

CHAPTER 8**LAND AND BUILDING REGULATIONS****828. ZONING - PERFORMANCE STANDARDS AND ENFORCEMENT****Section 828.01. Purpose.**

Subd. 1. The performance standards established in this section are designed to encourage a high standard of development by providing assurance that neighboring land uses will be compatible. The performance standards are designed to prevent and eliminate those conditions that cause blight. All future development in all districts shall be required to meet these standards. The standards shall also apply to existing development where so stated. The City Council shall be responsible for enforcing the standards.

Subd. 2. Before any building permit is approved, the Zoning Administrator shall determine whether the proposed use will conform to the performance standards. The developer or land owners shall supply data necessary to demonstrate such conformance. Such data may include description of equipment to be used, hours of operation, method of refuse disposal and type and location of exterior storage.

Section 828.03. Exterior Storage.

Subd. 1. In residential districts, all materials and equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties, except for the following: laundry drying and recreational equipment, construction and landscaping materials and equipment currently (within a period of thirty days) being used on the premises, agricultural equipment and materials if these are used or intended for use on the premises.

Subd. 2. In commercial and industrial districts no exterior storage shall be allowed except on parcels of at least five contiguous acres. When allowed, exterior storage shall be limited to an area no larger than 20 percent of the footprint of the principal structure. No exterior storage shall be visible from any street or right-of-way. Exterior storage areas shall be fully screened on all sides by opaque materials architecturally compatible with the principal structure. Screens shall be constructed of materials designed for low maintenance and long life. Existing exterior storage shall be screened in accordance with this provision within five years of the effective date of this subdivision. On sites of less than five (5) contiguous acres with exterior storage which were in existence on September 24, 1985, storage shall be confined to as compact an area as is reasonably practicable and shall comply with the screening requirements of this subdivision.

Subd. 3. In all districts the City may require a Conditional Use Permit for any exterior storage if it is demonstrated that such storage is a hazard to the public health, safety, convenience, morals, or has a depreciating effect upon nearby property values, or impairs scenic views, or constitutes threat to living amenities.

Section 828.04. Exterior Building Materials. For all new construction in commercial and

industrial districts no visible exterior building surface shall be constructed of any material except face brick, stone, architecturally treated concrete, cast in place or pre-cast panels, decorative block, glass, redwood or cedar boards, metal or a combination thereof. Metal may be used on a maximum of 20 percent of the visible exterior building surface, except that metal lap siding may be used in any amount on the exterior of residential-style accessory buildings not exceeding 4000 square feet of gross floor area. No roof with a pitch greater than 3/12 shall be constructed of visible aluminum, iron or steel.

Section 828.05. Refuse.

Subd. 1. In all districts, except on farms, all waste material, with the exception of crop residue, debris, refuse, or garbage shall be kept in an enclosed building or properly enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse. Existing uses shall comply with this provision within six months following enactment of this Ordinance.

Subd. 2. Passenger vehicles and trucks in an inoperative state shall not be parked in residential districts except on farms for a period exceeding 30 days; inoperative shall mean incapable of movement under their own power and in need of repairs or junk yard. All exterior storage not included as a permitted accessory use, a permitted use, or included as part of a conditional use permit, or otherwise permitted by provisions of this Ordinance shall be considered as refuse.

Section 828.06. Signs. In commercial and industrial districts all signs shall comply with the requirements of sections 815.11 and 815.17 of the City Code and shall be constructed of materials which are architecturally compatible with the principal structure.

Section 828.07. Screening.

Subd. 1. Screening shall be required in residential zones where (a) any off-street parking area contains more than four (4) parking spaces and is within thirty (30) feet of an adjoining residential zone, and (b) where the driveway to a parking area of more than six (6) parking spaces is within fifteen (15) feet of an adjoining residential use or zone.

Subd. 2. Where any business (structure, parking or storage) is adjacent to property zoned or developed for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business, parking lot, or industry is across the street from a residential zone, but not on that side of a business or industry considered to be the front (as determined by the Building Inspector).

Subd. 3. In commercial and industrial districts all exterior trash containers shall be screened on at least three sides and shall not be visible from any street or right-of-way. Screening shall be by means of an opaque structure, earth berm or landscaping at least five feet in height and shall be architecturally compatible with the principal structure.

Subd. 4. The screening required in this section may consist of a fence, trees, shrubs and berms not less than five (5) feet high but shall not extend within fifteen (15) feet of any street or driveway. The screening shall be placed along property lines or in case of screening along a street, twenty (20) feet from the street right-of-way with landscaping between the screening

and pavement. The screening shall block direct vision. Planting of a type approved by the City Council may also be required in addition to or in lieu of fencing.

Section 828.08. Mechanical Equipment. The ground level view of all mechanical equipment shall be fully screened from contiguous properties and adjacent streets. Screening may be accomplished by architecturally integrating the equipment into the structure or by surrounding it with opaque materials compatible with the principal structure. Screening materials shall be designed for low maintenance and long life and shall be kept in a state of good repair. Signs shall not be used for the purpose of screening mechanical equipment.

Section 828.09. Solar Equipment. Any equipment or device that utilizes, operates or supplies energy derived from the sun shall meet the following standards:

Subd. 1. Solar Equipment, if affixed to a structure. The following standards shall apply to Solar Equipment which is affixed to a structure:

- (a) The equipment or device must be affixed to a structure and meet all setback requirements for principal structures in the zoning district where located.
- (b) The equipment or device may not exceed the height of the building by more than five feet, and shall cover no more than 70 percent of the roof to which it is affixed.
- (c) The equipment or device must be designed and constructed in compliance with all applicable building and electrical codes.
- (d) The equipment or device must be in compliance with all state and federal regulations regarding co-generation of energy.
- (e) All solar arrays or panels shall be installed or positioned so as not to cause any glare or reflective sunlight onto neighboring properties or structures, or obstruct views.
- (f) Solar equipment which is mounted to a roof which is not flat, and which is visible from the nearest right-of-way, shall not have a finished pitch more than five percent steeper than the roof.
- (g) The zoning administrator may require compliance with any other conditions, restrictions or limitations deemed reasonably necessary to protect the residential character of the neighborhood, if applicable.

Subd. 2. Solar Equipment, if not affixed to a structure.

- (a) The following standards shall apply to Solar Equipment which is not affixed to a structure, within the Business and Industrial Park zoning districts:
 - (i) Solar Equipment which is not affixed to a structure shall only be permitted in the Business and Industrial Park zoning districts and only following Conditional Use Permit approval.
 - (ii) Solar Equipment shall be a minimum of 300 feet from residential property.
 - (iii) Solar Equipment shall meet all setback requirements for principal structures in the zoning district where located.
 - (iv) The footprint occupied by Solar Equipment shall be considered lot coverage and impervious surface for the purpose of calculating such standards. The footprint shall include all space between pieces of Solar Equipment, unless the pieces are separated by more than 25 feet.
 - (v) The footprint occupied by Solar Equipment shall not exceed 20% of the lot.

- (vi) The equipment or device may not exceed a height of 20 feet.
 - (vii) The City may require landscaping or other means of screening to limit visual impacts of the mounting devices of the Solar Equipment.
 - (viii) The equipment or device must be designed and constructed in compliance with all applicable building and electrical codes.
 - (ix) The equipment or device must be in compliance with all state and federal regulations regarding co-generation of energy.
 - (x) All solar arrays or panels shall be installed or positioned so as not to cause any glare or reflective sunlight onto neighboring properties or structures, or obstruct views.
 - (xi) The City may require compliance with any other conditions, restrictions or limitations deemed reasonably necessary to protect the public health, safety, and welfare and to promote harmony with neighboring uses.
- (b) The following standards shall apply to Solar Equipment which is not affixed to a structure, within residential zoning districts in which such Equipment is permitted:
- (i) Solar Equipment which is not affixed to a structure shall only be permitted in the Agricultural Preservation, Rural Residential, Rural Residential-Urban Reserve, Rural Residential-1, and Rural Residential-2 zoning districts and only following Conditional Use Permit approval.
 - (ii) Solar Equipment shall only be permitted on a parcel which is five acres or greater in area.
 - (iii) Solar Equipment shall only be allowed as an accessory use on a parcel with an existing principal structure.
 - (iv) Solar Equipment shall be set back a minimum of 100 feet from all property lines.
 - (v) The footprint occupied by Solar Equipment shall not exceed 1000 square feet.
 - (vi) The equipment or device may not exceed a height of 15 feet.
 - (vii) The City may require landscaping or other means of screening to limit visual impacts of the Solar Equipment.
 - (viii) The equipment or device must be designed and constructed in compliance with all applicable building and electrical codes.
 - (ix) The equipment or device must be in compliance with all state and federal regulations regarding co-generation of energy.
 - (x) All solar arrays or panels shall be installed or positioned so as not to cause any glare or reflective sunlight onto neighboring properties or structures, or obstruct views.
 - (xi) The City may require compliance with any other conditions, restrictions or limitations deemed reasonably necessary to protect the public health, safety, and welfare and to promote harmony with neighboring uses.

Section 828.09.1 Wind Energy Conversion Systems (WECS)

Subd. 1. Purpose. The purpose of this ordinance is to establish standards and procedures for Wind Energy Conversion Systems (WECS) through a conditional use permit in order to harness clean, renewable wind energy while at the same time protecting public health, safety and welfare.

Subd. 2. Definitions. The following words and terms, wherever they appear within this section, are defined as follows:

- (1) Residentially zoned property – property located within a zoning district which allows residential uses as a principal use. For the sake of this section, residentially zoned property shall include property within the Agricultural Preservation zoning district.
- (2) WECS height – the distance measured from the grade of the WECS to the highest point of the rotor blade. For WECS which are attached to a structure, the height shall be measured from the lowest grade of the structure on which the WECS is attached.

Subd. 3. Location Requirements. The following shall apply to all WECS:

- (a) WECS shall only be allowed if explicitly listed as an allowed conditional use within the subject zoning district.
- (b) Minimum lot size:
 - (1) Residentially zoned property: 20 acres.
 - (2) Non-residentially zoned property: Two acres. Notwithstanding this requirement, a WECS greater than 50 feet in height shall only be permitted if a lot is 10 acres in size or greater and a WECS greater than 120 feet in height shall only be permitted if a lot is 20 acres in size or greater.
- (c) Maximum WECS density:
 - (1) Residentially zoned property: one per lot.
 - (2) Non-residentially zoned property: one per lot, except a second WECS shall be permitted provided the WECS height of the second WECS is 50 feet or less.
- (d) Setback from property lines and/or public right-of-ways:
 - (1) Residentially zoned property: 300 feet.
 - (2) Non-residentially zoned property: 100 feet, unless the WECS height exceeds 50 feet, in which case the minimum setback shall be increased to 300 feet.
 - (3) Increased setback from property zoned residential or mixed use: 300 feet, unless the WECS height exceeds 50 feet, in which case the minimum setback shall be increased to 750 feet
- (e) Maximum setback from structures on residentially zoned property: a WECS constructed on residentially zoned property shall be located within 150 feet of a structure on the subject property.
- (f) No WECS shall be allowed within the Shoreland Overlay District or a floodplain.
- (g) No portion of the WECS, including the full arc area created by the blades, shall extend over above-ground power lines or into any drainage and utility easement.
- (h) For pole-mounted WECS, the full arc area created by the blades shall have 30 feet of clearance from any accessory structure or tree.

Subd. 4. WECS Standards. The following shall apply to all WECS:

- (a) Maximum Production Capacity:
 - (1) Residentially zoned property: The maximum capacity of the WECS generator shall be 10 kilowatts.
 - (2) Non-residentially zoned property: The maximum capacity of the WECS generator shall be 100 kilowatts
- (b) Maximum WECS height:
 - (1) Residentially zoned property: 50 feet.

- (2) Non-residentially zoned property: 200 feet. Notwithstanding the previous limitation, the following more restrictive standards shall also apply depending on the size of the property on which the WECS is proposed:
- (i) WECS on property less than 10 acres in size: A WECS located on a property less than 10 acres in size shall not exceed 50 feet in height.
 - (ii) WECS on property less than 20 acres in size: A WECS located on a property less than 20 acres in size shall not exceed 120 feet in height.
- (c) Tower Design: WECS tower may be of monopole or lattice tower design, but shall be self-supporting without the use of guy wires or similar features.
- (d) Tower Appearance: the following provisions shall apply to WECS unless otherwise required by FAA regulations:
- (1) Towers shall be unobtrusive in color or shall be a color consistent with the surrounding area.
 - (2) Towers shall be of non-reflective finish to reduce visual impact.
- (e) Tower Access: WECS shall be designed to prevent climbing from within 12 feet of the ground.
- (f) Controls and Brakes: WECS shall be equipped with both a manual braking device as well as an automatic device capable of stopping the WECS operation in winds in excess of 40 MPH.
- (g) Lighting: No lighting, reflectors, flashers, or other illumination shall be affixed to the WECS except as required by FAA regulations. All other on-site lighting shall be consistent with the Medina Lighting Ordinance.
- (h) All power lines and wires serving the WECS shall be buried.
- (i) Electromagnetic Interference: WECS shall be filtered, shielded, or otherwise designed and constructed so as not to cause communication signal interference. The applicant shall notify all communication tower operators within two miles of the proposed WECS location prior to application to the City for conditional use permit approval. The City may require a study of the signal prior to construction in order to provide a baseline.
- (j) WECS foundations shall be designed to resist two times the wind uplift calculated pursuant to the Uniform Building Code.
- (k) Noise: The WECS shall be designed and located in such a way that no more than 35 dB(A) of noise is apparent at property lines. Notwithstanding the above, the apparent noise from the WECS may exceed 35 dB(A) at a property line if the applicant can demonstrate that the amount of noise when the WECS is operating will not exceed the average nighttime ambient noise by more than 6 dB(A).
- (l) Manufacturer Warranty: The applicant shall provide documentation from the manufacturer that the WECS equipment proposed has been successfully operated in atmospheric conditions similar to those within the City. The WECS shall be warranted against any system failures reasonably expected in severe weather conditions.
- (m) Certification:
- (1) Equipment shall be certified by the manufacturer that it is in conformance to applicable industry standards for wind turbine design and standards adopted by the American National Standards Institute (ANSI).
 - (2) An engineer registered with the State of Minnesota shall certify that the design, construction and operation of the tower and foundation are compatible with and

appropriate for the turbine to be installed given the soil and climate conditions of the proposed location.

- (n) Compliance with Codes: all WECS equipment shall be certified by relevant professionals that it is in compliance with all applicable local, state, and federal regulatory standards, including but not limited to:
- (1) The relevant standards of the City Code;
 - (2) Uniform Building Code as adopted by the State of Minnesota;
 - (3) The National Electrical Code as adopted by the State of Minnesota;
 - (4) The National Electric Safety Code;
 - (5) Federal Aviation Administration and Minnesota Department of Transportation requirements; and
 - (6) Minnesota Pollution Control Agency and Environmental Protection Agency regulations.

Subd. 5. Additional Submittal Requirements. In addition to the information required elsewhere in the City Code, applications for WECS shall include the following information:

- (1) A copy of the review response from the FAA concerning the development application and FAA requirements for warning devices, height restrictions, etc.
- (2) Technical specifications of the WECS including, but not limited to: type, height, blade length, operating parameters, anticipated noise level at property lines, lightning protection, manufacturer's certification as required by this section, and engineer's certification as required by this section.
- (3) A shadow flicker report summarizing the amount of time which shadow flicker will impact neighboring property.
- (4) A decommissioning plan as required by this section shall be submitted for review and approval of the City.

Subd. 6. Decommissioning. A WECS shall be considered a discontinued use after six months without energy production. A discontinued WECS must be dismantled and removed, at the property owner's expense, within 90 days of discontinuation. The decommissioning plan shall be reviewed and approved by the City to ensure the safe, rapid, and complete removal of the WECS. The plan shall identify the financial resources which will be available to pay for the implementation of the decommissioning plan. A WECS which is not dismantled and removed within 90 days of being discontinued shall be considered a public nuisance subject to abatement as described in the City Code and Minnesota law. The applicant shall enter into an agreement satisfactory to the City which shall run with the property in order to ensure the decommissioning plan is carried through with.

Subd. 7. Record Keeping. The party responsible for operating the WECS consistent with the conditional use permit and other relevant operating standards shall measure the energy produced by the WECS and be prepared to report the production upon request of the City. If records of energy production are not provided when requested, the WECS shall be considered to not be producing energy and subject to the requirement of being decommissioned.

Subd. 8. Inspection. The City reserves the right, upon issuance of a conditional use permit, to periodically and at all reasonable times inspect the premises on which the WECS is located for compliance with this ordinance, the conditions set forth on the conditional use permit, and other relevant requirements. If a WECS is not maintained in operational condition or poses a potential safety hazard, the owner shall be required to take expeditious action to correct the situation upon written notice from the City.

Subd 9. Enforcement. Operation or maintenance of a WECS in violation of the requirements of this ordinance, of the terms of the conditional use permit, or of other relevant requirements shall be a violation of this ordinance and subject to prosecution. Additionally, operation or maintenance in violation of the requirements of this ordinance, of the terms of the conditional use permit, or of other relevant requirements shall constitute a public nuisance, subject to abatement as described in the City Code and Minnesota law.

Section 828.09.2. Geothermal Systems.

Subd. 1. Geothermal systems are permitted accessory uses in all zoning districts provided that they comply with the requirements of this section and other relevant City ordinances and state regulations.

Subd. 2. No portions of the geothermal system shall be permitted to be located within or below drainage and utility easements or within 10 feet of any property line.

Subd. 3. Geothermal systems shall not be permitted within or under wetlands.

Section 828.10. Compliance with Performance Standards.

Subd. 1. Additions to existing buildings in commercial and industrial districts which do not exceed in size seventy-five (75) percent of the floor area of the existing structure and which are constructed on continuous frost footings shall be constructed so that at least twenty (20) percent of the exterior building surface of the combined structure is composed of one or more of the non-metal materials specified in section 828.04. The non-metal materials shall be concentrated on the portions of the building which are visible from adjacent streets. Sites on which additions are constructed under the provisions of this subdivision shall be brought into compliance with the requirements of sections 828.03, 828.07, 828.08, 828.09 and 828.51 with regard to screening and landscaping. Additions which exceed in size seventy-five (75) percent of the floor area of the existing structure or which are not constructed on continuous frost footings shall be considered new buildings and shall comply with the requirements of section 828.04. For the purposes of this subdivision, the size of successive additions to a structure shall be cumulative and shall be compared to the size of the structure in existence on the effective date of this subdivision.

Subd. 2. Existing buildings in commercial and industrial districts which do not comply with the exterior building material requirements of section 828.04 and for which no additions are proposed shall be brought into compliance with the requirements of sections 828.03, 828.04, 828.07, 828.08, 828.09 and 828.51 to the degree reasonably practicable prior to September

25, 1995. The city council may grant a Conditional Use Permit which specifies the degree and timing of compliance with the city's performance standards and which conveys a conforming status upon the property. Sites upon which conforming status is granted under this subdivision and for which an addition is subsequently proposed shall be evaluated under the provisions of subdivision 1.

Section 828.11. Glare. In all districts, any lighting used to illuminate an off-street parking area, sign, or other structure, shall be arranged as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, where from floodlights or from high-temperature processes such as combustion or welding, shall not be directed into any adjoining property. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way. Any light or combination of lights which cast light on a public street shall not exceed one (1) foot candle (meter reading) as measured from the centerline of said street. Any light or combination of lights which cast light on residential property shall not exceed 0.4 foot candles (meter reading) as measured from said property.

Section 828.13. Bulk Storage (Liquid). All uses associated with the bulk storage of oil, gasoline, liquid fertilizer, chemicals, and similar liquids shall require a conditional use permit in order that the governing body may have assurance that fire, explosion, or water or soil contamination hazards are not present (that would be detrimental to the public health, safety, and general welfare). All existing, above ground liquid storage tanks having a capacity in excess of ten thousand (10,000) gallons shall secure a conditional use permit within twenty-four (24) months following enactment of this Ordinance. The City Council may require the development of diking around said tanks. Diking shall be suitably sealed, and shall hold a leakage capacity equal to one hundred fifteen (115) percent of the tank capacity. Any existing storage tank that, in the opinion of the governing body, constitutes a hazard to the public safety shall discontinue operations within five (5) years following enactment of this Ordinance.

828.15. Nuisances. No noise, odors, vibration, smoke, air pollution, liquid, or solid wastes, heat, glare, dust, or other such adverse influences shall be permitted in any district that will in any way have an objectionable effect upon any property. All wastes in all districts shall be disposed of in a manner that is not dangerous to public health and safety nor will damage public waste transmission or disposal facilities. The following standards apply to non-industrial districts:

Subd. 1. Odors. Odors shall not be allowed to exceed the standards stated in the Minnesota Air Pollution Control Regulations, numbers 9 and 10.

Subd. 2. Miscellaneous Nuisances.

- (a) It shall be unlawful to create or maintain a junkyard or vehicle dismantling yard except as provided herein.
- (b) It shall be unlawful to create a nuisance affecting the health and safety of any person.
- (c) The following are declared to be nuisances affecting public health or safety:
 - (i) The effluent from any cesspool, septic tank, drainfield or human sewage disposal

system, discharging upon the surface of the ground, or dumping the contents thereof at any place except as authorized.

- (ii) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances.
- (iii) The ownership, possession or control of any unused refrigerator or other container, with doors which fasten automatically when closed, to be exposed and accessible to the public without removing the doors, lids, hinges or latches or providing locks to prevent access by the public.

Section 828.17. Interference with the Use of Rights-of-way and Easements Prohibited.

- (a) No grading, tree or shrub planting, placement of landscaping boulders or other obstructions, or construction of permanent improvements shall occur within a public right-of-way or easement without approval of the City. Such approval shall only be granted if the City determines that such use will not interfere with existing or intended future use of such right-of-way or easement.
- (b) Any alteration, tree, shrub, or improvements within a public right-of-way or easement may be altered or removed by the City if necessary to utilize right-of-way or easement for its intended purpose. No compensation shall be provided for such alteration or removal.
- (c) Above-grade structural improvements, including retaining wall and landscaping boulders, shall not be erected or installed within rights-of-way or public easements with the exception of the following improvements which are permitted. The placement of the improvements permitted below shall not require permits unless otherwise specified by city ordinance.
 - (i) Public improvements, signage for public and private streets, public utility facilities and essential services, stormwater improvements, and other improvements approved by the City that serve a public benefit.
 - (ii) Mailboxes approved by the United States Postal Service and which are attached to the ground with support(s) which do not exceed 16 square inches in cross-sectional area for the first four inches above the ground. The cross-sectional area of the support(s) of Cluster Box Units approved by the United States Postal Service may exceed 16 square inches.
 - (iii) Fences shall be allowed within easements if less than eight feet in height and if surface water is not prevented from flowing.

Section 828.19. Platting. All buildings hereafter erected upon unplatted land shall be so placed that they will not obstruct proper street extensions or other features or proper subdivision and land planning.

Section 828.23. Dwelling Units Prohibited. No garage, tent, trailer, or accessory building shall at any time be used as a permanent residence. The basement portion of finished home or apartment may be used for normal eating and sleeping purposes provided it is properly damp-proofed, has suitable fire protection and exits, and is otherwise approved by the Zoning Administrator. Earth sheltered homes are permitted.

Section 828.25. Relocating Structures - Permit Required. No building or structure shall be moved without complying with Section 405 of this code, and obtaining a permit from the Zoning

Administrator. The permit shall indicate the location of the lot on which the application for a building or structure is to be located, the dimensions of the lot and the proposed location of the structure on the lot along with setback distances. No permit shall be issued unless and until the following conditions are fully complied with and approved by the Zoning Administrator:

Subd. 1. The building to be moved must comply in all respects with the State Building Code and the Medina zoning ordinances.

Subd. 2. The lot on which the building is to be located must meet all the minimum dimensional requirements of the zoning district in which it is located.

Subd. 3. The building must be placed on the lot so as to meet all the front, side and rear-yard requirements as set forth in the zoning ordinance.

Section 828.27. Electrical Correction Requirements.

Subd. 1. In every case in which a permit shall be issued for moving a building or structure in which the removal of any electrical or other wires is required, it shall be the duty of the person, association, or corporation owning, operating or controlling such wires to remove or displace the same, so far as the same may be necessary.

Subd. 2. The person to whom said permit shall have been issued shall notify the person, association, or corporation owning, operating, or controlling said wire to remove or displace the same to facilitate the removal of said building, and shall at the same time exhibit to said person, association, or corporation the properly issued permit authorizing the removal of said building.

Subd. 3. Any expenses incurred or to be incurred in the moving, removing or displacing of such wire shall be paid for by the person who makes application for said permit.

828.28. Land Filling and Land Excavation/Grading Operations.

Subd. 1. Purpose. The purpose of this ordinance is to minimize the effects on the environment, roads, and community with respect to land filling, land excavation and grading operations which change the topography of land. It is the intent of the city that the regulations and standards set forth in this ordinance are in addition to other provisions of the city code that regulate the use of land.

Subd. 2. Definitions. The following words and terms, wherever they occur in this ordinance, are defined as follows:

- a) “As-Graded” is the extent of surface conditions on completion of Grading.
- b) “Bedrock” is in-place solid rock.
- c) “Bench” is a relatively level step excavated into Earth Material of which Fill is to be placed.
- d) “Civil Engineer” is a professional engineer registered in the State of Minnesota to practice in the field of Civil Engineering.

- e) “Civil Engineering” is the application of the knowledge of the forces of nature, principles of mechanics and the properties of materials to the evaluation, design and construction of civil works for the beneficial uses of mankind.
- f) “Compaction” is the densification of a Fill by mechanical means.
- g) “Designer” is a person licensed or certified by the Minnesota Board of Architects: Engineers, Land Surveyors and Landscape Architects who is responsible for the preparation of the grading plans and specifications.
- h) “Earth Material” is any rock, Soil or Fill and/or any combination thereof.
- i) “Engineering Geologist” is a geologist experienced and knowledgeable in Engineering Geology.
- j) “Engineering Geology” is the application of geologic knowledge and principles in the investigation and evaluation of naturally occurring rock and Soil for use in the design of civil works.
- k) “Engineering Geology Report” is a report that consists of an adequate description of the geology of the Site, conclusions and recommendations regarding the effect of the proposed grading on geologic conditions on the Site, and opinions and recommendations covering the suitability of the Site to be developed by the proposed Grading. Recommendations included in the report shall be incorporated in the grading plans or specifications.
- l) “Erosion” is the wearing away of the ground surface as a result of the movement of wind, water and/or ice.
- m) “Excavation” is the mechanical removal of Earth Material.
- n) “Fill” is a deposit of Earth Material placed by artificial means.
- o) “Finish Grade” is the final Grade of the Site which conforms to the approved plan.
- p) “Geotechnical Engineer” has the same definition as “Soils Engineer.”
- q) “Geotechnical Engineering” has the same definition as “Soils Engineering.”
- r) “Grade” is the vertical location of the ground surface.
- s) “Grading” is any excavating or Filling or combination thereof.
- t) “Retaining Wall” is a wall or similar structure designed for the retention of dirt, gravel, sand, Soil, or other landscaping, natural, or man-made material.
- u) “Site” is any lot or parcel of land or contiguous combination thereof, under the same ownership, where Grading is performed or permitted.

- v) “Slope” is an inclined ground surface the inclination of which is expressed as a ratio of horizontal distance to vertical distance.
- w) “Soil” is naturally occurring superficial deposits overlying Bedrock.
- x) “Soils Engineer” is an engineer experienced and knowledgeable in the practice of Soils Engineering or Geotechnical Engineering.
- y) “Soils Engineering” is the application of the principles of soils mechanics in the investigation, evaluation and design of civil works involving the use of Earth Materials and the inspection and/or testing of the construction thereof.
- z) “Soils Engineering Report” is a report that shall consist of the following information: data regarding the nature, distribution and strength of existing Soils; conclusions and recommendations for Grading procedures; design criteria for corrective measures, including buttress Fills, when necessary; and opinions and recommendations covering adequacy of Sites to be developed by the proposed Grading, including the stability of slopes. Recommendations included in the Soils Engineering Report shall be incorporated in the grading plans or specifications.
- aa) “Spoil Site” is the temporary site used to deposit the materials from an excavation.
- bb) “Terrace” is a relatively level step constructed in the face of a graded Slope surface for drainage and maintenance purposes.

Subd. 3. Existing Fill, Excavations or Embankments. Whenever the city determines that any existing Excavation, embankment or Fill on private property has become a hazard to life and limb, or endangers property, public roads or drainage channels, the owner of the property upon which the Excavation, embankment or Fill is located, upon receipt of notice in writing from the city, shall within the period specified in the notice obtain a grading permit and repair or eliminate such Excavation or embankment in order to eliminate the hazard and be in conformance with the requirements of this ordinance.

Subd. 4 Permits Required; Exceptions.

- a) Permits required. Except as exempted by this ordinance, no person or entity shall do any Grading without first obtaining a grading permit from the city. A separate grading permit shall be required for each Site.
- b) When Grading Permit may be Applied for and Issued. A grading permit may be applied for at any time, but must be obtained prior to any Grading being performed on the Site. If the Site is under formal review for a preliminary plat or site plan by the city, a grading permit may not be issued by the city until it is authorized by the city council. For individual isolated Grading, the city engineer may grant a Grading permit without city council approval.
- c) The city may issue a Grading permit for a portion of the Site prior to plans and specifications for the entire Site or project being submitted or reviewed by the

city, provided that adequate information and detailed statements have been filed by the applicant that complies with all pertinent requirements of this ordinance. The applicant may proceed at his or her own risk without assurance that the grading permit for the entire Site or project will be granted by the city.

- d) Exceptions. No person shall do any Grading on any property within the city without first obtaining a grading permit from the city, except for the following activities which do not require a grading permit:
- i) Grading by the federal, state, county, or city government in connection with the construction or maintenance of roads, highways, or utilities;
 - ii) Grading for curb cuts, utility hookups, or street openings for which another permit has been issued by the city;
 - iii) Grading of less than fifty (50) cubic yards;
 - iv) Grading for agricultural uses, as defined in subdivision 5 of this ordinance;
 - v) Cemetery graves;
 - vi) Refuse disposal sites controlled by other laws and regulations; and
 - vii) Exploratory Excavations under the direction of Soil Engineers or Engineering Geologists.

Subd. 5. Agricultural Uses Exempted. Grading directly related to Agricultural Uses, as defined in Medina code section 825.07 subdivision 3, is exempt from the grading permit and fee requirements of this ordinance, following an administrative review by the city which shall include review and compliance with the following:

- a) Wetland conservation as required by Medina code section 828.43;
- b) Compliance with Medina code section 415 (Seasonal Weight Limits Commercial Vehicles);
- c) A map of the property that shows any trees that are to be removed, preserved or replaced as a result of the Grading;
- d) Compliance with the rural subdivision contiguous suitable soil requirements as required by Medina code section 820;
- e) Location of any Spoil Sites; and
- f) Any impact on adjacent properties.

Subd. 6. Grading Permit Application Requirements.

- a) Application. In order to obtain a grading permit from the city, the applicant shall file

an application in writing on a form furnished by the city for that purpose. Every application shall contain the following information:

- i) A description of the Grading to be performed for which the permit is being applied for;
 - ii) A description of the Site on which the proposed Grading is to be done which shall be either a legal description, street address or similar description that will readily identify and definitely locate the proposed Grading;
 - iii) The purpose of the proposed Grading;
 - iv) The valuation of the Grading;
 - v) A signature from the property owner or the property owner's authorized responsible agent that authorizes the Grading;
 - vi) A description of any Spoil Site locations;
 - vii) A statement of the Grading's impact on any surrounding roads and any haul routes to be used for the Grading; and
 - viii) Any other data and information that may be required by the city.
- b) **Grading Permit Fees.** The applicant shall also pay a grading permit fee, which shall include a grading plan review fee to the city. The amount of the grading permit fee shall be set forth in the city's fee schedule that is adopted from time to time by the city council by resolution.
- c) **Financial Security.** Upon submittal of the application for the grading permit, the city shall require a letter of credit in such form and amount as may be deemed necessary by the city to assure that the Grading, if not completed in accordance with the reviewed grading plans and specifications and this ordinance, will be corrected to eliminate any hazardous conditions. The amount of the letter of credit may be reduced by the city in instances where it has been requested by the applicant and the city and the applicant have entered into a development agreement. The amount of the reduction shall be based upon the extent to which the Grading and restoration have previously been completed and the continued need for Erosion control.
- d) **Supporting Information.** Each application for a grading permit shall be accompanied by three (3) sets of grading plans, specifications and any supporting data. The grading plans, specifications and any supporting data shall be prepared and signed by a person who is licensed or certified as a Soils Engineer or as an Engineering Geologist by the Minnesota Board of Architects, Engineers, Land Surveyors and Landscape Architects unless otherwise specifically exempted by the city.
- i) **General.** All grading plans submitted to the city shall consist of three

components: the grading plan, the erosion control plan and the standard detail sheet. All pages of the grading plan shall be of sufficient clarity to indicate the nature and extent of the Grading proposed and show in detail that it will conform to provision of this ordinance and all relevant ordinances, statutes, rules and regulations.

- ii) Specific. Grading plans shall be drawn to scale. The first sheet of each set of grading plans shall give the location of the Grading, the name and address of the property owner and the person by whom the grading plans were prepared. At a minimum, the grading plans shall include the following information:
- A) Existing and proposed contours in two (2) foot intervals;
 - B) Number of cubic yards of earth to be disturbed;
 - C) Location of silt fencing. Areas around preserved trees and the perimeter of the Site shall be protected by a silt fence;
 - D) Trees to be removed and preserved;
 - E) Elevations of the average Grade around any building(s). Elevation points shall be measured every ten (10) feet around the building(s);
 - F) Elevations of one of the following that applies to the type of roof structure. 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.
 - 1) Top cornice of a flat roof;
 - 2) Deck line of a mansard roof;
 - 3) A point on the roof directly above the highest point of a shed roof;
 - 4) Uppermost point on a round roof; or
 - 5) Mean elevation between the eave and peak for a pitched, hipped or gambrel roof.
- iii) Site Plan Reviews and Residential Subdivisions. All property undergoing a site plan review or a residential subdivision shall further provide in the grading plans cross-section details depicting the structures at the proposed Finish Grade. All proposed and existing Retaining Walls shall be shown on the grading plans. All Retaining Walls over four (4) feet in height or instances where the separation between multi-tiered Retaining Walls is less than two (2) times the height of the taller Retaining Wall shall be designed by a Civil Engineer. All of the above information shall be submitted at preliminary and final review of site plan and subdivision, and shall be subject to approval by the city council.
- iv) Retention of Grading Plans. One (1) set of the reviewed grading plans, specifications and supporting data shall be retained by the city for a period of not less than ninety (90) days from date of completion of the Grading

covered therein. One (1) set of the reviewed grading plans, specifications and supporting data shall be returned by the city to the applicant, and they shall be kept by the applicant on the Site of the Grading at all times during which the Grading is in progress.

Subd. 7. Review and Issuance of the Grading Permit. The grading permit application, plans, specifications and supporting data submitted by an applicant shall be reviewed by the city engineer. Such plans may also be reviewed by other departments within the city to verify compliance with any applicable laws or ordinances. If the city engineer finds that the Grading described in the grading permit application, plans, specifications and other data filed therewith conform to the requirements of this ordinance and other applicable ordinances, statutes, rules and regulations, and that the fees and financial security requirements for the grading permit have been provided, the city engineer shall issue the grading permit to the applicant. Once the grading permit is issued by the city, the corresponding grading plans, specifications and supporting data shall not be changed, modified or substituted without prior authorization from the city engineer. All Grading done pursuant to the Grading permit shall be performed in accordance with the reviewed grading plans.

Subd. 8. Alternate Materials and Methods of Construction. The provisions of this ordinance are not intended to prevent the use of any material or method of construction not specifically prescribed by this ordinance provided that the alternate material or method of construction has been approved by the city engineer. The city engineer may approve any such alternate material or method of construction, provided that he or she finds that the proposed alternate material or method of construction proposed is: suitable for the purpose intended and at least the equivalent of the materials and/or method of construction that is required by this ordinance with respect to suitability, strength, effectiveness, fire resistance, durability, safety and sanitation. The city engineer shall require that sufficient evidence or proof be submitted by the applicant to substantiate any claims that may be made regarding its use. The details of any action granting approval of an alternate material or method of construction shall be recorded by the city engineer and kept in the city's files.

Subd. 9. Amended Grading Permits. Any changes desired to be made to the Grading plan by the applicant following the issuance of a grading permit by the city shall be submitted to the city for review before the Grading is performed. No changes to the grading plan may be implemented by the applicant unless approved by the city engineer. Any desired change to the Grading plan shall be supported by information showing the changes desired, the reasons for the change, the effect the change would have upon buildings, structures, drainage facilities and patterns. The request shall be accompanied by a Soils Engineering and/or an Engineering Geology Report if necessary. If the changes requested by the applicant are acceptable, the city engineer may issue an amendment to the grading permit.

Subd. 10. Change of Designer, Soils Engineer, Engineering Geologist or Testing Company. If the Designer, the Soils Engineer, the Engineering Geologist or the testing

company of record is changed by the applicant during the course of the Grading, the city shall be notified of the change. Grading shall be stopped until the replacement has agreed to accept the responsibility within the area of his or her technical competence for approval. The city shall be provided with a copy of the replacement's acceptance of responsibility.

Subd. 11. Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this ordinance, the city may grant modifications for individual cases, provided the city shall first find that a special individual reason makes the strict letter of this ordinance impractical and that the modification is in conformity with the intent and purpose of this ordinance. The details of any action by the city that grants modifications shall be recorded and kept in the city's files.

Subd. 12. Testing. Whenever there is insufficient evidence of compliance with any of the provisions of this ordinance or evidence that any material or construction does not conform to the requirements of this ordinance, the city may require tests as proof of compliance. All tests required by the city shall be made by the applicant at no expense to the city. Test methods shall be as specified by this ordinance or by other recognized and accepted test methods. If there are no recognized and accepted test methods for the proposed alternate test, the city shall determine test procedures.

Subd. 13. Grading Requirements.

- a) Cuts. Unless otherwise recommended in the approved Soils Engineering and/or Engineering Geology Report(s), cuts shall conform to the provisions of this subdivision. This requirement may be waived by the city for minor cuts not intended to support structures and not requiring Soils Engineering or Engineering Geology Reports.
- b) Slope. The Slope of cut surface shall be no steeper than is safe for the intended use. Slopes for short, interim periods shall be no steeper than two (2) horizontal to one (1) vertical, unless the owner furnishes a Soils Engineering or an Engineering Geology Report that states that the Site has been investigated and that the steeper Slope cut will be stable and will not create a hazard to public or property. Unless otherwise specifically approved by the city, all permanent Slopes shall be no steeper than three (3) horizontal to one (1) vertical.
- c) Fills. Unless otherwise recommended in the approved Soils Engineering Report, all Fills shall conform to the provisions of this ordinance. In the absence of an approved Soils Engineering Report, this requirement may be waived by the city for minor Fills that will not support structures.
 - i) Clearing Area to be Filled. All timbers, logs, trees, brush and rubbish shall be removed from the Site. No burning of the debris to be removed shall be allowed unless a burning permit is issued by the city for the Site.
 - ii) Preparation of Ground. The ground surface shall be prepared to receive Fill

by removing any vegetation, noncomplying Fill, topsoil and other unsuitable materials that are unable to provide a bond with the new Fill. In situations where the Slopes are steeper than five (5) to one (1) and the height is greater than five (5) feet, the ground surface shall be additionally prepared by Benching into sound Bedrock or other competent material as determined by a Soils Engineer or Engineering Geologist. The Bench under the toe of a Fill on a Slope steeper than five (5) to one (1) shall be at least ten (10) feet wide. The area beyond the toe of Fill shall be sloped for sheet overflow or a paved drain shall be provided. When Fill is to be placed over a cut, the Bench under the toe of Fill shall be at least ten (10) feet wide but the cut shall be made before placing the Fill and the foundation shall be accepted by a Soils Engineer or an Engineering Geologist as a suitable foundation for Fill.

- iii) Fill Material. Except as permitted by the city, no rock or similar irreducible material with a maximum dimension greater than twelve (12) inches shall be buried or placed in the Fill. Organic Fill material shall not be permitted in building pad or roadway areas. The city may permit placement of rock with a maximum dimension larger than twelve (12) inches when a Soils Engineer properly devises a method of placement, continuously inspects the placement and approves the Fill's stability. The following conditions shall also apply:
 - A) Prior to issuance of the grading permit, potential rock disposal areas shall be delineated on the grading plan;
 - B) Rock sizes greater than twelve (12) inches in maximum dimension shall be ten (10) feet or more below Grade, measured vertically; and
 - C) Rocks shall be placed so as to assure Filling of all voids with fines.
 - iv) Compaction. All Fills shall be compacted to a minimum ninety (90) percent of maximum density as determined by the specified density method. In-place density shall be determined in accordance with the ASTM D698-70 Compaction standard.
 - v) Slope. The Slope of Fill surfaces shall be no steeper than is safe for the intended use or three (3) horizontal to one (1) vertical, whichever is less.
 - vi) Drainage and Terracing. Drainage and terracing shall be provided. The area above Fill Slopes, and the surfaces of Terraces shall be Graded and paved as required by the city's ordinances.
- d) Setbacks. Cut and Fill Slopes shall be set back from Site boundaries in accordance with this ordinance. Setback dimensions shall be horizontal distances measured perpendicular to the Site boundary. Setback dimensions shall be shown on the grading plan.

- i) Top of Cut Slope. The top of a cut Slope shall be made not nearer to a Site boundary line than one-fifth of the vertical height of the cut with a minimum of two (2) feet and a maximum required setback of ten (10) feet. The setback may need to be increased for any required interceptor drains.
 - ii) Toe of Fill Slope. The toe of a Fill Slope shall be made not nearer to the Site boundary line than one-half the height of the Slope with a minimum of two (2) feet and a maximum required set back of twenty (20) feet. Where a Fill Slope is to be located near the Site boundary and the adjacent property is developed, special precautions shall be incorporated in the work as the city deems necessary to protect the adjoining property from damage as a result of the Grading. These precautions may include but are not limited to:
 - A) Additional setbacks;
 - B) Provisions for Retaining Walls or slough walls;
 - C) Mechanical or chemical treatment of the Fill Slope surface to minimize Erosion; and/or
 - D) Provisions for the control of surface waters.
 - iii) Modification of the Slope Location. The city may approve alternate setbacks. The city may require an investigation and recommendation by a Soils Engineer or Engineering Geologist to demonstrate that the intent of this ordinance has been satisfied.
- e) Drainage and Terracing. Unless otherwise indicated on the approved Grading plan, drainage facilities and Terracing shall conform to the provisions of this ordinance for cut or Fill Slopes.
- i) Terraces. Terraces at least six (6) feet in width shall be established at not more than thirty (30) foot vertical intervals on all cut or Fill Slopes to control surface drainage and debris except that where only one (1) Terrace is required, it shall be at mid-height. For cut or Fill Slopes greater than sixty (60) feet and up to one hundred twenty (120) feet in vertical height, one (1) Terrace at approximately mid-height shall be twelve (12) feet in width. Terrace widths and spacing for cut and Fill Slopes greater than one hundred twenty (120) feet in height shall be designed by a Geotechnical Engineer and reviewed and approved by the city engineer. Suitable access to the Terraces shall be provided in order to permit proper cleaning and maintenance. Swales or ditches on Terraces shall have a minimum gradient of five (5) percent and must be paved with reinforced concrete not less than three (3) inches in thickness or an approved equal paving. They shall have a minimum depth at the deepest point of one (1) foot and a minimum paved width of five (5) feet. A single run of swale or ditch shall not collect runoff from a tributary area exceeding

thirteen thousand five hundred (13,500) square feet (projected) without discharging into a down drain.

- ii) **Subsurface Drainage.** Cut and Fill Slopes shall be provided with subsurface drainage as necessary for stability.
- iii) **Disposal.** All drainage facilities shall be designed to carry waters to the nearest practicable drainage way approved by the city as a safe place to deposit such waters. Erosion of ground in the area of discharge shall be prevented by installation of non-erosive down-drains or other devices. Building pads shall have a drainage gradient of two (2) percent toward approved drainage facilities, unless waived by the city. The gradient from the building pad may be one (1) percent if all of the following conditions exist throughout the permit area:
 - A) No proposed Fills are greater than ten (10) feet in maximum depth;
 - B) No proposed finish cut or Fill Slope faces have a vertical height in excess of ten (10) feet; and
 - C) No existing Slope faces, which have a Slope face steeper than ten feet (10) horizontally to one foot (1) vertically, have a vertical height in excess of ten (10) feet.
- iv) **Interceptor Drains.** Paved interceptor drains shall be installed along the top of all cut Slopes where the tributary drainage area above slopes towards the cut and has a drainage path greater than forty (40) feet measured horizontally. Interceptor drains shall be paved with a minimum of three (3) inches of concrete or gunite and reinforced. They shall have a minimum depth of twelve (12) inches and a minimum paved width of thirty (30) inches measured horizontally across the interceptor drain. The slope of interceptor drain shall be approved by the city.

Subd. 14. Inspection. All Grading for which a grading permit is required shall be subject to inspection by the city at any time while the grading permit is in effect. When the city has cause to believe that geologic factors may be involved, the city may require inspection and/or testing of the Grading by a testing company approved by the city at the expense of the applicant. The testing company's responsibility shall include, but need not be limited to, approval concerning the inspection of cleared areas and Benches to receive Fill and the Compaction of Fills.

Subd. 15. Noncompliance and Enforcement Procedures.

- a) **Notice of Noncompliance.** If, in the course of fulfilling his or her responsibilities under this ordinance, the city engineer, the Soils Engineer, the Engineering Geologist or the testing company finds that the Grading is not being performed in conformance with this ordinance or the submitted grading plans, the discrepancies shall be reported immediately in writing along with his or her recommendations for corrective measures to the applicant, the person responsible for the Grading

and to the city. Upon receipt of this information, the city may issue a notice of noncompliance to the applicant.

- b) **Stop Work Order.** If corrective actions identified in the notice of noncompliance are not completed by the time period set forth by the city in the notice, the city engineer or his or her designee may issue an order for the city to stop all inspections required for land use or building permit approvals for the Site until all corrective actions identified in the notice of noncompliance are completed. The applicant shall notify the city engineer or his or her designee upon completion of the corrective action. Once the city engineer has verified that corrective action has been taken, he or she shall inform the city and the city shall resume inspections on the Site no later than the following business day.
- c) **Action Against the Financial Securities.** If the corrective action identified in the notice of noncompliance is not completed within the time specified in the notice, the city may act against the financial security if any of the conditions listed below exist. The city shall use funds from this security to finance any corrective or remedial work undertaken by the city or a contractor under contract to the city in order to reimburse the city for its costs incurred in the process of corrective work, including, but not limited to, staff time and attorneys' fees.
 - i) The applicant ceases Grading and abandons the Site prior to completion of the city-approved grading plan;
 - ii) The applicant fails to conform to the city-approved grading plan or related supplementary instructions issued by the city; or
 - iii) Emergency action is required pursuant to subpart (d) below.
- d) **Emergency Action.** If circumstances exist such that noncompliance with this ordinance poses an immediate danger to the public health, safety or welfare, as determined by the city, the city may take emergency preventative action. Prior to taking emergency preventative action, the city shall attempt every reasonable measure possible to contact and direct the applicant to take the necessary action.

Subd. 16. Suspension or Revocation. The city engineer may, in writing, suspend or revoke a grading permit issued under the provisions of this ordinance: 1) whenever the permit is issued in error or issued based on incorrect information that was supplied; 2) whenever the actions contained in a notice of noncompliance are not taken within the time specified by the notice; or 3) whenever the Grading is found by the city to be in violation of any ordinance or regulation. The city engineer shall notify the applicant of the suspension or revocation. The applicant may appeal the suspension or revocation of the grading permit to the city council within ten (10) days of the date of the notice.

Subd. 17. Completion of work.

- a) **Final Reports.** Upon completion of the rough Grading work and at the final completion of the Grading, the city may require any, some or all of the following

final reports, drawings and supplements:

- i) An As-Graded Grading plan prepared by the Designer including original ground surface elevations, As-Graded ground surface elevations, lot drainage patterns and locations and elevations of all surface and subsurface drainage facilities. The Designer shall include a statement on the plan that to the best of his or her knowledge, the Grading was completed in accordance with the submitted Grading plan.
 - ii) A soils-grading report prepared by a Soils Engineer, including locations and elevations of field density tests, summaries of field and laboratory tests and other substantiating data and comments on any changes made during Grading and their effect on the recommendations made in the Soils Engineering investigation report. The Soil Engineer shall render a finding as to the adequacy of the Site for the intended use.
 - iii) A geologic grading report prepared by an Engineering Geologist, including a final description of the geology of the property and any new information disclosed during the Grading and the effect of same on recommendations incorporated in the approved Grading plan. The Engineering Geologist shall render a finding as to the adequacy of the property for the intended use as affected by geologic factors.
- b) Notification of Completion. The applicant shall notify the city when the Grading is ready for final inspection by the city. Final approval shall not be given by the city until all work, including installation of all drainage facilities and their protective devices and all Erosion-control measures, has been completed, turf has been established in accordance with the final reviewed Grading plan and the required reports have been submitted.

Subd. 18. Expiration of Grading Permit. Every Grading permit issued by the city pursuant to this ordinance shall expire and become null and void if the Grading authorized by the Grading permit is not commenced within ninety (90) days from the date of issuance of the Grading permit, or if the Grading authorized by the Grading permit is suspended or abandoned at any time after Grading is commenced for a period of one hundred eighty (180) consecutive days. The city may grant an extension for a Grading permit upon application by the applicant and provided that the proposed extension does not exceed one year. In the event that a Grading permit expires, the applicant must apply for new Grading permit pursuant to the procedure set forth in this ordinance.

Subd. 19. Penalty. Any person convicted of violating this ordinance shall be guilty of a misdemeanor and shall be subject to a fine or imprisonment as specified by state statute. Such penalty may be imposed in addition to an action against the financial securities, a stop work order or suspension or revocation of the grading permit by the city.

Section 828.29. Construction Site Storm Water Runoff Control Ordinance

Subd. 1. Purpose. The purpose of this ordinance is to promote, preserve and enhance the natural resources within the City of Medina by regulating Land Disturbing or development activities that would have an adverse and potentially irreversible impact on water quality and unique and fragile environmentally sensitive land. This ordinance sets forth the following standards and procedures in order to control land disturbances and/or development activities that may impact water quality and/or impact environmentally sensitive land.

Subd. 2. Definitions. The following words and terms, wherever they occur in this ordinance, are defined as follows:

- a) “Best Management Practices” or “BMPs” means erosion and Sediment Control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing degradation of Surface Water, including, but not limited to, avoidance of impacts, construction-phasing, minimizing the length of time soil areas are exposed, or prohibitions or other management practices published by state or designated area-wide planning agencies.
- b) “Contractor” means the party who signs the construction contract or development agreement with the city to construct a project. Where the construction project involves more than one contractor, the general contractor shall be the contractor that is responsible pursuant to the obligations set forth in this ordinance.
- c) “Dewatering” means the removal of water for construction activity such as the removal of temporary sediment basin water or appropriated surface or groundwater to dry and/or solidify a construction site.
- d) “Erosion” means the wearing away of the ground surface as a result of the movement of wind, water, ice and/or land disturbance activities.
- e) “Erosion Prevention” means measures employed to prevent Erosion. Examples include, but are not limited to: soil stabilization practices, limited grading, mulch, temporary or Permanent Cover, and construction phasing.
- f) “Final Stabilization” means:
 - i) All soil disturbing activities at the site have been completed and a uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of 70 percent of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed;
 - ii) For individual lots in residential construction by the Contractor, the Contractor must either: (A) complete Final Stabilization as specified above, or (B) establish temporary stabilization including perimeter controls for an individual lot prior to occupation of the structure. If the

- Contractor chooses (B), it must inform the Owner in writing of the need for, and benefits of, Final Stabilization;
- iii) For construction projects on land used for agricultural purposes (e.g., pipelines across crop or range land) Final Stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to Surface Waters and drainage systems and areas which are not being returned to their preconstruction agricultural use must meet the Final Stabilization criteria in subparts (i) or (ii) above;
 - iv) The Contractor must clean out all Sediment from conveyances and from temporary sedimentation basins that are to be used as permanent water quality management basins. Sediment must be Stabilized to prevent it from washing back into the basin, conveyances or drainage ways discharging off-site or to surface waters. The cleanout of permanent basins must be sufficient to return the basin to design capacity. All drainage ditches constructed to drain water from the site after construction is complete must be Stabilized to preclude Erosion; and
 - v) All temporary synthetic and structural Erosion Prevention and Sediment Control BMPs (such as silt fence) must be removed as part of the Final Stabilization on the site.
- g) “Impervious Surface” means a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than existed prior to development. Examples include rooftops, sidewalks, patios, parking lots, storage areas and concrete, asphalt, or gravel driveways or roads.
- h) “Land Disturbing Activity” means any land change that may result in soil Erosion from water or wind and the movement of Sediments into or upon waters or lands within the city’s jurisdiction, including, but not limited to, clearing, grubbing, grading, excavating, transporting and filling.
- i) “Owner” means the person or entity with a legal or equitable interest in the land on which the construction activities will occur.
- j) “Permanent Cover” shall mean “Final Stabilization.”
- k) “Sediment” means the product of an Erosion process; solid material both mineral and organic, that is in suspension, is being transported, or has been moved by water, air or ice, and has come to rest on the earth’s surface either above or below water level.
- l) “Sediment Control” means methods employed to prevent Sediment from leaving the site. Sediment Control practices include silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection and temporary or permanent sedimentation basins.

- m) “Stabilized” means the exposed ground surface after it has been covered by appropriate materials such as mulch, staked sod, riprap, wood fiber blankets, or other material that prevents Erosion from occurring. Grass seeding is not considered stabilization.
- n) “Storm Water” shall have the meaning given to it by Minnesota Rule 7077.0105, subpart 41(b).
- o) “Storm Water Pollution Prevention Plan” means a plan for storm water discharge that includes Erosion Prevention measures and Sediment Controls that, when implemented, will minimize soil Erosion on a parcel of land and minimize off-site nonpoint pollution to the maximum extent practicable.
- p) “Surface Water or Waters” means all streams, lakes, ponds, marshes, wetlands, reservoirs, springs, rivers, drainage systems, waterways, watercourses, wells, reservoirs, aquifers, irrigation systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private.
- q) “Temporary Erosion Protection” means short term methods employed to prevent Erosion. Examples of these methods include: straw, wood fiber blanket, wood chips and erosion netting.

Subd. 3. Applicability. Every individual or entity applying for a permit to allow Land Disturbing Activities of one acre or greater, including activities on land that is part of a common plan for development that collectively will disturb land one acre or greater must submit a Storm Water Pollution Prevention Plan to the city engineer. No building permit, subdivision approval or development permit to allow Land Disturbing Activities shall be issued by the city until approval of the Storm Water Pollution Prevention Plan or a waiver of the approval requirement has been obtained in strict conformance with the provisions of this ordinance. Any Land Disturbing Activity that is less than one acre that is issued by the city must adhere to subdivisions 7 and 9 of this ordinance, with the exception of the inspection and record keeping requirements of these subdivisions.

Subd. 4. Exemptions. The following activities are exempt from the Storm Water Pollution Prevention Plan requirement of this ordinance:

- a) Any part of property located in a subdivision if the preliminary plat for the subdivision has been approved by the city council on or before the effective date of this ordinance;
- b) Property for which a building permit has been approved by the city on or before the effective date of this ordinance;
- c) Installation of fence, sign, telephone, cable television, electric and other kinds of posts or poles, or utility lines or service connections to these utilities which result in creating under one acre of exposed soil;

- d) Emergencies posing an immediate danger to life or property, or substantial flood or fire hazards;
- e) Routine agricultural crop management practices;
- f) Digging and filling of graves at a cemetery; or
- g) Refuse disposal sites controlled by other governmental regulations.

Subd. 5. Storm Water Pollution Prevention Plan Submittal Procedures.

- a) Submittal. Every individual or entity that has applied for a permit pursuant to this ordinance shall submit a Storm Water Pollution Prevention Plan to the city's zoning administrator in accordance with the requirements and approval standards set forth in subdivisions 6 and 7 of this ordinance. No building permit, subdivision approval or permit to allow Land Disturbing Activities shall be issued until the city engineer approves this Plan. If it chooses, the applicant may have the Storm Water Pollution Prevention Plan reviewed by the appropriate departments of the city prior to submitting the Plan.
- b) Financial Security and Fees. All Storm Water Pollution Prevention Plan submittals shall be accompanied by a letter of credit, or cash equal to the required escrow amount and a separate check for deposit for administrative fees. All escrow and administrative fee deposit amounts shall be determined annually by the city council through a resolution that adopts the city's fee schedule.

Subd. 6. Storm Water Pollution Prevention Plan Requirements. At a minimum, the Storm Water Pollution Prevention Plan shall contain the following information:

- a) The name and address of the applicant, a legal description of the site, north point, date and scale of drawing and number of sheets;
- b) An existing site map: a map of existing site conditions showing the site and immediately adjacent areas, which shall include the following information:
 - i) Location of the tract by an insert map at a scale sufficient to clearly identify the location of the property and giving such information as the names and numbers of adjoining roads, railroads, utilities, subdivisions and districts or other landmarks;
 - ii) Existing topography with a contour interval appropriate to the topography of the land but in no case having a contour interval greater than two feet;
 - iii) A delineation of all Surface Waters located on and immediately adjacent to the site, including depth of water, a description of all vegetation which may be found in the water, a statement of general water quality and any classification given to the water body or wetland by the Minnesota

- Department of Natural Resources, the Minnesota Pollution Control Agency, and/or the United States Army Corps of Engineers;
- iv) The location and dimensions of existing Storm Water drainage systems and natural drainage patterns on and immediately adjacent to the site delineating the direction and the rate the Storm Water is conveyed from the site, identifying the receiving stream, river, public water, or wetland and setting forth those areas of the unaltered site where Storm Water collects;
 - v) A description of the soils of the site, including a map indicating soil types of areas to be disturbed as well as a soil report containing information on the suitability of the soils for the type of development proposed and for the type of sewage disposal proposed which describes any remedial steps to be taken by the applicant to render the soils suitable;
 - vi) The location and type of vegetative cover on the site and clearly delineating any vegetation proposed for removal; and
 - vii) 100 year floodplain, flood fringes and floodways boundaries.
- c) A site construction plan which shall include the following information:
- i) Locations and dimensions of all proposed Land Disturbing Activities and any phasing of those activities;
 - ii) Locations and dimensions of all temporary soil or dirt stockpiles;
 - iii) Locations and dimensions of all Erosion Prevention measures and Best Management Practices necessary to meet the requirements of this ordinance;
 - iv) Schedule of anticipated start and completion dates of each Land Disturbing Activity including the dates of installation of Erosion Prevention measures for each phase needed to meet the requirements of this ordinance; and
 - v) Provisions for maintenance of the Erosion Prevention measures prior to Final Stabilization.
- d) A plan of final site conditions, which shall include the following information:
- i) Finished grading shown at contours at the same interval as provided on the existing site map to clearly indicate the relationship of proposed changes to the site's existing topography and remaining features;
 - ii) A landscape plan, drawn to an appropriate scale, including dimensions and distances and the location, type, size and description of all proposed landscape materials that will be added to the site;
 - iii) A drainage plan of the developed site delineating in which direction and the rate Storm Water will be conveyed from the site and setting forth the areas of the site where Storm Water will be allowed to collect;
 - iv) The proposed size, alignments and intended use of any structures to be erected on the site;
 - v) A clear delineation and tabulation of all Impervious Surfaces to be installed on the site, including a description of the surfacing material to be used;
 - vi) Any other information pertinent to the particular project which in the opinion of the applicant is necessary for the review of the project; and

- vii) A copy of the applicant’s Minnesota Pollution Control Agency’s Permit for discharging Storm Water from construction activity (MN R100001).

Subd. 7. Storm Water Pollution Prevention Plan Approval and Performance

Standards. No Storm Water Pollution Prevention Plan that fails to meet the standards set forth in this ordinance shall be approved by the city. All of the following requirements shall be adhered to during the construction on the site.

- a) **Site Dewatering and Basin Draining:** Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydrocyclones, swirl concentrators or other appropriate controls as appropriate. Water shall not be discharged in a manner that causes Erosion, scour, sedimentation or flooding of the site, receiving channels or wetlands.
- b) **Construction Site Waste:**
 - i) **Solid waste:** All waste and unused building materials (including, but not limited to, collected Sediment, asphalt and concrete millings, floating debris, paper, plastic, fabric, demolition debris) must be disposed of properly and shall comply with disposal requirements as set forth by the Minnesota Pollution Control Agency.
 - ii) **Hazardous/toxic materials:** Oil, gasoline, paint and any hazardous substances must be properly stored, including secondary containment, to prevent spills, leaks or other discharges. Access to storage areas for these materials must be restricted in order to prevent vandalism. All storage and disposal of hazardous or toxic materials must be in compliance with requirements set forth by the Minnesota Pollution Control Agency.
 - iii) **Liquid waste:** All other non Storm Water discharges (including, but not limited to, concrete truck washout, vehicle washing or maintenance spills) conducted during the construction activity shall not be discharged to any Surface Waters.
 - iv) **External washing of any equipment shall be limited to a defined area of the site. All runoff must be contained. Waste must be disposed of properly. No engine degreasing shall be allowed on the site.**
 - v) **All liquid and solid waste generated by any concrete washout operations on the site must be contained in a leak proof facility or impermeable liner. Concrete waste must not come into contact with the ground. No runoff from concrete washout operations or areas is permitted. Concrete waste must be disposed of properly and in compliance with applicable Minnesota Pollution Control regulations.**
- c) **Tracking:** All roads, access drives and parking areas must utilize a temporary tracking pad and must be of sufficient width and length to prevent Sediment from

being tracked onto public or private roadways and/or the Storm Water conveyance system. Temporary tracking pads must be installed and maintained in all locations on the site where vehicles enter and exit.

- d) Storm Drain Inlet Protection: All storm drain inlets must be protected by appropriate Best Management Practices during construction until all sources with potential for discharging to the inlet have been Stabilized.
- e) Site Erosion Control: The following criteria shall apply only to construction activities that result in runoff leaving the site:
- i) Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected as follows: sheet flow runoff from adjacent areas greater than 10,000 square feet in area shall also be diverted around disturbed areas, unless shown to have resulted runoff rates of less than 0.5 feet per second across the disturbed area for a one hundred year storm event. Diverted runoff shall be conveyed in a manner that will not cause Erosion, scour, Sedimentation or flooding of the conveyance and receiving waters;
 - ii) All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time;
 - iii) Runoff from the entire disturbed area on the site shall be controlled by meeting subsections A through E of this subpart:
 - All exposed soil areas must have Temporary Erosion Protection or Permanent Cover for the exposed soil areas for the entire year as soon as possible, but in no case any later than 14 days after construction activity on that portion of the site has temporarily or permanently ceased;
 - B) The normal wetted perimeter of a temporary or permanent drainage ditch that drains water for the project site or diverts water around the project must be Stabilized. Stabilization must occur within 24 hours of connecting to a surface water;
 - C) Pipe outlets must have temporary or permanent energy dissipation within 24 hours of connection to a surface water;
 - D) When possible, all slopes must be graded in such a fashion that any tracking marks made from heavy equipment are perpendicular to the slope in accordance with the city's engineering standards, detail ERO-22; and
 - E) Land Disturbance Activities that are one acre or greater that drain to a discharge point within the distance of a Special or Impaired

Water as specified in the current version of the Minnesota Pollution Control Agency Construction Site General Permit must be Stabilized as soon as possible, but in no case later than seven days after construction activity in that portion of the site has temporarily or permanently ceased.

- F) Land Disturbance Activities that are less than one acre that drain to a discharge point within 1000 feet of a Special or Impaired Water must be Stabilized as soon as possible, but in no case later than seven days after construction activity in that portion of the site has temporarily or permanently ceased.
- f) Site Sediment Control: The following criteria shall apply only to construction activities that result in runoff leaving the site:
- i) Silt fences or equivalent control measures shall be placed on the downslope sides of the site and installed along the contour. If a channel or area of concentrated runoff passes through the site, silt fences shall be placed along the channel edges to reduce the amount of Sediment reaching the channel. The use of silt fences or equivalent control measures must be properly maintained during construction activities.
 - ii) For sites that have more than 10 acres disturbed at one time, or if a channel originates in the disturbed area, one or more temporary or permanent sedimentation basins shall be constructed. Each sedimentation basin shall have a surface area of at least one percent of the area draining to the basin, be at least three feet deep and be constructed in accordance with accepted design specifications. Sediment shall be removed on a regular basis in order to maintain a minimum depth of three feet. The basin discharge rate shall also be sufficiently low as to not cause Erosion, scour, sedimentation or flooding of the discharge channel or receiving water.
 - iii) Any soil or dirt storage piles containing more than 10 cubic yards of material should not be located with a downslope drainage length of less than 25 feet from the toe of the storage pile to a roadway or drainage channel. If remaining for more than 14 days, it shall be Stabilized. Erosion from piles which will be in existence for less than 14 days shall be controlled by placing straw bales or silt fence barriers around the pile. In-street utility repair or construction soil or dirt storage piles located closer than 25 feet of a roadway or drainage channel must be covered with tarps or suitable alternative controls. All downstream storm drain inlets must be protected with an appropriate inlet protection device.
- g) Site Restoration: All areas on the site that are disturbed during construction must be restored. The types of permanent restoration being used on the site shall be

clearly shown on the plans including, but not limited to, sod, seed, impervious cover and structures. In areas where vegetation is to be established, at least six inches of topsoil must be used. In areas where vegetation will be maintained, the city encourages the use of a combination of topsoil and compost equivalent to six inches of topsoil. Areas in which the topsoil or topsoil/compost mixture has been placed and finish-graded or areas that have been disturbed and other grading or site building construction operations are not actively underway must be temporarily or permanently restored as set forth in the following requirements:

- i) Areas that have a slope of less than 3:1 must be seeded and mulched within 14 days of the area not being actively worked.
- ii) Areas that have a slope greater or equal to 3:1 must be seeded and Erosion control blankets must be placed in accordance with city engineering standard detail ERO-21 within 14 days of the area not being actively worked.
- iii) All seeded areas must either be mulched and disc anchored, hydromulched, or covered by Erosion control blankets to reduce Erosion and protect the seed. Temporary or permanent mulch must be disc anchored and applied at a uniform rate of two tons per acre with at least 90 percent coverage.

h) Special and Impaired Waters:

- i) Additional BMPs together with enhanced runoff controls are required for discharge from a site to Special and Impaired Water as defined by Appendix A of the Minnesota Pollution Control Agency General Storm Water Permit for Construction Activity, parts A, B and section 1 of part C.
- ii) For areas of the site that drain to a discharge point that is within the distance as specified in the current version of the Minnesota Pollution Control Agency General Storm Water Permit for Construction Activity and drains to a Special or Impaired Water and the Land Disturbance Activity is one acre or greater in size, the BMPs identified in Appendix A, part C of the Minnesota Pollution Control Agency General Storm Water Permit for Construction Activity are required. Land Disturbance Activities that are less than one acre in size must comply with this requirement only if they are draining to a Special or Impaired Water and are within 1000 feet of that body of water.

Subd. 8. Storm Water Pollution Prevention Plan Review Procedures.

- a) Process: Storm Water Pollution Prevention Plans meeting the requirements of this ordinance must be approved by the city engineer or his or her designated representative in accordance with the standards of this ordinance.

- b) Duration: Storm Water Pollution Prevention Plan approval shall expire one year from the date of the city engineer’s approval of the Plan unless construction has commenced. However, if prior to the date of expiration of the approval, the applicant makes a written request to the city engineer for an extension of time to commence construction setting forth the reasons for the requested extension, the city engineer may grant one extension that shall not exceed one year. Receipt of any applicant’s request for an extension shall be acknowledged in writing by the city engineer within 15 days of receipt. The city engineer shall make a decision on the extension request within 45 days of receipt.
- c) Condition: A Storm Water Pollution Prevention Plan may be approved subject to compliance with conditions imposed by the city that are reasonable and necessary to ensure that the requirements of this ordinance are met. Conditions that may be imposed include, but are not limited to: limiting the size, kind or character of the proposed improvements; requiring the construction of structures, drainage facilities, storage basins and other facilities; requiring replacement of vegetation; establishment of monitoring procedures; staging the work over a period of extended time; requiring alteration of the site’s design to insure buffering; or requiring conveyance of necessary lands or easements to the city or other public entity.

Subd. 9. Inspection and Maintenance Requirements.

- a) The applicant shall be responsible at all times for the maintenance and proper operation of all Erosion Prevention and Sediment Control measures. The applicant shall also inspect, maintain and repair all disturbed surfaces, Erosion Prevention measures, Sediment Control measures and soil stabilization measures on the site at least once each day that any work is performed on the site. If no work is performed on the site on a daily basis, the inspection, maintenance and repair by the applicant shall continue at least once every seven days, until the Land Disturbing Activity has ceased. Thereafter, the applicant shall continue perform these responsibilities at least once every seven days until Stabilization. The applicant shall maintain a record of all of its activities required by this subpart for inspection by the city upon request.
- b) The applicant must inspect the construction project within 24 hours of a rainfall event of one-half inch or greater in a 24 hour period.
- c) All inspections and maintenance activities conducted on the site during construction must be recorded in writing and must be retained with the Storm Water Pollution Prevention Plan. Records of each inspection and maintenance activity shall include the following information:
 - i) Date and time of inspection;
 - ii) Name(s) of persons conducting the inspection;
 - iii) Findings of inspections, including recommendations for corrective actions;

- iv) Corrective actions taken, including the dates, times and the name of the party completing the corrective action;
 - v) Date and the amount of rainfall events that are greater than one-half inch in a 24 hour period; and
 - vi) Documentation of any changes made to the Storm Water Pollution Prevention Plan.
- d) If upon inspection of the site, the city finds that any private storm water management facilities or Erosion Prevention and Sediment Control measures require maintenance, repair, or replacement, but such deficiencies do not create a critical or imminent threat to adjacent properties, the environment, or other storm water facilities; the applicant shall be sent a written notice that includes the city's findings, what actions are required to correct the situation, and a date or dates by which such actions must be completed. The applicant shall have a maximum of seven days from the date of the notice to reply to the city in writing indicating his or her response to the notice. If the applicant does not complete the necessary activities stipulated by the city in the notice by the date(s) set forth in the notice, the city council after notice and public hearing may order that such activities be completed by the city or its designated contractor and that all costs associated with such activities be charged to the applicant and may be drawn from the escrow amount. If the escrow amount is insufficient, the amount incurred by the city that is outstanding may be assessed by the city council by levying the amount upon the properties benefiting from and utilizing the storm water facilities that were maintained, repaired or replaced by the city. This amount may be certified by the city to the County Auditor of Hennepin County, Minnesota and shall be collected in the same manner as the collection of real estate taxes.
- e) All Erosion and Sediment BMPs must be inspected to ensure integrity and effectiveness. All nonfunctional BMPs must be repaired, replaced or supplemented with a functional BMP. The applicant shall investigate and comply with the following BMP inspection and maintenance requirements:
- i) All silt fences must be repaired, replaced or supplemented when they become nonfunctional or the Sediment reaches one third of the height of the fence. Repairs shall be made within 24 hours of discovery or as soon as field conditions allow access.
 - ii) Temporary and permanent sedimentation basins must be drained and the Sediment must be removed when the depth of the Sediment collected in the basin reaches one-half the storage volume. Drainage and removal must be completed within 72 hours of discovery or as soon as field conditions allow access.
 - iii) Surface water, including drainage ditches and conveyance systems, must be inspected for evidence of Sediment being deposited by Erosion. The applicant shall remove all deltas and Sediment deposited in surface

waters, including drainage ways, catch basins, and other drainage systems and must restabilize the areas where Sediment removal results in exposed soil. The removal and stabilization must take place within seven days of discovery unless precluded by legal, regulatory or physical access constraints. In the event of an access constraint, the applicant shall use all reasonable efforts to obtain access. If access is precluded, removal and stabilization must take place within seven calendar days of obtaining access. The applicant is responsible for contacting all local, regional, state and federal authorities and obtaining any required permits prior to conducting any work.

- iv) Construction site vehicle exit locations must be inspected for evidence of off-site Sediment tracking onto paved surfaces. Tracked Sediment must be removed from all off-site paved surfaces within 24 hours of discovery, or if possible, a shorter amount of time.
 - v) The applicant is responsible for the operation and maintenance of temporary and permanent water quality management BMPs, as well as Erosion Prevention and Sediment Control BMPs for the duration of the construction work on the site. The applicant remains responsible until another party has assumed control over all areas of the site that have not been finally Stabilized or the site has undergone Final Stabilization and a NOT has been submitted to the Minnesota Pollution Control Agency.
 - vi) If Sediment escapes the construction site, off-site accumulations of Sediment must be removed in a manner and at a frequency sufficient to minimize off-site impacts.
- f) All infiltration areas must be inspected to ensure that no Sediment from ongoing construction activities is reaching the infiltration area and these areas are protected from compaction caused by construction equipment driving across the infiltration area.
- g) The applicant must ensure Final Stabilization of the project. The applicant must submit a NOT within 30 days of Final Stabilization being achieved, or another party assuming control on all areas of the project that have not achieved Final Stabilization.

Subd. 10. Notification.

- a) The applicant shall notify the City at the following points during construction:
 - i) Upon completion of the installation of perimeter Erosion and sedimentation controls;
 - ii) Upon completion of Land Disturbing Activities but before putting into place measures for final soil stabilization and Permanent Cover;
 - iii) When the site has been permanently Stabilized and Permanent Cover has been established; and

- iv) When all Temporary Erosion Protection and Sediment Controls have been removed from the site.

Subd. 11. Noncompliance and Enforcement Procedures.

- a) Notice of Noncompliance. In the event that any work on the site does not conform to the approved Storm Water Pollution Prevention Plan or any of the requirements listed in the provisions of this ordinance, the city engineer or his or her designee shall issue a written notice of noncompliance to the applicant detailing the corrective actions necessary for compliance. The applicant shall conduct the corrective actions within the time period determined by the city and stated in the notice. If an imminent hazard exists, the city may require that the corrective work begin immediately.
- b) Stop Work Order. If corrective actions identified in the notice of noncompliance are not completed by the time period set forth by the city in the notice, the city engineer or his or her designee may issue an order for the city to stop all inspections required for land use or building permit approvals until all corrective actions identified in the notice of noncompliance are completed. The applicant shall notify the city engineer or his or her designee upon completion of the corrective action. Once the city engineer has verified that corrective action has been taken, he or she shall inform the city and the city shall resume inspections on the site no later than the following business day.
- c) Action Against the Financial Securities. If the corrective action identified in the notice of noncompliance are not completed within the time specified in the notice, the city may act against the financial security if any of the conditions listed below exist. The city shall use funds from this security to finance any corrective or remedial work undertaken by the city or a contractor under contract to the city in order to reimburse the city for its costs incurred in the process of corrective work including, but not limited to, staff time and attorneys' fees.
 - i) The applicant ceases Land Disturbing Activities and/or filling and abandons the site prior to completion of the city-approved grading plan;
 - ii) The applicant fails to conform to the city-approved grading plan and/or the Storm Water Pollution Prevention Plan, or related supplementary instructions issued by the city;
 - iii) The techniques utilized under the Storm Water Pollution Prevention Plan fail within one year of installation; or
 - iv) Emergency action is required pursuant to subpart (d) listed below.
- d) Emergency Action. If circumstances exist such that noncompliance with this ordinance poses an immediate danger to the public health, safety or welfare, as determined by the city, the city may take emergency preventative action. Prior to taking emergency preventative action, the city shall attempt every reasonable measure possible to contact and direct the applicant to take the necessary action.

- e) Misdemeanor. Any person who violates any provision of this section shall be guilty of a misdemeanor and shall be subject to a maximum fine or maximum period of imprisonment, or both, as specified by Minnesota Statutes Section 609.03. Each additional day that the property remains in violation of this section shall constitute a separate violation of this section and may be prosecuted accordingly.
- f) Nothing contained herein shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation of this section, including, but not limited to, seeking a civil injunction or a restraining order.

Subd. 12. Right of Entry.

- a) Right of Entry and Inspection: The applicant shall allow the city and its authorized representatives, upon presentation of credentials to:
 - i) Enter upon the site for the purpose of obtaining information, examination of records, conducting surveys or investigations;
 - ii) Bring such equipment upon the site as is necessary to obtain information, conduct surveys or investigations;
 - iii) Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept pursuant to this ordinance;
 - iv) Inspect the Erosion control and Sediment Control measures required by the City or the Storm Water Pollution Prevention Plan; and
 - v) Sample and monitor any items or activities pertaining to any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

Section 828.31. Buffer Yard Requirements.

Subd. 1. Generally. A buffer yard is a combination of distance, plantings, berms, and fencing. The purpose of a buffer yard is to reduce the negative impacts that may result when land uses of different intensities abut each other or when residential uses abut primary roadways.

Subd. 2. Buffer yards required. A buffer yard shall be required in the following situations:

- (a) Adjacent to less intensive zoning district. A buffer yard shall be required when a developing property is adjacent to or across a street from property of a less intensive zoning district, as summarized by the following table.
- (b) Adjacent to Collector or Arterial Roadways. A buffer yard shall be required along collector and arterial roadways if the property on the opposite side of the roadway is of the same or a more intensive zoning district, as summarized by the following table.

Required Bufferyard Opacity

		Zoning District of Proposed Development				
		R-1	R-2	R-3	R-4	R-5
Zoning District of Property Adjacent to Proposed Development**	Rural	0.3	0.3	0.4	0.4	0.4
	PUD-1	0.2	0.3	0.4	0.4	0.4
	SR	0.2	0.3	0.3	0.4	0.4
	R-1	0.1*	0.2	0.3	0.3	0.4
	UR	0.1*	0.2	0.2	0.3	0.3
	R-2	0.1*	0.1*	0.2	0.3	0.3
	R-3	0.1*	0.1*	0.1*	0.2	0.3
	Mixed Use Districts	0.1*	0.1*	0.1*	0.2	0.3
	R-4	0.1*	0.1*	0.1*	0.1*	0.2
	R-5	0.1*	0.1*	0.1*	0.1*	0.1*
	Commercial, Uptown Hamel, General Business, and Industrial Districts	0.1*	0.1*	0.1*	0.1*	0.1*

NOTES:
 * Buffer yard only required if the proposed development is adjacent to a collector or arterial roadway with the noted adjacent district across the street.
 ** If a specific zoning district is not listed, or if the adjacent property is a PUD, the City shall determine the most similar district to determined the required buffer yard.

Subd. 3. The required buffer yard may be achieved through a combination of distance, plantings, berming and fences. The following combinations, or an alternative approved by the city, may be utilized:

Potential Combinations to Achieve Bufferyard Opacity

Opacity	Minimum Buffer Yard Width	Minimum # of Buffer Yard Planting Points per 100 linear feet	Minimum Required Berm or Fence
0.1	10'	38	Minimum 4' wood rail fence
	10'	91	None Required
	15'	80	None Required
	20'	73	None Required
	25'	68	None Required
	30'	65	None Required
	35'	62	None Required
0.2	10'	84	Minimum 44" picket fence
	15'	133	Minimum 4' wood rail fence
	15'	198	None Required

	20'	173	None Required
	25'	158	None Required
	30'	149	None Required
	35'	140	None Required
	35'	10	Minimum 4' berm
	40'	135	None Required
0.3	15'	198	Minimum 44" picket fence
	20'	320	None Required
	20'	240	Minimum 4' wood rail fence
	25'	276	None Required
	30'	252	None Required
	35'	235	None Required
	35'	104	Minimum 4' berm
	40'	223	None Required
	40'	44	Minimum 5' berm
	45'	215	None Required
	50'	209	None Required
0.4	20'	330	Minimum 44" picket fence
	25'	440	None Required
	25'	362	Minimum 4' wood rail fence
	30'	385	None Required
	35'	349	None Required
	35'	208	Minimum 4' berm
	40'	327	None Required
	40'	148	Minimum 5' berm
	45'	310	None Required
	50'	299	None Required
	50'	56	Minimum 6' berm
0.5	30'	564	None Required
	30'	405	Minimum 44" picket fence
	30'	492	Minimum 4' wood rail fence
	35'	499	None Required
	35'	319	Minimum 4' berm
	40'	454	None Required
	40'	261	Minimum 5' berm

	45'	422	None Required
	50'	405	None Required
	50'	160	Minimum 6' berm
	55'	388	None Required
	60'	374	None Required

Subd. 4. Determination of Buffer Yard Planting Points. Planting requirements for the various buffer yard options are calculated in terms of points. Points are calculated based on typical growth rates, mature height, and whether a plant is deciduous or coniferous. The city shall grant additional points, not to exceed a 50 percent increase, for plants which exceed the minimum permitted installation size below.

Buffer Yard Planting Points

Plant Category	Buffer Yard Planting Points per Plant	Minimum Permitted Installation Size
Overstory deciduous tree	50	2.5" caliper
Understory deciduous tree	15	1.5" caliper
Tall evergreen tree	50	6' tall
Medium evergreen tree	20	4' tall
Low evergreen tree	12	3' tall
Tall deciduous shrub	5	36" tall
Medium deciduous shrub	3	24" tall
Low deciduous shrub	1	18" tall
Medium evergreen shrub	5	18" tall/wide
Low evergreen shrub	3	12" tall/wide

Subd. 5. Types of planting. Plants shall be suitable for the soil and site conditions and compliment others in the area.

- (a) Plants shall meet the size requirements described in the table above at the time of planting.
- (b) Unless otherwise approved by the city, plants shall be consistent with the Minnesota

Department of Natural Resources’ *“Field Guide to the Native Plant Communities of Minnesota, the Eastern Broadleaf Forest Province.”*

- (c) No more than 25 percent of plants shall be from one species.
- (d) Plants shall be selected and placed in a way which most effectively provides a buffer, as approved by the city. Species with known vulnerability to disease or infestation shall not be permitted. The landscaping plan shall consider factors such as survivability of plantings, surrounding topography, and interaction with berms/fences.

Subd. 6. Credit for existing vegetation. The city shall grant credit for existing vegetation that is preserved within an area where a buffer yard is required. Credit shall be based on Subd. 4 above, including the additional points for larger plantings.

Subd. 7. Berms and Fences. When berms or fences are combined with plant materials in a buffer yard, at least half of the plantings shall be located towards the exterior of the subject property, in relation to the location of the fence or berm. If an earth berm is proposed, the berm shall be undulating in order to give a natural appearance.

Subd. 8. Buffer yard location. Buffer yards, when required, shall be located adjacent to the outer perimeter of a development site.

- (a) Buffer yards may be located within required yard setbacks, but a principal structure shall be set back a minimum of 10 feet and an accessory structure a minimum of five feet from the buffer yard.
- (b) In the case a wetland interferes with the lineal continuation of a buffer yard, alternative means may be required by the city to reduce the impact of the development upon adjacent property.

Subd. 9. Recorded document required. A document, in a form provided by the city, shall be recorded against the property over which a buffer yard lies. This document shall include, at a minimum, the location of the buffer yard, the restrictions on the use of this property, and the maintenance responsibility for the landscaping and improvements.

Subd. 10. Use of buffer yards. Buffer yards shall be left in a predominantly undeveloped state. Passive recreation and pedestrian, bicycle, or equestrian paths may be allowed, so long as the required plantings are provided. No sports courts, swimming pools, storage or other similar use shall be allowed. Paving shall be limited to areas necessary to provide access to the subject property.

Section 828.33. Stormwater Management

Subd. 1. Purpose

Land development projects, and associated increases in impervious cover, alter the hydrologic response of local watersheds. Increases in stormwater runoff rates and volumes, flooding, erosion, sediment transport and deposition, and water-borne

pollutants can be controlled and minimized through the regulation of stormwater runoff.

The purpose of this ordinance is to protect and safeguard the health, safety, and welfare of the public by regulating stormwater runoff in order to protect local water resources from degradation. This ordinance seeks to meet this purpose through the following objectives:

- (a) minimize increases in stormwater runoff rates from any development in order to reduce flooding, siltation and erosion and in order to maintain the integrity of stream channels,
- (b) minimize increases in nonpoint source pollution caused by stormwater runoff from development which would otherwise degrade local water quality,
- (c) minimize the total annual volume of surface water runoff that flows from any specific site during and following development so as not to exceed the predevelopment hydrologic regime to the maximum extent practicable,
- (d) ensure that these management controls are properly maintained and pose no threat to public safety, and
- (e) implement stormwater management controls to help meet current and future total maximum daily load (TMDL) goals, to address the need to improve water quality, and to meet objectives in the Local Surface Water Management Plan.

Subd. 2. Incorporation by Reference

The *Medina Stormwater Design Manual*, dated November 15, 2011, as it may be amended from time to time, is hereby incorporated into this ordinance as if fully set forth herein. The Manual shall serve as the official guide for stormwater principles, methods, and practices for proposed development activities.

Subd. 3. Definitions

For the purpose of this ordinance, the following definitions describe the meaning of the terms used in this ordinance:

- (a) "Applicant" means a property owner or agent of a property owner who has filed an application for a stormwater management approval.
- (b) "Channel" means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.
- (c) "Impervious Area" means those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, gravel, driveways, swimming pools, etc.).
- (d) "Land Disturbance Activity" means any activity that changes the volume or peak discharge rate of stormwater runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill

materials, paving, construction, substantial removal of vegetation, or any activity that bares soil or rock or involves the diversion or piping of any natural or fabricated watercourse.

- (e) "Maintenance Agreement" means document recorded against the property which provides for long-term maintenance of stormwater treatment practices.
- (f) "Major Expansion Project" means any construction, alteration, or improvement which disturbs one acre or more in area or which increases the Impervious Area by one-half acre or more and where the existing land use is commercial, industrial, institutional, or multi-family residential. For the purposes of this section, the area of disturbance when repaving or reclaiming an existing paved surface shall only include those areas where soil beneath the existing gravel base is disturbed.
- (g) "Major Single-family Residential Project" means:
 - (i) Any subdivision, as defined by law, which result in one or two additional single-family detached lots; or
 - (ii) Any construction, alteration, or improvement which: 1) disturbs one acre or more in area and increases Impervious Area by more than 1,000 square feet; or 2) increases Impervious Area by more than 5,000 square feet.
- (h) "Minor Expansion Project" means any construction, alteration, or improvement which increases the Impervious Area by more than 5,000 square feet and less than one-half acre where the existing land use is commercial, industrial, institutional, or multi-family residential.
- (i) "New Development" means:
 - (i) Any subdivision, as defined by law. For the purposes of this section, a subdivision creating less than three new single-family detached lots shall not be considered New Development, but should instead be considered a Major Single-family Residential Project.
 - (ii) Construction of a principal structure on an existing vacant lot. For the purposes of this section, construction of a detached single-family home shall not be considered New Development.
 - (iii) Redevelopment of a property which results in the removal of more than 50 percent of the market value of the principal structure and such removal is followed by reconstruction. For the purposes of this section, redevelopment of a single-family detached home shall not be considered New Development.
- (j) "Nonpoint Source Pollution" means pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.
- (k) "Off-Site Facility" means a stormwater management measure located outside the subject property boundary described in the permit application for land development activity.
- (l) "Responsible Party" means the entity which will be responsible for ownership and maintenance of Stormwater Treatment Practices.
- (m) "Site" means:
 - (i) For New Development any tract, lot or parcel of land or combination of tracts, lots, or parcels of land, which are in one ownership, or are contiguous

- and in diverse ownership, where development is to be performed as part of a unit, subdivision, or project.
- (ii) For a Major Expansion Project, Minor Expansion Project or Major Single-family Residential Project the area of new construction, as shown on an approved site plan, or the original parcel. Final determination of the applicable area for stormwater management shall be made by the City.
 - (n) "Stop Work Order" means an order which requires that all construction activity on a Site be stopped.
 - (o) "Stormwater Management" means the use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, and/or peak discharge rates.
 - (p) "Stormwater Management Plan" means a set of drawings or other documents submitted by a person as a prerequisite to obtaining a stormwater management approval, which contains all of the required information and specifications pertaining to Stormwater Management.
 - (q) "Stormwater Runoff" means flow on the surface of the ground, resulting from precipitation.
 - (r) "Stormwater Treatment Practices (STPs)" means measures, either structural or nonstructural, that are determined to be the most effective and practical means of preventing or reducing point source or nonpoint-source pollution inputs to stormwater runoff and waterbodies.
 - (s) "Water Quality Volume (WQ_v)" means the runoff storage volume needed to treat the specified phosphorus loading as determined in the Medina Stormwater Design Manual.
 - (t) "Watercourse" means a permanent or intermittent stream or other body of water, either natural or fabricated, which gathers or carries surface water.
 - (u) "Watershed" means the total drainage area contributing runoff to a single point.

Subd. 4. Applicability

- (a) This ordinance shall apply to the following circumstances:
 - (i) New Development, as defined herein;
 - (ii) Major Expansion Projects, as defined herein;
 - (iii) Minor Expansion Projects, as defined herein; and
 - (iv) Major Single-family Residential Projects, as defined herein.
- (b) The following activities shall be exempt from the stormwater performance criteria of this ordinance:
 - (i) Agricultural activity.
 - (ii) Repairs to any Stormwater Treatment Practice deemed necessary by the City.
 - (iii) Emergency actions as declared by the City.
 - (iv) Land Disturbance Activities which do not meet the thresholds described for New Development, Major or Minor Expansion Projects, or Major Single-family Residential Projects as described herein.

Subd. 5. Performance Criteria for Stormwater Management

Unless determined by the City to be exempt or granted a waiver, all site designs shall establish Stormwater Management Practices to control the peak flow rates and pollutants of stormwater discharge associated with specified design storms and runoff volumes, as detailed in the *Medina Stormwater Design Manual*.

- (a) New Development: Rate Control, Volume Control, and Water Quality standards shall apply to all New Development. The City Council may waive strict adherence with Rate Control, Volume Control, and Water Quality standards for redevelopment and new development which results in less than one acre of Land Disturbance. Best management practices addressing the potential water resource impacts associated with the proposed activity shall be incorporated to limit creation of impervious surface, maintain or enhance on-site infiltration, control peak flow rates, and limit pollutant generation on and discharge from the Site. Best management practices may include site design and structural and non-structural practices.
- (b) Major Expansion Projects: Rate Control, Volume Control, and Water Quality standards shall apply to all Major Expansion Projects.
- (c) Minor Expansion Projects: Rate Control, Volume Control and Water Quality standards shall apply to all Minor Expansion Projects. As an alternative to meeting relevant Volume Control and Water Quality standards, an Applicant may install a raingarden or similar stormwater improvement as described in the Medina Stormwater Design Manual. Provisions shall also be required to control the rate of run-off if determined to be necessary by the City Engineer.
- (d) Major Single-family Residential Projects: Rate Control, Volume Control and Water Quality standards shall apply to all Major Single-family Residential Projects. As an alternative to meeting relevant Volume Control and Water Quality standards, an Applicant may install a raingarden or similar stormwater improvement as described in the Medina Stormwater Design Manual. Provisions shall also be required to control the rate of run-off if determined to be necessary by the City Engineer.

Subd. 6. Approval Required Prior to Permit or Subdivision

No landowner or land operator shall receive a building permit, grading permit, or subdivision approval for any project involving Land Disturbance Activities subject to this ordinance until first meeting the requirements of this ordinance prior to commencing the proposed activity.

Subd. 7. Application Requirements

Unless otherwise exempted by this ordinance, an application for stormwater management approval shall include the following as a condition for its consideration:

- (a) a Stormwater Management Plan;
- (b) a Maintenance Agreement.

The Stormwater Management Plan shall be prepared to meet the requirements of Subd. 5 of this ordinance; the Maintenance Agreement shall be prepared to meet the

requirements of Subd. 10 of this ordinance.

In lieu of preparation of a Stormwater Management Plan, Major Single-family Residential Projects and Minor Expansion Projects may install a raingarden or similar stormwater improvement as described in the Medina Stormwater Design Manual.

Subd. 8. Application Requirements

Applications shall include the following: five copies of the Stormwater Management Plan, three copies of the Maintenance Agreement, and any required review fees.

Subd. 9. Waivers for Providing Stormwater Management

Every Applicant shall provide for Stormwater Management, unless a waiver is granted. Requests to waive the Stormwater Management requirements shall be submitted to the City for approval.

The minimum requirements for Stormwater Management may be waived in whole or in part upon written request of the Applicant, if the City determines that at least one of the following conditions applies:

- (a) It can be demonstrated that the proposed Land Disturbance Activity will not impair attainment of the objectives of this ordinance.
- (b) Alternative minimum requirements for on-site management of stormwater discharges have been established in a Stormwater Management Plan that has been approved by the City.
- (c) Provisions are made to manage stormwater by an Off-Site Facility. The Off-Site Facility is required to be in place, to be designed and adequately sized to provide a level of Stormwater Management that is equal to or greater than that which would be afforded by on-site practices and has a legally obligated entity responsible for long-term operation and maintenance of the stormwater treatment practice.

In instances where at least one of the conditions above applies, the City may grant a waiver from strict compliance with Stormwater Management provisions that are not achievable, if acceptable mitigation measures are provided.

Subd. 10. Stormwater Treatment Maintenance Plan and Agreement

During the application process, the City shall determine who the Responsible Party will be for ownership and maintenance of all Stormwater Treatment Practices.

The Responsible Party shall enter into a Maintenance Agreement with the City that documents all responsibilities for operation and maintenance of all Stormwater Treatment Practices. Such responsibility shall be documented in a maintenance plan and executed through a Maintenance Agreement. The Maintenance Agreement shall be executed and recorded against the parcel.

(a) Maintenance Agreement

The stormwater Maintenance Agreement shall be in a form approved by the City, shall describe the inspection and maintenance obligations of this section and shall, at a minimum:

- (1) Designate the Responsible Party, which shall be permanently responsible for maintenance of the structural or nonstructural measures.
- (2) Pass responsibility for such maintenance to successors in title.
- (3) Grant the City and its representatives the right of entry for the purposes of inspecting all Stormwater Treatment Practices as described in Subd. 10(b) below.
- (4) Allow the City the right to repair and maintain the facility, if necessary maintenance is not performed after proper and reasonable notice to the Responsible Party as described in Subd. 10(d) below.
- (5) Include a maintenance plan that contains, but is not limited to the following:
 - (i) Identification of all structural Stormwater Treatment Practices.
 - (ii) A schedule for regular inspection, monitoring, and maintenance for each practice. Monitoring shall verify whether the practice is functioning as designed and may include, but is not limited to quality, temperature, and quantity of runoff.
 - (iii) Identification of the Responsible Party for conducting the inspection, monitoring, and maintenance for each practice.
- (6) Identify a schedule and format for reporting compliance with the Maintenance Plan to the City.

(b) Inspection of Stormwater Facilities

Inspection programs shall be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the National Pollutant Discharge Elimination System (NPDES) stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater treatment practices.

When any new Stormwater Treatment Practice is installed on private property, or when any new connection is made between private property and a public drainage control system, sanitary sewer, or combined sewer; the property owner shall grant to the City the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when the City has a reasonable basis to

believe that a violation of this ordinance is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this ordinance.

(c) Records of Installation and Maintenance Activities

The Responsible Party shall make records of the installation and of all maintenance and repairs of the stormwater treatment practices, and shall retain the records for at least three (3) years. These records shall be made available to the City during inspection of the Stormwater Treatment Practice and at other reasonable times upon request.

(d) Failure to Maintain Practices

If a Responsible Party fails or refuses to meet the requirements of the Maintenance Agreement, the City, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the Stormwater Treatment Practice in proper working condition. In the event that the Stormwater Treatment Practice becomes a danger to public safety or public health, the City shall notify the Responsible Party in writing. Upon receipt of that notice, the Responsible Party shall have thirty days to perform maintenance and repair of the facility in an approved manner. After proper notice, the City may specially assess the owner(s) of the Stormwater Treatment Practice for the cost of repair work and any penalties; and the cost of the work shall be assessed against the property and collected along with ordinary taxes by the county.

Subd. 11. Financial Security

- (a) The City shall require the submittal of a letter of credit or other financial security in a form acceptable to the City in order to insure that the Stormwater Treatment Practices are installed by the permit holder as required by the approved Stormwater Management Plan. The amount of the security shall be 150% of the total estimated construction cost of the Stormwater Treatment Practices approved, with the exception of Major Single-family Residential Projects, which shall be 50% of the total estimated construction cost. The performance security shall contain forfeiture provisions for failure to complete work specified in the Stormwater Management Plan.
- (b) The security shall be released in full only upon submission of "as built plans" and written certification by a registered professional engineer that the Stormwater Treatment Practice has been installed in accordance with the approved plan and other applicable provisions of this ordinance. The City will make a final inspection of the Stormwater Treatment Practice to ensure that it complies with the approved plan and the provisions of this ordinance. Provisions for a partial pro-rata release of the security based on the completion of various development stages may be done at the discretion of the City.

Subd. 12. Notice of Construction Commencement

The Applicant must notify the City in advance before the commencement of construction.

Regular inspections of the Stormwater Treatment Practice construction shall be conducted by the staff of the City or certified by a professional engineer or their designee, and the Applicant shall be responsible for the costs of such inspections. All inspections shall be documented and written reports prepared that contain the following information:

- (a) the date and location of the inspection,
- (b) whether construction is in compliance with the approved Stormwater Management Plan,
- (c) variations from the approved construction specifications,
- (d) any violations that exist.

If any violations are found, the Applicant shall be notified in writing of the nature of the violation and the required corrective actions. No added work shall proceed until any violations are corrected and all work previously completed has received approval by the City.

Subd. 13. As Built Plans

All Applicants are required to submit actual "as built" plans for any Stormwater Treatment Practices located on-site after final construction is completed. As-built plans must show the final design specifications for all Stormwater Treatment Practices, and the plans must be certified by a professional engineer. A final inspection by the City is required before the release of any performance securities can occur. The City may waive certain requirements for the as built plans in the case of a Major Single-Family Residential Project or a Minor Expansion Project, provided the Applicant provides sufficient information to verify that the alternative improvements were installed as designed.

Subd. 14 Violations

Any person who commences or conducted Land Disturbance Activity contrary to this ordinance is guilty of a misdemeanor and may be prosecuted as such, restrained by injunction or otherwise abated in a manner provided by law.

(a) Notice of Violation

When the City determines that an activity is not being carried out in accordance with the requirements of this ordinance, it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:

- (1) the name and address of the owner or Applicant,
- (2) the address when available or a description of the land upon which the violation is occurring,
- (3) a statement specifying the nature of the violation,
- (4) a description of the remedial measures necessary to bring the development activity into compliance with this ordinance and a time schedule for the completion of such remedial action,
- (5) a statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed, and
- (6) a statement that the determination of violation may be appealed to the City by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

(b) Stop Work Orders

Persons receiving a notice of violation will be required to halt all construction activities.

This Stop Work Order will be in effect until the City confirms that the Land Disturbance Activity is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this ordinance.

(c) Civil and Criminal Penalties

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this ordinance shall be guilty of a misdemeanor and subject to prosecution. Such person shall be guilty of a separate offense for each day during which the violation occurs or continues.

(d) Restoration of Lands

Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the City may take necessary corrective action, the cost of which may, after notice and opportunity for hearing, be specially assessed against the property and collected along with the ordinary taxes by the county.

Subd. 15. Holds on Occupancy Permits

Occupancy permits will not be granted until all Stormwater Treatment Practices have been installed and accepted by the City, or a financial guarantee in a form acceptable to the City has been submitted to ensure completion.

Subd. 16. Duration of Approval; Revocation of Approval

- (a) Approved plans issued under this section shall be valid from the date of approval through the date the City notifies the owner that all stormwater treatment practices have passed the final inspection required under approved conditions, or the approval is revoked.
- (b) Revocation of the stormwater approval may be made by the City if requirements within this ordinance are not fulfilled, or the owner or Applicant is unable to fulfill the ordinance requirements. If an approval is revoked, the Applicant must resubmit a Stormwater Management Plan prior to proceeding with any subsequent Land Disturbance Activity.

Subd. 17. Appeals

Any person aggrieved by the action of any official charged with the enforcement of this ordinance, as the result of the disapproval of a properly filed application for approval, issuance of a written notice of violation, or an alleged failure to properly enforce the ordinance in regard to a specific application, shall have the right to appeal the action to the City.

- (a) The Applicant shall submit the appeal in writing and include supporting documentation.
- (b) City staff shall make a decision on the appeal within 15 business days of receipt of a complete appeal application.
- (c) The Applicant may appeal the decision of city staff to the city council. This appeal must be filed with the City within 30 days of City staff's decision.

Subd. 18 Compatibility with Other Permit and ordinance Requirements

This ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this ordinance should be considered minimum requirements, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall take precedence.

Subd. 19. Severability

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order or judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this ordinance, which shall remain in full force and effect.

Section 828.41. Tree Preservation and Replacement.

Subd. 1. Purpose. The purpose of this ordinance is to promote, within the city, development that retains Medina’s rural character, in which the natural environment is the dominant feature. Trees and landscaping are a major component of the natural environment, and the city recognizes that preservation and replanting of trees is important in order to maintain a healthy and desirable community. The city further recognizes that a certain amount of tree loss is an inevitable consequence of the development process, but that the reforestation of this valuable renewable resource will ultimately provide a long-term environmental and economic benefit.

Subd. 2. Function. The function of this ordinance includes but is not limited to:

- (a) improving air quality;
- (b) reducing noise pollution;
- (c) improving water quality;
- (d) preventing of soil erosion;
- (e) conserving energy by providing natural insulation and shading;
- (f) reducing the urban heat island effect;
- (g) increasing property values by establishing tree buffers that provide privacy protection between conflicting land uses;
- (h) providing habitat for wildlife, including birds that help control insects;
- (i) enhancing the city’s physical and aesthetic environment; and
- (j) enhancing the quality of life and the general welfare of residents.

Subd. 3. Definitions. The following words and terms, wherever they occur in this ordinance, are defined as follows:

- (a) “Best Management Practices” (“BMP”) are the Erosion and sediment control practices as well as conservation or Low Impact Development principles related to Tree preservation and removal, that are the most effective and practicable for controlling, preventing and minimizing negative impacts on existing Trees,

minimizing soil exposure and protecting tracts of Woodland and Old Growth Forest Remnants.

- (b) “Crown Cover” is the protective canopy created by the overlapping leafy heads of Trees that shelters the habitat beneath it.
- (c) “Development Site” is the surveyed parcel, or site, including those improvements that occur on-site or adjacent to the Development Site or spoil site locations. A Development Site includes both the Primary and Secondary Construction Zones.
- (d) “Diameter” is the width of a Tree’s trunk, measured at four (4) feet above the ground.
- (e) “Dripline” is the farthest distance away from the trunk of a Tree that rain, or dew, will fall directly to the ground from the leaves or branches of the Tree to the roots.
- (f) “Forestry Specialist” is a person certified in urban forestry functions and management, who has been retained by the city, or an applicant.
- (g) “Initial Site Development” is the grading and construction of streets, trails, and sidewalks; the installation of utilities, including water, sanitary sewer, storm sewer, natural gas, electric, and cable television; or the grading and construction of drainage ways and storm detention areas.
- (h) “Lost Trees” are Significant Trees in areas to be preserved but that die as a result of construction or Development Site improvement activities and must be replaced at the same ratio as Significant Trees. Such Trees shall be considered Lost Trees when they die as a result of:
 - (i) grade change or land alteration, whether temporary or permanent, of greater than one (1) foot, measured vertically and affecting forty (40) percent, or more, of the Tree’s root zone (the area under a Tree that is at and within the Dripline of the Tree);
 - (ii) secondary construction activities that result cutting forty (40) percent, or more, of the Tree’s root zone (the area under a Tree that is at and within the Dripline of the Tree);
 - (iii) mechanical injury to the trunk of a Significant Tree, causing the loss of thirty (30) percent, or more, of the bark at a specific part of the Tree; or
 - (iv) compaction to ninety (90) percent of a depth of six (6) inches, or more, of forty (40) percent, or more, of the Tree’s root zone (the area under a Tree that is at and within the Dripline of the Tree).
- (i) “Low Impact Development” or “LID” means multi-functional site design,

streetscapes and architecture that maintains and restores vital terrestrial ecological processes necessary to protect the ecological integrity of the land.

- (j) “Natural Resources Inventory” is a document developed by the city that denotes where regionally significant natural resources are located within the city.
- (k) “Principal Structure” means any building or structure on the property in which the main use of the property takes place.
- (l) “Private Road” means a privately owned (or controlled) and maintained drive, street, road, lane, or any improved or unimproved surface, not dedicated to a governmental entity as a public road, which provides the primary means of vehicular ingress and egress from a public road to two or more dwelling units, lots, parcels or principal buildings, whether created by a private right-of way, easement, or other device.
- (m) “Old Growth Forest Remnant” is a natural forest remnant that is one acre or greater, that has developed over a long period of time, generally around 100 years, with young, middle-aged and old Trees present. It is dominated by shade tolerant species, such as sugar maple and basswood. All Old Growth Forest Remnants are identified in the city’s current Natural Resource Inventory or in the current Natural Areas and Community ID Numbers map which are available at city hall.
- (n) “Replacement Trees” are Trees that replace removed Significant Trees.
- (o) “Significant Tree” is a healthy, deciduous Tree, measuring eight (8) inches in Diameter or greater, or a healthy coniferous Tree, measuring four (4) inches or greater in Diameter.
- (p) “Subdivision” means the separation of an area, parcel, or tract of land under single ownership into two or more parcels, tracts, lots, or long-term leasehold interests where the creation of the leasehold interest necessitates the creation of streets, roads, or alleys, for residential, commercial, industrial, or other use or any combination thereof, except those separations: (1) where all the resulting parcels, tracts, lots, or interests will be 20 acres or larger in size and 500 feet in width for residential uses and five acres or larger in size for commercial and industrial uses; (2) creating cemetery lots; (3) resulting from court orders, or the adjustment of a lot line by the relocation of a common boundary.
- (q) “Tree” is a woody plant, which at maturity, is thirteen (13) feet or greater in height and that has a more or less defined crown.
- (r) “Tree Preservation and Replacement Plan” is a certified survey, which shows the location and species of all Trees to be preserved, removed, or disturbed, and the location of Replacement Trees within the site.
- (s) “WCA” means the “Wetland Conservation Act,” Minnesota Statutes Sections

103G.222-.2373.

- (t) “Woodland” is a group of Significant Trees and understory plants that are one (1) acre or greater in size and non-species specific, with a Crown Cover of fifty (50) percent or greater. Old Growth Forest Remnants are a species-specific type of Woodland.

Subd. 4. Applicability. This ordinance shall apply to any of the following circumstances:

- (a) removal of more than two (2) Significant Trees on any property, developed or undeveloped, within a given calendar year, except as exempted by subdivision 5 of this section.
- (b) any formal land use application to the city that is to be zoned residential, including, but not limited to, Subdivisions, minor Subdivisions, site plans, rezoning and conditional use permits;
- (c) site improvements requiring a building, grading, driveway, sign or WCA permit; or
- (d) redevelopment of a legal non-conforming Principal Structure.

Subd. 5. Exemptions. The following activities are exempt from the requirements of this ordinance:

- (a) removal of invasive species of Trees (as defined by the Minnesota Department of Nature Resources) and the control of pioneering Tree species such as box elder when needed to manage other ecosystems and where the removal will not cause erosion or damage to riparian areas;
- (b) commercially-zoned properties which follow the zoning-specific requirements;
- (c) removal of a Tree that has been determined by a Forestry Specialist to be diseased;
- (d) removal of Trees in connection with an emergency that poses an immediate danger to life or property;
- (e) removal of Trees that are located in areas in the Three Rivers Park District-managed Morris T. Baker Park and the Department of Natural Resources-managed Wolsfeld Woods Scientific and Natural Areas;
- (f) removal of Trees that are significantly damaged by storms or natural disasters; or
- (g) removal of Trees within an existing Conservation Easement which is consistent with an existing private management plan.

Subd. 6. Allowed Tree Removal.

- (a) The following amount of Significant Trees may be removed from a site and replacement shall not be required.

Initial Site Development		Activities other than Initial Site Development	
Total property area included in the land use application or served by improvements	Allowed percent of Significant Trees that may be removed	Lot Size	Allowed percent of Significant Trees that may be removed
0.1-1.0 acre	15%	0.1-1.0 acre	20%
1.1-5.0 acres	15%	1.1-5.0 acres	15%
5.1-10.0 acres	10%	5.1-10.0 acres	15%
10.1-20.0 acres	10%	10.1-20.0 acres	10%
20+ acres	10%	20+ acres	5%

- (b) For activities that include the Subdivision of property or dedication of public or private right-of-way, the allowed number of Significant Trees that may be removed for Initial Site Development shall be based on the lot size prior to Subdivision. After the property is subdivided, the allowed number of Significant Trees that may be removed shall be based on the individual lot sizes within the Subdivision.

Subd. 7. Waiver. A waiver, of the number of Trees required to be replaced, may be granted by the city council, in its full and absolute discretion, on a case-by-case basis for circumstances where the applicant has exhausted all reasonable design options for the Development Site. An applicant shall be eligible for a waiver only if he or she implements all Best Management Practices listed in Subdivision 8 of this ordinance. Waivers associated with a land use application shall be considered by the city council at time of the review of the application and shall not be considered after this review is approved.

Subd. 8. Standards Governing Tree Preservation, Protection and Planting. The following Best Management Practices shall be used for those Development Sites that utilize conservation easements that protect Old Growth Forest Remnants or Development Sites that are requesting waivers from certain requirements of this section:

- (a) Realignment of proposed streets and utilities in order to avoid Tree removal;
- (b) Reduction of required street width and increase of street grade up to an eight (8) percent slope by the city when the applicant can demonstrate that these changes result in Tree preservation;
- (c) The use of Private Roads in lieu of public streets;
- (d) Variation in street radius and speed design;

- (e) Modified grading plans;
- (f) Flexible lot lines;
- (g) Alternative utility configurations, such as the use of ejector pumps, force mains, or revised home elevations to minimize grading;
- (h) The use of flexible development standards, such as clustering of homes, in order to preserve Old Growth Forest Remnants, Significant Trees and open space;
- (i) The preservation of unique and rare Tree species or communities identified in the Natural Resource Inventory; and
- (j) The use of Low Impact Development principles.

Subd. 9. Tree Preservation and Replacement Requirements. For all activities that are subject to this section, a Tree Preservation Plan must be submitted by the applicant for review and approval by the city. To the extent possible, Significant Trees and Trees located within Old Growth Forest Remnants, Woodlands and natural habitat areas shall be preserved. The Tree Preservation Plan shall include the following information:

- (a) Tree Inventory. The Tree inventory shall identify Significant Trees on the property. It shall include:
 - (i) The location of and a list of all Significant Trees by species. In cases involving large stands of Trees, an applicant may, with city staff review and consent, show the area on the site plan and use a representative sample in order to calculate the number and species of Significant Trees.
 - (ii) Significant Trees that are proposed to be removed. They shall be marked with an “X” on the site plan. The Diameter of each removed Significant Tree, in inches, shall also be noted.
 - (iii) Identification of areas within Old Growth Remnant Forests, as defined by the Natural Resources Inventory. If an applicant wishes to adjust the area based on fieldwork, city staff must review and approve of any adjustment.
 - (iv) A list of any ecologically unique and/or significant areas on the Development Site that are identified in the Natural Resources Inventory report.
- (b) Identification of the locations of any protective fencing and any other measures that will be taken to preserve the Trees. Protective fencing must be placed at least one foot beyond the Dripline of all Trees to be preserved. Any Trees lost as a result of construction activity will be counted when determining the amount of Trees

that were removed, which may cause additional Replacement Trees to be required.

- (c) Tree Replacement Plan. If the proposed removal of Significant Trees exceeds that allowed by subdivision 6 of this section, Tree Replacement will be required and a Tree Replacement Plan will need to be submitted to the city for review and approval by the city council. The Tree Replacement Plan shall be certified by a Forestry Specialist. It shall contain the following information for each Replacement Tree.
- (i) Number and Size of Trees to be Replaced. For Significant Trees located within an Old Growth Forest Remnant or other significant area identified by the Natural Resources Inventory, a Tree Replacement ratio of a Diameter of two (2) caliper inches per one (1) inch of removed Significant Trees and Lost Trees is required. For all other areas containing Significant Trees, a Tree Replacement ratio of a Diameter of one (1) caliper inch per one (1) inch of removed Significant Trees and Lost Trees is required.
 - (ii) Type of Replacement Trees. All Replacement Trees shall be native trees as defined by subdivision 10 of this section. All Replacement Trees shall be appropriate for the soil conditions found at the planting site. All Replacement Trees shall be from certified nursery stock and shall not be bare root stock. If more than twelve (12) Replacement Trees are required on a Development Site, there shall be no more than twenty-five (25) percent of the same species.
 - (iii) Minimum Size of Replacement Trees. All deciduous Replacement Trees shall be a Diameter of at least two (2) caliper inches in size. All coniferous Replacement Trees shall be at least four (4) feet in height.
 - (iv) Placement of the Replacement Trees. All Replacement Trees shall be planted within the Development Site, in a non-patterned arrangement, duplicating natural conditions whenever possible. Replacement Trees may be planted in an alternative location if that location is approved by the city council.
 - (v) Survival of Replacement Trees. All Replacement Trees must survive for at least two growing seasons from the date of planting before the city will refund the financial guarantee required by subdivision 13 of this section. In the event that a Replacement Tree dies or has severely declined (25% of crown has died) before the two growing seasons have passed, it shall be replaced with a Tree of the same caliper inch size. The new Tree must survive for two growing seasons from the date of its planting before the city will refund the financial guarantee.
 - (vi) Credit for Previously Planted Trees. An applicant may, if they have

previously planted Trees on the property while the property was under their ownership, receive credit for these Trees as part of the Replacement Plan. The Trees must meet the requirements of Replacement Trees stated above. The applicant must produce proof, acceptable to the city, that the planting of the trees occurred under the applicant's ownership of the property. Credit for each previously planted Tree shall be granted based on the minimum size Replacement Tree allowed under this ordinance, unless the applicant is able to provide proof as to the size of the Tree at the time of planting.

- (d) Amendments. A Tree Preservation or Replacement Plan may need to be amended after it has been approved by the city council. Requests for amendments shall be submitted to the Zoning Administrator prior to the issuance of the Tree Replacement permit. The city's Zoning Administrator shall have the authority to approve minor amendments. Request for amendments after the Tree Replacement Permit has been issued shall be considered by the City Council.

Subd. 10. Native Trees. The following is the list of Trees that are native to Minnesota for purposes of this section as specified by the Minnesota Department of Natural Resources' "*Field Guide to the Native Plant Communities of Minnesota, the Eastern Broadleaf Forest Province.*":

- (a) Ash, Black (*Fraxinus nigra*)
- (b) Ash, Green (*Fraxinus Pennsylvanica*)
- (c) Ash, White (*Fraxinus Americana*)
- (d) Aspen, bigtooth (also called largetooth aspen, poplar, popple)(*Populus grandidentata*);
- (e) Aspen, quaking (also called trembling aspen, poplar, popple)(*Populus tremuloides*);
- (f) Basswood, American (*Tilia Americana*);
- (g) Birch, paper (*Betula papyrifera*);
- (h) Birch, river (*Betula nigra*);
- (i) Birch, yellow (*Betula alleghaniensis*);
- (j) Butternut (*Juglans cinerea*);
- (k) Cedar, northern white (*Thuja occidentalis*);
- (l) Cherry, black (*Prunus serotina*);
- (m) Cherry pin (*Prunus pensylvanica*);
- (n) Elm, American (only Dutch Elm Disease resistant cultivars) (*Ulmus Americana*);
- (o) Fir, balsam (*Abies balsamea*);
- (p) Hackberry (*Celtis occidentalis*);
- (q) Hophornbeam, eastern (also called ironwood) (*Ostrya virginiana*);
- (r) Hickory, bitternut (*Carya cordiformis*);
- (s) Hickory, shagbark (*Carya ovata*);
- (t) Honeylocust (*Gleditsia triacanthos*);
- (u) Hornbeam, American (also called blue beech)(*Carpinus caroliniana*);
- (v) Maple, black (*Acer nigrum*);

- (w) Maple, red (*Acer rubrum*);
- (x) Maple, silver (*Acer saccharinum*);
- (y) Maple, sugar (*Acer saccharum*);
- (z) Mulberry, red (*Morus rubra*);
- (aa) Oak, black (*Quercus velutina*);
- (bb) Oak, bur (*Quercus macrocarpa*);
- (cc) Oak, northern red (*Quercus rubra*);
- (dd) Oak, northern pin (also called Hill oak)(*Quercus ellipsoidalis*);
- (ee) Oak, swamp white (*Quercus bicolor*);
- (ff) Oak, white (*Quercus alba*);
- (gg) Pine, eastern white (*Pinus strobes*);
- (hh) Pine, jack (*Pinus banksiana*);
- (ii) Pine, red (also called Norway pine)(*Pinus resinosa*);
- (jj) Spruce, black (*Picea mariana*);
- (kk) Spruce, white (*Picea glauca*);
- (ll) Tamarack (also called eastern or American larch) (*Larix laricina*); and
- (mm) Walnut, black (*Juglans nigra*).
- (nn) Willow, Black (*Salix nigra*)
- (oo) Willow, Peachleaf (*Salix amygdaloides*)
- (pp) Willow, Heartleaf (*Salix eriocephala*)

Subd. 11. Permit Required. Any activity regulated by this section shall require the applicant to obtain a Tree Preservation permit from the city. The application shall include a Tree Preservation and Replacement Plan (if required) for the Development Site. The application shall also include payment of a permit fee which shall be set by ordinance by the city council from time to time.

Subd. 12. Financial Guarantee for Tree Replacement. In the event that Tree Replacement is required, the applicant shall submit a financial guarantee, in a form acceptable to the city at the time of obtaining the Tree Replacement Permit. The financial guarantee must be for at least two growing seasons in order to ensure both the planting and the survival of the Replacement Trees. If no Replacement Trees are required, the City may require a financial guarantee that will ensure that in the event that any existing Significant Trees are damaged or killed at time of development, they will be replaced by Replacement Trees. No financial guarantee shall be required when there are no Significant Trees on the property.

Subd. 13. Violations. It shall be a violation of this section for any person, firm or corporation, to destroy the number of Significant Trees beyond the limits established by this section. The Zoning Administrator shall determine non-compliance with this section, subject to review by the city council. The destruction or partial destruction of any Significant Trees in violation of this section shall be considered a violation and may result in revocation of the Tree Replacement permit or an action against the financial guarantees.

Subd. 14. Penalties. Any person convicted of violating this section shall be guilty of a misdemeanor and shall be subject to a fine or imprisonment as specified by state statute.

Such penalty may be imposed in addition to an action against the financial securities, suspension or revocation of the Tree Replacement permit.

Section 828.43. Wetlands Conservation.

Subd. 1. Purpose. The city council of the city of Medina finds that wetlands serve a variety of beneficial functions. Wetlands maintain water quality, reduce flooding and erosion, provide food and habitat for wildlife, provide open space, and are an integral part of the city’s environment. Wetlands are also important physical, educational, ecological, aesthetic, recreational and economic assets to the city. They are critical to the city’s stormwater management and other aspects of the public health, safety and general welfare. Protecting wetlands and regulating the land uses around them is therefore in the public interest.

Subd. 2. Definitions. For the purposes of this section, the following terms shall have the meanings given to them:

- (a) “Applicant” means the individual or entity submitting a land use application to the city.
- (b) “Buffer Setback” means the minimum horizontal distance between a structure and the nearest edge of the Upland Buffer Zone. The purpose of the Buffer Setback is to protect the Upland Buffer Zone.
- (c) “DNR Mapped Area” means a location identified by the Minnesota Department of Natural Resources as a Site of Biodiversity Significance or by the Minnesota Department of Natural Resources County Biological Survey as a High Quality Natural Area.
- (d) “MnRAM” means the Minnesota Routine Assessment Methodology for Evaluating Wetland Functions as referenced in Minnesota Rules 8420.0549 and maintained by the Minnesota Board of Soil and Water Resources. MnRAM is a field tool used to assess Wetland functions on a qualitative basis. Wetland functions assessed by MnRAM include: floral diversity and integrity; wildlife habitat; water quality protection; flood and stormwater attenuation; recreation; aesthetics; education; science; fishery habitat; shoreline protection; groundwater interaction; and commercial uses.
- (e) “Native Vegetation” means plant species indigenous to or naturalized to the Hennepin County Region of the State of Minnesota or plant species classified by the Minnesota Department of Natural Resources as native in the Minnesota Native Plant Database. Native Vegetation does not include Weeds as defined by this section.
- (f) “Non-native Vegetation” means species not indigenous to or naturalized to the Hennepin County Region of the State of Minnesota by the Department of Natural Resources or plant species.

- (g) “Upland Buffer Zone” means an area or areas of vegetated ground cover around the perimeter of a Wetland that, either in its natural condition or through intervention, is critical to the protection of that Wetland. An Upland Buffer Zone protects the edge of a Wetland from erosion and filter sediment, chemicals and other nutrients from the runoff that drains into the Wetland. An Upland Buffer Zone also provides wildlife habitat and assists in maintaining diversity of both plant and animal species within the city. It also reduces human disturbances to the Wetland by providing a visual and physical transition area from a yard to a Wetland.
- (h) “WCA” means the Minnesota Wetland Conservation Act of 1991, Minnesota Statutes Sections 103G.222 - .2373. The city of Medina shall be designated as the Local Government Unit for the purposes of the WCA.
- (i) “Weeds” mean (i) “noxious weeds” as defined and designated pursuant to the “Minnesota Noxious Weed Law,” Minnesota Statutes Sections 18.76 through 18.88, as amended from time to time, or (ii) any volunteer plants, including, but not limited to, spotted knapweed (*Centaurea Maculosa*) or burdock (*Arctium Minus*). For the purposes of this section, Weeds shall not include dandelions or clover. The city weed inspector and/or assistant city weed inspector shall maintain a current list of plants that are defined as “Weeds” for purposes of this section.
- (j) “Wetland” means a land that is 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. For purposes of this section, in order for a land to be considered a “Wetland,” it must have all of the following characteristics: (i) a predominance of hydric soils; (ii) be inundated or saturated by surface 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 (iii) under normal circumstances, support a prevalence of hydrophytic vegetation.
- (k) “WMCM” means a Wetland Management Classification Map which is to be maintained by the city. The WMCM shall classify each Wetland in the city as one or more of the following types: “Preserve,” “Manage 1,” “Manage 2,” and “Manage 3.” The classification shall be based on an assessment using MnRAM. The WMCM is hereby adopted by reference and a copy of which shall be kept on file in the office of the zoning administrator. It shall be available for public review during all normal city office hours.

Subd. 3. General Provisions.

- (a) In order to protect Wetlands, this section incorporates by reference the WCA and any future amendments to the WCA. In the event that any requirements of this section are inconsistent with the WCA, the stricter provision that provides the

most protection for Wetlands shall apply.

- (b) Any structure erected following the effective date of this section shall be set back the greater of the following distances:
 - (i) The Buffer Setback required by subdivision 5(a) of this section;
 - (ii) Wetland setback required by zoning district-specific regulations, if applicable; or
 - (iii) A minimum of 20 feet from the edge of the delineated Wetland, as approved by the city.

- (c) Applicability. The Upland Buffer Zone and Buffer Setback requirements of this section shall apply to all property containing Wetlands in the following circumstances:
 - (i) When any new development activity occurs on the property. For purposes of this section, “new development activity” means:
 - (A) Any subdivision, as defined by state law;
 - (B) Any site plan review required by Medina City Code section 825.55;
 - (C) Any planned unit development general plan;
 - (D) Construction of a principal structure on an existing vacant lot;
 - (E) Redevelopment of a property which meets all of the following conditions:
 - 1) results in the removal of more than 50 percent of the market value of the principal structure;
 - 2) the structure’s removal is followed by reconstruction (except as exempted by subdivision 3 (d) of this section); and
 - 3) results in a net increase in the square footage of impervious surfaces that drain to a Wetland, or results in the relocation of impervious surfaces closer to a Wetland, or results in changes to drainage patterns (slopes, meander patterns, etc.) that the city engineer determines will increase the velocity or rate of runoff to a Wetland;
 - (F) Any project that involves draining, filling, excavating, or altering a Wetland except if:
 - 1) less than 50 cubic yards of disturbance is completed, and

- 2) the city determines that the project improves drainage infrastructure and/or the function or value of the wetland.
- (G) Any project that alters or fills land below the projected 100-year high water elevation of a body of water.
- (ii) Any other land use application which proposes more than 50 cubic yards of grading disturbance, which requires city review, and which is not specified above, including, but not limited to, conditional use permits, interim use permits, and variances; or
- (iii) When there is a construction or land alteration activity on a property that does not fall within the above categories, but that meets all of the following conditions:
- (A) The portion of the property to be disturbed by the construction or land alteration activity naturally drains to a Wetland;
- (B) The amount of grading on the property exceeds 50 cubic yards or the construction activity involves the disturbance of an area of more than 5,000 square feet; and
- (C) The proposed activity increases the amount of impervious surface within 100 feet of the Wetland by more than 1,000 square feet.
- (iv) Activities described in subdivision 3(c)(i)(D), subdivision 3(c)(i)(E), or subdivision 3(c)(iii) of this section for which a building permit has been issued prior to January 1, 2010 shall not be subject to the Upland Buffer Zone and Buffer Setback requirements of this section.
- (d) Exemptions. The Upland Buffer Zone and Buffer Setback requirements of this section shall not apply to the following:
- (i) Any plat which has received preliminary approval or any other land use application which has received final approval by the city council prior to the effective date of this section;
- (ii) Reconstruction of a legal non-conforming structure that was destroyed by fire or other peril that is permitted to be reconstructed by city code and state statute;
- (iii) Any previously buildable parcel existing prior to the effective date of this section which is rendered unbuildable under city code because of the implementation of the Upland Buffer Zone and Buffer Setbacks as required by this section and other restrictions in the zoning ordinance;

- (iv) Any parcel existing prior to the effective date of this section on which a wetland buffer has been established as required by the city or another governmental entity having relevant jurisdiction. However, upon further subdivision, or if an applicable activity is proposed in a location which drains directly towards a wetland without a wetland buffer, the Upland Buffer Zone and Buffer Setback requirements of this section shall apply; or
- (v) Any agricultural activity exempted from the requirement for a wetland replacement plan pursuant to the WCA.

Subd. 4. Application Materials. An Applicant shall submit the following information to the city along with all other materials required by city code with respect to any land use application or permit application:

- (a) A grading plan (if grading is proposed), including the area and volume of land disturbance;
- (b) The square footage of the proposed structure and any impervious surface;
- (c) A Wetland delineation report. It is the responsibility of the Applicant to determine whether Wetlands exist on the property by completing a Wetland delineation and submitting a Wetland delineation report. The following shall apply to the Wetland delineation report:
 - (i) The report shall delineate and document the boundaries of any Wetlands on the property in accordance with the WCA requirements;
 - (ii) The city shall require that the Wetland delineation be performed by a certified Wetland delineator. The Wetland delineation must be performed according to the 1987 U.S. Army Corps of Engineers Wetland Delineation Manual and subsequent amendments, and be acceptable to the city engineer. The city engineer shall have complete discretion in determining whether the Wetland delineation report is acceptable;
 - (iii) The report shall state the WMCM classifications for all Wetlands located on the property. If a Wetland on the property is not shown or classified on the WMCM, the Applicant shall submit a completed electronic copy of the MnRAM form for the Wetland to the city. The MnRAM form shall be completed by a certified Wetland delineator;
 - (iv) Wetland delineations and any required MnRAM classifications shall be completed by the Applicant between April 20th and October 20th of the given year and must be submitted to the city for review no later than November 1st. A Wetland delineation completed outside these dates or submitted later than November 1st may be considered to be incomplete;

- (v) Wetland classification appeal. In the event that the Applicant is not in agreement with a Wetland’s WMCM classification, the Applicant may appeal the classification to the city. The Applicant shall put the appeal in writing and include supporting documentation. The appeal will be reviewed by city staff and decided by a technical evaluation panel, members of which will be determined by the city council. The technical evaluation panel shall make a determination on the appeal within forty-five days of receipt of a complete appeal application. The Applicant may appeal the technical evaluation panel’s decision to the city council. The appeal must be filed within thirty days of the technical evaluation panel’s decision; and
- (vi) The city shall place any approved Wetland classifications on the WMCM.
- (d) A certificate of survey or site plan describing the proposed activity and showing the Upland Buffer Zones to the Wetlands on the property;
- (e) An Upland Buffer Zone landscaping plan, if required;
- (f) Any submittals required by the WCA;
- (g) Legal descriptions of the Wetlands and Upland Buffer Zones; and
- (h) Funds deposited in an amount to be determined by the city to be used for any expenses incurred by the city in completing its review of the Wetland delineation report, Wetland ordinance compliance, a WMCM classification or DNR Mapped area appeal, and, if appropriate, developing a Wetland boundary estimate and determining if the Upland Buffer Zones proposed by the Applicant meet the requirements of this section.
- (i) A plan identifying measures to protect wetlands from intrusion during construction. These measures may include silt fencing, snow fencing, signage, or other measures determined by the city. While determining the required protection, the city shall consider the WMCM classification of the Wetland, the proximity of proposed disturbance to the Wetland, and the likelihood of intrusion.

Subd. 5. Upland Buffer Zone and Required Buffer Setbacks.

- (a) If a new development activity, as defined in subdivision 3(c)(i) of this section, is proposed, the following Upland Buffer Zone and Buffer Setbacks shall be required for each Wetland, or portion of Wetland, within the subject property. In the event that zoning district regulations differ from the following table, the standards or procedures described within the zoning district regulations shall be required:

	Upland Buffer Zone Average	Minimum Upland Buffer	Buffer Setback	Buffer Setback
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Wetland Classification	Width	Zone Width	(Principal Structure)	(Accessory Structure)
Preserve (at least partly within or adjacent to a DNR Mapped Area)	50 feet	30 feet	15 feet	5 feet
All Other Preserve	35 feet	25 feet	15 feet	5 feet
Manage 1	30 feet	20 feet	15 feet	5 feet
Manage 2	25 feet	20 feet	15 feet	5 feet
Manage 3	20 feet	15 feet	15 feet	5 feet

The width of the Upland Buffer Zone may vary along the Wetland's boundaries, so long as the following conditions are met:

- (i) The Upland Buffer Zone's width does not fall below the minimum Upland Buffer Zone width at any location;
 - (ii) The total area of the Upland Buffer Zone meets or exceeds the total area which would be required if the Upland Buffer Zone average width was utilized; and
 - (iii) Areas that are within an Upland Buffer Zone with a preconstruction slope exceeding 12 percent must meet or exceed the Upland Buffer Zone average width requirement.
- (b) If an activity as defined by subdivision 3(c)(ii) or subdivision 3(c)(iii) of this section is proposed, an Upland Buffer Zone with an average width of 20 feet and a minimum width of 15 feet shall be required adjacent to the portion of the Wetland downgradient from the proposed activity. The Upland Buffer Zone must meet all requirements of this section, except that a conservation easement shall not be required provided that the Upland Buffer Zone is documented using an alternate form required by the city.
- (c) All Upland Buffer Zones shall be measured from the edge of the delineated Wetland, as approved by the city, into the adjacent upland area.
- (d) The total area required for an Upland Buffer Zone shall not exceed 200 percent of the area of the adjacent Wetland. If the Upland Buffer Zone width is reduced subject to this clause, the width shall not vary along the Wetland's boundary unless the city determines that such variation results in increased protection of the Wetland.
- (e) Upland Buffer Zones shall not be required for Wetlands under 1,000 square feet in size. The setback requirements described in Subd. 3(b) of this section shall apply.

- (f) The Upland Buffer Zone requirements of this section may be reduced at the discretion of the city council and if all of the following conditions are met:
- (i) The Applicant implements practices which are superior at meeting the long-term purposes of the section than would be possible through strict adherence to the requirements of this section;
 - (ii) The total area of the proposed Upland Buffer Zone exceeds that which would result if the required minimum Upland Buffer Zone width was utilized around the entire Wetland; and
 - (iii) The proposed Upland Buffer Zone width does not fall below 75 percent of the required minimum Upland Buffer Zone width at any location around the entire Wetland.
- (g) Where existing structures or impervious surfaces are located within an area that would be required to be included in an Upland Buffer Zone, alternative methods to protect the Wetland may be approved by the city staff in order to avoid creating unreasonable impacts on the existing use of the property. Such methods may include, but are not limited to, Upland Buffer Zone width averaging below the minimum required, redirection of drainage to a different area where an Upland Buffer Zone is feasible while still maintaining the drainage to the Wetland, or the use of rainwater gardens, vegetated swales or other best management practices for treating runoff.
- (h) The city recognizes that the ability of an Applicant to implement the Upland Buffer Zones required by this section may be constrained when there is an activity proposed within existing right-of-way or adjacent to existing roadways that is located on property that is not controlled by the Applicant. In these situations, Upland Buffer Zone mitigation shall not be required, but the Applicant shall make reasonable efforts to fulfill the requirements of this section to the extent possible.
- (i) In the event that a Wetland is identified on city documents to be at least partly within or adjacent to a DNR Mapped Area, and the Applicant disagrees with such a determination, the Applicant may appeal to the city.
- (i) The Applicant shall submit the appeal in writing and include supporting documentation.
 - (ii) City staff shall make a decision on the appeal within 45 days of receipt of a complete appeal application.
 - (iii) The Applicant may appeal the decision of city staff to the city council. This appeal must be filed with the City within 30 days of city staff's decision.

Subd. 6. Alterations within Wetlands and Upland Buffer Zones.

- (a) The area within Wetlands and Upland Buffer Zones shall be preserved predominately in their natural states, except to the extent set forth below. With the exception of activities defined by subdivision 3(c)(iii) of this section where a smaller Upland Buffer Zone is required, Upland Buffer Zones must be protected by a conservation easement granted to the city by the Applicant in a form provided by the city. The conservation easement will preserve the natural state of the Upland Buffer Zones by restricting the activities that are allowed within the easement areas. The easement will give the city the authority to enforce the conservation easement restrictions. Additional public uses within the conservation easement, such as a trail, will not be required by the city for these purposes but may be required pursuant to other applicable city requirements.
- (b) Any alterations within the Wetland and Upland Buffer Zone, except those stated below, are prohibited, including, but not limited to, the installation or placement of structures and impervious surfaces, the operation of construction machinery, the destruction or removal of trees, shrubs or other vegetation, the introduction of any Non-native Vegetation, any mowing, dredging or excavation activities and the placement or storage of any fill material, manure, or trash and the application of fertilizer. The following activities are permitted:
- (i) Activities described within an Upland Buffer Zone landscaping or mitigation plan, or a WCA application that was approved by the city;
 - (ii) The removal of Non-native Vegetation;
 - (iii) Necessary alterations related to the establishment and maintenance of the native vegetation within the Upland Buffer Zone;
 - (iv) Proposed alterations which are determined by the city to be consistent with the vegetative standards and the purposes of this section;
 - (v) The removal of dead or diseased trees;
 - (vi) The installation of utility poles, underground utility lines, light poles, traffic regulatory signs and signals, mailboxes, and other equipment that is determined by the city to provide an essential public service;
 - (vii) The installation of public and private flood control structures, ponding and drainage facilities and associated accessory appurtenances as approved by the city;
 - (viii) The installation of environmental monitoring or control facilities, including those related to water quality and wildlife regulation;
 - (ix) The mowing of or installation of permeable pathways not to exceed four feet in width to allow reasonable access to the Wetland;

- (x) The installation of boardwalks, docks or other structures to allow reasonable access to the Wetland. These structures shall not exceed four feet in width or have poles greater than eight inches in diameter;
- (xi) The installation of public trails, if required. The temporary and permanent trail disturbance shall not exceed eight feet in width and must be located outside of the minimum width of the required Upland Buffer Zone.

Subd. 7. Upland Buffer Zone Markers. All Upland Buffer Zones shall be identified with markers. The Applicant shall be responsible for the costs of obtaining and installing the markers. At a minimum, one marker shall be placed per lot at the upslope edge of the Upland Buffer Zone and then placed every 250 feet thereafter and on all common lot lines.

- (a) Proposed locations of the markers shall be shown on the grading or site plan for the property. The location of the markers shall capture the portion of the Upland Buffer Zone that extends the furthest upslope into the lot. A plan that shows the location of the marker shall be provided to the city for its review and approval.
- (b) Artwork and verbiage on the sign shall face away from the Wetland..
- (c) Sign dimensions, specifications, verbiage, and artwork shall be specified by the city and provided to the Applicant.

Subd. 8. Vegetation Performance Standards. Upland Buffer Zones shall meet the following vegetation performance standards:

- (a) Where acceptable natural vegetation exists in an Upland Buffer Zone, disturbance is allowed only with approval from the city. An Upland Buffer Zone will be considered to have acceptable natural vegetation if it:
 - (i) is composed of less than 25 percent Weeds;
 - (ii) is covered by Native Vegetation with less than five percent exposed soil. Exposed soils may exceed 5% in cases where native tree and shrub canopy closure of 75% or greater exists; and
 - (iii) does not contain maintained turf grass.
- (b) Where an Upland Buffer Zone or a portion thereof is not considered acceptable or is to be disturbed, a Upland Buffer Zone landscaping plan must be submitted to the city engineer for approval. At a minimum, the landscaping plan shall include the following information:

- (i) A plan sheet that shows the location of the Upland Buffer Zones. The plan sheet must also show Upland Buffer Zones that are considered to be acceptable in their current state and identify them as areas that will not be disturbed during grading. The city shall require silt fencing around these areas in order to protect them from erosion and disturbance during grading and construction. Silt fencing shall be removed promptly following stabilization as described within the city's construction site runoff regulations;
 - (ii) The species, planting and seeding locations for Upland Buffer Zones that were determined to be unacceptable by the city. This shall involve the seeding or planting of a minimum of at least four species of native grasses and five species of native forbs and a cover crop. The seed mix shall consist of at least fifteen pounds of pure live seed (PLS) per acre and the cover crop shall be at least twenty pounds per acre. If planting is proposed, spacing between plants shall not exceed three feet unless otherwise approved by the city engineer; and
 - (iii) Detailed specifications that describe sequencing, scheduling, materials, installation and maintenance execution for the seeding, planting, or Weed removal within the Upland Buffer Zones.
- (c) In cases where an Upland Buffer Zone landscaping plan is required, the city may require an approved form of a financial guarantee equal to 150 percent of the estimated cost of the vegetation installation. The financial guarantee shall be valid for two years and may be used by the city for compliance inspections and establishment of the required vegetation if not completed by Applicant or if deemed unsuccessful by the city. Vegetation will be deemed by the city to be successful if the area has a minimum of one plant per square foot from the specified seed mix or planting plan and less than twenty-five percent of the area is inhabited by Weeds.

Subd. 9. Maintenance. The property owner or homeowners' association shall be responsible for maintaining the Upland Buffer Zones on the property. Maintenance shall include the following:

- (a) Maintain and repair any damage to the Wetland Buffer Zone caused by activities such as mowing, cutting or grading, unless the activities are approved by the city.
- (b) Ensure that all soil surfaces in the Wetland Buffer Zone are planted with Native Vegetation and that there is less than five percent of open soil surface which may result in erosion.

Subd. 10. Wetland and Upland Buffer Zone Mitigation. In cases where a Wetland or Upland Buffer Zone alteration is approved by the city and mitigation is required, the

mitigation must result in equal or improved Wetland function and value. The following standards shall apply for any Wetland or Upland Buffer Zone mitigation:

- (a) Wetland mitigation shall conform to the requirements of the WCA.
- (b) In cases where an approved WCA Permit Application allows Wetland impacts, Upland Buffer Zones shall be required on the fill slope of the impact, but additional fill shall not be permitted to meet the Upland Buffer Zone requirements of this section. Instead, expansion of the Upland Buffer Zone shall be required elsewhere along the edge of the Wetland to meet the overall area of the required buffer.
- (c) The area of Upland Buffer Zone required for Wetlands created subject to an approved WCA Permit Application shall meet or exceed the area of Upland Buffer Zone which would have been required by this section for the impacted Wetland.
- (d) If wetland banking, as defined within WCA, is proposed subject to an approved WCA Permit Application, the Upland Buffer Zone for the impacted Wetland shall be replaced by purchasing it from a Wetland bank if it cannot be replaced on-site. Replacement of the Upland Buffer Zone on-site is strongly preferred.
- (e) Wetland and Upland Buffer Zone plantings that are completed for mitigation shall meet the vegetative standards in this section.
- (f) Upland Buffer Zones may be utilized for Wetland mitigation credits if they meet the requirements of the WCA.

Subd. 11. Variance. A variance from the requirements of this section may be granted by the city council in accordance with the variance provisions of the city code, so long as the variance does not violate the WCA or any other applicable state statutes or rules.

Subd. 12. Enforcement.

- (a) Investigation. When a violation of this section is either discovered by or brought to the attention of the city, the city shall immediately investigate the situation and document the nature and extent of the violation.
- (b) Notice of the Violation. If a violation is found to exist, the city shall notify the offending party of the requirements of this section, all other applicable official controls and the nature and extent of the suspected violation of these controls. If the structure or use is under construction or development, the city may order the construction or development to be immediately stopped until the property is brought into compliance with this section. If the construction or development has already been completed, then the city may issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with this section.

- (c) Appeal. The offending party may appeal the city’s correction order to the city council. An appeal must be brought in writing no later than ten days from the date of the notice.
- (d) Failure to Correct. If the offending party does not correct the work within the specified date on the notice and no appeal has been taken within ten days of the notice, the city may enter the property and perform the corrective work. Any amount incurred by the city in performing the corrective work may be certified by the city to the county for collection with the property taxes.
- (e) Penalties. Any person who violates any provision of this section shall be guilty of a misdemeanor and shall be subject to a maximum fine or maximum period of imprisonment, or both, as specified by Minnesota Statutes Section 609.03. Each additional day that the property remains in violation of this section shall constitute an additional violation of this section and may be prosecuted accordingly.
- (f) Nothing contained herein shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation of this section, including, but not limited to, seeking a civil injunction or restraining order.

Section 828.45. Traffic Control.

Subd. 1. The traffic generated by any use shall be channelized and controlled in a manner that will avoid:

- (a) congestion on the public streets,
- (b) traffic hazards, and
- (c) excessive traffic through residential areas, particularly truck traffic.

Subd. 2. Internal traffic shall be so regulated as to ensure its safe and orderly flow. Traffic into and out of business areas shall in all cases be forward moving with no backing into streets. On corner lots, (including rural areas) nothing shall be placed or allowed to grow with the exception of seasonal crops in such a manner as materially to impede vision between a height of two and one-half (2-1/2) and ten (10) feet above the centerline grades of the intersecting streets to a distance such that a clear line of vision is possible of the intersection street from a distance of fifty (50) feet from the intersection of the right-of-way lines.

Section 828.47. Vacated Streets. Whenever any street, alley, easement or public way is vacated by official action, the zoning district abutting the centerline of the said vacated area shall not be affected by such proceeding.

Section 828.49. Agricultural Operations. All agricultural land uses shall be a permitted use where the operator can conduct a farming operation. The City Council may require any farm operation to

secure a Conditional Use Permit to expand or intensify said operations in the event of the following:

Subd. 1. The farming operations are so intensive as to constitute an industrial type use consisting of the compounding, processing, and packaging of products for wholesale or retail trade and further that such operation cannot be terminated as can a normal farming operation.

Subd. 2. Non-domestic animal husbandry is prohibited.

Section 828.51. Off-Street Parking Standards.

Subd. 1. Design and Maintenance of Off-Street Parking Areas.

(a) **Parking Space Size.** The minimum dimensions for off-street parking spaces, exclusive of access drives, drive aisles, ramps, or columns, shall not be less than 9’ wide and 19’ deep except as provided for in Table 1, Minimum Parking Space and Aisle Dimensions, and Paragraphs (c) and (d) below.

Table 1: Minimum Off-Street Parking Space and Aisle Dimensions

Parking Angle	Stall Width	Stall Depth	1 Way Aisle Width	2 Way Aisle Width
0° (Parallel)	9’	22’	12’	22’
30°	9’	19’	12’	--
45°	9’	19’	14’	--
60°	9’	19’	18’	--
90°	9’	19’	--	22’

(b) For off-street parking areas, the city may require twenty-four (24) feet of width for primary drive aisles and twenty-two (22) feet of width for secondary drive aisles.

(c) Parking for compact cars.

(i) A maximum of 20 percent of required off-street spaces may be designed and reserved for small or compact cars.

(ii) Compact spaces shall not be permitted in any building designed to be used for residential purposes or in parking lots of less than 40 parking spaces.

(iii) Compact parking spaces shall have minimum dimensions of 8’ wide and 16’ deep.

- (iv) Compact stalls shall not have generally preferential locations such that their use by non-compact cars will be encouraged.
- (v) Signs and markings, as approved by the city, shall be placed and maintained for compact car spaces.
- (d) The minimum square footage required for residential two car garages shall be 440 square feet.
- (e) Parking areas shall be designed so as to provide adequate means of access to a public alley or street. Such access shall be located to minimize interference with traffic movement.
- (f) Signs. No signs shall be located in any parking area except as necessary for orderly operation of traffic movement and such signs shall not be a part of the permitted advertising space.
- (g) Maintenance of off-street parking space. It shall be the joint and several responsibility of the operator and owner of the principal use, uses and/or building to maintain, in a neat and adequate manner, the parking space, accessways, landscaping and required fences.
- (h) Asphalt or concrete surface for parking and driveway areas shall be required in all commercial and industrial districts. Porous asphalt or other similar pervious material suitable for use in Minnesota shall be encouraged. Parking areas for infrequent parking such as for special events or for fewer than 20 times per year, may use grasscrete or similar materials or techniques to be in conformance with this provision. Such materials shall not be considered impervious if at least 50 percent is exposed grass or similar landscaping.
- (i) Access driveways leading to loading docks and trash collection areas shall be constructed to a minimum nine ton capacity.
- (j) To the extent practicable, dead end drive aisles shall not be permitted.
- (k) To the extent practicable, traffic moving from one part of a parking area to another shall be capable of doing so without using a public street or ally.
- (l) Fire lanes shall have a clear aisle width of not less than 24 feet. Adequate turning radii shall be provided at fire lane corners to allow emergency vehicles to turn in one maneuver without interference from obstructions.
- (m) Parking lots shall comply with City of Medina engineering standards.

Subd. 2. Off-Street Spaces Required. The following are the minimum number of parking spaces required for each use. However, in all commercial and industrial districts no use shall be provided fewer than four parking spaces.

(a)	One and Two-family	Two (2) spaces per dwelling unit.
(b)	Multiple Dwellings and Townhomes	Two (2) spaces per dwelling unit, which may include enclosed spaces; plus the greater of 2 spaces or .25 spaces per unit of guest parking.
(c)	Religious Institutions, Theaters, Auditoriums, and other places of assembly.	One (1) space for each four seats or for each five (5) feet of pew length based upon maximum design capacity; plus additional parking for accessory uses and facilities as prescribed by this Ordinance.
(d)	Business and Professional Offices	One (1) space for each two hundred fifty (250) square feet of gross floor space.
(e)	Medical and Dental Clinics	One (1) space for each 250 square feet of gross floor space.
(f)	Hotel or Motel	One (1) space per rental unit plus one (1) space for each employee on largest workshift.
(g)	Schools: Grade schools, elementary schools, middle school, junior high school	At least two (2) spaces for each classroom.
(h)	Schools: High School	At least one (1) space for each six (6) students plus one (1) space for each classroom.
(i)	Vocational or business schools	At least one (1) space for each three (3) students at maximum capacity plus one (1) space for each classroom.
(j)	Hospitals	At least one (1) space for each two (2) hospital beds, plus one (1) space for each two hundred fifty (250) square feet of office space.
(k)	Bowling Alleys	At least five (5) spaces for each alley, plus one (1) space per five (5) seats of accessory facilities, plus one (1) additional space for each employee on largest workshift.
(l)	Automobile Service Stations	At least one (1) space for each five hundred (500) square feet gross floor area; plus one (1) space for each service stall. Such spaces shall be in addition to spaces required for gas pump areas.
(m)	Retail Sales and Service	At least one (1) space for each two hundred fifty (250) square feet gross floor area up to 10,000 square feet; plus at least one (1) space for each three hundred (300) square feet gross floor area in excess of 10,000 square feet.
(n)	Restaurants, Drive-through Food Establishments, Cafes, Bars, Taverns, Night Clubs	At least one (1) space for each three (3) seats based on capacity design including outdoor seating areas; plus at least five (5) stacking spaces for drive-through operations.
(o)	Health Club (Includes, but	At least one (1) space for each two hundred fifty

	not limited to dance, martial arts, and yoga studios.)	(250) square feet gross floor area.
(p)	Funeral Homes	Sufficient off-street parking shall be required to accommodate the maximum number of guests expected to be in attendance at a funeral home at any given time. The number of required spaces shall be determined by the City Council after due consideration is given to the expected parking needs of the funeral home.
(q)	Industrial, Warehouse, Storage, Handling of Bulk Goods	At least one space for each employee on largest workshift or one space for each two thousand square feet of gross floor area, whichever is larger.
(r)	Uses not specifically noted	As determined by the City Council following review by the Planning Commission.

Subd. 3. General Provisions.

- (a) Location. Required off-street parking spaces must be located on the same lot as the principal use, unless shared parking or off-site parking is approved for the use.
- (b) Control of off-street parking facilities. When accessory off-street parking facilities are provided elsewhere than on the lot on which the principal use served by such facilities is located, they shall be under the same ownership or control, either by deed, perpetual easement or long-term lease, as the property occupied by such principal use. The right to use said parking facilities shall be provided by means of an instrument acceptable to the city recorded against the properties requiring the owner of the principal use and the owner’s heirs, successors and assigns to maintain the required number of off-street spaces during the existence of said principal use.
- (c) Use of parking area. Required off-street parking spaces shall not be utilized for open storage of goods or for the storage of vehicles which are inoperable or for sale or for rent except as provided for in Section 828.03 of the city code.
- (d) Parking Structures. Except as otherwise approved by the city, off-street parking structures shall be designed in compliance with the applicable requirements of this section.

Subd. 4. Calculation of required parking.

- (a) Principal and Multiple Uses.
 - (i) The number of parking spaces is computed based on the principal uses.

- (ii) When there are two or more separate principal uses on a site, the required parking for the site is the sum of the required or allowed parking for the individual principal uses.
 - (iii) When there are principal and accessory uses on a site, the required parking for the site is the sum of the required or allowed parking for the principal and accessory uses.
- (b) When calculating the number of required off-street parking spaces, fractional results shall constitute another space.
- (c) Joint Use Parking. Joint use of required parking spaces may occur where two or more uses on the same or separate sites are able to share the same parking spaces because their parking demands occur at different times, if approved by the City.
- (i) For joint use of required nonresidential parking spaces, the following documentation shall be submitted in writing as part of a building or zoning permit application or land use review:
 - (1) The names and addresses of the uses and of the owners or tenants that are sharing the parking;
 - (2) The location and number of parking spaces that are being shared;
 - (3) An analysis showing that the peak parking times of the uses occur at different times and that the parking area will be large enough for the anticipated demands of both uses; and
 - (4) A legal instrument acceptable to the city that guarantees access to the parking for each use.
 - (ii) Dissolution.
 - (1) Dissolution of the joint use parking agreement shall require a recalculation of required off-street parking spaces in accordance with this Ordinance.
 - (2) Upon dissolution, the city may require the construction of additional parking spaces deemed necessary to meet the minimum off-street parking requirements for each use.
 - (iii) As a condition of any joint use parking agreement, the city may require compliance with all or part of Subd. 5 of this section.
- (d) Change of Use. Any change of use or occupancy of any building or buildings, including additions or intensifications thereto, shall be required to provide the minimum number of off-street parking spaces in accordance with this section.

The city may require the construction or provision of the minimum required parking spaces, and prohibit said change of use until such time that minimum required off-street parking is provided.

- (e) **Parking Reduction.** A waiver may be granted by the city to reduce the required number of parking spaces. Parking reduction waivers shall be recorded with a legal instrument acceptable to the city. A waiver may be granted where it can be demonstrated that such reduction is justified due to:
- (i) factors having an impact on parking demand and capacity;
 - (ii) the achievement of other competing city objectives including, but not limited to, preservation of unique or historic buildings, preservation of community character, tree or natural resource preservation; or
 - (iii) unique or extenuating circumstances unforeseen by this ordinance.

Subd. 5. Proof of Parking.

- (a) The city may reduce the amount of parking spaces required to be constructed provided that the property owner supplies proof of parking, which can be constructed if deemed necessary by the city. A proof of parking reduction may be granted provided each of the following conditions are met:
- (i) A minimum of 30 parking spaces are provided;
 - (ii) a parking plan, drawn to scale for the property, is submitted with the site plan which indicates that the site is capable of complying with the total parking requirements stated above and with the parking lot design to the standards required by this Ordinance;
 - (iii) the proof of parking area is defined as that portion of the site which is not paved, but is suitably landscaped and is capable of containing the amount of parking equal to the difference between the area of paved parking to be provided and the area of parking required to meet the requirements of this Ordinance. For purposes of calculating impervious surface, such area shall be considered impervious;
 - (iv) the proof of parking area shall be prepared for the construction of future parking to the extent required by the city. This may include grading, construction of necessary stormwater management practices, and other preparations as required by the City;
 - (v) the proof of parking area shall be clearly delineated on the parking plan for the site; and

- (vi) the proof of parking area is not used to satisfy any other landscaping, setback, or other requirement of this Ordinance and is not located in an area occupied by a building.
- (b) Agreement Required. The property owner shall enter into a legal instrument with the city, in a form acceptable to the city, related to the requirements and provisions of the proof of parking. Such instrument shall be recorded against the property.
- (c) Construction of proof of parking. The city may, at its sole discretion, require that the proof of parking area, or portions thereof, be constructed in a way that meets the requirements of this section.
 - (i) Notification: The city shall notify the property owner of the requirement to construct the required parking, upon which the property owner shall apply for a permit to expand the parking area within 180 days.
 - (ii) Appeal. The property owner may appeal the requirement to the city council. An appeal shall be provided in writing no later than ten days from the date of the notice.
 - (iii) Failure to Construct. If the property owner does not construct the required parking expansion within one year of notification, the city may enter the property and perform the work. The amount incurred by the city in performing such work, including reasonable associated administrative costs, shall be invoiced to the property owner. If such invoice is not paid within 30 days, the city may certify such costs to the county for collection with the property taxes.

Subd. 6. Off-Street Parking Restrictions in Residential Areas.

- (a) Exterior parking in all residential areas served by public sewer or water systems shall be prohibited in any portion of the property except designated driveways leading directly into a garage or one (1) open, surfaced space. Said space must be surfaced with concrete, bituminous, or other paving material.
- (b) Recreational Vehicle Parking. Boats, fish houses, house trailers, camping trailers, utility trailers, and motor homes must comply with the parking requirements of paragraph (a) of this subdivision, and may not be parked, stored, or otherwise maintained on residential property except as provided below:
 - (i) the vehicle may not exceed 35 feet in length;
 - (ii) the vehicle must be operable and currently licensed;

- (iii) the vehicle must be parked in a garage, or other building, or on a parking space, in the rear or side yard no closer than 10 feet to the lot line;
- (iv) the vehicle must comply with all applicable parking regulations and utilize only the existing driveway or access point to the site; and
- (v) the vehicle may not be used for business purposes.

(c) Commercial Vehicle Parking. Parking of commercial vehicles in residential areas shall conform with the requirements of Section 335 of the city code.

Subd. 7. Off-Street Bicycle and Motorcycle Parking. Provisions shall be made for the off-street parking of bicycles and motorcycles in all multiple family and non-residential developments and uses. Plans for such facilities shall be reviewed and evaluated on an individual project or use basis as part of site plan review provisions of Section 825.55 of this Chapter.

Subd. 8. Pedestrian Ways and Trails. Off-street parking areas shall provide pedestrian access between the building, parking lot, and sidewalk. Parking layout shall be designed such that parking areas do not intrude on pedestrian access or impact accessibility.

Section 828.53. Off-Street Loading and Unloading Areas.

Subd. 1. Location. All required loading berths shall be off-street and shall be located on the same lot as the building or use to be served. A loading berth shall be located at least twenty five (25) feet from the intersection of two (2) street rights-of-way and at least fifty (50) feet from a residential district, unless within a building. Loading berths shall not occupy the required front yard space.

Subd. 2. Unless otherwise specified in this Ordinance, a required loading berth shall be not less than twelve (12) feet in width, fifty (50) feet in length, and fourteen (14) feet in height, exclusive of aisles and maneuvering space.

Subd. 3. Each required loading berth shall be located with appropriate means of vehicular access to a street or public alley in a manner which will least interfere with traffic.

Subd. 4. Surfacing. All loading berths and accessways shall be improved with a hard surface to control the dust and drainage before occupancy of the structure.

Subd. 5. Accessory Use. Any space allocated as a loading berth or maneuvering area so as to comply with the terms of this Ordinance shall not be used for the storage of goods, inoperable vehicles, or be included as a part of the space requirements necessary to meet the off-street parking area.

Subd. 6. Off-Street Loading Required. Any structure erected or substantially altered for a use which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles shall provide off-street loading space as required for a new structure.

Subd. 7. Screening. Screening shall be required of all loading and unloading areas located adjacent to residential and agricultural districts. In all commercial and industrial districts loading and unloading areas shall be screened from any street or right-of-way by an opaque structure, earth berm or landscaping at least eight feet in height. Any structure used for screening shall be architecturally compatible with the principal structure.

Section 828.55. Auto Service Stations.

Subd. 1. Lot Size. A service station site shall be a minimum of 20,000 square feet.

Subd. 2. Setbacks. The building or buildings shall be set back at least thirty-five feet from the street right-of-way. Near residential districts, the service station buildings, signs, and pumps shall be a minimum of twenty-five feet from adjoining property. In commercial areas, the structures shall be set back at least ten feet from adjoining property.

Subd. 3. Curbs and Gutters. Curbs and gutters shall be installed on all streets giving access to the station. There should be a six inch curb along all interior driveways.

Subd. 4. Fencing and Screening. When adjacent or near to residential property, there shall be a screening fence. When adjacent to commercial property, there shall be a bumper-type fence about eighteen inches high between the station and the adjacent commercial property.

Subd. 5. Vehicles. No vehicles shall be parked on the premises other than those utilized by employees or awaiting service. No vehicle shall be parked or be waiting service longer than fifteen (15) days. Existing service stations shall comply with this requirement within forty-five (45) days of the effective date of this Ordinance.

Subd. 6. Exterior Storage. Exterior storage besides vehicles shall be limited to service equipment and items offered for sale on pump islands; exterior storage of items offered for sale shall be within yard setback requirements and shall be located in containers such as the racks, metal trays, and similar structures designed to display merchandise. Existing service stations shall comply with this requirement within three (3) months of the effective date of this Ordinance.

Subd. 7. Screening. All areas utilized for storage, disposal, or burning of trash, debris, discarded parts, and similar items shall be fully screened. All structures and grounds shall be maintained in an orderly, clean, and safe manner. Existing service stations shall comply with this requirement within nine (9) months of the effective date of this Ordinance.

Subd. 8. Architecture. If possible, the station should be of a type that is reasonably compatible with the surroundings. Most national oil companies have a variety of building types which could be viewed for selection of the most suitable.

Subd. 9. Outdoor Displays. The storage of used tires, batteries, and other such items for sale outside the building should be controlled; such items should be displayed in specially designed containers and be limited to one or two areas well back from the street right-of-way line. Junk cars, empty cans, and other unsightly materials should not be permitted in areas subject to public view.

Subd. 10. Activities Prohibited. Business activities not listed in the definition of service stations in this Ordinance are not permitted on the premises of a service station unless a conditional use permit is obtained specifically for such business. Such activities include but are not limited to the following:

- (a) automatic car and truck wash;
- (b) rental of vehicles, equipment, or trailers; and
- (c) general retail sales.

Section 828.57. Drive-In Business Development Standards.

Subd. 1. The following standards shall apply to drive-in businesses in all districts.

- (a) The entire area of any drive-in business shall have a drainage system approved by the community engineer.
- (b) The entire area other than that occupied by structures or planting shall be surfaced with a hard surface material which will control dust and drainage.
- (c) A fence or screen of acceptable design not over six (6) feet in height or less than four (4) feet shall be constructed along the property line abutting a residential district and such fence or screen shall be adequately maintained. The fence shall not be required in front of the setback line.

Subd. 2. General.

- (a) Any drive-in business serving food or beverages may also provide, in addition to vehicular service areas, indoor food and beverage service seating area.
- (b) The hours of operation shall be set forth as a condition of any building permit for drive-in business.
- (c) Each drive-in business serving food may have outside seating.
- (d) Each food or beverage drive-in business shall place refuse receptacles at all exits as well as one (1) refuse receptacle per ten (10) vehicle parking spaces within the parking area.

Subd. 3. Location.

- (a) No drive-in business shall be located within four hundred (400) feet of a public or parochial school, church, public recreation area, or any residential district.

- (b) No drive-in business shall be located such that it may increase traffic volumes on nearby residential streets.
- (c) No drive-in shall be located on any street other than one designated as a thoroughfare or business service road in the Policies Plan.
- (d) The design of any structure shall be compatible with other structures in the surrounding area.
- (e) Electronic devices such as loudspeakers, automobile service order devices, drive-in theater car speakers and similar instruments shall not be located within four hundred (400) feet of any residentially zoned or used property, nor within two hundred (200) feet of any adjacent lot regardless of use or zoning district.
- (f) No service shall be rendered, deliveries made, or sales conducted within the required front yard; customers served in vehicles shall be parked to the sides and/or rear of the principal structure.
- (g) No permanent or temporary signs visible from the public street shall be erected without specific approval in the permit.
- (h) No plan shall be approved which will in any way constitute a hazard to vehicular or pedestrian circulation. No access drive shall be within fifty (50) feet of intersecting street curb lines.

Subd. 4. Fence. In the case of a drive-in theater, a solid fence not less than eight (8) feet in height and extending at least to within two (2) feet of the ground shall be constructed around the property.

Subd. 5. Lighting. The lighting shall be designed so as to have no direct source of light visible from the public right-of-way or adjacent land in residential use.

Section 828.59. Mining.

Subd. 1. Purpose. Modern life styles create a continuing demand for the various subsurface resources used throughout this country. These resources are unevenly and sometimes sparsely distributed, thus creating a continual shortage of some materials. Unfortunately, excavation of these resources may not only present conflicts with adjacent land uses, but have often in the past left unsightly scars upon the landscape. This provision is designed to minimize the conflicts and eliminate the scars as far as is feasible.

Subd. 2. Administration - Permit Review. A Conditional Use Permit shall be required for all commercial mining operations. Said Permit shall be valid for a three (3) year period, after which a permit renewal shall be required. The City Council may also require a performance bond from the landowner.

Subd. 3. Information Required. The following information shall be provided by the persons requesting the permit:

- (a) Name and address of person requesting the mining permit.
- (b) The exact legal property description and acreage of area to be mined.
- (c) 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:
 - (i) **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.
 - (ii) **Map B** -Proposed operations to include:
 - Structures to be erected.
 - Location of sites to be mined showing depth of proposed excavation.
 - Location of tailing 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.

- (iii) **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.

- (d) A soil erosion and sediment control plan.
- (e) A plan for dust and noise control.
- (f) A full and adequate description of all phases of the proposed operation to include an estimate of duration of the mining operation.
- (g) Any other information requested by the Planning Commission or governing body.

Subd. 4. Renewal of Mining Permits.

- (a) All property owners and residents within one thousand (1,000) feet of the mining operation shall be notified of a mining permit renewal request.
- (b) A public hearing shall be conducted for renewal permit approval if seventy-five (75) percent of the property owners or residents of voting age within one thousand (1,000) feet of the mining operations request such a hearing in writing.

Subd. 5. Use Restrictions.

- (a) The crushing, washing, refining, or processing other than the initial removal of material shall be considered a Conditional Use.
- (b) In stone quarries, the production or manufacturing of veneer stone, sills, lintels, cut flagstone, hearthstones, paving stone and similar architectural or structural stone and the storing or stock-piling of such products on the site shall be considered a Conditional Use.
- (c) The manufacture of concrete building blocks or other similar blocks, the production or manufacture of lime products, the production of ready-mixed concrete and any similar production or manufacturing processes which might be related to the mining operation shall be considered as a Conditional Use.
- (d) The governing body may impose additional performance standards as part of the Conditional Use Permit.

Subd. 6. Performance Standards.

- (a) General Provisions. Weeds and any other unsightly or noxious vegetation shall be cut or trimmed as may be necessary to preserve a reasonably neat appearance and to prevent seeding an adjoining property.
- (i) No sand and gravel operation shall be conducted on parcels of less than twenty (20) acres in size. This limitation shall not apply when the tract of land is contiguous to an active mining operation, provided that both tracts are being operated by the same sand and gravel producer.
- (ii) All equipment used for mining operations shall be constructed, maintained, and operated in such a manner as to minimize, as far as is practicable, noises and vibrations which are injurious or substantially annoying to persons living in the vicinity.
- (b) Water Resources. The mining operation shall not be allowed to interfere with surface water drainage beyond the boundaries of the mining operation.
- (i) The mining operation shall not adversely affect the quality of surface or subsurface water resources.
- (ii) Surface water originating outside and passing through the mining district shall, at its point of departure from the mining site, be of equal quality to the water at the point where it enters the mining site. The mining operator shall perform any water treatment necessary to comply with this provision.
- (c) Safety Fencing. Any mining operation adjacent to a residential zone or within three hundred (300) feet of two (2) or more residential structures shall be bound by the following standards:
- (i) Where collections of water occur that are one and one half (1- $\frac{1}{2}$) feet or more in depth existing for any period of at least one (1) month, and occupy an area of seven hundred (700) square feet or more, all access to such collections of water shall be barred by a fence or some similarly effective barrier such as a snow fence of at least four (4) feet in height.
- (ii) In locations where slopes occur that are steeper than one (1) foot vertical to three (3) feet horizontal existing for a period of one (1) month or more, access to such slopes shall be barred by a fence or some similarly effective barrier such as a snow fence at least four (4) feet in height.
- (d) Mining Access Roads. The location of the intersection of mining access roads with any public roads shall be selected such that traffic on the access roads will have a sufficient distance of the public road in view so that any turns onto the public road can be completed with a margin of safety.

- (e) Screening Barrier. To minimize problems of dust and noise and to shield mining operations from public view, a screening barrier may be maintained between the mining site and adjacent residential and commercial properties. A screening barrier shall also be maintained between the mining site and any public road within five hundred (500) feet of any mining or processing operations. The screening barrier shall be planted with a species of fast growing trees such as green ash.
- (i) Existing trees and ground cover along public road frontage shall be preserved, maintained (and supplemented), for the depth of the roadside setback except where traffic safety requires cutting and trimming.
- (f) Setback. Processing of minerals shall not be conducted closer than one hundred (100) feet to the property line nor closer than five hundred (500) feet to any residential or commercial structures located prior to commencement of processing operations without the written consent of all owners and residents of said structures.
- (i) Mining operations shall not be conducted closer than thirty (30) feet to the boundary of any zone where such operations are not permitted, nor shall such production or processing be conducted closer than thirty (30) feet to the boundary of an adjoining property line, unless the written consent of the owner and fee of such adjoining property is first secured in writing.
- (ii) Mining operations shall not be conducted closer than thirty (30) feet to the right-of-way line of any existing or platted street, road, or highway, except that excavating may be conducted within such limits in order to reduce the elevation thereof in conformity to the existing or platted street, road, or highway.
- (g) Appearance. All buildings, structures and plants used for the production or processing of sand and gravel shall be maintained in such a manner as is practicable and according to acceptable industrial practice as to assure that such buildings, structures, and plants will not become dangerously dilapidated.
- (h) Hours of Operation. All mining operations shall be conducted between the hours of 7:00 a.m. and 7:00 p.m. Any operations not conducted between the hours of 7:00 a.m. and 7:00 p.m. shall require a Conditional Use Permit. Such permits shall be granted for public or private emergency or whenever any reasonable or necessary repairs to equipment are required to be made.
- (i) Dust and Dirt. All equipment used for mining operations shall be constructed, maintained, and operated in such a manner as to minimize, as far as is practicable, dust conditions which are injurious or substantially annoying to persons living within six hundred (600) feet of the mining operations lot line.
- (i) All access roads from mining operations to public highways, roads or streets or to adjoining property shall be paved or surfaced with gravel to minimize dust conditions.

- (ii) These limitations above shall not apply to any mining operation in any industrial zone, unless such operations are closer than one hundred fifty (150) yards to another zone other than an industrial zone.

Subd. 7. Land Rehabilitation. All mining sites shall be rehabilitated immediately after mining operations cease. Rehabilitation shall be complete within one (1) year. The following standards shall apply:

- (a) Within a period of three (3) months after the termination of a mining operation, or within three (3) months after abandonment of such operation for a period of six (6) months, or within three (3) months after expiration of a mining permit, all buildings, structures, and plants incidental to such operation shall be dismantled and removed by, and at the expense of, the mining operator last operating such buildings, structures, and plants. A temporary variance may be granted for those buildings, structures, machinery and plants required to process previously mined materials stored on the site. Such variance may apply for only one (1) year, after which said buildings, structures, machinery and plants shall be removed.
- (b) The peaks and depressions of the area shall be graded and backfilled to a surface which will result in a gently rolling topography in substantial conformity to the land area immediately surrounding, and which will minimize erosion due to rainfall. No finished slope shall exceed eighteen (18) percent in grade.
- (c) Reclaimed areas shall be sodded or surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding, and to a depth of at least three (3) inches.
- (d) Such required topsoil shall be planted with legumes and grasses. Trees and shrubs may also be planted but not as a substitute for legumes and grasses. Such planting shall adequately retard soil erosion.
- (e) Excavations completed to a water producing depth need not be backfilled if the water depth is at least ten (10) feet and if banks shall be sloped to the water line at a slope no greater than three (3) feet horizontal to one (1) foot vertical.
- (f) The finished grade shall be such that it will not adversely affect the surrounding land or future development of the site upon which mining operations have been conducted. The finished plan shall restore the mining site to a condition whereby it can be utilized for the type of land use proposed to occupy the site after mining operations cease.

Section 828.61. Structures Prohibited in Commercial and Industrial Districts. No type III-N or Type V-N building, according to the State of Minnesota Uniform building Code definition, shall be constructed in any commercial (RC and UC) or Industrial (RI and UI) district, unless used for farm purposes.

Section 828.63. (Deleted by Ordinance No. 295)

Section 828.65. Performance Standards for Housing. Performance standards for housing in the City of Medina shall have the following objectives:

Subd. 1. To provide minimum standards for housing design which will promote compatibility among widely varying housing choices.

Subd. 2. To prevent overcrowding of dwellings and to provide adequate ingress and egress and shelter in the event of fire, storm or other emergency.

Subd. 3. To preserve the value of existing and future dwellings by setting minimum design standards.

Subd. 4. To provide minimum standards for the maintenance of existing and future residential dwellings.

Section 828.67. Residential Dwellings. The following performance standards shall apply in all Districts where residential dwellings are permitted. All residential dwellings shall be constructed and maintained in accordance with the standards.

Subd. 1. Exterior Appurtenances. Every stairway, porch, balcony, awning or other exterior addition or appurtenance shall be firmly attached to the dwelling, shall be attractive and functional in design, shall be sound and permanent in its construction, and shall be perpetually maintained in a safe and stable state of repair.

Subd. 2. Foundations, Walls and Roofs. Every residential dwelling shall be placed upon a foundation or frost footing which meets the Minnesota State Building Code and is securely bolted in place. The foundations, exterior walls and roof shall be water tight, protected from rodents and kept in a sound condition and repair.

Subd. 3. Roof Construction. The wall and ceiling joists of all residential dwellings shall consist of wood framing materials of one and one-half inch by three and one-half inch construction, or their equivalent.

Subd. 4. Minimum Size. All residential dwellings shall be a minimum of 24 feet in length and width, and contain a minimum of 550 square feet of habitable floor space. Length and width shall be measured from the outside of the exterior siding or fascia and habitable floor space shall be measured from the inside of the interior wall surface. Interior partitions shall not be considered.

Section 828.69. Civil Remedy. In the event of a violation or the threatened violation of any provisions of this Ordinance, or any provision or condition of a permit issued pursuant to this Ordinance, the city, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct, or abate such violation or threatened violation.

Section 828.71. Supremacy.

Subd. 1. When any condition imposed by any provision of this Ordinance on the use of land or buildings or on the bulk of buildings is either more restrictive or less restrictive than similar conditions imposed by any provision of any other ordinance or regulation, the more restrictive conditions shall prevail.

Subd. 2. This Ordinance is not intended to abrogate any easements, restrictions, or covenants, relating to the use of land or imposed on lands within the county by private declaration or agreement, but where the provisions of this Ordinance shall prevail.

Section 828.73. Landspreading of Yard Waste.

Subd. 1. Definitions. For the purposes of this ordinance, the following terms shall have the meanings given to them.

- (a) "Landspreading" means the application and incorporation of yard waste on land used for agriculture for the purpose of improving the fertility of the soil or reducing soil erosion.
- (b) "Yard waste" means leaves, grass clippings and herbaceous plant materials but does not include brush, tree trimmings or other woody plant materials or any other organic or inorganic materials. Yard waste contaminated with more than .10 percent of extraneous materials by weight or volume shall not be considered yard waste within the meaning of this ordinance.
- (c) "Incorporation" means plowing or disking yard waste into the soil to a depth sufficient to prevent blowing of yard waste or to mitigate pests and odor.
- (d) "Active Land Management" means conducting a program of soil testing and introduction of additives when needed to correct pH or other soil imbalances.

Subd. 2. Landspreading of yard waste shall be permitted only in those zones in which it is a specifically permitted use and only under the following conditions:

- (a) Yard waste shall be received at the application site in containerless bulk form and not in plastic or other bags or boxes. Vehicles delivering yard waste must be enclosed.
- (b) Yard waste may be applied within any 12 month period at a rate not to exceed 3 inches in depth or such lesser amount as may be necessary to allow complete incorporation.
- (c) Yard waste may not be delivered, transferred or stored within 300 feet, nor spread within 100 feet, of any residential building, except the dwelling occupied by the landowner.
- (d) No yard waste may be stored within 300 feet, nor spread within 100 feet, of any body of water or any area designated as class "A" floodplain by the Federal Emergency Management Agency.

- (e) Yard waste must be spread within 5 days and incorporated within 15 days of the date of receipt. Yard waste received after a 1 inch deep ground freeze must be incorporated by the following May 1.
- (f) All vehicles delivering yard waste must be in compliance with weight limits on the roads utilized.
- (g) Extraneous materials must be removed from the site within 24 hours.
- (h) The landspreading operation, including delivery, storage, spreading and incorporation, shall not generate off-site nuisances of a greater amount or different type than is typically associated with farming. Such off-site nuisances include, but are not limited to, dust, odor and wind blown debris or yard waste. The operation shall be free of litter and vermin.
- (i) Landspreading shall be accomplished in accordance with the regulations and requirements of all other agencies, organizations or entities having jurisdiction over such activity.
- (j) Landspreading operations shall be suspended or terminated if at any time it is deemed that conditions exist constituting a fire hazard or if there is a threat to surface or ground water from runoff or leachate. The city may inspect the site at any reasonable time without prior notice to ensure compliance with this ordinance.
- (k) Landspreading shall be accompanied by a program of active land management designed to enhance fertility and reduce soil erosion.
- (l) On rented or leased sites, landspreading may occur only with the permission of the land owner.
- (m) Landspreading may occur only after the landspreader has posted financial security with the city in a form and amount satisfactory to the city to ensure compliance with this ordinance.

Section 828.75. Regulation of Telecommunication Towers and Facilities.

Subd. 1. Limited Federal Preemption. The city recognizes that the Federal Communications Act of 1934 as amended by the Telecommunications Act of 1995 ("the Act") grants the Federal Communications Commission exclusive jurisdiction over the regulation of the environmental effects of radio frequency emissions from telecommunications facilities and the regulation of radio signal interference among users of the radio frequency spectrum. Consistent with the Act, the regulation of towers and telecommunications facilities in the city will not have the effect of prohibiting any person from providing wireless telecommunications services.

Subd. 2. Purpose. The purpose of this ordinance is to regulate the placement, construction, maintenance and modification of telecommunication towers and facilities in order to protect the health, safety and welfare of the public, while not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the city. In

adopting this ordinance, the city intends to advance the following specific purposes:

- (a) minimize adverse visual and economic impacts of telecommunication towers and facilities through design, siting, landscaping, and camouflaging techniques;
- (b) promote and encourage shared use and colocation of telecommunication towers and antenna support structures;
- (c) avoid damage to adjacent properties caused by falling or dislocated telecommunication towers and facilities by ensuring that those structures are soundly designed, constructed, and maintained and promptly removed when no longer used or when determined to be structurally unsound;
- (d) ensure that telecommunication towers and facilities are compatible with surrounding land uses, especially residential uses; and
- (e) facilitate the provision of wireless telecommunications services to the residents and businesses of the city in an orderly fashion.

Section 828.77. Definitions. For purposes of this ordinance, the following terms shall have the meanings given them, except where the context clearly indicates a different meaning:

Subd. 1. "Antenna support structure" means a building, water tower, or other structure, except a tower, which can be used for location of telecommunications facilities.

Subd. 2. "Applicant" means a person who applies for a permit to develop, construct, build, modify or erect a tower.

Subd. 3. "Application" means the process by which the city considers a request to develop, construct, build, modify or erect a tower.

Subd. 4. "Dual lighting" means a lighting pattern which varies by number, location or intensity between day and night for a single facility.

Subd. 5. "Engineer" means an engineer licensed by the state of Minnesota.

Subd. 6. "Person" means any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.

Subd. 7. "Telecommunications facilities" means cables, wires, lines, wave guides, antennas and any other equipment or facilities associated with the transmission or reception of communications located or installed on or near a tower or antenna support structure. The term does not include a satellite earth station antenna two meters in diameter or less if located in an industrial or commercial district or a satellite earth station antenna one meter in diameter or less if located anywhere other than an industrial or commercial district.

Subd. 8. "Telecommunications tower" or "tower" means a self-supporting lattice, guyed, or monopole structure constructed from grade which supports telecommunications facilities. The term does not include amateur radio operations equipment licensed by the Federal Communications Commission.

Subd. 9. "Tower height" means the vertical distance from the average grade adjacent to the base pad of the tower to the highest point of the tower or any telecommunication facility.

Section 828.79. Application. Any person desiring to construct a tower must submit an application for a conditional use permit. In addition to the items required in sections 825.39 *et seq.* of the Medina code of ordinances for issuance of a conditional use permit, the applicant must submit the following in connection with an application for a tower:

Subd. 1. The engineering plans for the proposed structure and a written statement from an engineer that the proposed structure meets the structural requirements of the Medina code of ordinances;

Subd. 2. A written statement from an engineer that the proposed site of the tower or telecommunications facilities does not pose a risk of explosion, fire or other danger due to its proximity to volatile, flammable, explosive, or hazardous materials such as liquid propane gas, propane, gasoline, natural gas, or corrosive or other dangerous chemicals;

Subd. 3. A map of the city showing the location of all towers and telecommunications facilities of the applicant's entire existing or proposed wireless telecommunications network;

Subd. 4. Written evidence that the applicant will be required to remove the tower and associated telecommunications facilities upon cessation of operations on the leased site; and

Subd. 5. An application fee in the amount established from time to time by resolution of the city council.

Section 828.81. Performance Standards.

Subd. 1. Colocation capability. Unless the applicant presents evidence to the city that colocation is not feasible, no tower may be built, constructed or erected in the city unless the tower is capable of supporting at least one additional telecommunications facility comparable in weight, size, and surface area to the facilities being proposed by the applicant.

Subd. 2. Setback requirements.

(a) In addition to any other setback requirement which may be applicable under the Medina code of ordinances, a tower up to 180 feet in height authorized under this section must comply with the following setback and locational requirements:

(i) The tower must be set back a distance from the nearest property line equal to the height of the tower, unless an engineer certifies in writing that the tower will collapse within a lesser distance under all reasonably foreseeable

circumstances. In no event, however, shall a tower be located closer to any property line than a distance equal to 50 percent of the height of the tower;

- (ii) Setbacks for a tower shall be measured from the base of the tower to the nearest property line of the parcel on which it is located;
 - (ii) No tower may be located between a principal structure and the street, except that on corner lots, a tower may be located between the principal structure and the street having the lesser volume of traffic; and
 - (iv) A tower must be set back from residentially zoned land a minimum of 200 feet or 150 percent of the height of the tower, whichever is greater.
- (b) A tower which exceeds 180 feet in height shall be set back from the nearest property line a distance equal to the height of the tower plus an additional 1.5 feet for every foot by which its height exceeds 180 feet, unless an engineer certifies in writing that the tower will collapse within a lesser distance under all reasonably foreseeable conditions. If an applicant produces the engineering certification required in this subdivision, the setback may be reduced to a distance no less than 75 percent of the height of the tower, except that setbacks from residentially zoned land shall be a minimum of 300 feet or 150 percent of the height of the tower, whichever is greater.

Notwithstanding anything herein to the contrary, any tower which is supported by guy wires shall comply with the full setback as provided herein and shall not qualify for any reduction in setback allowed by certification from an engineer regarding the collapse pattern of the tower.

Subd. 3. Engineer Certification. Towers must be designed and certified by an engineer to be in conformance with the Uniform Building Code and all other applicable standards set forth in the Medina code of ordinances and to be structurally sound for conditions reasonably likely to occur in Minnesota.

Subd. 4. Lighting. Towers may not be lighted except as required by the Federal Aviation Administration. Whenever a tower is proposed to be located within 1000 feet of any residentially zoned land, the applicant must seek approval for dual mode lighting from the Federal Aviation Administration.

Subd. 5. Exterior Finish. Towers not requiring specific painting or marking by the Federal Aviation Administration must have an exterior finish approved by the city.

Subd. 6. Fencing. Fences constructed around or upon parcels containing towers, antenna support structures, or telecommunications facilities must be constructed in accordance with the fencing requirements applicable within the zoning district in which the tower or antenna support structure is located, unless more stringent fencing requirements are required by Federal Communications Commission regulations. Notwithstanding anything herein to the contrary, any guy wire used to support a tower shall be fenced so that it is protected against climbing and vandalism.

Subd. 7. Camouflage; Landscaping. Reasonable but creative measures must be employed to camouflage towers from view. Landscaping on parcels containing buildings used as antenna support structures or telecommunications facilities must be in accordance with landscaping requirements approved in the conditional use permit. Utility buildings and structures accessory to the tower must be architecturally designed to blend in with the surrounding environment and to meet all setback requirements applicable to the tower. Ground mounted equipment must be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the character of the surrounding neighborhood. Notwithstanding anything herein to the contrary, the city may impose more stringent screening requirements when a tower or related structure or equipment will be in close proximity to residential uses or environmentally sensitive areas or land forms.

Subd. 8. Accessory buildings. One accessory building not more than 2000 sq. ft. in area shall be permitted per tower.

Subd. 9. Security; Signs. Towers must be reasonably posted and secured to protect against trespass. All signs must comply with applicable sign regulations. Towers must be constructed with such devices and techniques as reasonably necessary to prevent climbing by unauthorized persons.

Subd. 10. On-site parking. Property upon which any tower is located must contain at least one paved vehicular parking space immediately adjacent to the tower.

Subd. 11. Removal of Towers. If the use of a tower is discontinued, the tower owner must provide written notice to the city of its intent to discontinue use and the date when the use will be discontinued. Abandoned or unused towers and associated telecommunications facilities must be removed within six months of the cessation of operations of the telecommunications facility at the site unless an extension is approved by the city council. Any tower or associated telecommunications facility which is not removed within six months of the cessation of operations at a site is hereby declared to be a public nuisance and may be removed by the city and the costs of removal assessed against the property pursuant to section 330.01 et seq. of the Medina code of ordinances.

Section 828.83. Additional requirements.

Subd. 1. Maintenance. Towers must be maintained in accordance with the following provisions:

- (a) Tower owners must employ ordinary and reasonable care in construction and use commonly accepted methods and devices for preventing failures and accidents likely to cause damage, injuries, or nuisance to the public.
- (b) Tower owners must install and maintain towers, antenna support structures and telecommunications facilities, in compliance with the requirements of the National Electric Safety Code and all Federal Communications Commission, state, and local regulations.

- (c) Towers, telecommunications facilities, and antenna support structures must be kept and maintained in good condition, order, and repair.
- (d) Maintenance or construction on a tower, telecommunications facilities or antenna support structure must be performed by qualified maintenance and construction personnel.
- (e) Towers must be used in compliance with radio frequency emissions standards of the Federal Communications Commission.

Subd. 2. Certification of Structural Conditions. Every five years after construction, a tower must be certified by an engineer to be structurally sound and in conformance with the requirements of the Uniform Building Code and all other construction standards set forth by the Medina code of ordinances or federal or state law. A written certification to this effect must be provided to the city. The city may require more frequent certifications if it reasonably believes that the structural or electrical integrity of the tower does not comply with federal, state, or local regulations.

Subd. 3. Inspections. Upon reasonable notice to the owner of the tower and the property upon which it is located, the city may inspect any tower for the purpose of determining if it complies with the Uniform Building Code and other construction standards provided by the city code or federal or state law. The expense related to such inspections will be borne by the tower owner. Based upon the results of such inspection, the building official may require repair or removal of a tower.

Amendment History of this Section

Amended September 3, 1985 (Ord. 223). Added Subsections 828.04, 828.06, 828.08, 828.09. Also added Subd. 2 of 828.03 and Subd. 3 of 828.07. Amended Subsections 828.51 and 828.53.

Amended April 7, 1987 (Ord. 233). Added Subsection 828.10 and amended Subsections 828.03 and 828.04.

Amended August 4, 1987 (Ord. 236). Amended Subsection 828.09 regarding landscaping in commercial and industrial districts.

Amended December 18, 1990 (Ord. 250). Amended Subsection 828.21 regarding Recreational Vehicle regulations.

Amended June 1, 1993 (Ord. 275). Subsection 828.63 was amended regarding excavation in the Shoreland Overlay District.

Amended June 3, 1997 (Ord. 295). Subsection 828.17 was adopted regarding excavation and Subsection 828.63 was deleted.

Amended June 3, 1997 (Ord. 297). Subsection 828.43, regarding wetlands, was deleted and replaced with new language.

Amended March 18, 2003 (Ord. 353). Previous wording for Subsection 828.29 was deleted in its entirety and replaced by text from Ord. 353.

Amended March 6, 2006 (Ord. 400). Repealed subsection 828.31 regarding exposed slopes, subsection 828.33 regarding preservation of natural drainageways, subsection 828.35 regarding water velocity, subsection 828.37 regarding sediment control and subsection 828.39 regarding erosion control systems. Previous wording for Subsection 828.29 was deleted in its entirety and replaced by text from Ord. 400 regarding Construction Site Runoff.

Amended March 21, 2006 (Ord. 401). Deleted subsection 828.17 regarding Land Reclamation and Excavation. Added new Subsection 828.28 Land Filling and Land Excavation/Grading Operations.

Amended August 2, 2006 (Ord. 409). Deleted subsection 828.09 regarding Landscaping and deleted subsection 828.41 regarding Tree Preservation in its entirety and replaced it with new language in Ordinance 409.

Amended November 20, 2007 (Ord. 432). Amending Section 828.41 related to Tree Preservation and Replacement.

Amended May 20, 2008 (Ord. 441). Amending Section 828.43 regarding Wetlands Conservation.

Amended June 17, 2008 (Ord. 446). Amending Section 828.29 regarding construction site storm water runoff control.

Amended October 7, 2008 (Ord. 451). Amending Section 828.09 regarding solar equipment.

Amended September 15, 2009 (Ord. 468). Adding Section 828.31 regarding buffer yard requirements.

Amended October 18, 2011 (Ord. 512). Deleting 828.21 regarding recreational vehicle regulations and Amending Section 828.51 regarding off-street parking standards.

Amended November 15, 2011 (Ord. 513). Adding Section 828.33 pertaining to the management of stormwater.

Amended November 7, 2012 (Ord. 539). Amending Section 828.09; adding Sections 828.09.1 and 828.09.2 regarding regulations of Wind Energy Conversion Systems, Solar Equipment, and Geothermal Systems.

Amended June 4, 2013 (Ord. 552). Added Section 828.17 interference with the use of rights-of-way and easement prohibited.

Amended February 17, 2015 (Ord. 576). Amending Section 828.09 regarding solar equipment.

Amended August 5, 2015 (Ord. 586). Amending 828.09 regarding solar equipment.