAME OF TRIBUTARY STREAM	FROM	TO
County Ditch No. 16	Unnamed Basin 27-494W	City limits in Section 4
Unnamed Tributary	Unnamed Basin 27-495W	Thomas Lake 27-501W
Unnamed Tributary	Highway 55 in NE 1/4 of Section 6	City limits in SW 1/4 of Section 6
Unnamed Tributary	Unnamed Basin 27-150P	City limits in Section 27
Unnamed Tributary	Holy Name Lake 27-158P	City limits in Section 26
Elm Creek	Unnamed Basin 27-481W	City limits in Section 12
Unnamed Tributary	Lake Medina 27-146P	Elm Creek in Section 11
Unnamed Tributary	Pioneer Trail in the NE 1/4 of the SW 1/4 of Section 10	Lake Medina 27-146P

**Section 827.04. Permitted and Conditional Uses.** Within the shoreland overlay district, no structure or land shall be used except for one or more of the uses allowed in the underlying zoning district. In addition, boathouses may be allowed within residential districts as conditional uses provided they are not designed or used for human habitation, do not contain sanitary facilities, are set back a minimum of 10 feet from the ordinary high water level and do not occupy an area greater than 250 square feet. All boathouses must be constructed or screened to reduce visibility from public waters and adjacent shorelands through the use of vegetation, topography, color or increased setbacks, assuming summer, leaf-on conditions. Boathouses located on shorelands adjacent to recreational development waterbodies may occupy an area no greater than 400 square feet, provided the width of the structure may not exceed 20 feet as measured parallel to the shoreline.

**Section 827.05. Variances and Condition Uses; Notice to Commissioner.**

- (a) Variances from the requirements of this ordinance may only be approved in compliance with the requirements of sections 825.45 et seq. of this ordinance. Conditional use permits may be issued only pursuant to the provisions of section 825.39 et seq. of this ordinance.
- (b) A copy of the notice regarding any public hearing to consider a variance, conditional use permit, zoning amendment, subdivision of property or other approval authorized or required by this ordinance affecting land within the shoreland overlay district shall be sent to the commissioner. Any notice required to be sent to the commissioner shall be mailed or delivered 10 days prior to the hearing. A copy of notice to consider a subdivision of property shall include a copy of the proposed subdivision.

- (c) A copy of all approved zoning amendments, subdivisions, variances and conditional use permits affecting land within the shoreland overlay district shall be sent to the commissioner within 10 days after final action or approval. When a variance has been approved despite the commissioner's recommendation of denial, the copy of the final action required by this paragraph (c) shall be accompanied by a summary of the public record and testimony regarding the matter and the findings of fact and conclusions which support the issuance of the variance.

**Section 827.06. Lot Standards.** In addition to the lot area, building height, lot width, and yard requirements of the underlying zoning district, all lots within the shoreland overlay district shall comply with the requirements of this section.

- (a) The following standards shall be applicable to lots in the designated underlying zoning districts:

Zoning District/Public Water Designation	Lot Width at Shoreland Building Line and Ordinary High Water Level	Structure Setbacks from Ordinary High Water Level	Individual Sewage Treatment System Setback from Ordinary High Water Level
Rural Residential/ NE Lakes RD Lakes Tributary Streams	200' 150' 100'	150' 75' 75'	150' 75' 75'
Suburban Residential/ NE Lakes RD Lakes Tributary Streams	125' 75' 75'	150' 75' 50'	N/A N/A N/A
Urban Residential/ NE Lakes RD Lakes Tributary Streams	125' 75' 75'	150' 75' 50'	N/A N/A N/A
Rural Commercial and Rural Industrial/ Tributary Streams	N/A	100'	75'
Urban Commercial and Urban Industrial/ Tributary Streams	N/A	50'	N/A

Commercial and industrial uses located on public waters which do not have water oriented needs shall be set back from the ordinary high water level twice the distance indicated above or shall be substantially screened from view from the water by topography or vegetation, assuming summer leaf-on conditions.

- (b) Only land above the ordinary high water level may be used to satisfy lot area requirements. The following minimum lot area requirements shall apply:

Zoning District	Riparian Lot Area	Non-riparian Lot Area
Suburban Residential		
NE Lakes	40,000 sq. ft.	20,000 sq. ft.
RD Lakes	20,000 sq. ft.	15,000 sq. ft.
Urban Residential		
NE Lakes	40,000 sq. ft.	20,000 sq. ft.
RD Lakes	20,000 sq. ft.	15,000 sq. ft.

- (c) The maximum lot area covered by impervious surfaces shall not exceed twenty-five (25) percent.
- (d) All structures shall be constructed so that the lowest level, including the basement, is located at an elevation which is in compliance with the requirements of sections 826.75 *et seq.* of this ordinance or a minimum of three feet above the ordinary high water level or highest known water level, whichever is greater.
- (e) No structure, road, driveway or other improvement may be constructed on a steep slope prior to evaluation by the zoning administrator of such improvement with respect to soil erosion and visibility from public waters. Individual sewage treatment systems must conform with section 720 and be placed in an area with suitable soils as defined in section 820.29 subd. 4(a) and subd. 5. The zoning administrator may require mitigative measures to prevent soil erosion or to preserve existing vegetative screening.

**Section 827.07. Shoreland Alteration**

**Subd. 1.** Alteration of vegetation or topography shall be regulated to prevent soil erosion, preserve shoreland aesthetics, preserve historic sites, prevent bank slumping, and protect fish and wildlife habitat. Vegetation alteration necessary for the construction of structures and individual sewage treatment systems or for the construction of roads and parking areas shall be exempt from the vegetation alteration standards of this subdivision. Removal or alteration of vegetation, except for agricultural and forest management uses, is allowed, subject to the following standards:

- (a) Intensive vegetation clearing within the shore impact zone shall not allowed.
- (b) In the shore impact zone, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees shall be allowed to provide a view to the water from the principal dwelling and to accommodate the placement of permitted accessory structures or facilities, provided that:
- (1) the screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;

- (2) along tributary streams, existing shading of water surfaces is preserved; and
- (3) the above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

**Subd. 2.**

- (a) Grading, filing and excavation necessary for the construction of structures, individual sewage treatment systems, roads, or driveways under validly issued construction permits for these facilities shall not require the issuance of a separate grading and filing permit under this ordinance but shall be accomplished in accordance with the provisions of section 828.63 of this ordinance.
- (b) Filing or grading of wetlands shall be permitted only in compliance with applicable state law.

**Subd. 3. Roads and Parking Areas.** Road and parking areas shall be located to retard the runoff of surface waters and nutrients in accordance with the following criteria:

- (a) Where feasible, all roads and parking areas shall meet the building setback requirements of this ordinance;
- (b) In no instance shall a road or parking area be placed closer than 50 feet from the ordinary high water level or within the shore impact zone, whichever is more restrictive; and
- (c) Natural vegetation or other natural materials shall be used to screen roads and parking areas when viewed from public waters.

**Subd. 4. Stormwater Management.**

- (a) When possible, existing natural drainageways, wetlands, and vegetated soil surfaces shall be used to convey, store, filter, and retain stormwater runoff before discharge to public waters wetlands and public waters that are designated on the protected waters inventory maps prepared under Minnesota Statutes, Section 103G.201. Development shall be planned and constructed in a manner which will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas shall be stabilized and protected as soon as possible and facilities or methods shall be used to retain sediment on the site.
- (b) When development density, topographic features, and soil and vegetation conditions are not sufficient to handle stormwater runoff adequately using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used.

**Subd. 5. Agriculture and Excavation Standards.**

- (a) Agricultural uses shall be permitted if steep slopes and shore impact zones are maintained in permanent vegetation. The shore impact zone for parcels with permitted agricultural uses shall be the area within a line parallel to and 50 feet from the ordinary high water level.
  
- (b) A mining and excavation uses shall be conducted in accordance with the requirements of sections 828.59 and 828.63 of this ordinance. Processing machinery shall be located consistent with setback standards for structures from ordinary high water levels of public waters.

## **SANITARY LANDFILL ZONING DISTRICT (SL)**

**Section 827.09. Sanitary Landfill - Purpose.** The Sanitary Landfill (SL) District is an area exclusively established to accommodate the use of land for the development and operation of sanitary landfills. Since this type of land use is so unique to the ecological setting of Medina and the provision of public services such as transportation so demanding, a special district delineation is called for. Within any district zoned SL in Medina, an extensive set of performance standards must be met through the application of a conditional use permit.

**Section 827.11. Conditional Use - Sanitary Landfills.** Within the Sanitary Landfill District, no landfill shall be established or operated without a Conditional Use Permit. Said Conditional Use Permit shall be valid for a one year period, after which a permit renewal shall be required. The City Council may also require a performance bond, cash escrow, or letter of credit from the landowner or operator, to guarantee conformance with these regulations.

**Section 827.13. Information Required.** The following information shall be provided by the persons requesting the permit:

**Subd. 1.** Name and address of person requesting the permit.

**Subd. 2.** The exact legal property description and acreage of area to be used.

**Subd. 3.** The following maps of the entire site and to include all areas within five hundred (500) feet of the site. All maps shall be drawn at a scale of one (1) inch to one hundred (100) feet unless otherwise stated below:

(a) Map A -

Existing conditions to include:

Contour lines at five (5) foot intervals.

Existing vegetation.

Existing drainage and permanent water areas.

Existing structures.

Existing wells.

Existing roadways and easements.

## (b) Map B -

Proposed operations to include:

Structures to be erected.

Location of earthwork and fill operation to be mined showing depth of proposed excavation.

Location of refuse disposal deposits showing maximum height of deposits.

Location of machinery to be used in the mining operation.

Location of storage of mined materials, showing height of storage deposits.

Location of vehicle parking.

Location of storage of explosives.

Erosion and sediment control structures.

Location of proposed roadways and easements.

Type and capacity of equipment to be used.

## (c) Map C -

End use plan to include:

Final grade of proposed site showing elevations and contour lines at five (5) foot intervals.

Location and species of vegetation to be replanted.

Location and nature of any structures to be erected in relation to the end use plan.

**Subd. 4.** A soil erosion and sediment control plan.

**Subd. 5.** A plan for dust and noise control.

**Subd. 6.** A full and adequate description of all phases of the proposed operation to include an estimate of duration of the operation.

**Subd. 7.** A plan for fire nuisance and vermin control.

**Subd. 8.** Any other information requested by the Planning Commission or City Council

**Subd. 9.** Estimated daily or weekly volume of garbage and other waste.

**Subd. 10.** A plan or the submittal of assurances to the City from private or public sources satisfactorily addressing the issue of long term liability after landfill closure for the monitoring and protection of environmental quality.

**Subd. 11.** A plan or submittal of assurances to the City from private or public sources satisfactorily addressing the issue of long term roadway maintenance during the operations tenure on those routes providing primary landfill site access.

**Section 827.15. Renewal of Permits.** All property owners and residents with one thousand (1000) feet of the operation shall be notified of the annual conditional permit renewal request.



**Section 827.17. Use Restriction.** The following regulations shall be observed by any person to whom a permit is issued by the City for the operation of a sanitary landfill. These regulations shall govern the operation of all City approved sanitary landfills and any failure to observe these regulations shall be sufficient grounds for the revocation of the permit by the Council.

**Subd. 1.** All garbage and other refuse accepted by the landfill permit holder shall be thoroughly compacted by equipment of a size and weight capable of producing a downward or ground pressure of at least five (5) pounds per square inch. Such equipment shall have sufficient weight and capacity to carry out all necessary operations to the satisfaction of the enforcement officer. Sufficient auxiliary equipment shall be maintained on the site or otherwise available to permit operation in case of a breakdown.

**Subd. 2.** Mixed refuse material shall be spread out on the working face of the landfill so that the depth does not exceed a maximum depth of two (2') feet prior to its compaction.

**Subd. 3.** The areas shall be continually policed to prevent fire and the blowing of papers; shall be neat and sanitary at all times, and shall be covered at the end of each day's operation, as well as when wind conditions warrant it through the day, with sufficient material to prevent blowing papers and unsightly conditions. The size of the active face on which refuse is being currently deposited shall be kept to a minimum.

**Subd. 4.** Cover material will consist of earth, loam, clay, sand or a mixture of at least fifty percent (50%) earth and other inert materials, such as ashes, cinders or gravel. A minimum depth of twelve inches (12") of compacted cover and final spread cover material shall be kept on all inactive faces of the landfill at all times. The active faces of the landfills should be covered at the end of each day's operation, or as otherwise directed by the Administrator.

**Subd. 5.** When the landfill has been brought up to two feet (2') below the desired finished grade, it shall be covered with at least twenty-four inches (24") of compacted cover material graded and seeded in such a manner as to prevent erosion.

**Subd. 6.** Where the "trench system" of sanitary landfill is used, successive parallel trenches must be at least two feet (2') apart.

**Subd. 7.** All garbage and refuse material existing on the site at the time the permit is issued either in the form of an open dump or any other form, shall be collected, compacted, and covered with cover material at least one foot (1') in depth if below the desired finished grade, or with inert material at least two feet (2') in depth at the finished grade. This cover operation shall be completed within fifteen (15) working days after the issuance of a special permit for the sanitary landfill.

**Subd. 8.** The permittee or operator shall erect such temporary or permanent fences or take other measures as may be necessary to reasonably control blowing of paper and other materials from the landfill.

**Subd. 9.** Any material salvaged from the landfill must be handled and stored in such a manner as to prevent rodent harborage and permit proper operation of the landfill. Such salvaged material must be removed to a location at least two hundred feet (200') from the working surface so as not to interfere with the compacting and covering. All salvaged material must be completely removed from the site every twenty-four (24) hours unless provision is made for temporary storage within an enclosed, roofed and rodent-proof structure approved by the Administrator.

**Subd. 10.** Burning of any materials deposited in a landfill is expressly prohibited.

**Subd. 11.** Adequate fire fighting equipment shall be available at all times on the site or the operator shall furnish the Inspector with proof of a fire fighting agreement between the operator and the local fire district.

**Subd. 12.** No fill shall be placed in streambeds or other areas where streams would be obstructed or where erosion by the stream would remove cover material. There shall be no seepage or drainage of any material from the fill of such a nature as would constitute an odor nuisance, or health hazard, or pollute any water course.

**Subd. 13.** The permit holder shall provide an access road, approved by the Administrator that is passable in all types of weather conditions to the dumping site.

**Subd. 14.** The license holder shall also provide an auxiliary fill site available and ready for use during periods of heavy rain or snowfall, and when the area being filled and covered may not be reached because of said weather conditions. The permit holder shall also take precautions to eliminate excess dust in dry weather.

**Subd. 15.** Insects and rodents on the site shall be controlled and exterminated as directed by the Inspector.

**Subd. 16.** The permit holder shall cease operations and close the landfill between the hours of seven o'clock (7:00) p.m. and six o'clock (6:00) a.m. and on Sundays and holidays.

**Subd. 17.** All those provisions of Section 735, Mining and Land Rehabilitation, shall be followed in the development, operation and restoration of a sanitary landfill use.

**Section 827.19. Total Area Limitation.** Notwithstanding anything to the contrary contained in this Section, no permit shall be issued and no rezoning applications shall be approved for the construction or operation of sanitary landfills or the expansion or modification of such facilities if the amount of land comprising the proposed, expanded or modified landfill when added to land comprising all other existing and closed landfills, whether or not operated under permit from the City, shall exceed one hundred ninety (190) acres. In calculating the amount of land in such landfills, all of the following shall be included:

**Subd. 1.** All land which has actually been used for sanitary landfill purposes whether or not zoned for such use, and

**Subd. 2.** All land either currently or previously zoned sanitary landfill (SL) including all wetlands, buffer acres, setback acres, internal roads and any other land in SL zones but not actually used for the placement of refuse.

**Section 827.20. Fees.** Pursuant to Minn. Stat., Section 115A.921, the permit holder shall pay quarterly to the city a fee of fifteen (15) cents per cubic yard or equivalent weight of solid waste accepted and disposed of on the landfill site. The revenue derived from the fee shall be placed in the general fund for purposes of mitigating and compensating the city for the risks, costs, and other adverse affects of the sanitary landfill. Waste residue from energy and resource recovery facilities at which solid waste is processed for the purpose of extracting, reducing, converting to energy, or otherwise separating and preparing solid waste for reuse shall be exempt from one-half of the fee if there is at least an 85 percent volume reduction in the solid waste processed. Before any fee is reduced the verification procedures of Minn. Stat., Section 473.843, Subdivision 1, paragraph (c) must be followed and submitted to the Zoning Administrator. For the purposes of this section, six hundred (600) pounds of solid waste shall be considered the equivalent of one cubic yard.

**Section 827.21. Time Limitation.** No rezoning shall be approved and no conditional use permit for sanitary landfill shall be granted for a period exceeding twelve (12) years. At the expiration of said period the zoning on the sanitary landfill site shall revert to its previous zoning classification or such other zoning classifications as may be determined by the City Council in the manner provided in this Code for rezoning of land. The applicant shall agree to the limitations provided in this section 827.21 by contract duly executed by authorized representatives of the applicant in a form satisfactory to the City Council.

**Section 827.23. Severability.** Paragraphs, sentences, clauses and phrases of Sections 827.09 through 827.23 inclusive are severable, and if any phrase, clause, sentence, paragraph or section of this section shall be declared invalid, unenforceable or unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such invalidity, unenforceability or unconstitutionality shall not effect any of the remaining phrases, clauses, sentences, paragraphs or sections.

## **PLANNED UNIT DEVELOPMENT DISTRICT (PUD)**

**Section 827.25. PUD - Planned Unit Development Regulations - Purpose.** PUD - Planned Unit Development provisions are established to provide comprehensive procedures and standards designed to allow greater flexibility in the development of neighborhoods and/or nonresidential areas by incorporating design modifications and allowing for a mixture of uses. The PUD process, by allowing deviation from the strict provisions of this Code related to setbacks, lot area, width and depth, yards, and other development standards is intended to encourage:

**Subd. 1.** Innovations in development to the end that the growing demands for all styles of economic expansion may be met by greater variety in type, design, and placement of structures and by the conservation and more efficient use of land in such developments.

**Subd. 2.** Higher standards of site and building design.

**Subd. 3.** The preservation, enhancement, or restoration of desirable site characteristics such as high quality natural resources, wooded areas, wetlands, natural topography and geologic features and the prevention of soil erosion.

**Subd. 4.** Innovative approaches to stormwater management and low-impact development practices which result in volume control and improvement to water quality beyond the standard requirements of the City.

**Subd. 5.** Maintenance of open space in portions of the development site, preferably linked to surrounding open space areas, and also enhanced buffering from adjacent roadways and lower intensity uses.

**Subd. 6.** A creative use of land and related physical development which allows a phased and orderly development and use pattern and more convenience in location and design of development and service facilities.

**Subd. 7.** An efficient use of land resulting in smaller networks of utilities and streets thereby lower development costs and public investments.

**Subd. 8.** A development pattern that effectuates the objectives of the Medina Comprehensive Plan. (PUD is not intended as a means to vary applicable planning and zoning principles.)

**Subd. 9.** A more desirable and creative environment than might be possible through the strict application on zoning and subdivision regulations of the City.

## **Section 827.27. Requirements, Conditions and Standards for Approving a PUD.**

### **Subd. 1. General Standards.**

(a) Rezoning Required. Approval of a PUD under this Section shall require the subject property to be rezoned from its existing designation to a PUD.

(b) Review of Application. In its review of any application under this Section, the City Council shall consider comments on the application of those persons appearing

before the Council, the report and recommendations of the Planning Commission, and any staff report on the application. The Council also shall evaluate the effects of the proposed project upon the health, safety and welfare of residents of the community and the surrounding area and shall evaluate the project's conformance with the overall intent and purpose of this Section. If the Council determines that the proposed project will not be detrimental to the health, safety and welfare of residents of the community and the surrounding area and that the project does conform with the overall intent and purpose of this Section, it may approve a PUD.

- (c) **Ownership.** An application for a PUD Zoning District approval must be filed by the land owner or jointly by all land owners of the property included in a project. The application and all submissions must be directed to the development of the property as a unified whole. In the case of multiple ownership, the approved PUD shall be binding on all owners.
- (d) **Qualifications of an Applicant.** Any application under this Section shall be made only by the fee owner of the property covered in the application or by the owner's duly authorized representative, provided, however, that an option holder or a contract for deed holder may submit such an application if it is accompanied by a fully executed agreement or document from the owner stating that the owner has no objections to the proposed project and the owner is, in fact, joining in said application.
- (e) **Comprehensive Plan Consistency.** The proposed PUD shall be consistent with the City Comprehensive Plan.
- (f) **Potentially allowed uses.** All permitted, conditional, and accessory uses described in the various zoning districts of the City shall be considered potentially allowed uses within a PUD.
- (g) **Common Open Space.** Common private or public open space and facilities at least sufficient to meet the minimum requirements established in the Comprehensive Plan and such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of the residents of the PUD shall be provided within the area of the PUD development.
- (h) **Density.**
  - (1) The maximum allowable density in a PUD Zoning District shall be determined by standards negotiated and agreed upon between the applicant and the City. In all cases, the negotiated standards shall be consistent with the development policies as contained in the Medina Comprehensive Plan.
  - (2) Whenever any residential PUD is to be developed in stages, the City may, at its discretion, place limitations on the extent to which the density of each stage deviates from average density of the entire PUD.
- (i) More than one principal building may be constructed on each platted lot within a PUD.

- (j) A PUD which involves only one land use or housing type may be allowed, provided that it is otherwise consistent with the stated purposes and objectives of this section.
- (k) The uniqueness of each PUD requires that specifications and standards for streets, utilities, public facilities and the approval of land subdivisions may be subject to modifications from the City ordinances generally governing them. The City Council may therefore approve streets, utilities, public facilities and land subdivisions which are not in compliance with usual specifications or ordinance requirements where it is found that such are not required in the interests of the City.
- (l) Utilities. In any PUD, all utilities, including electricity, natural gas and communication shall be installed underground.
- (m) Private Utilities.
  - (1) Septic Systems. All requirements of Section 720 of this Code shall be followed within a PUD.
  - (2) Wells. All well location plans shall be approved by the City.
- (n) Roadways. All streets shall conform to the design standards contained in the Medina Subdivision Regulations unless otherwise approved by the City Council.
- (o) Landscaping. In any PUD, landscaping shall be provided according to a plan approved by the City Council, which shall include a detailed planting list with sizes and species indicated as part of the Final Plan. In assessing the landscaping plan, the City Council shall consider the natural features of the particular site, the architectural characteristics of the proposed structure and the overall scheme of the PUD.
- (p) Setbacks. The front, rear and side yard restrictions on the periphery of the PUD site at a minimum shall be the same as imposed in the respective or applicable zoning district.
- (q) Height. The maximum building height shall comply with the height standards specified within the comparable zoning district, unless otherwise approved by the City Council.

**Section 827.29. Residential Standards.**

**Subd. 1. Purpose.** The purpose of this Section is to establish standards for single family, multiple family, institutional and other residential PUD projects, in addition to those standards contained elsewhere in this Code for all PUD projects. All residential PUD projects shall be developed in accordance with the following residential area standards:

- (a) There shall be no minimum lot or area size required for a tract of land for which a PUD Zoning District is proposed.
- (b) There shall be no minimum frontage on a public street required for a tract of land for which a PUD is proposed.

- (c) It is the City's policy to discourage private roadways within a residential PUD. Regardless if roads are private or dedicated to the public, they shall be designed to right-of-way widths and constructed to standards imposed by the Medina Subdivision Regulations, unless otherwise approved by the City Council.
- (d) The normal standards of existing residential zoning districts shall apply to each project, excepting those standards to be modified, as determined by the City Council.
- (e) In addition to the above standards, the City Council may impose such other standards for a residential PUD as are reasonable and as the Council deems are necessary to protect and promote the general health, safety and welfare of the community and the surrounding area.

**Section 827.31. Non-Residential Project Standards.**

**Subd. 1. Purpose.** The purpose of this Section is to establish standards for non-residential PUD projects, in addition to those standards contained elsewhere in this Code for all PUD projects. All non-residential PUD projects shall be developed in accordance with the following area standards:

- (a) There shall be no minimum lot or area size required for a tract of land for which a PUD is proposed.
- (b) There shall be no minimum frontage on a public street required for a tract of land for which a PUD is proposed.
- (c) Off-street parking and loading facilities for a non-residential PUD shall be provided in accordance with Section 828, Zoning-Performance Standards and Enforcement of the Medina City Code, unless otherwise approved by the City Council.
- (d) The normal standards of existing non-residential zoning classifications shall apply to each project, excepting those standards to be modified, as determined by the City Council.
- (e) In addition to the above standards, the City Council may impose such other standards for a nonresidential PUD as are reasonable and as the Council deems are necessary to protect and promote the general health, safety and welfare of the community and the surrounding area.

**Section 827.33. Concept Plan.**

**Subd. 1. Application Procedure.**

- (a) As the first step in the review procedure for a PUD, an applicant shall complete and submit to the City an application for Concept Plan review, together with a fee as determined by City ordinance. The applicant shall submit with the application such information as is required by this ordinance and such other information as deemed necessary by the City to explain the general intent of the application. Comments and actions by the City during review of the Concept Plan are purely advisory and shall in no way shall bind the City to subsequent approval of a General Plan of Development, nor imply any future approval.
- (b) Once an application for Concept Plan review is complete, the Zoning Administrator shall refer it to the Planning Commission for a public hearing. Notice of such public hearing shall be published in the official newspaper at least 10 days in advance of 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 subject property. For land located in any other zoning district, notice of the hearing shall also be mailed to owners of property located within 350 feet of the subject property.

**Subd. 2. Information Required.** The Concept Plan submitted for a PUD shall include the following information:

- (a) General Information.
  - (1) The name and address of the landowner(s) and their interest in the subject property.
  - (2) The applicant's name and address, if different from the landowner.
  - (3) The names and addresses of all professional consultants who have contributed to the development of the PUD being submitted, including attorney, land planner, engineer and surveyor.
  - (4) Evidence that applicant has sufficient control over the subject property to effectuate the proposed PUD including a statement of all legal, beneficial, tenancy and contractual interests held in or affecting the subject property and including an abstract, commitment for title insurance, or registered property abstract, and such other evidence as the City Attorney may require to show the status of title or control of the subject property.
- (b) Present Status.
  - (1) Address and legal description of subject property.
  - (2) Existing zoning classification and present use of subject property and all lands within 1,000 feet of subject property.
  - (3) A map depicting existing development of subject property and all land within 1,000 feet thereof and locations of existing streets, property lines, easements,



water mains, wells, storm, sanitary and septic sewer systems, with invert elevations on and within 100 feet of subject property.

- (c) A written statement generally describing the proposed PUD and the market which it is intended to serve and the market demand. The statement is also to demonstrate the proposed PUD's relationship to Medina's Comprehensive Plan and how the proposed PUD is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable regulations of the City.
- (d) Site Conditions. Graphic reproductions of the existing site conditions at a scale acceptable to the Zoning Administrator, which includes the following:
- (1) Contours - minimum two foot intervals.
  - (2) Location, type and extent of tree cover and vegetation.
  - (3) Slope analysis.
  - (4) Location and extent of water bodies, streams, floodplains and approximate location of wetlands on and within 300 feet of the subject property.
  - (5) Significant rock outcroppings.
  - (6) Existing drainage patterns.
  - (7) Vistas and significant views.
  - (8) Soil conditions as they affect development.
- All of the graphics should be the same scale to allow cross reference. The use of overlays is recommended for clear reference.
- (e) Schematic drawings of the proposed development concept including, but not limited to, the general location of major circulation elements, public and private open space, buildings, structures, and other land uses, and buffering and screening.
- (f) A statement of the estimated total number of dwelling units or square feet of developed land use activities proposed for the PUD and a tabulation of the proposed approximate allocations of land use expressed in acres and as a percent of the total project area, which shall include at least the following as applicable:
- (1) Area devoted to residential uses.
  - (2) Area devoted to residential use by building type.

- (3) Approximate site area and floor area devoted to commercial, industrial, or institutional uses.
  - (4) Area devoted to private open space.
  - (5) Area devoted to public open space.
  - (6) Approximate area devoted to streets.
  - (7) Approximate area devoted to and number of off street parking and loading spaces and related access.
- (g) When the PUD is to be constructed in stages during a period of time extending beyond a single construction season, a schedule for the development of such stages or units shall be submitted stating the approximate beginning and completion date for each such stage or unit and the proportion of the total PUD public or common open space and structures/units to be provided or constructed during each such stage and the overall chronology of development to be followed from stage to stage.
- (h) When the proposed PUD includes provisions for public or private open space or service facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or service facilities.
- (i) General intents of any restrictive covenants that are to be recorded with respect to property included in the proposed PUD.
- (j) Schematic utilities plans indicating placement of water, wells, sanitary sewer, septic and storm sewers.
- (k) Mailing labels of current owners of the property necessary for public hearing, obtained from Hennepin County property records.
- (l) The Zoning Administrator, Planning Commission and/or City Council may excuse an applicant from submitting any specific item of information or document required in this stage, which it finds to be unnecessary to the consideration of the specific proposal.
- (m) The Zoning Administrator, Planning Commission, and/or City Council may require the submission of any additional information or documentation which it may find necessary or appropriate to full consideration of the proposed PUD or any aspect or stage thereof.

**Subd. 3. Action by the Planning Commission.**

- (a) The Planning Commission shall hold the public hearing on an application for Concept Plan review following appropriate legal notice as outlined above. The applicant and/or a representative shall appear before the Planning Commission at this hearing to answer questions regarding the proposed

project.

- (b) Within 60 days following the public hearing on any such application, the Planning Commission shall forward a report on the application to the City Council, and it shall offer such comments or suggestions as it deems appropriate. If no action on an application is taken by the Planning Commission within 60 days, and there has been no delay caused or requested by the applicant, the application shall be forwarded to the City Council without comment.
- (c) Within the permitted period of time while an application is under consideration by the Planning Commission, an applicant shall be allowed to make such amendments to the proposal as are requested by the City staff or the Planning Commission or as the applicant may desire to effect. An applicant may request a delay in the proceedings before the Planning Commission in order to modify or amend the proposal.

**Subd. 4. Action by the City Council.**

- (a) Once an application under this Code has been forwarded to the City Council, the applicant shall present the proposal before the Council. The City Council, at its discretion, may take additional testimony on the PUD.
- (b) The City Council shall review the application as originally submitted or as amended, and shall provide such comments and suggestions as it deems appropriate.

**Section 827.35. General Plan of Development.**

**Subd. 1.** Following review of a Concept Plan as described above, an applicant shall submit to the City a General Plan of Development for the proposed project as required herein, together with a fee as determined by ordinance.

**Subd. 2.** A General Plan of Development for the proposed project shall be submitted to the City within 180 days of review of the Concept Plan by the City Council. If a General Plan of Development is not submitted by this deadline, the applicant shall be required to resubmit a Concept Plan for review by the Planning Commission and City Council unless, , prior to the expiration, the applicant requests an extension of time in writing and the City Council grants the request for good cause. Any extension so granted may be subject to conditions for such period of time not exceeding 180 days, or such other period as the City Council deems appropriate.

**Subd. 3.** The General Plan of Development stage submissions should depict and outline the proposed implementations of the Concept Plan for the PUD. Information from the Concept Plan may be included for background and to provide a basis for the submitted plan. The General Plan of Development stage submissions shall include but not be limited to:

- (a) Present zoning classification, comparable zoning classification describing development

standards which will apply unless modified by the City Council, and a description of the modifications requested from the standards of the comparable zoning district.. Any other public decisions necessary for implementation of the proposed plan shall also be described.

- (b) A preliminary plat prepared in accordance with the Medina Subdivision Regulations, if applicable. For PUDs which will be platted in multiple phases, the General Plan of Development shall include a plan identifying the proposed configuration and dimensions of lots which will be platted during all phases of the PUD.
- (c) Preliminary plans, drawn to scale acceptable to the Zoning Administrator, containing at least the following information:
  - (1) Proposed name of the development (which shall not duplicate nor be similar in pronunciation the name of any plat theretofore recorded in the County).
  - (2) Property boundary lines and dimensions of the property and any significant topographical or physical features of the property.
  - (3) The location, size, use and arrangement, including height in stories and feet and total square feet of ground area coverage and floor area, of proposed buildings, including model homes, and existing buildings which will remain, if any. Also all required setback lines shall be depicted.
  - (4) Location, dimensions of all driveways, entrances, curb cuts, parking stalls, loading spaces and access aisles, and all other circulation elements including bike and pedestrian; and the total site coverage of all circulation elements.
  - (5) Location, designation and total area of all common private open space and facilities.
  - (6) Location, designation and total area proposed to be conveyed or dedicated for public open space, including parks, playgrounds, school sites and recreational facilities.
  - (7) Location and design of all street improvements and utilities.
  - (8) The location, use and size of structures and other land uses on adjacent properties.
  - (9) A detailed, drawn to scale, landscape plan including trails and recreational areas with planting specifications showing the areas to be sodded and the location, size and species of all trees and shrubbery to be planted and those to be preserved.

- (10) A survey showing all existing significant trees as required by the Tree Preservation ordinance.
  - (11) General grading and drainage plans for the developed PUD.
  - (12) A detailed plan illuminating size, location and structural specifications for exterior signing and lighting.
  - (13) Any other information that may have been required by the City staff, Planning Commission or City Council in conjunction with the review of the Concept Plan.
- (d) An accurate legal description of the entire area within the PUD for which General Plan of Development approval is sought.
  - (e) Where applicable, a tabulation indicating the number of residential dwellings units and expected population.
  - (f) Where applicable, a tabulation indicating the gross square footage, if any, of commercial and industrial floor space by type of activity (e.g. drug store, dry cleaning, super-market).
  - (g) Preliminary architectural "typical" plans indicating use, floor plan, elevations and exterior wall finishes of proposed building, including model homes.
  - (h) A traffic flow plan and analysis.
  - (i) Solid waste disposal procedures and provisions.
  - (j) Preliminary grading and site alteration plan illustrating changes to existing topography and natural site vegetation.
  - (k) A statement summarizing all changes, which have been made in any document, plan data or information previously submitted, together with revised copies of such document, plan or data.
  - (l) Such other and further information as the City staff, Planning Commission, or Council shall find necessary to a full consideration of the entire proposed PUD or any stage thereof.
  - (m) The Zoning Administrator, Planning Commission, and/or City Council may excuse an applicant from submitting any specific item of information or document required in this Section which it finds to be unnecessary to the consideration of the specific proposal for PUD approval.

**Subd. 4.** Once an application for a General Plan of Development is complete, the Zoning Administrator shall refer it to the Planning Commission for a public hearing. The same notification procedure for this hearing shall be followed as was followed with respect to the applicant's Concept Plan, outlined in Section 827.33.

(a) Action by the Planning Commission.

- (1) The Planning Commission shall hold the public hearing on an application following appropriate legal notice as outlined above. The applicant and/or a representative shall appear before the Planning Commission at this hearing to answer questions regarding the proposed project.
- (2) Within 60 days following the public hearing on any such application, the Planning Commission shall forward a report on the application to the City Council, and it shall recommend approval of the application as submitted, approval of the application subject to certain modifications or conditions therein, or denial of the application. If no action on an application is taken by the Planning Commission within 60 days, and there has been no delay caused or requested by the applicant, the application shall be forwarded to the City Council without recommendation.
- (3) Within the permitted period of time while an application is under consideration by the Planning Commission, an applicant shall be allowed to make such amendments to the proposal as are requested by the City staff or the Planning Commission or as the applicant may desire to effect. An applicant may request a delay in the proceedings before the Planning Commission in order to modify or amend the proposal.

(b) Action by the City Council.

- (1) Once an application under this Code has been forwarded to the City Council the applicant shall present the proposal before the Council. The City Council, at its discretion, may take additional testimony on the PUD.
- (2) The City Council shall base its actions upon the following criteria:
  - (i) Compatibility of the plan with the standards, purposes and intent of this section;
  - (ii) Consistency of the plan with the goals and policies of the Comprehensive Plan;
  - (iii) The impact of the plan on the neighborhood in which it is to be located; and
  - (iv) The adequacy of internal site organization, uses, densities, circulation, parking facilities, public facilities, recreational areas, open spaces,

and buffering and landscaping.

- (3) The City Council shall approve the application as originally submitted or as amended, shall approve the application with certain modifications or conditions therein, shall deny the application, shall request amendment of the application, or shall refer the application back to the Planning Commission for further review. If this matter is referred back to the Planning Commission, the Council also shall indicate the controlling standards to be used in further evaluation and planning of the project.

**Section 827.37. Issuance of Permits.** No permits for construction on the project site shall be issued unless consistent with the approved General Plan of Development and shall not be issued unless:

- Subd. 1.** The plat, if applicable, has been recorded and all other relevant land use approvals have been granted.
- Subd. 2.** A development agreement acceptable to the City has been recorded against the subject property, as well as all easements, restrictive covenants, and other required documents.
- Subd. 3.** Financial guarantees in an amount and form acceptable to the City have been received.
- Subd. 4.** All other terms and conditions of General Plan of Development have been met.

**Section 827.39. PUD Evaluation.** If periodic review of a PUD is included as a condition to the approval of a PUD, such a project shall be reviewed by the City Council. The City Council, at its discretion, may take additional testimony on the PUD and attach any additional terms and conditions to the PUD.

**Section 827.41. Amendment of a PUD.**

**Subd. 1. Application Procedures.** As determined by the Zoning Administrator, any substantial deviation or modification from the terms or conditions of an approved PUD or any alteration in a project for which a PUD has been approved shall require an amendment of the original PUD. An application for amendment of the original PUD specifying the proposed alteration shall be submitted to the City, together with a fee established by ordinance and such information as is required by the City or as the applicant deems necessary to fully explain the application. Should the applicant request an amendment of a PUD to erect an additional building or buildings, the fee therefor shall be established by ordinance.

**Subd. 2. Action by the Planning Commission and City Council.** The same review procedure by the Planning Commission and City Council shall be followed for an amendment of a PUD as was followed with respect to the applicant's General Plan of Development.

**Section 827.43. General Requirements.**

**Subd. 1. Records.** The Zoning Administrator shall maintain a record of all PUDs issued by the City, including information on a project's allowed uses, all pertinent project plans, any conditions imposed on a project by the City Council, and such other information as the Zoning Administrator may deem appropriate.

**Subd. 2. Cancellation of a PUD.** Physical implementation of any approved PUD must begin within one year following City Council approval of the PUD for that project, unless in granting a PUD, the Council shall specify a different period of time for project implementation. The City Council may rezone the subject property upon failure to initiate project implementation within the appropriate time period unless an extension of said PUD is approved by the Council. An existing PUD also shall be cancelled if any rezoning or other action by the City shall occur which supersedes the PUD.

**Subd. 3. Conveyance of Property Within a PUD.** In the event that any real property within an approved PUD is conveyed in total or in part, the buyer(s) thereof shall be bound by all provisions of the PUD and the General Plan of Development for that project.

**Subd. 4. Compliance with Overall Plan.** The Zoning Administrator shall review all permits issued and construction undertaken and compare actual development with the approved development schedule. If the Zoning Administrator finds that development is not proceeding in accordance with the approved schedule, or if there are minor deviations from the approved plan, he/she shall immediately notify the applicant to correct the situation or accept the changes if they do not substantially alter the intent of the City Council approval. If the deviations are substantial and change the intent of the approval, the Zoning Administrator shall immediately notify the Council. The Council shall take such steps as it shall deem necessary to compel compliance with the approved plan, require the land owner or applicant to seek an amended General Plan of Development, or may rezone the land.



## CONSERVATION DESIGN DISTRICT (CD)

### **Section 827.51. Conservation Design (CD) – Purpose.**

The purpose of this district is to preserve the City’s ecological resources, wildlife corridors, scenic views, and rural character while allowing residential development consistent with the goals and objectives of the City’s Comprehensive Plan and Open Space Report as updated from time to time. The specific conservation objectives of this district are to:

1. Protect the ecological function of native hardwood forests, lakes, streams, and wetlands.
2. Protect moderate to high quality ecologically significant natural areas.
3. Protect opportunities to make ecological connections between parks and other protected lands and ecologically significant natural areas.
4. Protect important viewsheds including scenic road segments.
5. Create public and private trails for citizens to access and enjoy Open Space resources.
6. Create public and private Open Space for citizens to access and enjoy Open Space resources.

### **Section 827.53 Applicability.**

**Subd. 1.** Conservation design is an option that a property owner is encouraged to consider as an alternative to Conventional Development, as defined herein. The City will give heightened consideration to such requests where the opportunities to achieve conservation objectives are significantly higher than that available through conventional development. Conservation design may be considered on qualifying parcels lying in the Rural Residential District and all sewered residential districts.

### **Section 827.55 Intent.**

**Subd. 1.** It is the intent of the City to accomplish the stated purpose of this District by approving a Planned Unit Development. In exchange for achieving the conservation objectives, it is the intent of the City to provide density and design flexibility and to encourage development review through a Collaborative Process.

**Subd. 2.** The permitted, conditional and accessory uses and other regulations set forth in the existing zoning districts shall apply unless specifically addressed in this District, the PUD District, or if determined by the City Council to be inconsistent with the purpose and intent of this District as part of the final PUD documents.

**Subd. 3.** The procedures and regulations set forth in the PUD District shall apply unless specifically addressed in this District. If a final PUD plan is approved by the City, the subject property shall be rezoned to Conservation Design-PUD District (CD-PUD). The permitted uses and all other regulations governing uses on the subject land shall then be those found in the CD-PUD zoning district and documented by the PUD plans and agreements. The following subsections are requirements for all CD-PUDs unless exceptions, as part of a PUD, are otherwise approved by the City Council.

**Section 827.57. Definitions.**

**Subd. 1. Base Density.** The maximum number of units or lots that are allowed on a parcel in accordance with the standards of the existing zoning district and the Zoning and Subdivision Codes.

**Subd. 2. Buildable Land Area.** The total land area in a proposed Conservation Design Subdivision less the amount of land that includes: slopes greater than 18%, wetlands, required wetland buffers, lakes, and land contained within the 100 year floodplain.

**Subd. 3. Collaborative Process.** A development review process that results in a development plan in which clearly defined conservation objectives are achieved in exchange for greater flexibility from the requirements of the base zoning district and the Zoning and Subdivision Codes.

**Subd. 4. Conventional Development.** Development that meets the standard minimum requirements of the City's ordinances regulating development.

**Subd. 5. Conservation Easement.** As defined in Minnesota Statutes, Chapter 84C: A nonpossessory interest of a holder in real property imposing limitations or affirmative obligations the purposes of which include retaining or protecting natural, scenic, or open-space values of real property, assuring its availability for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property.

**Subd. 6. Conservation Design Subdivision.** Any development of land that incorporates the concepts of designated Conservation Areas and clustering of dwelling units.

**Subd. 7. Conservation Area.** Designated land within a Conservation Design Subdivision that contributes towards achievement of one or more of the conservation objectives. A Conservation Easement is placed on Conservation Areas to permanently restrict the Conservation Area from future development. Conservation Areas may be used for preservation of ecological resources, habitat corridors, passive recreation, and for pasture, hay cropping and other low impact agricultural uses.

**Subd. 8. Homeowners Association.** A formally constituted non-profit association or corporation made up of the property owners and/or residents of a development for the purpose of owning, operating and maintaining common Conservation Areas and/or other commonly owned facilities and Open Space.

**Subd. 9. Open Space.** Land that is not designated as a Conservation Area that is used for parks, trails or other uses. Open Space may be owned and managed by the City, homeowner's association or other entity.

**Subd. 10. Viewshed.** The landscape or topography visible from a geographic point, especially that having aesthetic value.

**Subd. 11. Yield Plan.** A conceptual layout that shows the maximum number of lots that could be placed on a parcel in accordance with the standards of the existing zoning district and the Zoning and Subdivision Codes. The Yield Plan shows proposed lots, streets, rights-of-way, and other pertinent features. Yield Plans shall be drawn to scale. The layout shall be realistic and reflect a development pattern that could reasonably be expected to be implemented, taking into account the presence of wetlands, floodplains, steep slopes, and existing easements.

**Section 827.59. General Performance Standards.**

**Subd. 1. Minimum Size of Subdivision.**

(a) The minimum land area required for development shall be:

- (1) 40 contiguous acres in the Rural Residential District
- (2) 20 contiguous acres in sewerred residential districts

(b) A subdivision in the Rural Residential District of over 20 contiguous acres but less than 40 contiguous acres may apply for approval if they meet all the requirements for CD, and the visual impact of the subdivision from existing adjacent roadways is mitigated by existing topography, existing vegetation, and/or acceptable vegetative buffers.

**Subd 2. Required Conservation Area.** The minimum required Conservation Area within the CD development shall be:

- (a) At least 30% of the total Buildable Land Area in the Rural Residential District, or higher depending on the land and opportunities to achieve the City’s conservation objectives.
- (b) At least 20% of the total Buildable Land Area in sewerred residential districts, or higher depending on the land and opportunities to achieve the City’s conservation objectives.

**Subd. 3. Designating Conservation Areas.**

(a) The required amount of Conservation Area shall be designated and located to maximize achievement of the City’s conservation objectives. Opportunities for achieving these objectives will vary depending on the location, size and specific qualities of the subject parcel. Each parcel will be evaluated for opportunities to achieve the following primary and secondary conservation objectives over and above that achievable under conventional development:

- (1) Parcels with opportunities to achieve the following primary conservation objectives will be given higher consideration for flexibility from performance standards.

- i. The protection and/or restoration of the ecological function of native hardwood forests (e.g. Maple-Basswood Forest), lakes, streams and wetlands.
  - ii. The protection, restoration, and/or creation of moderate to high quality ecological resources including the sensitive ecological resources identified as priority areas on the Composite Map of the Open Space Report as updated from time to time.
  - iii. The reservation of land connecting these aquatic and terrestrial ecological resources in order to restore and/or create new ecological resources suitable for habitat movement corridors.
- (2) Parcels with opportunities to achieve the following secondary conservation objectives may be given consideration for flexibility from performance standards:
- i. The protection of scenic views and viewsheds including the views from roads identified as “Scenic Roads” on the Scenic Roads Map of the Open Space Report as updated from time to time.
  - ii. The reservation of land for incorporating public and private trails in order to create connections to existing or planned trails as identified in the current Parks, Trails, and Open Space Plan.
  - iii. The reservation of land for incorporating public and /or private Open Space in order to achieve goals as identified in the Comprehensive Plan.

**Subd. 4. Perimeter Setbacks.** Structure setbacks from the perimeter of the subdivision shall be the same as the existing zoning district.

**Section 827.60 Open Space Report Composite Map Appeal Process.** In the event that an applicant is not in agreement with the Composite Map of the Open Space Report or the data contained within a report on which the Composite Map is based upon, the applicant may present an appeal to the city.

**Subd. 1.** The applicant shall put the appeal in writing, accompanied by the fee as described by the City’s Fee Schedule, and is responsible to provide documentation supporting their appeal.

**Subd. 2.** The appeal shall be reviewed by city staff, with the assistance of any technical consultants which city staff shall determine are appropriate. Such consultants may include, but are not limited to, environmental engineers, wetland scientists, arborists and other similar experts. City staff shall make a determination on the appeal within sixty days of receipt of a complete appeal application.

**Subd 3.** The applicant may appeal city staff’s decision to the city council. The appeal must be filed within thirty days of staff’s determination.

**Subd. 4.** The applicant shall be responsible for the costs accrued by the City in review of the appeals described above, including the costs of technical consultants hired by the City.

**Section 827.61. Density and Design Flexibility .**

Flexibility from the requirements of the existing zoning district or other requirements of this code may be granted at the discretion of the City Council. In considering such flexibility, the City will evaluate how well the project achieves the conservation objectives over and above that achievable under conventional development and the amount and quality of conservation area protected.

**Subd. 1. Additional Density.**

- (a) Density, in addition to the Base Density, may be granted at the discretion of the City Council. Any additional density or additional number of dwelling units shall be calculated as a percentage of Base Density. The Base Density shall be that established by regulations in the relevant existing zoning district.
  - (1) In the Rural Residential District, Base Density shall be determined by calculating the number of 5-acre areas of contiguous soils suitable for a standard sewage disposal system that are located on the subject property.
  - (2) In sewerred residential districts, a Yield Plan shall be developed to determine Base Density. Regulations of the base district and all other relevant land use regulations of this Code shall be used for completing the Yield Plan.
- (b) The total number of dwelling units in a CD-PUD development shall be guided by the density limitations contained in the Comprehensive Plan and may be:
  - (1) Up to 200% of the calculated Base Density in the Rural Residential District.
  - (2) Up to 120% of calculated Base Density in all sewerred residential districts.

**Subd. 2. Other areas of flexibility**

- (a) In the Rural Residential District, flexibility may include:
  - (1) Lot size, lot width and structure setbacks provided setbacks comply with the following minimums:
    - i. Setback from local streets: 35 feet.
    - ii. Setback from Arterial and Collector Streets: 100 feet.
    - iii. Interior structure setbacks: 30 feet.
  - (2) Housing type.

- (3) Upland buffers and tree preservation regulations provided that the objectives of these regulations are met for the site as a whole.
  - (4) Due consideration may be given for conservation easements granted when calculating park dedication requirements.
  - (5) Variations to City regulations regarding septic systems.
- (b) In all sewerred residential districts, flexibility may include:
- (1) Lot size, lot width, and structure setbacks.
  - (2) Housing type.
  - (3) Landscaping.
  - (4) Screening.
  - (5) Upland buffers and tree preservation regulations provided that the objectives of these regulations are met for the site as a whole.
  - (6) Buffer yard.
  - (7) Due consideration may be given for conservation easements granted when calculating park dedication requirements.

**Section 827.63. Conservation Area Protection and Ownership.**

**Subd. 1.** Land and improvements in areas designated as Conservation Areas in a CD-PUD shall be established, protected and owned in accordance with the following guidelines:

- (a) Designated Conservation Areas shall be surveyed and subdivided as separate outlots.
- (b) Designated Conservation Areas must be restricted from further development by a permanent Conservation Easement (in accordance with Minnesota Statute Chapter 84C.01-05) running with the land. The Conservation Easement must be submitted with the General Plan of Development and approved by the City Attorney.
  - (1) The permanent Conservation Easement may be held by any combination of the entities defined by Minnesota Statute Chapter 84C, but in no case may the holder of the Conservation Easement be the same as the owner of the underlying fee.
  - (2) The permanent Conservation Easement shall be recorded with Hennepin County and must specify:
    - i. The entity that will maintain the designated Conservation Area.

- ii. The purposes of the Conservation Easement, that the easement is permanent, and the conservation values of the property.
  - iii. The legal description of the land under the easement.
  - iv. The restrictions on the use of the land and from future development.
  - v. To what standards the Conservation Areas will be maintained through reference to an approved land stewardship plan.
  - vi. Who will have access to the Conservation Area.
- (3) Ownership of the underlying fee of each designated Conservation Area parcel, may be held by any combination of the following entities:
- i. A common ownership association, subject to the provisions in the PUD District.
  - ii. An individual who will use the land in accordance with the permanent Conservation Easement.
  - iii. A private nonprofit organization, specializing in land conservation and stewardship, that has been designated by the Internal Revenue Service as qualifying under section 501 (c) (3) of the Internal Revenue Code.
  - iv. A government agency (e.g. park and/or natural resource agency or division).
  - v. The City of Medina, in rare situations when there are no other viable options.
- (c) Open Space areas that do not achieve the City’s conservation objectives may be established under a homeowner’s association without protection by a Conservation Easement. Such areas shall be regulated according to provisions of the PUD District.

**Section 827.65. Land Stewardship Plan.**

**Subd. 1. Plan Objectives.** Where a CD-PUD has designated Conservation Areas, a plan for the development, long-term use, maintenance, and insurance of all Conservation Areas, may be required. The plan shall:

- (a) Define ownership and methods of land protection.
- (b) Establish necessary regular and periodic operation and maintenance responsibilities.
- (c) Estimate staffing needs, insurance requirements, and other associated costs associated with plan implementation and define the means for funding the same on an on-going basis. This shall include land management fees necessary to fund monitoring and

management of the Conservation Easement by the easement holder. The fees shall be estimated and validated by the proposed easement holder.

(d) Meet the requirements of the future conservation easement holder.

**Subd. 2. Plan Submittal Requirements.** A preliminary Land Stewardship Plan shall be submitted with the General Plan of Development. A Final Land Stewardship Plan shall be submitted with the Final Plan Stage of PUD development. The plan shall contain a narrative describing:

(a) Existing conditions, including all natural, cultural, historic, and scenic elements in the landscape;

(b) Objectives for each Conservation Area, including:

(1) The proposed permanent or maintained landscape condition for each area.

(2) Any restoration measures needed to achieve the proposed permanent condition, including:

i. Measures for correcting increasingly destructive conditions, such as erosion and intrusion of invasive plant species.

ii. Measures for restoring historic features (if applicable).

iii. Measures for restoring existing or establishing new landscape types.

(3) A maintenance plan, including:

i. Activities needed to maintain the stability of the resources, including mowing and burning schedules, weed control measures, planting schedules, and clearing and cleanup measures and schedules.

ii. An estimate of the annual on-going (post restoration) operating and maintenance costs.

**Subd. 3. Funding of Operation and Maintenance.** At the discretion of the City, the applicant may be required to escrow sufficient funds for the maintenance and operation costs of Conservation Areas for up to four years depending on restoration measures.

**Subd. 4. Enforcement.** In the event that the fee holder of the Conservation Areas, common areas and facilities, or any successor organization thereto, fails to properly maintain all or any portion of the aforesaid common areas or facilities, the City in coordination with the holder of the easement, may serve written notice upon such fee holder setting forth the manner in which the fee holder has failed to maintain the aforesaid common areas and facilities. Such notice shall set forth the nature of corrections required and the time within which the corrections shall be made. Upon failure to comply within the time specified, the fee holder, or any successor organization, shall be considered in



violation of this Ordinance, in which case the City shall have the right to enter the premises and take the needed corrective actions. The costs of corrective actions by the City shall be assessed against the properties that have the right of enjoyment of the common areas and facilities.

**Section 827.67. Conservation Area Design Standards.**

The following Conservation Area design standards shall also be considered in designing the CD-PUD:

**Subd. 1.** Conservation Areas should be interconnected wherever possible to provide a continuous network of Open Space within the PUD and throughout the City. It should coordinate and maximize boundaries with Conservation Areas and Open Space on adjacent tracts.

**Subd. 2.** Incorporate public and private trails with connections to existing or planned regional trails as identified in the most recent Park, Trail and Open Space Plan.

**Subd. 3.** Designated public access trails shall be protected by an access easement owned by the City.

**Subd. 4.** Incorporate public and/or private Open Space as designated in the Comprehensive Plan.

**Subd. 5.** Views of new dwellings from exterior roads and abutting properties should be minimized by the use of existing topography, existing vegetation, or additional landscaping. Ridge and hilltops should be contained within designated Conservation Areas wherever possible. Trees should not be removed from ridges and hilltops.

**Subd. 6.** The boundaries of designated conservation areas shall be clearly delineated and labeled on CD-PUD plans. These areas shall be delineated in the field with signage or other measures approved by the city.

**Subd. 7.** Stormwater management facilities may be located in designated conservation areas.

**Subd. 8.** Existing land in row-cropping use shall be converted to a use that supports the achievement of the City's conservation objectives.

**Section 827.69. Landscape Design Standards.**

**Subd. 1.** Street trees may be planted, but are not required, along internal streets passing through common Conservation Areas or Open Space.

**Subd. 2.** Irregular spacing is encouraged for street trees, to avoid the urban appearance that regular spacing may invoke.

**Subd. 3.** The selection of vegetation should be guided by the natural community types identified in the City's 2008 Natural Resources Inventory.

**Subd. 4.** Planted buffers between clusters of residential lots are encouraged to enhance privacy and a rural appearance between lots.

**Subd. 5.** Buffers consisting of an informal arrangement of native plant species combined with infrequent mowing are strongly encouraged, to create a low-maintenance, natural landscape.

**Subd. 6.** Planted buffers are also encouraged along natural drainage areas to minimize erosion.

**Subd. 7.** Grading for Conservation Areas and other common landscaped areas and stormwater management areas shall be avoided to reduce compaction and impacting water infiltration rates. Soil testing and decompaction may be required if site construction activities negatively impact soil permeability.

**Subd. 8.** Better Site Design/Low Impact Development practices as identified in the Minnesota Stormwater Manual published by the Minnesota Pollution Control Agency shall be used to design sites and meet the performance standards.

#### **Section 827.71. Subsurface Sewage Treatment Facilities.**

**Subd. 1.** Where city services are not available, CD-PUD developments may be platted to accommodate home site lots with either individual septic tanks and all required drainfields/mound systems located on the lot, or individual septic tanks and primary drainfield/mound system located on the lot and secondary drainfields/mound system located in the designated Conservation Area or other Open Space.

**Subd. 2.** All septic systems shall conform to the current performance standards of Minnesota Rules Chapter 7080 and its appendices, or the amended Rules in effect at the time of installation. Except in instances where flexibility has been explicitly granted by the City, septic systems shall also conform to relevant City regulations, including the requirement to identify a primary and secondary drainfield site.

**Subd. 3.** The City may consider shared sewage treatment systems which are consistent with Minnesota Pollution Control Agency (MPCA) regulations and relevant City ordinances, provided adequate agreements are in place related to monitoring and maintenance procedures and replacement of the system in case of a failure.

**Subd. 4.** Secondary drainfields/mound systems may be located in designated Conservation Areas and other Open Space provided that:

- (a) They are located within a limited distance of the lots they serve.
- (b) Construction of drainfields/mound systems do not result in the destruction of ecological resources.
- (c) The Conservation Area or Open Space parcel containing the drainfield/mound system is owned in fee by a common ownership association which owns non-Conservation

Area land within the subdivision and in which membership in the association by all property owners in the subdivision is mandatory.

- (d) The individual lot owner is responsible for maintenance and repair of the drainfield/mound system.
- (e) The ground cover over the drainfield/mound system is maintained according to the Land Stewardship Plan.
- (f) Recreational uses are prohibited within 50 feet of the drainfields/mound systems.
- (g) The Conservation Easement for the dedicated Conservation Area parcel describes the location of individual drainfields/mound systems.

### **Section 827.73. Site Design Process.**

At the time of PUD Concept Plan development and review, applicants shall demonstrate that the following design process was performed and influenced the design of the concept site plan.

**Subd. 1. Step 1—Identify Conservation Areas.** Identify preservation land in two steps. First identify “unbuildable” areas which include: slopes greater than 18%, wetlands, wetland buffers, lakes, and land within the 100 year floodplain. Next, identify Conservation Areas which include those areas designated as Conservation Areas (Section 827.59 Subd. 3.) The remaining land shall be identified as the potentially Buildable Land Area. The applicant shall identify the quantity of land designated as unbuildable, Conservation Area, and potentially Buildable Land Area.

**Subd. 2. Step 2—Locate Housing Sites.** Locate the approximate sites of individual houses in regard to protected views and the potentially buildable land areas.

**Subd. 3. Step 3—Align Streets and Trails.** Align streets in order to access the lots. New trails and connections to regional trail systems, if any, should be laid out to create internal and external connections to existing and/or potential future streets, sidewalks, and trails.

**Subd. 4. Step 4—Lot Lines.** Draw in the lot lines.

### **Section 827.75. CD-PUD Application Processing.**

The review and approval procedures of the PUD District shall be used to review and approve CD-PUDs. Prior to the Concept Plan Stage PUD application, the City encourages applicants to engage in an informal collaborative project goal setting process with the City. The purpose of this process is to jointly develop site design and conservation objectives and assess areas of regulatory flexibility for achieving developer and City objectives for the specific parcel of land. The Collaborative Process may include council members, city commission members, land owners, developers, city staff, other governmental jurisdiction staff, the potential future Conservation Easement holder, and other participants as appropriate. The outcome of the process is a Project Guidance Report prepared by city staff. The report will summarize the project concept, project objectives, and preliminary understanding of regulatory flexibility needed to

achieve the objectives.

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#### **Amendment History of this Section**

*Amended February 19, 1985 (Ord. 217-A). Amended Sections 827.03, 827.05, 827.07, and 827.08 regarding the Shoreland District.*

*Amended April 16, 1985 (Ord. 219). Added Section 827.20 regarding Fees in the Sanitary Landfill District.*

*Amended June 1, 1993 (Ord. 275). Significantly revised Section 827.01 - 827.07 and 827.29 regarding the Shoreland Overlay District.*

*Amended October 4, 1994 (Ord. 280). Sections 827.24, 827.25, 827.27, 827.29, 827.31, and 827.33 were adopted and previous language in these sections were repealed regarding Planned Unit Development.*

*Amended September 20, 2005 (Ord. 393). Section 827.06(e) was amended regarding Individual Sewage Treatment Systems in the Shoreland Overlay District.*

*Amended October 17, 2006 (Ord. 417). Section 827.3 was amended regarding notice requirements.*

*Amended July 6, 2010 (Ord. 484). Adding new Sections 827.51 through 827.75 related to a new zoning district for conservation subdivision design.*

*Amended September 21, 2010 (Ord. 492). Adding new Section 827.60 related to the process of appealing information within the City's Open Space Report related to development in the Conservation Design District.*

*Amended April 3, 2012 (Ord. 526). Amending Section 827 regarding Planned Unit Developments.*