

**CHAPTER 8****LAND AND BUILDING REGULATIONS****826. ZONING - DISTRICT PROVISIONS**

**Section 826.01. Zoning Districts.** For the purpose of this Section, the City is hereby divided into the following use districts:

- Subd. 1.** AG - Agricultural Preservation. (Sections 826.07 – 826.15)
- Subd. 2.** RR - Rural Residential. (Sections 826.09 – 826.25)
- Subd. 3.** UR - Urban Reserve. (Sections 826.25.1 – 826.25.5)
- Subd. 4.** RR 1 - Rural Residential 1. (Section 826.26)
- Subd. 5.** RR 2 - Rural Residential 2. (Section 826.26.1)
- Subd. 6.** SR - Suburban Residential. (Sections 826.26.2 – 826.26.7)
- Subd. 7.** UR - Urban Residential. (Sections 826.27 – 826.35)
- Subd. 8.** MR - Multi Family Residential. (Sections 826.37 – 826.45)
- Subd. 9.** RC - Rural Commercial. (Sections 826.47 – 826.51)
- Subd. 10.** UC - Urban Commercial. (Sections 826.53 – 826.56)
- Subd. 11.** RI - Rural Industrial. (Sections 826.59 – 826.63)
- Subd. 12.** RPS – Rural Public/Semi-Public. (Sections 826.64 – 826.67)
- Subd. 13.** PS - Public/Semi-Public. (Sections 826.69 – 826.73)
- Subd. 14.** FP - Floodplain. (Sections 826.74 – 826.97)
- Subd. 15.** SH - Shoreland. (See Sections 827.01 – 827.07)
- Subd. 16.** SL - Sanitary Landfill. (See Sections 827.09 – 827.23)
- Subd. 17.** PUD - Planned Unit Development. (See Sections 827.24 – 827.43)

**Section 826.03. Zoning Map.** The Zoning Map of the City is hereby adopted by reference as though shown in all details herein. The boundaries of the Districts are hereby established as shown on said Map, provided, however, that minor amendments to the boundaries may be shown by legal description. Said Map shall be kept on file in the office of the City Clerk-Treasurer hereinafter referred to as the "Zoning Map."

**Section 826.05. District Boundaries.** District boundary lines as indicated on said Map follow lot lines, the center line of streets, the center line of streets projected, the center line of railroad right-of-way, the center of water courses or the corporate limit lines, all as they exist upon the effective date of this Section. If District boundary lines do not follow any of the above described lines, the district boundary lines are established as drawn on the Zoning Map. Where a district boundary line divides a lot of record which was in single ownership at the time of enactment of this Section and places portions of such lots of record in two or more Use Districts, any position of such lot within 50 feet on either side of such a dividing district boundary line may be used for any use of either Use District; provided, however, if any portion of such lot shall extend beyond the 50 foot limitation, the district line as shown shall prevail.

## **AGRICULTURE PRESERVATION ZONING DISTRICT (AG)**

**Section 826.07. Agricultural Preservation Zoning District (AG) - Purpose.** The purpose of the agricultural preservation zoning district is to maintain and enhance the use of land for commercial agriculture.

**Section 826.09. (AG) Permitted Uses.** Within the agricultural preservation zoning district, no structure or land shall be used except for one or more of the following uses:

**Subd. 1.** Agriculture.

**Subd. 2.** Essential services.

**Subd. 3.** Home occupations in conformance with section 825.07 subd. 49 of this ordinance.

**Subd. 4.** Single family detached residences.

**Subd. 5.** Landspreading of yard waste in compliance with the conditions of section 828.73 of this ordinance.

**Subd. 6.** Seasonal produce stands.

**Subd. 7.** Licensed day care facilities serving 12 or fewer persons.

**Subd. 8.** Licensed group family day care facilities servicing 14 or fewer children.

**Subd. 9.** Licensed residential facilities serving six or fewer persons.

**Section 826.11. (AG) Conditional Uses.** Within the agricultural preservation zoning district, no structure or land shall be used for the following uses except by conditional use permit:

**Subd. 1.** Home occupations in conformance with section 826.98, Subd. 2 (c) of this ordinance.

**Subd. 2.** Private use of windmills or wind energy conversion systems (WECS).

**Subd. 3.** Solar equipment.

**Subd. 4.** A second home, in addition to the permitted farmstead residence of 40 acres or larger, if placed on the farm building site and if used to house members of the resident farming family or for help employed full-time on the farm and if the need for such an additional unit to support and carry on the principal use has been established. The applicant shall file an overlay with the zoning administrator demonstrating that the second home meets all setback, area, and sewage disposal requirements of city ordinances; and

**Subd. 5.** Other uses similar to those permitted in this subdivision, as determined by the city council.

**Section 826.13. (AG) Permitted Accessory Uses.** Within the agricultural preservation zoning district, the following uses shall be permitted accessory uses:

**Subd. 1.** Private garages.

**Subd. 2.** Fences.

**Subd. 3.** Gardening and other horticultural uses.

**Subd. 4.** One lodging room per single family dwelling.

**Subd. 5.** Private recreation equipment and facilities.

**Subd. 6.** Private horse facilities, animal structures and kennels.

**Subd. 7.** Farm buildings and agricultural structures.

**Subd. 8.** Solar equipment.

**Subd. 9.** Receive only satellite dish antennas and other antennas.

**Subd. 10.** Other uses customarily associated with but subordinate to a permitted use, as determined by the city council.

**Section 826.15. (AG) Lot Area, Height, Lot Width, and Yard Requirements.**

**Subd. 1.** Within the agricultural preservation zoning district, no building shall be constructed or used except in conformance with the following:

- (a) No building shall exceed two and one half (2-1/2) stories or thirty (30) feet in height as defined in section 825.07, subd. 12, except as regulated by subd. 5 of this section. Farm buildings and agricultural structures are not subject to the height restrictions of this ordinance.
- (b) The following minimum requirements shall be observed:
  - a) lot size - 40 acres;
  - b) lot width - 500 feet;
  - c) lot depth - 500 feet;
  - d) front yard setback - 100 feet;
  - e) side yard setback - 50 feet;
  - f) rear yard setback - 100 feet.

**Subd. 2.** Animal structures shall not be erected within 150 feet of any lot line.

**Subd. 3.** Feed lots, runs, pens, and similar intensively used facilities for animal raising and care shall not be located within 300 feet of any lot line.

**Subd. 4.** The lot must contain an area of contiguous soils of one or more of the permitted types large enough to support a primary site and an area of contiguous soils for a secondary site for a standard on-site sewage disposal system and both sites must be protected during construction. For newly created lots, the systems must be a standard system as defined by the Medina Individual Sewage Treatment and Disposal ordinance. Alternate systems may

be installed only where a standard system has failed and the sewage disposal needs of the site cannot be met through a replacement standard system.

**Subd. 5.** The height of single family detached residences may exceed 30 feet, but may not exceed 40 feet or two and one-half (2 1/2) stories, if the following standards are met:

- (a) Accurate building plans and elevation drawings shall be submitted to the City;
- (b) Those portions of the residence greater than 30 feet in height shall be uninhabited and not planned for storage;
- (c) Those portions of the residence greater than 30 feet in height shall be no larger than 500 sq. ft. or shall be divided into spaces no greater than 500 sq. ft. and separated by an approved draft stop;
- (d) The height from the lowest ground level (and 8 feet out) to the eave shall be no greater than 30 feet; and
- (e) There shall be a two (2) story height limitation at the driveway or point of access to the residence.

## **RURAL RESIDENTIAL ZONING DISTRICT (RR)**

**Section 826.17. Rural Residential (RR) - Purposes.** The purpose of this District is to allow for a "rural life-style" by permitting low-intensity uses, such as single family detached residences, farming, hobby farms, horticulture, conservation of ecologically significant natural resources and passive and private recreational uses.

**Section 826.19. (RR) Permitted Uses.** Within the Rural Residential District, no structure or land shall be used except for one or more of the following uses:

**Subd. 1.** Single family detached residences.

**Subd. 2.** Agricultural land uses, including hobby farms.

**Subd. 3.** Essential Services.

**Subd. 4.** Public Recreation.

**Subd. 5.** Home occupations in compliance with the conditions of Section 825.07, Subd. 49 of this ordinance.

**Subd. 6.** Stands for the sale of agricultural products provided a majority of said products are raised or grown on the premises.

**Section 826.21. (RR) Conditional Uses.** Within the Rural Residential District, no structure or land shall be used for the following uses except by conditional use permit:

**Subd. 1.** Home occupations in compliance with the conditions of Section 826.98, Subd. 2 (c) of this ordinance.

**Subd. 2.** Cemeteries in compliance with the conditions of section 826.98, subd. 2 (d) of this ordinance.

**Subd. 3.** Outdoor recreational facilities, including non-commercial parks, golf courses, and driving ranges in compliance with the conditions of section 826.98, subd. 2 (g) of this ordinance.

**Subd. 4.** Wind Energy Conversion Systems (WECS) in compliance with the conditions of section 826.98, subd. 2 (e) of this ordinance.

**Subd 5.** On parcels of 40 acres or larger, a second principal residential dwelling structure.

**Section 826.23. (RR) Permitted Accessory Uses.** Within any Rural Residential District the following uses shall be permitted accessory uses:

**Subd. 1.** Garages.

**Subd. 2.** Fences.

**Subd. 3.** Gardening and other horticultural uses.

**Subd. 4.** One lodging room per single family dwelling.

**Subd. 5.** Recreation equipment.

**Subd. 6.** Farm building, used principally for agriculture activities.

**Subd. 7.** Home Occupations in compliance with the conditions of section 825.07, subd. 49 of this ordinance.

**Subd. 8.** Private riding stable.

**Subd. 9.** Landspreading of yard waste in compliance with the conditions of section 828.73 of this ordinance.

**Subd. 10.** Solar equipment, in compliance with performance standards of section 828.09 of this ordinance.

**Subd. 11.** Beekeeping or apiaries for the private production of honey.

**Subd. 12.** Maple tree tapping and sap collection for the private production of maple syrup. Outdoor evaporators, flue pans and collection houses under 120 sq. ft. in size shall be considered ancillary to this activity.

**Section 826.25. (RR) Lot Area, Height, Lot Width, Setback Requirements and Animal Unit Density Standards.**

**Subd. 1.** No building hereafter erected shall exceed 30 feet in height, as defined in section 825.07, subd. 12, except farm buildings and except as regulated by subd. 7 of this section.

**Subd. 2.** The following minimum lot sizes, width, depth and setback requirements shall be observed, subject to additional requirements, exceptions, and modifications set forth in other sections of this ordinance. For purposes of calculating the amount of contiguous suitable soils available on a lot, only acceptable soils from the Medina Soils List in section 820.29 subd. 5 shall be considered suitable. The amount of contiguous suitable soils shall not include the areas outlined in section 820.29, subd. 4(a).

(a) **Lot Size.** The lot must contain at least five acres of contiguous soils suitable for a standard sewage disposal system as defined in section 720 Individual Sewage Treatment Systems and in section 826.25 subd. 2. The lot must contain a primary and secondary site for an on-site sewage disposal system and both sites must be protected during construction.

- (b) **Lot Width** - 300 feet.
- (c) **Lot Depth** - 200 feet.
- (d) **Front Yard Setbacks** - 50 feet.
- (e) **Side Yard Setbacks** –
  - (1) 50 feet for lots five acres or larger
  - (2) 20 feet for lots of less than five acres
- (f) **Rear Yard Setbacks** –
  - (1) 50 feet for lots five acres or larger
  - (2) 40 feet for lots of less than five acres

**Subd. 3.**

- (a) Notwithstanding anything herein to the contrary, a lot shall meet minimum lot size if all the following conditions are met:
  - (1) Lot of record on July 1, 1999;
  - (2) Lot contains at least two acres of contiguous soils of one or more of the types listed in section 820.29, subd. 5 of this ordinance; and
  - (3) Lot contains a primary and a secondary site for an on-site sewage disposal system.

The provisions of this subdivision are in addition to those in section 825.13.

- (b) Notwithstanding anything herein to the contrary, a lot shall meet minimum lot width requirements if it was conforming with regard to minimum lot width on March 1, 2006.

**Subd. 4.** Hard surface coverage may not exceed 40 percent of the lot area, excluding road right-of-way. For purposes of this section, hard surfaces include structures, decks, patios, paved areas, septic and drainfield areas, driveways, parking areas, feed lots, and paddocks. For the purpose of this subdivision, outdoor riding rings shall be given an equivalent factor of 0.6 in determining their hard surface percentages.

A site may exceed the allowable 40 percent of hard surface coverage indicated above, but shall not exceed a maximum amount of 50 percent of the lot area, if the development incorporates various Low Impact Design (LID) features and/or Best Management Practices (BMPs) such that no net increase in runoff occurs from the site, as determined by the City Engineer.

**Subd. 5.** Structures or buildings used to house, exercise or accommodate animals, including paddocks, shall not be erected within 150 feet of any lot line.

**Subd. 6.** Feed lots, runs, pens, and similar intensively used facilities for animal raising and care shall not be located within 300 feet of any property line, 100 feet of wetlands or 300

feet of any shoreland or stream, and shall be subject to the following additional standards:

- (a) The subject site shall incorporate various Low Impact Design (LID) features and/or Best Management Practices (BMPs) that provide for the most effective means of manure management, such that no net increase in runoff occurs from the site as determined by the City Engineer.
- (b) The subject site shall construct a concrete manure containment or composting area, the design of which shall be consistent with the recommendations of the University of Minnesota Extension Service. Owners of a feed lot shall provide a schedule for removal of manure or compost from affected sites, subject to the approval by the City.
- (c) A grading plan shall be submitted and approved by the City in accordance with the recommendations of the University of Minnesota Extension Service and approved by the City Engineer. Said plan shall clearly demonstrate that storm water runoff from the hard surfaces on the property is directed away from the feed lot area and manure containment area, and any surrounding wetlands, streams or lakes, and the site must maintain these drainage patterns to the satisfaction of the City;
- (d) The site shall include runoff retention and vegetative infiltration systems, consistent with the recommendations of the University of Minnesota Extension Service and as approved by the City, down slope from the feed lot and manure containment area. The vegetation adjacent to any wetlands shall be subject to the city's wetland protection ordinance. and
- (e) a pasture management program shall be instituted in accordance with the recommendation of the University of Minnesota Extension Service and as approved by the City.

**Subd. 7.** The height of single family detached residences may exceed 30 feet, but may not exceed 40 feet, if the following standards are met:

- (a) Accurate building plans and elevation drawings shall be submitted to the City;
- (b) Those portions of the residence greater than 30 feet in height shall be uninhabited and not planned for storage;
- (c) Those portions of the residence greater than 30 feet in height shall be no larger than 500 square feet or shall be divided into spaces no greater than 500 square feet and separated by an approved draft stop;
- (d) The height from the lowest ground level (and eight feet out) to the eave shall be no greater than 30 feet; and

- (e) There shall be a two story height limitation at the driveway or point of access to the residence.

**Subd. 8. Animal Unit Density Standards.**

- (a) The purpose of the following animal density standards are to promote and preserve the natural resources within the City of Medina by regulating the keeping of livestock. Erosion as a result of overgrazing and leeching of manure into groundwater have adverse and potentially irreversible impacts on water quality and environmentally sensitive lands.
- (b) Livestock or traditional farm animals are permitted on properties two acres or larger at a maximum density of one animal unit for the first two Grazable Acres of land and one additional animal unit for each Grazable Acre of land thereafter. For properties less than two acres, the maximum number of animal units shall be 0.1
- (c) Property owners shall be responsible for management and proper disposal of all animal waste.
- (d) The number of permitted animals shall be determined by the following table:

TYPE OF ANIMAL	ANIMAL UNITS
One mature cow, over 1,000 lbs.	1.4
One mature cow, under 1,000 lbs.	1.0
One cow and calf pair	1.2
One calf	0.2
One slaughter steer	1.0
One head of feeder cattle or heifer	0.7
One hog/swine over 300 lbs.	0.5
One hog/swine under 300 but greater than 55 lbs.	0.3
One hog/swine under 55 lbs.	0.05
One mature horse/mule/donkey	1.0
One mature horse with foal pair	1.5
One foal	0.5
One sheep/lamb/goat	0.1
One llama or alpacas	0.5
One domestic chicken/duck or similar fowl	0.01
The number of animal units for animals that are not listed above shall be determined by taking the average weight of the animal in pounds and dividing it by 1000 pounds.	

- (e) Animal units in excess of those permitted above may be allowed by conditional use permit, subject to the conditions of Section 826.98 Subd. 2 (o) of this ordinance.

**RURAL RESIDENTIAL URBAN RESERVE ZONING DISTRICT**  
**(RR-UR)**

**Section 826.25.1. Rural Residential-Urban Reserve (RR-UR) Purpose.** The purpose of this district is to provide a zoning district which is consistent with the area guided for future residential or mixed-use development in the city's comprehensive plan. The district includes areas which are not currently served by municipal urban services but are planned to be at some time in the future. Development within the RR-UR district shall be limited as specified in this section of the ordinance in order to accommodate efficient future development.

**Section 826.25.2 (RR-UR) Permitted Uses.** Within the Urban Reserve district, no structure or land shall be used except for one or more of the following uses:

**Subd. 1.** Single family detached residences.

**Subd. 2.** Agricultural land uses, including hobby farms.

**Subd. 3.** Essential Services.

**Subd. 4.** Public Recreation.

**Subd. 5.** Home occupations in compliance with the conditions of Section 825.07, subdivision 49 of this ordinance.

**Subd. 6.** Stands for the sale of agricultural products provided a majority of said products are raised or grown on the premises.

**Section 826.25.3. (RR-UR) Conditional Uses.** Within the Urban Reserve district, no structure or land shall be used for the following uses except by conditional use permit:

**Subd. 1.** Home occupations in compliance with the conditions of section 826.98, subd. 2 (c) of this ordinance.

**Subd. 2.** Cemeteries in compliance with the conditions of section 826.98, subd. 2 (d) of this ordinance.

**Subd. 3.** Outdoor recreational facilities, golf courses, and driving ranges in compliance with the conditions of section 826.98, subd. 2 (g) of this ordinance.

**Subd. 4.** Wind Energy Conversion Systems (WECS) in compliance with the conditions of section 826.98, subd. 2 (e) of this ordinance.

**Section 826.25.4. (RR-UR) Permitted Accessory Uses.** Within the Urban Reserve district, the following uses shall be permitted accessory uses when used in conjunction with a principal structure:

**Subd. 1.** Garages.

**Subd. 2.** One lodging room per single family dwelling.

**Subd. 3.** Recreation equipment.

**Subd. 4.** Farm building used principally for agriculture activities.

**Subd. 5.** Home occupations meeting the definition of section 825.07, subd. 49 of this ordinance.

**Subd. 6.** Private riding stable.

**Subd. 7.** Landspreading of yard waste in compliance with the conditions of section 828.73 of this ordinance.

**Subd. 8.** Solar equipment, in compliance with the conditions of section 828.09 of this ordinance.

**Section 826.25.5. (RR-UR) Lot Area, Height, Lot Width Setback Requirements and Animal Unit Density Standards.**

Within the Urban Reserve district, the following development standards shall apply:

**Subd. 1.** No building hereafter erected shall exceed two and one half stories or 30 feet in height, as defined in section 825.07, subd. 12, except for farm buildings and except as regulated by subdivision 7 of this section.

**Subd. 2.** The following minimum lot sizes, width, depth and setback requirements shall be observed, subject to additional requirements, exceptions, and modifications set forth in other sections of this ordinance. For purposes of calculating the amount of contiguous suitable soils available on a lot, only acceptable soils from the Medina Soils List in section 820.29 subd. 5 shall be considered suitable. The amount of contiguous suitable soils shall not include the areas outlined in section 820.29 subd. 4(a).

(a) **Lot Size** - 20 acres with at least five acres of contiguous soils suitable for a standard individual sewage disposal system as regulated by section 720 Individual Sewage Treatment Systems et seq. of this ordinances. The lot must contain a primary and secondary site for an on-site sewage disposal system and both sites must be protected during construction.

(b) **Lot Width** – 300 feet.

(c) **Lot Depth** – 200 feet.

(d) **Front Yard Setbacks** – 50 feet.

(e) **Side Yard Setbacks** –

- (1) 50 feet for lots five acres or larger
- (2) 20 feet for lots of less than five acres

(f) **Rear Yard Setbacks** –

- (1) 50 feet for lots five acres or larger
- (2) 40 feet for lots of less than five acres

(g) **Setbacks from Commercial Zoning Districts** – 75 feet.

**Subd. 3.** Notwithstanding anything herein to the contrary, lots of less than 20 acres may be established in compliance with one of the following:

(a)

- (1) all lots must meet all requirements of section 826.25, subd. 2 and section 820.29 subd. 4(a) and subd. 5 of this ordinance and an overlay or ghost plat must be submitted at the time of application for subdivision approval which demonstrates the feasibility of subdividing the lot in the future at a density of no less than three dwelling units per buildable acre. For purposes of this subdivision, buildable acres includes the gross area of the lot minus open water, wetlands, rights-of-way and drainage and utility easements; or

- (2) smaller lots may be created through a planned unit development consistent with the provisions of section 827.24 et seq. of this ordinance and with the intent of this section.

(b) Notwithstanding anything herein to the contrary, a lot shall meet minimum lot width requirements if it was conforming with regard to minimum lot width on March 1, 2006.

**Subd. 4.** Hard surface coverage may not exceed 20 percent of the lot area, excluding road right-of-way. For purposes of this section, hard surfaces include structures, decks, patios, paved areas, septic and drainfield areas, driveways, parking areas, feed lots and paddocks. For the purpose of this subdivision, outdoor riding rings shall be given an equivalent factor of 0.6 in determining their hard surface percentages.

A site may exceed the allowable 20 percent of hard surface coverage indicated above, but shall not exceed a maximum amount of 30 percent of the lot area, if the development incorporates various Low Impact Design (LID) features and/or Best Management Practices (BMPs) such that no net increase in runoff occurs from the site, as determined by the City Engineer.

**Subd. 5.** Structures or buildings used to house, exercise or accommodate animals, including paddocks, shall not be erected within 150 feet of any lot line.

**Subd. 6.** Feed lots, runs, pens, and similar intensively used facilities for animal raising and care shall not be located within 300 feet of any property line, 100 feet of wetlands and 300 feet of any shoreland or stream, and subject to the following additional standards:

- (a) The subject site shall incorporate various Low Impact Design (LID) features and/or Best Management Practices (BMPs) that provide for the most effective means of manure management, such that no net increase in runoff occurs from the site, as determined by the City Engineer.
- (b) The subject site shall construct a concrete manure containment or composting area, the design of which shall be consistent with the recommendations of the University of Minnesota Extension Service. Owners of a feed lot shall provide a schedule for removal of manure or compost from affected sites, subject to the approval by the City.
- (c) A grading plan shall be submitted and approved by the City in accordance with the recommendations of the University of Minnesota Extension Service and approved by the City Engineer. Said plan shall clearly demonstrate that storm water runoff from the hard surfaces on the property is directed away from the feed lot area and manure containment area, and surrounding wetlands, streams or lakes (if any) and the site must maintain these drainage patterns to the satisfaction of the City; and
- (d) The site shall install runoff retention and vegetative infiltration systems, consistent with the recommendations of the University of Minnesota Extension Service and as approved by the City, down slope from the feed lot and manure containment area. The vegetation adjacent to any wetlands shall be subject to the city's wetland protection ordinance.
- (e) Diligent effort shall be made to prevent the cribbing of trees in or near pastures, and efforts to maintain grass in the pastures by limiting use thereof as appropriate and by providing supplemental feed to prevent over grazing by instituting a pasture management program in accordance with the recommendation of the University of Minnesota Extension Service and as approved by the City.

**Subd. 7.** The height of single family detached residences may exceed 30 feet, but may not exceed 40 feet, if the following standards are met:

- (a) Accurate building plans and elevation drawings shall be submitted to the city;
- (b) Those portions of the residence greater than 30 feet in height shall be uninhabited and not planned for storage;
- (c) Those portions of the residence greater than 30 feet in height shall be no larger than 500 square feet or shall be divided into spaces no greater than 500 square feet and separated by an approved draft stop;

- (d) The height from the lowest ground level (and eight feet out) to the eave shall be no greater than 30 feet; and
- (e) There shall be a two story height limitation at the driveway or point of access to the residence.

**Subd. 8. Animal Unit Density Standards.**

- (a) The purpose of the following animal density standards are to promote and preserve the natural resources within the City of Medina by regulating the keeping of livestock. Erosion as a result of overgrazing and leeching of manure into groundwater have adverse and potentially irreversible impacts on water quality and environmentally sensitive lands.
- (b) Livestock or traditional farm animals are permitted on properties two acres or larger at a maximum density of one animal unit for the first two Grazable Acres of land and one additional animal unit for each Grazable Acre of land thereafter. For properties less than two acres, the maximum number of animal units shall be 0.1
- (c) Property owners shall be responsible for management and proper disposal of all animal waste.
- (d) The number of permitted animals shall be determined by the following table:

TYPE OF ANIMAL	ANIMAL UNITS
One mature cow, over 1,000 lbs.	1.4
One mature cow, under 1,000 lbs.	1.0
One cow and calf pair	1.2
One calf	0.2
One slaughter steer	1.0
One head of feeder cattle or heifer	0.7
One hog/swine over 300 lbs.	0.5
One hog/swine under 300 but greater than 55 lbs.	0.3
One hog/swine under 55 lbs.	0.05
One mature horse/mule/donkey	1.0
One mature horse with foal pair	1.5
One foal	0.5
One sheep/lamb/goat	0.1
One llama or alpacas	0.5
One domestic chicken/duck or similar fowl	0.01
The number of animal units for animals that are not listed above shall be determined by taking the average weight of the animal in pounds and dividing it by 1000 pounds.	

- (e) Animal units in excess of those permitted above may be allowed by conditional use permit, subject to the conditions of Section 826.98 Subd. 2 (o) of this ordinance.

## **RURAL RESIDENTIAL 1 ZONING DISTRICT (RR 1)**

### **Section 826.26. Rural Residential 1 (RR 1).**

**Subd. 1.** The purpose of the RR 1 district is to provide a district which is similar to the RR - Rural Residential district but which allows differences in development standards in recognition of the proximity of the district to areas which are densely developed or zoned for dense development and to major transportation corridors.

**Subd. 2.** All development standards applicable to the RR district contained in sections 826.17 through Section 826.25, inclusive, shall apply to the RR 1 district, except for the provisions contained in section 826.25, subd. 3.

**Subd. 3.** Structures or buildings used to house, exercise or accommodate animals in the RR 1 district shall be subject to the following:

- (a) All structures shall be set back at least 75 feet from all property lines and at least 150 feet from any street or right-of-way;
- (b) No structure shall exceed 1,000 square feet of gross floor area;
- (c) All structures shall be of a design which is compatible with the principal structure;
- (d) No structure shall be erected prior to construction of a principal building;
- (e) No structure shall be used to house any type of livestock except horses;
- (f) No structure shall be used to house more than two horses, except that a third horse which is the foal of one of said two horses may be kept on the premises for a period not to exceed six months during any 12 month period; and
- (g) The owners of structures or buildings used to house, exercise or accommodate animals approved pursuant to this section shall comply with the requirements of section 330 of the city code regarding removal of manure.

**Subd. 4.** No RR 1 district shall be created unless it shall be in compliance with all of the following:

- (a) minimum of 100 contiguous acres;
- (b) minimum of 30 lots;
- (c) located wholly or partially within 2,640 feet of an area containing at least 50 lots which do not meet current city standards for lot size or dimensions;

(d) located wholly or partially within 2,640 feet of an area zoned UR Urban Residential or MR Multi Family Residential; and

(e) located wholly or partially within 2,640 feet of a principal or intermediate arterial roadway, as designated in the city's comprehensive plan.

**Subd. 5.** Structures or buildings used to house, exercise or accommodate animals which exceed 1,000 square feet of gross floor area or are used to house more than two horses may be constructed on any lot so long as they are located at least 150 feet from any property line.

## **RURAL RESIDENTIAL 2 ZONING DISTRICT (RR 2)**

### **Section 826.26.1. Rural Residential - 2 (RR-2).**

**Subd. 1. Purpose.** The purpose of the RR-2 district is to provide a zoning district which is the same as the Rural Residential (RR) district but which also permits commercial riding stables, subject to the conditions in subdivision 2.

**Subd. 2.** In addition to the requirements of Section 825.39 or Sections 827.24 et seq., no commercial riding stable may be established in the RR-2 district except in compliance with the following:

- (a) minimum lot size is 15 acres including roads and 12 acres excluding roads;
- (b) minimum lot area is .5 acres per horse kept on the property excluding roads;
- (c) hard surface coverage may not exceed 40 percent of the lot area, excluding roads. For the purposes of this section, hard surface include structures, paved areas, septic and drainfield areas, driveways and parking areas, outdoor arenas, and paddocks. Hard surface coverage of structures, paved areas, driveways and parking areas may not exceed 10 percent of the lot area excluding roads;
- (d) there shall be a primary residential structure located on the property;
- (e) there shall be identified and acceptable primary and alternate septic sites on the property which are sized for the maximum anticipated usage of a commercial stable based on the stable capacity of horses and which follows section 720 Individual Sewage Treatment Systems;
- (f) all animal feed and bedding shall be stored within an enclosed building;
- (g) the subject site shall incorporate various Low Impact Design (LID) features and/or Best Management Practices (BMPs) that provide for the most effective means of manure management, such that no net increase in runoff occurs from the site, as determined by the City Engineer.
- (h) the subject site shall construct a concrete manure containment or composting area, the design of which shall be consistent with the recommendations of the University of Minnesota Extension Service. Owners of a feed lot shall provide a schedule for removal of manure or compost from affected sites, subject to the approval by the City.
- (i) a grading plan shall be submitted and approved by the City in accordance with the recommendations of the University of Minnesota Extension Service and approved by the City Engineer. Said plan shall clearly demonstrate that storm water runoff from the hard surfaces on the property is directed away from the feed lot area and

manure containment area, and surrounding wetlands, streams or lakes (if any) and the site must maintain these drainage patterns to the satisfaction of the City; and

- (j) the site shall install runoff retention and vegetative infiltration systems, consistent with the recommendations of the University of Minnesota Extension Service and as approved by the City, down slope from the feed lot and manure containment area. The vegetation adjacent to any wetlands shall be subject to the city's wetland protection ordinance.
- (k) diligent effort shall be made to maintain grass in the pastures by limiting use thereof as appropriate and by providing supplemental feed to prevent over grazing, and sites shall institute a pasture management program shall be instituted in accordance with the recommendation of the University of Minnesota Extension Service and as approved by the City.
- (l) paddocks shall be separated by a minimum distance of 10 feet and planted with grass;
- (m) all parking shall occur on-site but may not occur on the primary or alternate septic sites or on any green area;
- (n) the number of shows or other events permitted at the stable will be subject to the requirements of the city's special event ordinance;
- (o) no outdoor speakers may be used except as permitted by the city council in connection with a special event;
- (p) all stables shall have indoor sanitary facilities for persons residing or working on the property and must provide supplemental temporary facilities during events and other appropriate times;
- (q) exterior lighting shall be designed and installed so that the light source is recessed and enclosed on all sides except the bottom so that no light is cast directly or indirectly on any other property and so that the light source cannot be seen from adjacent property;
- (r) all requirements of the fire code and fire marshal shall be met;
- (s) trash containers shall be located inside or screened in an acceptable manner;
- (t) hours of operation and the number of permitted employees will be determined by the city council after consideration of the impact on adjacent properties;
- (u) food consumed on site at permitted events or shows shall be prepared in accordance with all applicable state and county health codes and regulations;

- (v) there may not be living quarters in a barn unless there is an approved and operational septic system;
- (w) stable operators are responsible for preventing trespassing on adjacent properties by patrons and horses;
- (x) the maximum number of horses allowed for the commercial riding stable shall be determined by the city council; and
- (y) the commercial riding stable site shall have primary access or frontage off a major collector road system or higher classification roadway, as determined by the adopted Functional Classification of Roadways map in the city's comprehensive plan.

**Subd. 3. Permitted Uses.** The uses permitted in the RR-2 district are the same as those set forth in Section 826.19 for the RR district.

**Subd. 4. Conditional Uses.** The uses permitted by conditional use permit in the RR-2 district are the same as those set forth in Section 826.21 for the RR district and commercial riding stables.

**Subd. 5. Permitted Accessory Uses.** The accessory uses permitted within the RR-2 district are the same as those set forth in Section 826.23 for the RR district.

**Subd. 6. Lot Area and Dimensions; Setbacks and Building Heights.** The lot area and dimension, setback and building height standards for the RR-2 district are the same as those set forth in Section 826.25 for the RR district, except as Section 826.26.1, subd. 2, may specify otherwise. In addition, paddocks must be set back a minimum of 10 feet from all property lines except those adjacent to public roads.

**SUBURBAN RESIDENTIAL ZONING DISTRICT (SR)**

**Section 826.26.2. Suburban Residential (SR) - Purpose.** The purpose of the Suburban Residential district is to provide a district for single family detached dwellings in areas served by sanitary sewer and water at densities which provide a buffer between rural residential areas and those areas which have developed as urban residential districts.

**Section 826.26.3. (SR) Permitted Uses.** Within the Suburban Residential district no structure or land shall be used except for one or more of the following uses:

**Subd. 1.** Single family detached residences.

**Subd. 2.** Agricultural land uses, except keeping livestock.

**Subd. 3.** Essential services.

**Subd. 4.** Public recreation.

**Subd. 5.** Home occupations in compliance with the conditions of Section 825.07, subd. 49 of this ordinance.

**Subd. 6.** Licensed residential care facilities serving six or fewer persons.

**Subd. 7.** Licensed day care facilities serving 12 or fewer persons.

**Section 826.26.4. (SR) Conditional Uses.** Within the Suburban Residential district, no structure or land shall be used for the following uses except by conditional use permit:

**Subd. 1.** Local government buildings.

**Subd. 2.** Churches and other places of worship.

**Subd. 3.** Home occupations in compliance with the conditions of Section 826.98, Subd. 2 (c) of this ordinance.

**Subd. 4.** Cemeteries.

**Subd. 5.** Outdoor recreational facilities, including non-commercial parks, golf courses, and driving ranges.

**Subd. 6.** Private use of windmills or wind energy conservation systems (WECS).

**Subd. 7.** Solar equipment.

**Subd. 8.** Windmills or wind energy conservation systems.

**Subd. 9.** Public or private schools having a course of instructions approved by the Minnesota board of education for students enrolled in preschool through grade 12 or any portion thereof.

**Section 826.26.5. (SR) Accessory Uses.** Within the Suburban Residential district the following uses shall be permitted accessory uses:

**Subd. 1.** Detached garages, storage sheds and greenhouses not exceeding 1,000 sq. ft.

**Subd. 2.** Fences.

**Subd. 3.** Gardening and other non-commercial horticultural uses.

**Subd. 4.** Recreational equipment.

**Subd. 5.** Swimming pools.

**Subd. 6.** Receive only satellite dish antennas.

**Subd. 7.** Solar equipment.

**Section 826.26.6. (SR) Lot Area, Height, Lot Width and Yard Requirements.**

**Subd. 1.** No building shall exceed two and one-half (2-1/2) stories or thirty (30) feet in height, as defined in section 825.07, subd. 12, except as regulated by Subd. 3 of this section.

**Subd. 2.** The following minimum requirements shall be observed subject to additional requirements, exceptions and modifications set forth in other sections of this ordinance:

Minimum lot size	30,000 sq. ft.
Minimum lot width	100 feet
Minimum lot depth	125 feet
Front yard setback	35 feet
Side yard setback	15 feet
Rear yard setback	40 feet

**Subd. 3.** The height of single family detached residences may exceed 30 feet, but may not exceed 40 feet or two and one-half (2 1/2) stories, if the following standards are met:

- (a) Accurate building plans and elevation drawings shall be submitted to the City;
- (b) The residence shall be constructed with side and rear yard setbacks at least twice as great as those specified in Subd. 2 of this section;

- (c) Those portions of the residence greater than 30 feet in height shall be uninhabited and not planned for storage;
- (d) Those portions of the residence greater than 30 feet in height shall be no larger than 500 sq. ft. or shall be divided into spaces no greater than 500 sq. ft. and separated by an approved draft stop.
- (e) The height from the lowest ground level (and 8 feet out) to the eave shall be no greater than 30 feet; and
- (f) There shall be a two (2) story height limitation at the driveway or point of access to the residence.

**Section 826.26.7. (SR) Additional Requirements.**

**Subd. 1.** All dwellings shall have a depth of at least 20 feet for at least 50 percent of their width. All dwellings shall have a width of at least 20 feet for at least 50 percent of their depth.

**Subd. 2.** All dwellings shall have a permanent foundation in conformance with the Minnesota state building code.

**Subd. 3.** Off-street parking located outside of required setbacks shall be provided for at least two vehicles for all single family dwellings. A suitable location for a garage measuring at least 20 feet by 24 feet which does not require a variance shall be provided and indicated as such on a survey or site plan to be submitted when applying for a building permit to construct a new dwelling or alter an existing garage.

## **URBAN RESIDENTIAL ZONING DISTRICT (UR)**

**Section 826.27. Urban Residential (UR) - Purpose.** The major purpose of this district is to allow the continuation of existing residential development and in filling of existing lots in the older residential areas of the City where central sewer and water systems are available.

**Section 826.29. (UR) Permitted Uses.** Within any Urban Residential District, no structure or land shall be used except for one or more of the following uses:

**Subd. 1.** Single family detached residences.

**Subd. 2.** Community center.

**Subd. 3.** Public recreation.

**Subd. 4.** Essential services.

**Subd. 5.** A State Licensed Community Residential Facility servicing six (6) or fewer mentally retarded or physically handicapped persons.

**Section 826.31. (UR) Conditional Uses.** Within any Urban Residential District, no structure or land shall be used for the following uses except by Conditional Use Permit:

**Subd. 1.** Churches and other places of worship.

**Subd. 2.** Local government buildings.

**Subd. 3.** Home occupations in compliance with the requirements of section 826.98, Subd. 2 (c) of this ordinance.

**Subd. 4.** Cemeteries.

**Subd. 5.** Public, private or charter schools having a course of instruction approved by the Minnesota department of education for students enrolled in K through grade 12 or any portion thereof.

**Section 826.33. (UR) Permitted Accessory Uses.** Within the Urban Residential District the following uses shall be permitted accessory uses:

**Subd. 1.** Off-street parking space not to exceed three spaces per dwelling unit.

**Subd. 2.** Garages.

**Subd. 3.** Fences.

**Subd. 4.** Gardening and other horticultural uses where no sale of products is conducted on the site.

**Subd. 5.** Recreation equipment.

**Subd. 6.** Home Occupations in compliance with the requirements of section 825.07, subd. 49 of this ordinance.

**Section 826.35. (UR) Lot Area, Height, Lot Width, and Yard Requirements.**

**Subd. 1.** No buildings hereafter erected shall exceed two and one half (2 1/2) stories or thirty (30) feet in height.

**Subd. 2.** The following minimum requirements shall be observed subject to additional requirements, exceptions, and modifications set forth in other sections of this Ordinance.

Minimum Lot Area	
(Single-family detached)	9,000 sq. ft.
Minimum Lot Width	
(Single-family detached)	60 feet
Front Yard	30 feet
Side Yard	10 feet
Rear Yard	30 feet
Minimum Lot Depth	100 feet

**Subd. 3.** Where adjoining structures existing on the effective date of this Ordinance have a shorter front setback from that required, the front setback of a new structure shall conform to the average of the front setback observed by the adjoining houses on either side, but not less than 20 feet.

## **MULTI-FAMILY RESIDENTIAL ZONING DISTRICT (MR)**

**Section 826.37. Multi-Family Residential (MR) - Purpose.** The MR Multiple family districts are intended to provide a district which will allow multiple-family dwellings where proper relationships to other land uses and adequate transportation services exist.

**Section 826.39. (MR) Permitted Uses.** Within any Multi-family Residential District, no structures or land shall be used except for one or more of the following uses:

**Subd. 1.** Multiple dwelling unit structures under 30 feet in height.

**Subd. 2.** Two family dwellings.

**Subd. 3.** Townhouses.

**Subd. 4.** Public recreation.

**Subd. 5.** Community Residential Facilities subject to the following conditions:

- (a) It shall not be located in a two-family dwelling.
- (b) No more than 16 community residential facility residents may be housed in excess of the persons allowed by the definition of "family," except that structures designed or newly built specifically for such use may allow a greater number provided that all other conditions of the Conditional Use Permit are met.
- (c) The minimum lot size is that prescribed for one-family dwellings.
- (d) A minimum distance of 300 feet will be required between lots used for community residential facilities.

**Section 826.41. (MR) Conditional Uses.** Within the Multi-family Residential District, no structure or land shall be used for the following uses except by conditional use permit:

**Subd. 1.** Multiple dwelling unit structures over 30 feet in height.

**Subd. 2.** Clinics, nursing homes and small animal clinics.

**Subd. 3.** Nursery Schools.

**Subd. 4.** Churches and other places of worship.

**Subd. 5.** Cemeteries.

**Subd. 6.** Public, private or charter schools having a course of instruction approved by the Minnesota department of education for students enrolled in K through grade 12 or any portion thereof.

**Subd. 7.** Local government buildings.

**Section 826.43. (MR) Permitted Accessory Uses.** Within any MR District, the following uses shall be permitted accessory uses:

**Subd. 1.** Same as UR.

**Section 826.45. (MR) Lot Area, Height, Lot Width, and Yard Requirements.**

**Subd. 1.** Height limit: 30 feet.

**Subd. 2.** The following minimum requirements shall be observed subject to additional requirements, exceptions, and modifications set forth in other sections of this Ordinance.

- (a) Minimum Square Footage per Family Unit  
(townhouses) 6,000 sq. ft.
- (b) Minimum Square Footage per Family Unit  
(Multi-family Structures)
  - (i) 1 bedroom 2,400 sq. ft.
  - (ii) 2 bedroom 3,000 sq. ft.
  - (iii) 3 bedroom 4,500 sq. ft.
  - (iv) 4 bedroom 6,000 sq. ft.
- (c) Minimum Lot Width (Multi-family) 100 ft.
- (d) Minimum Front Yard 50 ft.
- (e) Minimum Side Yard One-half height of building or 15 ft.,  
whichever is greater.
- (f) Rear Yard 40 ft.

## **RURAL COMMERCIAL ZONING DISTRICT (RC)**

**Section 826.47. Rural Commercial (RC) - Purpose.** The purpose of the Rural Commercial District is to recognize development opportunity and need for commercial establishments fronting on or with immediate access to major highways. Permitted land uses should take advantage of the highway access in a manner which other business districts are not afforded and respect the lack of urban services. Also acceptable are quasi-industrial and wholesale enterprises that do not meet an industrial setting and have considerable customer contact.

**Section 826.48. (RC) Permitted Uses.** Within the Rural Commercial District, land may be used for landspreading of yard waste in compliance with the conditions of section 828.73 of this ordinance.

**Section 826.49. (RC) Conditional Uses.** Within any Rural Commercial District, no structure or land may be used for the following uses except by conditional use permit:

- Subd. 1.** Auto Sales, service and repair.
- Subd. 2.** Cultural and fraternal organizations.
- Subd. 3.** Commercial recreation.
- Subd. 4.** Drive-in retail and service business.
- Subd. 5.** Funeral homes.
- Subd. 6.** Liquor stores.
- Subd. 7.** Motor Fuel Stations without a car wash.
- Subd. 8.** Offices and banks.
- Subd. 9.** Open Sales Lot.
- Subd. 10.** Public buildings.
- Subd. 11.** Service Shops.
- Subd. 12.** Supply Yards.
- Subd. 13.** Wholesale Businesses.
- Subd. 14.** Any incidental repair or processing necessary to conduct a permitted principal use.
- Subd. 15.** Private garages, off-street.
- Subd. 16.** Parking, loading spaces.
- Subd. 17.** Temporary construction buildings.
- Subd. 18.** Decorative landscape features.
- Subd. 19.** Public telephone booths.
- Subd. 20.** Adult establishments as defined in section 645 of the Medina City Code.
- Subd. 21.** Telecommunication towers and facilities as regulated by sections 828.75 et seq. of the Medina City Code.

**Section 826.51. (RC) Lot Area, Height, Lot Width, and Yard Requirements.**

- Subd. 1.** No building hereafter erected shall exceed two and one-half (2-1/2) stories or thirty (30) feet in height, except farm buildings.

**Subd. 2.** The following minimum requirements shall be observed, subject to additional requirements, exceptions, and modifications set forth in other sections of this ordinance:

- (a) The lot must contain a minimum of 5 acres of contiguous soils suitable for a standard or on-site sewage disposal system or a combination of such contiguous soils totaling a minimum of 5 acres, as such soils are defined in section 820.29 subd. 4(a) and subd. 5 and septic systems regulations are defined in section 720 Individual Sewage Treatment Standards.
- (b) Minimum Lot Width - 110 feet.
- (c) Minimum Lot Depth - 200 feet.
- (d) Minimum Front Yard - 50 feet.
- (e) Minimum Side Yard - 20 feet.
- (f) Minimum Rear Yard - 40 feet.

**Subd. 3.** No use may exceed a sanitary sewer usage rate of 100 gallons per day per net acre of land. For purposes of this subdivision, net acres equals the total area of the lot, minus wetlands and open water. Not more than 50 percent of the soils suitable for a standard on-site sewage disposal system on any site may be disturbed or covered by hard surfaces. For purposes of this subdivision, hard surfaces include any non-natural surface which is impervious to water, including but not limited to buildings and paved or gravel-surfaced drives, walks and parking areas. The city may require such documentation and testing as it deems appropriate in order to ensure compliance with these standards.

**Subd. 4.** Minimum side or rear yard setback from any residential district: 75 feet.

**Subd. 5.** Design shall include adequate internal streets not less than 22 feet wide exclusive of required parking.

**Subd. 6.** Curb cuts shall not exceed 24 feet in width.

**Subd. 7.** The entire area shall be landscaped, occupied by building or parking areas so treated as to control dust. Should the development be undertaken in stages, all of the area required to conform to that portion undertaken shall be developed to meet the preceding requirements.

**Subd. 8.** A drainage plan shall be designed and approved for the area with such on-site construction as determined necessary by the City Engineer to adequately handle all drainage.

## **URBAN COMMERCIAL ZONING DISTRICT (UC)**

**Section 826.53. Urban Commercial (UC) - Purpose.** The Urban Commercial District will allow local retail sales and services along with office space opportunities to serve local population demand and needs of non-highway orientation. This district will encourage a compact center for retail sales and services by grouping businesses in patterns of workable relationships, by limiting and controlling uses near residential areas and by excluding highway oriented and other businesses that tend to disrupt circulation patterns.

**Section 826.55. (UC) Conditional Uses.** Within any Urban Commercial District, no structures or land may be used for the following uses except by conditional use permit:

- Subd. 1.** Retail businesses - stores and shops.
- Subd. 2.** Selling household goods over the counter.
- Subd. 3.** Banks.
- Subd. 4.** Barber and beauty shops.
- Subd. 5.** Wholesale business.
- Subd. 6.** Locksmith.
- Subd. 7.** Interior Decorating stores.
- Subd. 8.** Physical culture and dance studios.
- Subd. 9.** Restaurants.
- Subd. 10.** Taverns.
- Subd. 11.** Commercial recreational, cultural and fraternal organizations, clubs and lodges.
- Subd. 12.** Supply yards.
- Subd. 13.** Public Buildings.
- Subd. 14.** Motor Fuel Stations.
- Subd. 15.** Liquor Store.
- Subd. 16.** Car Wash.
- Subd. 17.** Motel and Motor Hotels.
- Subd. 18.** Television and Radio Stations.
- Subd. 19.** Any building over 30 feet high.
- Subd. 20.** Newspaper publishing and printing.
- Subd. 21.** Animal Hospital.
- Subd. 22.** Telecommunications towers and facilities as regulated by sections 828.75 et seq. of the Medina City Code.

**Section 826.56. (UC) Accessory Use.**

**Subd. 1.** Within the Urban Commercial District, land may be used for a seasonal flea market operated or sponsored by a non-profit organization as an accessory use, subject to the following conditions:

- (a) no outside storage is permitted;
- (b) the flea market may operate no more than one day per calendar week and no more than 30 days per calendar year;

- (c) sales may take place within any required setback area provided the activity does not interfere with traffic, parking or emergency vehicle access and does not occur on a landscaped area;
- (d) there exists adequate on-site parking for the accessory use and the conditional use;
- (e) tents, stands and other temporary structures are permitted provided they do not interfere with parking, traffic or emergency vehicle access;
- (f) a promotional sign no larger than 32 sq. ft. per side with a maximum of 64 sq. ft. is permitted during sale hours; and
- (g) parking areas must be clearly delineated and control thereof is the responsibility of the licensee.

**Subd. 2. Administrative Permit Required.** Any flea market utilizing the provisions of this section must obtain an administrative permit from the zoning administrator prior to beginning operation. The zoning administrator shall require the applicant to submit the following information for review:

- (a) a description of the property proposed to be used;
- (b) a list of the days or dates of use and the hours of operation;
- (c) a site plan showing the sales area in relation to existing buildings, parking areas, points of ingress and egress and other site improvements;
- (d) written permission from the property owner; and
- (e) such other information as the zoning administrator may require.

**Subd. 3.** Upon review of the required information and determination that the proposed use will comply with the requirements of this ordinance, the zoning administrator shall issue an administrative permit to the operator of the flea market. The permit shall be valid for a period not to exceed one calendar year. The zoning administrator may condition the issuance of the permit in any way necessary to ensure compliance with this ordinance or to promote public safety.

**Subd. 4.** The applicant may appeal any decision by the zoning administrator to deny a permit or to condition the issuance of such permit. The appeal shall be made to the city council sitting as the board of adjustments and appeals, pursuant to section 825.31 of this ordinance.

**Section 826.56. (UC) Lot Area, Height, Lot Width, and Yard Requirements.**

**Subd. 1.** No building shall exceed 30 feet in height.

**Subd. 2.** The following minimum requirements shall be observed, subject to additional requirements, exceptions and modifications set forth in other sections of this ordinance:

- (a) Minimum Lot Area. 1 Acre
- (b) Front Yard setback: 50 feet
- (c) Side and rear yard setback: 20 feet

**Subd. 3.** No use may exceed a sanitary sewer usage rate of 750 gallons per day per net acre of land. For purposes of this subdivision, net acres equals the total area of the lot, minus wetlands and open water. The city may require such documentation and testing as it deems appropriate in order to ensure compliance with these standards.

**Subd. 4.** Minimum side or rear yard setback from any residential district: 75 feet

**Subd. 5.** Design shall include adequate internal street not less than 22 feet wide exclusive of required parking.

**Subd. 6.** Curb cuts shall not exceed 24 feet in width.

**Subd. 7.** The entire area shall be landscaped, occupied by building or parking areas so treated as to control dust. Should the development be undertaken in stages, all of the area required to conform to that portion undertaken shall be developed to meet the preceding requirements.

**Subd. 8.** A drainage plan shall be designed and approved for the area with such on-site construction as determined necessary by the City Engineer to adequately handle all drainage.

## **RURAL INDUSTRIAL ZONING DISTRICT (RI)**

**Section 826.59. Rural Industrial (RI) - Purpose.** This district shall serve as space for rural industrial sites along the highway and railroad. Mixed land uses other than intense manufacturing and processing shall be allowed such as warehousing and office space.

**Section 826.60 (RI) Permit Uses.** Within the Rural Industrial District, land may be used for landspreading of yard waste in compliance with the conditions of section 828.73 of this ordinance.

**Section 826.61. (RI) Conditional Uses.** Within any Rural Industrial District, no structure or land may be used for the following uses except by conditional use permit:

- Subd. 1.** Warehousing and wholesaling.
- Subd. 2.** Offices.
- Subd. 3.** Public buildings.
- Subd. 4.** Research laboratories.
- Subd. 5.** Construction and special trade contractor.
- Subd. 6.** Public and private utility uses.
- Subd. 7.** Assembly/Storage of: Rock and Stone Products, Apparel, textiles, food products, tobacco products, glass, fabrication metal projects, leather, machinery and appliances, pottery, transportation equipment, lumber and wood products, paper products.
- Subd. 8.** Commercial Recreation.
- Subd. 9.** Residential Accessory.
- Subd. 10.** Heliports.
- Subd. 11.** Bus and Truck maintenance garages.
- Subd. 12.** Adult establishments as defined in section 645 of the Medina City Code.
- Subd. 13.** Telecommunication towers and facilities as regulated by sections 825.75 et seq. of the Medina City Code.

### **Section 826.63. (RI) Lot Area, Height, Lot Width, and Yard Requirements.**

- Subd. 1.** No building hereafter erected shall exceed two and one-half (2 1/2) stories or thirty (30) feet in height, except farm buildings.
- Subd. 2.** The following minimum requirements shall be observed, subject to additional requirements, exceptions, and modifications set forth in other sections of this ordinance:
  - (a) The lot must contain a minimum of 5 acres of contiguous soils suitable for a standard on-site sewage disposal system or a combination of such contiguous soils totaling a minimum of 5 acres, as such soils are defined in the Medina Individual Sewage Treatment and Disposal ordinance.
  - (b) Minimum Lot Width - 110 feet.
  - (c) Minimum Lot Depth - 200 feet.
  - (d) Front Yard - 50 feet.
  - (e) Side Yard - 30 feet; 0 feet when abutting railroad.
  - (f) Minimum Rear Yard - 40 feet.

**Subd. 3.** No use may exceed a sanitary sewer usage rate of 100 gallons per day per net acre of land. For purposes of this subdivision, net acres equals the total area of the lot, minus wetlands and open water. Not more than 50 percent of the soils suitable for a standard sewage disposal on-site system on any site may be disturbed or covered by hard surfaces. For purposes of this subdivision, hard surfaces include any non-natural surface which is impervious to water, including but not limited to buildings and paved or gravel-surfaced drives, walks and parking areas. The city may require such documentation and testing as it deems appropriate in order to ensure compliance with these standards.

**Subd. 4.** Minimum side or rear yard setback from any residential district: 75 feet.

**Subd. 5.** Design shall include adequate internal streets not less than 22 feet wide exclusive of required parking.

**Subd. 6.** Curb cuts shall not exceed 24 feet in width.

**Subd. 7.** The entire area shall be landscaped, occupied by building or parking areas constructed of asphalt or concrete surface. Should the development be undertaken in stages, all of the area required to conform to that portion undertaken shall be developed to meet the preceding requirements.

**Subd. 8.** A drainage plan shall be designed and approved for the area with such on-site construction as determined necessary by the City Engineer to adequately handle all drainage.

## **RURAL PUBLIC/SEMI-PUBLIC ZONING DISTRICT (RPS)**

**Section 826.64. Rural Public/Semi-Public (RPS) – Purpose.** The purpose of the Rural Public/Semi-Public (RPS) is to provide a zoning district for facilities that offer public services such as governmental, religious, recreational, conservation, open space and cemetery uses. Property in the district is not served by City sewer and water services and is within close proximity to low-intensity rural residential uses. As a result, limitations are established on the intensity of uses within the district and development is regulated in a way which limits impacts on the surrounding properties and encourages low impact development to protect and enhance the natural environment.

**Section 826.65. (RPS) Permitted Uses.** The following shall be permitted uses within the RPS district, subject to applicable provisions of the city code:

- (1) Parks and Open Space
- (2) Essential Services
- (3) Conservation uses including drainage control, forestry, wildlife sanctuaries, and facilities for making same available and useful to public.

**Section 826.66. (RPS) Conditional Uses.** The following shall be permitted within the RPS district, subject to conditional use permit approval, the specific requirements established in Subd. 7 of Section 826.68, and other applicable provisions of the city code:

- (1) Governmental Buildings
- (2) Religious Institutions
- (3) Cemeteries

**Section 826.67. (RPS) Accessory Uses.** The following accessory uses shall be permitted within the RPS district, subject to applicable provisions of the city code and provided such use is subordinate to and associated with a permitted or conditional use:

- (1) Off-street parking and loading
- (2) Signs, subject to the requirements of the sign ordinance
- (3) Daycare or early childhood educational uses, subject to a conditional use permit and the requirements established in Subd. 7 of Section 826.68.

**Section 826.68. (RPS) Lot Standards and Design/Development Standards.** The following standards shall be observed, subject to additional requirements, exceptions and modifications set forth in the city code:

**Subd. 1. Lot Standards.**

(a) Minimum Lot Size: Eight acres.

(b) Minimum Area of Suitable Soils for a Septic System: a lot shall contain at least five acres of contiguous soils suitable for a standard sewage disposal system in order for a

structure which requires sewage and/or wastewater facilities to be constructed. Soils suitable for a standard sewage disposal system are defined in section 720 Individual Sewage Treatment Systems and in section 826.25 subd. 2. The lot must contain a primary and secondary site for an on-site sewage disposal system.

- (c) Lot Width: 275 feet
- (d) Lot Depth: 500 feet
- (e) Minimum Front Yard Setback: 75 feet
- (f) Minimum Rear Yard Setback: 100 feet
- (g) Minimum Side Yard Setback: 75 feet
- (h) Minimum Parking Setbacks:
  - (i) Front Yard: Parking stalls, parking aisles, and fire lanes may encroach within the required front yard setback, but shall be a minimum of 50 feet from a property line abutting a street.
  - (ii) Side and Rear Yard: 100 feet
- (i) Maximum Impervious Surface: Impervious surface coverage shall not exceed 40 percent of the entire lot.

**Subd. 2. Building Design**

- (a) Maximum Building Size: The combined floor area of all structures shall not exceed 40,000 square feet. Additionally, the footprint area of all structures on a parcel shall not exceed 35,000 square feet.
- (b) Maximum Building Height: Building height shall not exceed 35 feet. In the case that a structure is not equipped with a compliant fire sprinkler system, the maximum building height shall be 30 feet.
- (c) Exterior Building Materials
  - (i) Primary exterior building materials shall consist of the following materials: brick, natural stone, stucco, Exterior Insulation and Finish System or similar product, fiber cement lap siding, copper, glass, decorative concrete, split face (rock face) decorative block, and/or decorative pre-cast concrete panels. Decorative concrete shall be color impregnated in earth tones (rather than painted) and shall be patterned to create a high quality terrazzo, brick, stucco, or travertine appearance.
  - (ii) A maximum of 20 percent of the vertical building exterior may be metal or vinyl if used as accent materials which are integrated into the overall building design.
  - (iii) Exterior materials shall not include galvanized/unfinished steel or galvalum/unfinished aluminum.

- (d) Multi-sided Architecture:
  - (i) Rear and side building elevations shall include design and architectural elements of a quality generally associated with a front façade.
  - (ii) The elevation(s) shall be compatible with the front building elevation.
  - (iii) Multi-sided architecture shall not be required in situations where the rear or side building elevation is fully screened from view from the adjacent street or residential property.

**Subd. 3. Off-Street Parking**

- (a) Minimum Off-Street Parking Spaces Required. Minimum parking requirements shall be calculated using the standards of Section 828.51 and by considering all concurrent uses which may occur on the site. The city may adjust the minimum number of required spaces based upon other requirements of this code, specific conditions placed on a particular use, or upon a determination that the requirements of 828.51 do not accurately reflect the parking need on the site.
- (b) Maximum Off-Street Parking Spaces Allowed. Total outside parking spaces on a site shall not exceed 300, notwithstanding the minimum parking space requirement above. A use may be allowed which, according to Section 828.51, has minimum parking requirements in excess of this number. However, the city may apply necessary conditions on such uses to limit the potential parking need and impact on surrounding properties and right-of-ways. These conditions may include limitations on the maximum number of persons on-site at any one time, beyond those proscribed otherwise in this Ordinance;.
- (c) Parking in Designated Areas Only. Parking shall occur only in designated areas, except as approved by the city for special events no more than four times per year.

**Subd. 4. Landscaping and Screening.** Provisions shall be made for landscaping and screening because of the proximity of property in the RPS district to low-intensity rural residential uses. Such landscaping shall abide by the following:

- (a) General requirements: The entire lot shall be landscaped, except for areas occupied by buildings, walks, trails, parking lots, drives, loading docks, plaza space, wetlands, wetland buffers, and woodlands. Landscaping shall include trees, shrubs, plantings, properly maintained prairie or other native vegetation, and sod. Areas may be seeded if approved by the city. Integrated storm water management practices, such as vegetative swales, vegetated filter strips, bioretention, and raingardens, shall be considered landscaping.
- (b) Parking Lot Landscaping
  - (i) A minimum of eight percent of the total land area within parking areas shall be landscaped.
  - (ii) Landscaping at least 12 feet in width shall separate parking lots into cells of no more than 120 stalls.
  - (iii) Landscaping shall break up rows of parking approximately every 20 spaces.

- (iv) Shade trees shall be included within the landscaping. Species selection shall be guided by soils conditions and trees shall be planted in a way which increases the likelihood of long-term survival.
  - (v) Where practical, the landscaping areas shall be designed to receive storm water runoff from the adjacent parking area.
  - (vi) A headlight screen with a minimum height of 36 inches shall be installed along the exterior of parking lots, unless the city determines that the headlight glare has been sufficiently addressed by another means.
- (c) Overstory Deciduous Shade Trees and Coniferous Trees. A minimum of one tree per 50 feet, or fraction thereof, of lot perimeter shall be required.
- (i) Size. Deciduous trees shall not be less than 2.5 caliper inches measured four feet off ground, and coniferous trees shall not be less than six feet in height.
  - (ii) Location. Tree location shall be approved by the city prior to planting.
  - (iii) Type. Trees shall be suitable for the soil and site conditions and compliment others in the area. Native species, as listed within the tree preservation ordinance are required unless otherwise necessary. No more than 25 percent of trees may be of a single species.
  - (iv) Credit for Preserved Trees. The city may reduce the required number of overstory trees if an applicant preserves more existing trees than required by Section 828.41. The city shall determine the amount of credit granted for such existing trees.
- (d) Maintenance. The property owner shall be responsible to see that the approved landscaping plan is maintained in an attractive and well-kept condition and to replace any landscaping that does not survive.
- (e) Landscaping Guarantee. The owner shall guarantee the growth and maintenance of all plants for a minimum of two growing seasons following an inspection of all completed plantings. The owner shall submit a financial guarantee, in a form acceptable to the City, prior to issuance of a building permit to ensure the planting and survival of the plantings. Any plant which does not survive or has severely declined (for example, 25% of the crown has died in the case of trees) shall be replaced, and the replacement should be guaranteed for an additional two growing seasons. The City shall retain financial guarantee in an amount necessary for any replacements.
- (f) Tree Preservation. Removal of significant trees and any construction activity shall be subject to the requirements set forth by the City's Tree Preservation Ordinance, Section 828.41.

**Subd. 5. Outdoor Lighting.** The preservation of natural darkness is a high priority within the rural area of the City. Lighting shall be limited to the amount necessary for public safety. Unless otherwise specified herein, outdoor lighting shall abide by the requirements specified in the Outdoor Lighting Ordinance, Section 829. Lighting shall be abide by the following requirements:

- (a) Lighting levels at property lines and 25 feet inside of the property lines shall be limited to 0.0 foot-candle.
- (b) The City shall require active measures to be implemented to limit the intensity of lighting and also the amount of time which extensive lighting, such as parking lot lighting, is utilized. These measures may include, but are not limited to: shorter light poles, separately controlled lighting zones, lighting controls based on occupancy instead of timers, and lighting curfews.
- (c) Parking and walkway lighting fixtures shall utilize full cut-off luminaries with no more than 10 percent of light output above the horizontal plane through the light source.
- (d) Landscape and architectural lighting shall be aimed directly at the area of focus. Spill light shall be minimized through the use of narrow distribution luminaries and control devices such as louvers, refractors, barn doors, and glare shields.

**Subd. 6. Utilities, Mechanical Equipment, and Trash and Recycling Facilities.**

- (a) All utilities shall be placed underground. To the extent possible, all utility equipment, meters and transformers shall be placed either inside of the building or within an outside mechanical court formed by walls. If not located within the building, these items shall be fully screened from view from adjacent property and streets through the use of opaque landscaping or walls constructed of materials which are compatible with the building.
- (b) All HVAC and other mechanical equipment shall be designed, located, and/or screened so they are not visible from adjacent property or public streets.
  - (i) Rooftop Equipment. Equipment shall be screened through the use of architectural elements and materials which are compatible with the overall design of the building. Wood fencing or chain link fencing with slats shall not be permitted.
  - (ii) Ground Equipment. Equipment shall be screened with walls which are constructed of materials which are compatible with the building or with landscaping which is opaque during the entire year.
- (c) All trash and material to be recycled shall be stored within the principal building, within an accessory structure, or within an enclosed outdoor area. The accessory structure or enclosed area shall be constructed of similar materials and have compatible architecture as the principal structure and shall abide by yard setback requirements.

**Subd. 7. Supplemental Requirements for Specific Uses within the RPS Zoning District.** In addition to the general standards specified for conditional uses in section 825.39 of the City Code and other requirements of this ordinance, the following uses shall not be permitted unless the city council determines that all of the specific standards contained in this subdivision will be met:

- (a) Governmental Buildings
  - (i) the minimum lot size shall be increased to 10 acres. Additionally, the lot must

contain at least five acres of contiguous soils suitable for a standard sewage disposal system as defined in section 720 Individual Sewage Treatment Systems and in section 826.25 subd. 2. The lot must contain a primary and secondary site for an on-site sewage disposal system;

- (ii) the minimum lot width shall be increased to 500 feet;
  - (iii) shall abut an arterial roadway as identified in the comprehensive plan;
  - (iv) no exterior bells or loudspeakers;
  - (v) direct views of parking lots and structures from surrounding residential properties shall be effectively screened. This may include the requirements for additional plantings than required in the landscaping requirements above;
  - (vi) the largest room shall not exceed an occupancy of 500 persons;
  - (vii) the number of persons on-site at any given time shall not exceed two times the capacity of the largest room, with the exception of larger events no more than four times per year or in response to an emergency situation (ie. natural disaster). The city may place further limitations on the number of persons on-site based on the number of parking stalls provided;
  - (viii) the property shall not be utilized for for-profit purposes, or regularly utilized by for-profit entities;
  - (ix) playgrounds and outdoor recreational areas shall be set back a minimum of 100 feet from residential property with adequate screening to protect neighboring properties from noise and adverse visual impacts;
  - (x) the city council may require compliance with any other conditions, restrictions or limitations it deems to be reasonably necessary to protect the residential character of the surrounding area.
- (b) Religious Institutions
- (i) the minimum lot size shall be increased to 10 acres. Additionally, the lot must contain at least five acres of contiguous soils suitable for a standard sewage disposal system as defined in section 720 Individual Sewage Treatment Systems and in section 826.25 subd. 2. The lot must contain a primary and secondary site for an on-site sewage disposal system;
  - (ii) the minimum lot width shall be increased to 500 feet;
  - (iii) shall abut an arterial roadway or abut a collector roadway no more than 1,500 feet from an intersection with an arterial roadway;

- (iv) no exterior bells or loudspeakers;
  - (v) direct views of parking lots and structures from surrounding residential properties shall be effectively screened. This may include the requirements for additional plantings than required in the landscaping requirements above;
  - (vi) sanctuary seating capacity shall not exceed 500 persons;
  - (vii) the number of persons on-site at any given time shall not exceed two times the capacity of the sanctuary, with the exception of larger events no more than four times per year. The city may place further limitations on the number of persons on-site based on the number of parking stalls provided;
  - (viii) residential uses shall not be permitted, with the following exceptions:
    - (1) housing for clergy employed at the property, as an accessory use. Such housing shall not exceed 4,000 square feet in floor area of habitable space, which shall be counted against the total floor area allowed on a site; or
    - (2) continuation of a residential use existing on the property prior to the religious institution being established. Continuation of a residential use shall be limited in term and be subject to Interim Use Permit approval;
  - (ix) the property shall not be utilized for for-profit purposes, or regularly utilized by for-profit entities;
  - (x) playgrounds and outdoor recreational areas shall be set back a minimum of 100 feet from residential property with adequate screening to protect neighboring properties from noise and adverse visual impacts;
  - (xi) the city council may require compliance with any other conditions, restrictions or limitations it deems to be reasonably necessary to protect the residential character of the surrounding area.
- (c) Cemeteries
- (i) the area of the lot utilized for burials sites, parking and circulation, and maintenance and administration buildings shall not exceed six acres;
  - (ii) shall abut a major collector or arterial roadway as identified in the comprehensive plan;
  - (iii) all roadways within the cemetery shall be paved and the width shall be as the City deems necessary for public safety and circulation during processions;
  - (iv) direct views from all adjoining residential parcels shall be effectively screened. This may include the requirements for additional trees than required in the landscaping requirements above;

- (v) all burial sites must be set back a minimum of 50 feet from all property lines. Identified future burial sites within existing cemeteries which are on file with the city prior to December 31, 2007 shall not be subject to this setback requirement;
- (vi) upright grave markers, monuments, mausoleums, or any other improvements that exceed 24 inches in height shall meet the setback requirements of the district;
- (vii) all improvements, including grave sites, shall be set back a minimum of 50 feet from all wetlands;
- (viii) established and operated in compliance with the requirements of Minnesota Statutes, Chapters 306 or 307, as amended;
- (ix) sufficient maintenance and perpetual care funds as required by Minnesota Statutes Chapters 306 or 307 shall be established;
- (x) landscaping shall include overstory trees and be designed to promote a park-like setting;
- (xi) monuments or markers within a cemetery shall be placed as shown on the cemetery's master plan or as directed by the city;
- (xii) mausoleums shall not exceed 15 feet in height and monuments shall not exceed 10 feet in height, with height measured as it is for buildings;
- (xiii) monuments and markers shall be constructed of natural stone, but no monument or marker shall be constructed of limestone, sandstone or any other type of stone that will not maintain relative permanency;
- (xiv) monuments and markers shall be structurally sound and be placed upon foundations of solid masonry at a depth and size so as to assure no settling or movement of the marker or monument;
- (xv) concrete aprons at least four inches in width that are level with the ground shall be placed around monuments and be affixed to them so as to prevent grass, weeds or other vegetation from growing in between the monuments and aprons;
- (xvi) a site plan acceptable to the city council must be submitted and reviewed under the city's site plan ordinance;
- (xvii) a master plan for the build-out of the property which includes the number and location of all burial lots; the phasing of selling/filling the burial lots; the assigned numbers for the burial lots; descriptions and locations of any other improvements to be located on the property; and a description of the cemetery's records retention system must be submitted and approved by the city council;
- (xviii) ground water tests shall be performed prior to city council approval in order to determine high water tables and any springs located on the site;

- (xix) the city council may require a transportation plan that includes traffic management for burials, funerals and burial site visits;
  - (xx) the city council may require an environmental assessment of the proposed use;
  - (xxi) in addition to the requirements set forth in this provision, the city council may require compliance with any other conditions, restrictions or limitations regarding the type, location, size, material, number, the manner of placement and installation, and removal of monuments, markers, mausoleums, columbariums and plantings that are permitted within the cemetery it deems to be reasonably necessary to protect the residential character of the surrounding area;
  - (xxii) the city council may require compliance with any other conditions, restrictions or limitations it deems to be reasonably necessary to protect the residential character of the neighborhood.
- (d) Daycare or early childhood educational uses,
- (i) the use shall be clearly accessory to a permitted or conditional use on the property;
  - (ii) drop-off and pick-up areas shall be located outside of the public right-of-way and designed to enhance vehicular and pedestrian safety;
  - (iii) the number of children shall not exceed 30;
  - (iv) hours of operation shall be limited to 7:00 a.m. through 6:00 p.m., Monday through Friday;
  - (v) playgrounds and outdoor recreational areas shall be set back a minimum of 100 feet from residential property with adequate screening to protect neighboring properties from noise and adverse visual impacts;
  - (vi) no lighted playing fields shall be permitted;
  - (vii) proof of compliance with relevant state and county licensing requirements shall be provided;
  - (viii) the city council may require compliance with any other conditions, restrictions or limitations it deems to be reasonably necessary to protect the residential character of the surrounding area.

**PUBLIC/SEMI-PUBLIC ZONING DISTRICT (PS)**

**Section 826.69. Public/Semi-Public - Purpose.** This district shall serve areas of public ownership or related semi-public uses or open space, conservation, or recreation.

**Section 826.71. (PS) Conditional Uses.** Within any Public/Semi-Public District, no structure or land shall be used except by conditional use permit for the following uses:

**Subd. 1.** Outdoor recreational and open space uses operated by a governmental agency or conservation group, homeowners or private association and facilities for making same useful to public or association. Public lands, schools, parks and municipal buildings.

**Subd. 2.** Conservation uses including drainage control, forestry, wildlife sanctuaries, and facilities for making same available and useful to public.

**Subd. 3.** Agricultural uses.

**Subd. 4.** Nature study areas and arboretums.

**Subd. 5.** Private/Institutional outdoor recreational activities.

**Section 826.73. (PS) Lot Area, Height, Lot Width, and Yard Requirements.**

**Subd. 1.** Front Yard Setbacks - 50 feet.

**Subd. 2.** Side and Rear Yard Setbacks - 30 feet.

**Subd. 3.** Height Limitation - 30 feet.

## **FLOODPLAIN DISTRICT**

### **Section 826.74. Floodplain Management Ordinance.**

#### **Section 826.75. Statutory Authorization, Findings of Fact and Purpose.**

**Subd. 1. Statutory Authorization.** The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of the City of Medina, Minnesota does ordain as follows:

#### **Subd. 2. Findings of Fact.**

- (a) The flood hazard areas of Medina, Minnesota, are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures or flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (b) **Methods Used to Analyze Flood Hazards.** This ordinance is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.
- (c) **National Flood Insurance Program Compliance.** This ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

**Subd. 3. Statement of Purpose.** It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section 826.75, subd. 2 (a) by provisions contained herein.

### **Section 826.77 General Provisions.**

**Subd. 1. Lands to Which Ordinance Applies.** This ordinance shall apply to all lands within the jurisdiction of the city shown on the official zoning map and/or the attachments thereto as being located within the boundaries of the Floodway, Flood Fringe, or General Flood Plain Districts.

**Subd. 2. Establishment of Official Zoning Map.** The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this ordinance. The attached material shall include the Flood Insurance Study, Volume 1 of 2 and Volume 2 of 2, Hennepin County, Minnesota, All Jurisdictions and the Flood Insurance Rate Map panels numbered 27053C0134 E, 27053C0142 E, 27053C0144 E, 27053C0153 E, 27053C0154 E, 27053C0158 E, 27053C0159 E, 27053C0165 E, 27053C0166 E, 27053C0167 E, 27053C0168 E, 27053C0169 E, 27053C0302 E, 27053C0306 E, and 27053C0307 E for the City of Medina, dated September 2, 2004, as developed by the Federal Emergency Management Agency. The official zoning map shall be on file in the office of the city clerk and the zoning administrator.

**Subd. 3. Regulatory Flood Protection Elevation.** The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

**Subd. 4. Interpretation.**

- (a) In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the city and shall not be deemed a limitation or repeal of any other powers granted by state statutes.
- (b) The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the zoning administrator, the city council acting as the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile, the ground elevations that existed on the site at the time the city adopted its initial floodplain ordinance, and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board of Adjustment and to submit technical evidence.

**Subd. 5. Abrogation and Greater Restrictions.** It is not intended by this ordinance to repeal, abrogate, or impair 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.

**Subd. 6. Warning and Disclaimer of Liability.** This ordinance does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This ordinance shall not create liability on the part of city or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

**Subd. 7. Severability.** If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

**Subd. 8. Definitions.** Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this ordinance its most reasonable application.

- (a) Accessory Use or Structure - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

- (b) Basement - means any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.
- (c) Conditional Use - means a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:
  - (1) Certain conditions as detailed in the zoning ordinance exist.
  - (2) The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.
- (d) Equal Degree of Encroachment - a method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.
- (e) Flood - a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.
- (f) Flood Frequency - the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
- (g) Flood Fringe - that portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study.
- (h) Flood Plain - the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.
- (i) Flood Proofing - a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.
- (j) Floodway - the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.
- (k) Lowest Floor - the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor.
- (l) Manufactured Home - a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include the term "recreational vehicle."

- (m) Obstruction - any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.
- (n) Principal Use or Structure - means all uses or structures that are not accessory uses or structures.
- (o) Reach - a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.
- (p) Recreational Vehicle - a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this ordinance, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle.
- (q) Regional Flood - a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in a flood insurance study.
- (r) Regulatory Flood Protection Elevation - The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.
- (s) Structure - anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in Section 826.88, subd. 3 (a) of this ordinance and other similar items.
- (t) Substantial Damage - means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

- (u) Substantial Improvement - within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:
- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
  - (2) Any alteration of an “historic structure,” provided that the alteration will not preclude the structure’s continued designation as an “historic structure.” For the purpose of this ordinance, “historic structure” shall be as defined in Code of Federal Regulations, Part 59.1.
- (v) Variance - means a modification of a specific permitted development standard required in an official control including this ordinance to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community's respective planning and zoning enabling legislation.

### **Section 826.79. Establishment of Zoning Districts.**

#### **Subd. 1. Districts.**

- (a) Floodway District. The Floodway District shall include those areas designated as floodway on the Flood Insurance Rate Map adopted in Section 826.77, subd. 2.
- (b) Flood Fringe District. The Flood Fringe District shall include those areas designated as floodway fringe. The Flood Fringe District shall include those areas shown on the Flood Insurance Rate Map as adopted in Section 826.77, subd. 2, as being within Zone AE, Zone A0, or Zone AH but being located outside of the floodway.
- (c) General Flood Plain District. The General Flood Plain District shall include those areas designated as Zone A or Zones AE, Zone A0, or Zone AH without a floodway on the Flood Insurance Rate Map adopted in Section 826.77, subd. 2.

**Subd. 2. Compliance.** No new structure or land shall hereafter be used and no structure shall be constructed, located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations which apply to uses within the jurisdiction of this ordinance. Within the Floodway, Flood Fringe and General Flood Plain Districts, all uses not listed as permitted uses or conditional uses in

Sections 826.80, 826.83, and 826.84 that follow, respectively, shall be prohibited. In addition, a caution is provided here that:

- (a) New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this ordinance and specifically Section 826.88.
- (b) Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this ordinance and specifically Section 826.92.
- (c) As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this ordinance and specifically as stated in Section 826.91 of this ordinance.

**Section 826.80. Floodway District (FW).**

**Subd. 1. Permitted Uses.**

- (a) General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
- (b) Industrial-commercial loading areas, parking areas, and airport landing strips.
- (c) Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.
- (d) Residential lawns, gardens, parking areas, and play areas.

**Subd. 2. Standards for Floodway Permitted Uses.**

- (a) The use shall have a low flood damage potential.
- (b) The use shall be permissible in the underlying zoning district if one exists.
- (c) The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

**Subd. 3. Conditional Uses.**

- (a) Structures accessory to the uses listed in subd. 1 above and the uses listed in (b) – (h) below.
- (b) Extraction and storage of sand, gravel, and other materials.

- (c) Marinas, boat rentals, docks, piers, wharves, and water control structures.
- (d) Railroads, streets, bridges, utility transmission lines, and pipelines.
- (e) Storage yards for equipment, machinery, or materials.
- (f) Placement of fill or construction of fences.
- (g) Recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of Section 826.88, subd. 3 of this ordinance.
- (h) Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

**Subd. 4. Standards for Floodway Conditional Uses.**

- (a) All Uses. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.
- (b) All floodway conditional uses shall be subject to the procedures and standards contained in Section 826.91, subd. 4 of this ordinance.
- (c) The conditional use shall be permissible in the underlying zoning district if one exists.
- (d) Fill:
  - (1) Fill, dredge spoil, and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.
  - (2) Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.
  - (3) As an alternative, and consistent with subsection (2) immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the city council has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be title registered with the property in the Office of the County Recorder.

(e) Accessory Structures:

- (1) Accessory structures shall not be designed for human habitation.
- (2) Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters:
  - (aa) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and
  - (bb) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
- (3) Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size at its largest projection, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards:
  - (aa) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls;
  - (bb) Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly flood proofed; and
  - (cc) To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

(f) Storage of Materials and Equipment:

- (1) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

- (2) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the city.
- (g) Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statute, Chapter 103G. city-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.
- (h) A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

**Section 826.83. Flood Fringe District (FF).**

**Subd. 1. Permitted Uses.** Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning use district(s). If no pre-existing, underlying zoning use districts exist, then any residential or non residential structure or use of a structure or land shall be a permitted use in the Flood Fringe District provided such use does not constitute a public nuisance. All permitted uses shall comply with the standards for Flood Fringe District “Permitted Uses” listed in Section 826.83, subd. 2, and the “Standards for all Flood Fringe Uses” listed in Section 826.83, subd. 5.

**Subd. 2. Standards for Flood Fringe Permitted Uses.**

- (a) All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one (1) foot below the regulatory flood protection elevation and the fill shall extend at such elevation at least (15) feet beyond the outside limits of the structure erected thereon.
- (b) As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet at its largest projection may be internally flood proofed in accordance with Section 826.80, subd. 4 (e) (3).
- (c) The cumulative placement of fill where at any one time in excess of one-thousand (1,000) cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with Section 826.83, subd. 2 (a) of this ordinance.
- (d) The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.
- (e) The provisions of Section 826.83, subd. 5 of this ordinance shall apply.

**Subd. 3. Conditional Uses.** Any structure that is not elevated on fill or flood proofed in accordance with Section 826.83, subd. 2 (a) – (b) and or any use of land that does not comply with the standards in Section 826.83, subd. 2 (c) – (d) shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in Sections 826.83, subd. 4-5, and Section 826.91, subd. 4 of this ordinance.

**Subd. 4. Standards for Flood Fringe Conditional Uses.**

(a) Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood and is constructed with flood resistant materials; and 3) it is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:

(1) Design and Certification - The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.

(2) Specific Standards for Above-grade, Enclosed Areas - Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:

(aa) A minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one-foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention;

and

- (bb) That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.
- (b) Basements, as defined by Section 826.77, subd. 8 (b) of this ordinance, shall be subject to the following:
  - (1) Residential basement construction shall not be allowed below the regulatory flood protection elevation.
  - (2) Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry flood proofed in accordance with Section 826.83, subd. 4 (c) of this ordinance.
- (c) All areas of non residential structures including basements to be placed below the regulatory flood protection elevation shall be flood proofed in accordance with the structurally dry flood proofing classifications in the State Building Code. Structurally dry flood proofing must meet the FP-1 or FP-2 flood proofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood proofed to the FP-3 or FP-4 classification shall not be permitted.
- (d) When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the city council. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.
- (e) Storage of Materials and Equipment:
  - (1) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
  - (2) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the city council.
- (f) The provisions of Section 826.83, subd. 5 of this ordinance shall also apply.

**Subd. 5. Standards for All Flood Fringe Uses.**

- (a) All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.
- (b) Commercial Uses - accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four upon occurrence of the regional flood.
- (c) Manufacturing and Industrial Uses - measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Section 826.83, subd. 5 (b) above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.
- (d) Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation - FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.
- (e) Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.
- (f) Standards for recreational vehicles are contained in Section 826.88, subd. 3.
- (g) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

**Section 826.84. General Flood Plain District.****Subd. 1. Permissible Uses.**

- (a) The uses listed in Section 826.80, subd. 1 of this ordinance shall be permitted uses.
- (b) All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to subd. 2 below. Section 826.80 shall apply if the proposed use is in the Floodway District and Section 826.83 shall apply if the proposed use is in the Flood Fringe District.

**Subd.2. Procedures for Floodway and Flood Fringe Determinations Within the General Flood Plain District.**

- (a) Upon receipt of an application for a permit or other approval within the General Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the zoning administrator for the determination of the regulatory flood protection elevation and whether the proposed use is within the Floodway or Flood Fringe District.
  - (1) A typical valley cross-section(s) showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.
  - (2) Plan (surface view) showing elevations or contours of the ground, pertinent structure, fill, or storage elevations, the size, location, and spatial arrangement of all proposed and existing structures on the site, and the location and elevations of streets.
  - (3) Photographs showing existing land uses, vegetation upstream and downstream, and soil types.
  - (4) Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.
- (b) The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Floodway or Flood Fringe District and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 - 6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:
  - (1) Estimate the peak discharge of the regional flood.

- (2) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
  - (3) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than .5' shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.
- (c) The zoning administrator shall present the technical evaluation and findings of the designated engineer or expert to the city council. The city council must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit application. The city council, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the Department of Natural Resources or the Planning Commission for review and comment. Once the Floodway and Flood Fringe District Boundaries have been determined, the city council shall refer the matter back to the zoning administrator who shall process the permit application consistent with the applicable provisions of Section 826.80 and 826.83 of this ordinance.

#### **Section 826.86. Subdivisions.**

**Subd. 1. Review Criteria.** No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the flood plain districts shall be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this ordinance, and with section 720 Individual Sewage Treatment Standards, and have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation. For all subdivisions in the flood plain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents. For rural areas, all areas delineated on a survey or plat as being in the floodplain shall not be considered in the contiguous suitable soils calculation, as defined in section 820.29 subd. 4(a).

#### **Subd. 2. Floodway/Flood Fringe Determinations in the General Flood Plain District.**

In the General Flood Plain District, applicants shall provide the information required in Section 826.84, subd. 2 of this ordinance to determine the 100-year flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.

**Subd. 3. Removal of Special Flood Hazard Area Designation.** The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year

flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

**Section 826.87. Public Utilities, Railroads, Roads and Bridges.**

**Subd. 1. Public Utilities.** All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood proofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation.

**Subd. 2. Public Transportation Facilities.** Railroad tracks, roads, and bridges to be located within the flood plain shall comply with Sections 826.80 and 826.83 of this ordinance. Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

**Subd. 3. On-site Sewage Treatment and Water Supply Systems.** Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.

**Section 826.88. Manufactured Homes and Manufactured Home Parks and Placement of Travel Trailers and Travel Vehicles.**

**Subd. 1.** New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by Section 826.86 of this ordinance.

**Subd. 2.** The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with Section 826.83 of this ordinance. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Section 826.83, subd. 5 (a) then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the city council.

(a) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods

of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

**Subd. 3.** Recreational vehicles that do not meet the exemption criteria specified in Section (a) below shall be subject to the provisions of this ordinance and as specifically spelled out in Sections (c) and (d) below.

(a) Exemption - Recreational vehicles are exempt from the provisions of this ordinance if they are placed in any of the areas listed in Subsection (b) below and further they meet the following criteria:

- (1) Have current licenses required for highway use.
- (2) Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks and the recreational vehicle has no permanent structural type additions attached to it.
- (3) The recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

(b) Areas Exempted For Placement of Recreational Vehicles:

- (1) Individual lots or parcels of record.
- (2) Existing commercial recreational vehicle parks or campgrounds.
- (3) Existing condominium type associations.

(c) Recreational vehicles exempted in Section 826.88, subd. 3 (a) lose this exemption when development occurs on the parcel exceeding \$500 for a structural addition to the recreational vehicle or exceeding \$500 for an accessory structure such as a garage or storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood proofing requirements and the use of land restrictions specified in Sections 826.80 and 826.83 of this ordinance. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.

(d) New commercial recreational vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:

- (1) Any new or replacement recreational vehicle will be allowed in the Floodway or Flood Fringe Districts provided said recreational vehicle and its contents are

placed on fill above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with Section 826.83, subd. 5 (a) of this ordinance. No fill placed in the floodway to meet the requirements of this Section shall increase flood stages of the 100-year or regional flood.

- (2) All new or replacement recreational vehicles not meeting the criteria of (1) above may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of Section 826.91, subd. 4 of the ordinance. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100 year flood. Said plan shall be prepared by a registered engineer or other qualified individual, shall demonstrate that adequate time and personnel exist to carry out the evacuation, and shall demonstrate the provisions of Section 826.88, subd. 3 (a) (1) and (2) of this ordinance will be met. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Section 826.87, subd. 3 of this ordinance.

#### **Section 826.91. Administration.**

**Subd. 1. Zoning Administrator.** A zoning administrator or other official designated by the city council shall administer and enforce this ordinance. If the zoning administrator finds a violation of the provisions of this ordinance the zoning administrator shall notify the person responsible for such violation in accordance with the procedures stated in Section 826.95 of the ordinance.

#### **Subd. 2. Permit Requirements.**

- (a) **Permit Required.** A Permit issued by the zoning administrator in conformity with the provisions of this ordinance shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.
- (b) **Application for Permit.** Application for a permit shall be made in duplicate to the zoning administrator on forms furnished by the zoning administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

- (c) State and Federal Permits. Prior to granting a permit or processing an application for a conditional use permit or variance, the zoning administrator shall determine that the applicant has obtained all necessary state and federal permits.
- (d) Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the zoning administrator stating that the use of the building or land conforms to the requirements of this ordinance.
- (e) Construction and Use to be as Provided on Applications, Plans, Permits, Variances and Certificates of Zoning Compliance. Permits, conditional use permits, or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this ordinance, and punishable as provided by Section 826.95 of this ordinance.
- (f) Certification. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this ordinance. Flood proofing measures shall be certified by a registered professional engineer or registered architect.
- (g) Record of First Floor Elevation. The zoning administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the flood plain. The zoning administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood proofed.
- (h) Notifications for Watercourse Alterations. The zoning administrator shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the city authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota Statute, Chapter 103G, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
- (i) Notification to FEMA When Physical Changes Increase or Decrease the 100-year Flood Elevation. As soon as is practicable, but not later than six months after the date such supporting information becomes available, the zoning administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.

**Subd. 3. Board of Adjustment.**

- (a) Rules. The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Boards by State law.
- (b) Administrative Review. The Board of Adjustment shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this ordinance.
- (c) Variances. The Board of Adjustment may authorize upon appeal in specific cases such relief or variance from the terms of this ordinance as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in this ordinance, any other zoning regulations in the city, and in the respective enabling legislation that justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:
- (1) Variances shall not be issued by a city within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
  - (2) Variances shall only be issued by a city upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  - (3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (d) Hearings. Upon filing with the Board of Adjustment of an appeal from a decision of the zoning administrator, or an application for a variance, the Board of Adjustment shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board of Adjustment shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

- (e) Decisions. The Board of Adjustment shall arrive at a decision on such appeal or variance within 60 days. In passing upon an appeal, the Board of Adjustment may, so long as such action is in conformity with the provisions of this ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the zoning administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance the Board of Adjustment may prescribe appropriate conditions and safeguards such as those specified in Section 826.91, subd. 4 (f), which are in conformity with the purposes of this ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance punishable under Section 826.95. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten days of such action.
- (f) Appeals. Appeals from any decision of the Board of Adjustment may be made, and as specified in the city's official controls and also by Minnesota Statutes.
- (g) Flood Insurance Notice and Record Keeping. The zoning administrator shall notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and 2) Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A city shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

**Subd. 4. Conditional Uses.** The planning commission and city council shall hear and decide applications for conditional uses permissible under this ordinance. Applications shall be submitted to the zoning administrator who shall forward the application to the planning commission and city council for consideration.

- (a) Hearings. Upon filing with the zoning administrator an application for a conditional use permit, the zoning administrator shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed conditional use sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.
- (b) Decisions. The planning commission and city council shall arrive at a decision on a conditional use within 60 days. In granting a conditional use permit the planning commission and city council shall prescribe appropriate conditions and safeguards, in addition to those specified in Section 826.91, subd. (4) (f) which are in conformity with the purposes of this ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the

conditional use permit is granted, shall be deemed a violation of this ordinance punishable under Section 826.95. A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

- (c) Procedures to be followed by the planning commission and city council in Passing on Conditional Use Permit Applications Within all Flood Plain Districts.
- (1) Require the applicant to furnish such of the following information and additional information as deemed necessary by the zoning administrator for determining the suitability of the particular site for the proposed use:
    - (aa) Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the stream channel; and
    - (bb) Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
  - (2) Transmit one copy of the information described in subsection (1) above to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.
  - (3) Based upon the technical evaluation of the designated engineer or expert, the planning commission and city council shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.
- (d) Factors upon which the decision of the city council shall be based. In passing upon conditional use applications, the city council and planning commission shall consider all relevant factors specified in other sections of this ordinance, and:
- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments.
  - (2) The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.
  - (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

- (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - (5) The importance of the services provided by the proposed facility to the community.
  - (6) The requirements of the facility for a waterfront location.
  - (7) The availability of alternative locations not subject to flooding for the proposed use.
  - (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  - (9) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
  - (10) The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - (11) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
  - (12) Such other factors which are relevant to the purposes of this ordinance.
- (e) Time for Acting on Application. The city council shall act on an application in the manner described above within 60 days from receiving the application, except that where additional information is required pursuant to Section 826.91, subd. 4 (d) of this ordinance. The city council shall render a written decision within 30 days from the receipt of such additional information.
- (f) Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above and the purpose of this ordinance, the city council shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:
- (1) Modification of waste treatment and water supply facilities.
  - (2) Limitations on period of use, occupancy, and operation.
  - (3) Imposition of operational controls, sureties, and deed restrictions.
  - (4) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.

- (5) Flood proofing measures, in accordance with the State Building Code and this ordinance. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

**Section 826.92. Nonconforming Uses.**

**Subd. 1.** A structure or the use of a structure or premises which was lawful before the passage or amendment of this ordinance but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions. Historic structures, as defined in Section 826.77, subd. 8 (u) (2) of this ordinance, shall be subject to the provisions of Subsections (a) – (e) of Section 826.92, subd. 1. of this ordinance.

- (a) No such use shall be expanded, changed, enlarged, or altered in a way that increases its nonconformity.
- (b) Any structural alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 thru FP-4 floodproofing classifications) allowable in the State Building Code, except as further restricted in (c) and (f) below.
- (c) The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the city's initial flood plain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50 percent of the current market value of the structure, then the structure must meet the standards of Section 826.80 or 826.83 of this ordinance for new structures depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.
- (d) If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this ordinance. The assessor shall notify the zoning administrator in writing of instances of nonconforming uses that have been discontinued for a period of 12 months.
- (e) If any nonconforming use or structure is substantially damaged, as defined in Section 826.77, subd. 8 (t) of this ordinance, it shall not be reconstructed except in conformity with the provisions of this ordinance. The applicable provisions for establishing new uses or new structures in Sections 826.80, 826.83, and 826.84

will apply depending upon whether the use or structure is in the Floodway, Flood Fringe or General Flood Plain District, respectively.

- (f) If a substantial improvement occurs, as defined in Section 826.77, subd. 8 (4) of this ordinance, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition (as required by Subsection (b) above) and the existing nonconforming building must meet the requirements of Section 826.80 or 826.83 of this ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

### **Section 826.95. Penalties for Violation.**

**Subd. 1.** Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law.

**Subd. 2.** Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:

- (a) In responding to a suspected ordinance violation, the zoning administrator and city council may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The city must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.
- (b) When an ordinance violation is either discovered by or brought to the attention of the zoning administrator, the zoning administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources' and Federal Emergency Management Agency regional office along with the city's plan of action to correct the violation to the degree possible.
- (c) The zoning administrator shall notify the suspected party of the requirements of this ordinance and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the zoning administrator may order the construction or development immediately halted until a proper permit or approval is granted by the city. If the construction or development is already completed, then the zoning administrator may either: (1) 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 the official controls; or (2) notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30-days.

- (d) If the responsible party does not appropriately respond to the zoning administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this ordinance and shall be prosecuted accordingly. The zoning administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this ordinance.

**Section 826.97. Amendments.** The flood plain designation on the official zoning map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he determines that, through other measures, lands are adequately protected for the intended use.

All amendments to this ordinance, including amendments to the official zoning map, must be submitted to and approved by the commissioner of natural resources prior to adoption. Changes in the official zoning map must meet the Federal Emergency Management Agency's (FEMA) technical conditions and criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given 10-days written notice of all hearings to consider an amendment to this ordinance and said notice shall include a draft of the ordinance amendment or technical study under consideration.

**Section 826.98. Conditional Use Permit Standards for Agricultural Preservation and Residential Districts.**

**Subd. 1. Purpose.** It is the intent of the city in establishing general and specific criteria for conditional uses that such uses be subject to careful evaluation to ensure that their location, size and design are consistent with the standards, purposes and procedures of this ordinance and the comprehensive plan. The planning commission may recommend and the city council may impose conditions on such uses in order to affect the purpose of this ordinance.

**Subd. 2. Specific Standards.** In addition to the general standards specified in section 825.39 of this ordinance, no conditional use permit shall be granted unless the city council determines that all of the specific standards contained in this subdivision will be met:

- (a) local government buildings:
- (i) located with direct access to a collector or arterial roadway as identified in the comprehensive plan or otherwise located so that access can be provided without conducting significant traffic on local residential streets;
  - (ii) buildings set back a minimum of 50 feet from all property lines;

- (iii) parking areas set back a minimum of 50 feet from residential property;
  - (iv) exterior lighting must be designed and installed so that the globe is recessed and enclosed on all sides except the bottom and no direct light is cast on adjacent residential property or rights-of-way;
  - (v) roof top or outside mechanical equipment must be screened from view from adjacent properties and rights-of-way;
  - (vi) any exterior storage must be screened from view with an opaque material architecturally compatible with the building.
  - (vii) no exterior bells or loudspeakers;
  - (viii) no more than 50 percent of the site to be covered with impervious surface and the remainder to be landscaped or left in a natural state; and
  - (ix) the city council may require compliance with any other conditions, restrictions or limitations it deems to be reasonably necessary to protect the residential character of the neighborhood.
- (b) churches and other places of worship:
- (i) located with direct access to a collector or arterial roadway as identified in the comprehensive plan;
  - (ii) buildings set back a minimum of 50 feet from all property lines;
  - (iii) parking areas set back a minimum of 50 feet from all property lines;
  - (iv) no more than 50 percent of the site to be covered with impervious surface and the remainder to be landscaped or left in a natural state;
  - (v) exterior lighting must be designed and installed so that the globe is recessed and enclosed on all sides except the bottom and no direct light is cast on adjacent residential property or rights-of-way;
  - (vi) roof top or outside mechanical equipment must be screened from view from adjacent properties and rights-of-way;
  - (vii) any exterior storage must be screened from view with an opaque material architecturally compatible with the building;
  - (viii) no exterior bells or loudspeakers; and
  - (ix) the city council may require compliance with any other conditions, restrictions or limitations it deems to be reasonably necessary to protect the residential character of the neighborhood.

- (c) home occupation:
- (i) not more than one person not residing in the dwelling may be employed on-site in the home occupation, regardless of the number of hours worked by the individual;
  - (ii) no over-the-counter retail sales;
  - (iii) only such signs as are permitted under section 815.09 of this ordinance;
  - (iv) no outside storage;
  - (v) the home occupation must be conducted solely within the principal structure;
  - (vi) limited customer, client, patient or student visits to the site in connection with the home occupation;
  - (vii) there must be adequate off-street parking for the anticipated number of persons on the site at any one time and the parking area must be screened from view from adjacent properties or rights-of-way;
  - (viii) limited deliveries associated with the home occupation in commercial vehicles over one ton;
  - (ix) no equipment or devices not customarily used in residential dwellings may be used in connection with the home occupation;
  - (x) entrance to the space used for the home occupation must be within the dwelling;
  - (xi) no interior or exterior alterations may be made to the dwelling to accommodate the home occupation except as may be customarily found in a dwelling;
  - (xii) any vehicle displaying the name of the home occupation must be parked in an enclosed garage or in an area screened from view from adjacent properties or rights-of-way;
  - (xiii) the home occupation may not produce any light, glare, noise or vibration perceptible beyond the boundaries of the property which is not customarily associated with residential use;
  - (xiv) hours of business activity may be limited by the city council to protect the public health, safety and welfare;
  - (xv) the home occupation must be operated in compliance with all other applicable federal, state and local statutes, ordinances, codes and regulations; and

(xvi) the city council may require compliance with any other conditions, restrictions or limitations it deems to be reasonably necessary to protect the residential character of the neighborhood.

(d) cemeteries:

- (i) maximum lot area of ten acres;
- (ii) located with direct access to a collector or arterial roadway as identified in the comprehensive plan;
- (iii) all roadways within the cemetery must be paved and 20 feet wide unless the city determines that a wider road is necessary for public safety;
- (iv) direct views from all adjoining residential parcels must be screened by appropriate means;
- (v) all burial sites must be set back the greater of the following distances from all property lines. Identified future burial sites within existing cemeteries which are on file with the city prior to December 31, 2007 shall not be subject to this setback requirement:
  - (1) a distance equal to the structure setbacks that are required by the applicable zoning district; or
  - (2) twenty (20) feet.
- (vi) buildings, parking areas, mausoleums, columbariums and upright grave markers that exceed 24 inches in height must be set back a minimum of 50 feet from all property lines;
- (vii) all improvements, including grave sites, must be set back a minimum of 50 feet from all wetlands;
- (viii) established and operated in compliance with the requirements of Minnesota Statutes, Chapters 306 or 307, as amended;
- (ix) sufficient maintenance and perpetual care funds as required by Minnesota Statutes Chapters 306 or 307 shall be established;
- (x) landscaping shall include overstory trees and be designed to promote a park-like setting;
- (xi) monuments or markers within a cemetery shall be placed as shown on the cemetery's master plan or as directed by the city;
- (xii) mausoleums shall not exceed 15 feet in height and monuments shall not exceed 10 feet in height, with height measured as it is for buildings;

- (xiii) monuments and markers shall be constructed of natural stone, but no monument or marker shall be constructed of limestone, sandstone or any other type of stone that will not maintain relative permanency;
- (xiv) monuments and markers shall be structurally sound and be placed upon foundations of solid masonry at a depth and size so as to assure no settling or movement of the marker or monument;
- (xv) concrete aprons at least four inches in width that are level with the ground shall be placed around monuments and be affixed to them so as to prevent grass, weeds or other vegetation from growing in between the monuments and aprons;
- (xvi) a site plan acceptable to the city council must be submitted and reviewed under the city's site plan ordinance;
- (xvii) a master plan for the build-out of the property which includes the number and location of all burial lots; the phasing of selling/filling the burial lots; the assigned numbers for the burial lots; descriptions and locations of any other improvements to be located on the property; and a description of the cemetery's records retention system must be submitted and approved by the city council;
- (xviii) ground water tests shall be performed prior to city council approval in order to determine high water tables and any springs located on the site;
- (xix) the city council may require a transportation plan that includes traffic management for burials, funerals and burial site visits;
- (xx) the city council may require an environmental assessment of the proposed use;
- (xxi) in addition to the requirements set forth in this provision, the city council may require compliance with any other conditions, restrictions or limitations regarding the type, location, size, material, number, the manner of placement and installation, and removal of monuments, markers, mausoleums, columbariums and plantings that are permitted within the cemetery it deems to be reasonably necessary to protect the residential character of the neighborhood.
- (xxii) the city council may require compliance with any other conditions, restrictions or limitations it deems to be reasonably necessary to protect the residential character of the neighborhood.

(e) Wind Energy Conversion Systems (WECS):

- (i) minimum set back from the nearest property line 150 feet or a distance equal to the height of the tower plus one-half the diameter of the rotor, whichever is greater;
  - (ii) certified by a professional engineer as being of a design adequate for the atmospheric conditions of the Twin Cities;
  - (iii) equipped with overspeed or similar controls designed to prevent disintegration of the rotor in high winds;
  - (iv) compliance with all building and electrical code requirements of the city, the noise regulations of the Minnesota pollution control agency and the rules and regulations of the federal communications commission and federal aviation administration;
  - (v) the city council may require compliance with any other conditions, restrictions or limitations it deems to be reasonably necessary to protect the residential character of the neighborhood.
  - (vi) the maximum capacity or size of the WECS generator shall be 100 kilowatts or less;
  - (vii) the city hereby reserves the right upon issuing any WECS conditional use permit to inspect the premises on which the WECS is located. If a WECS is not maintained in operational condition or poses a potential safety hazard, the owner shall take expeditious action to correct the situation; and
  - (viii) any WECS or tower which is not used for six successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner.
- (f) public, private or charter schools having a course of instruction approved by the Minnesota department of education for students enrolled in K through grade 12, or any portion thereof:
- (i) located with direct access to a collector or arterial street as identified in the comprehensive plan;
  - (ii) buildings set back a minimum 50 feet from all property lines;
  - (iii) parking areas set back a minimum of 50 feet from all property lines;
  - (iv) bus drop-off and pick-up areas must be located outside of the public right-of-way and designed to enhance vehicular and pedestrian safety;
  - (v) recreational areas designed for group sports activities set back a minimum of 50

- feet from residential property with adequate screening to protect neighboring properties from noise and adverse visual impacts;
- (vi) no lighted playing fields unless the visual impact on residential areas can be substantially mitigated;
  - (vii) no more than 50 percent of the site to be covered with impervious surface and the remainder to be suitably landscaped;
  - (viii) exterior lighting must be designed and installed so that the globe is recessed and enclosed on all sides except the bottom and no direct light is cast on adjacent residential property or rights-of-way;
  - (ix) roof top or outside mechanical equipment must be screened from view from adjacent properties and rights-of-way;
  - (x) any exterior storage must be screened from view with an opaque material architecturally compatible with the building; and
  - (xi) the city council may require compliance with any other conditions, restrictions or limitations it deems to be reasonably necessary to protect the residential character of the neighborhood.
- (g) outdoor recreational facilities including non-commercial parks, golf courses, and driving ranges:
- (i) located with direct access to a collector or arterial street as identified in the comprehensive plan;
  - (ii) buildings set back 50 feet from all property lines;
  - (iii) parking areas set back a minimum of 50 feet from all property lines;
  - (iv) exterior lighting must be designed and installed so that the globe is recessed and enclosed on all sides except the bottom and no direct light is cast on adjacent residential property or rights-of-way;
  - (v) no exterior bells or loudspeakers;
  - (vi) no more than 50 percent of the site to be covered with impervious surface and the remainder to be suitably landscaped; and
  - (vii) the city council may require compliance with any other conditions, restrictions or limitations it deems to be reasonably necessary to protect the residential character of the neighborhood.
- (h) commercial riding stable – must operate in conformance with the standards of section

826.26.1, subd. 2 of this ordinance.

- (i) clinics and nursing homes and small animal clinics:
  - (i) located with direct access to a collector or arterial roadway as identified in the comprehensive plan;
  - (ii) buildings set back a minimum of 50 feet from all property lines;
  - (iii) parking areas set back a minimum of 50 feet from all property lines;
  - (iv) no more than 50 percent of the site to be covered with impervious surface and the remainder to be suitably landscaped;
  - (v) exterior lighting must be designed and installed so that the globe is recessed and enclosed on all sides except the bottom and no direct light is cast on adjacent residential property or rights-of-way;
  - (vi) roof top or outside mechanical equipment must be screened from view from adjacent properties and rights-of-way;
  - (vii) any exterior storage must be screened from view with an opaque material architecturally compatible with the building; and
  - (viii) the city council may require compliance with any other conditions, restrictions or limitations it deems to be reasonably necessary to protect the residential character of the neighborhood.
- (j) nursery schools:
  - (i) located with direct access to a collector or arterial roadway as identified in the comprehensive plan;
  - (ii) buildings set back a minimum of 50 feet from all property lines;
  - (iii) parking areas set back a minimum of 50 feet from rights-of-way and residential property;
  - (iv) drop-off and pick-up areas must be located outside the public rights-of-way and designed to enhance vehicular and pedestrian safety;
  - (v) recreational areas designed for group activities set back a minimum of 25 feet from residential property with adequate screening to protect neighboring properties from noise and adverse visual efforts;
  - (vi) exterior lighting must be designed and installed so that the globe is recessed and enclosed on all sides except the bottom and no direct light is cast on adjacent residential property or rights-of-way;

- (vii) roof top or outside mechanical equipment must be screened from view from adjacent properties and rights-of-way;
  - (viii) any exterior storage must be screened from view with an opaque material architecturally compatible with the building; and
  - (ix) the city council may require compliance with any other conditions, restrictions or limitations it deems to be reasonably necessary to protect the residential character of the neighborhood.
- (k) essential services - must meet the definition contained in section 825.07, subd. 29 of this ordinance.
- (l) second principal residential dwelling structure on parcels 40 acres or larger in size:
- (i) may be used only by members of the family, by persons employed on the property or as a guest house;
  - (ii) must be located in reasonable proximity to primary and secondary septic sites other than those associated with the first principal structure;
  - (iii) must meet all setback requirements;
  - (iv) must be shown on a shadow or ghost plat submitted to the city to be located in such a manner as to make future subdivision of the parcel feasible without the need for variances; and
  - (v) the city council may require compliance with any other conditions, restrictions or limitations it deems reasonably necessary to protect the residential character of the neighborhood.
- (m) accessory building standards for residential properties greater than five acres in area:
- (i) The accessory building's design shall include architectural interest through the appropriate use of the following elements: cupolas, dormers, windows, porches, overhangs, varied building foundation, or other design treatments which the city council determines create a quality architectural design that enhances the appearance of the accessory building and complements the principal dwelling and the rural residential character or residential neighborhood in which the building is to be constructed;
  - (ii) At least two colors or textures shall be used in the accessory building's exterior design, including contrasting trim or fascia;
  - (iii) Any metal exterior materials on the accessory building shall be warranted to resist fading for a period of at least 15 years; and

- (iv) The accessory building shall have an infiltration basin, rain garden, rain barrel or other similar best management practice used to capture storm water runoff from the building and to improve water quality. Said best management practice must be reviewed and approved by the city council.
- (n) multiple dwelling unit structures over 30 feet in height in the MR district:
  - (i) buildings exceeding 30 feet in height shall be constructed with setbacks at least twice as great as those required in section 826.43, subd. 2(e) and (f) where the property adjoins land zoned for single family residential use;
  - (ii) buildings exceeding 30 feet in height shall be constructed with setbacks equal to those required in section 826.43, subd. 2(e) and (f) plus an additional 1 foot for every 1 foot by which the height of the building exceeds 30 feet where the property does not adjoin land zoned for single family residential use;
  - (iii) the portions of the building greater than 30 feet in height shall be uninhabited and not planned for storage or such area shall be sprinkled or equipped with such other fire suppression devices as may be required by the fire marshal;
  - (iv) the height of the building must be in compliance with state and federal height limitations regarding the operation of aircraft; and
  - (v) the city council may require compliance with any other conditions, restrictions or limitations it deems to be reasonably necessary to ensure persons and property against injury or damage by fire.
- (o) Sites which exceed the number of animals allowed under Section 826.25. Subd. 8:
  - (i) the property shall contain a minimum of three grazable acres;
  - (ii) animal units shall not exceed one and one-half times the allowed density under Section 826.25 Subd. 8;
  - (iii) all animal feed and bedding must be stored within an enclosed building;
  - (iv) the size of the barn or stable shall be suitable to the total number of additional animal units requested under this conditional use permit.
  - (v) the subject site shall incorporate various Low Impact Design (LID) features and/or Best Management Practices (BMPs) that provide for the most effective means of manure management, such that no net increase in runoff or nutrient loading occurs from the site, as determined by the City Engineer.
  - (vi) the subject site shall construct a concrete manure containment or composting area, the design of which shall be consistent with the

recommendations of the University of Minnesota Extension Service. Owners shall provide a schedule for removal of manure or compost from affected sites, subject to the approval by the City.

- (vii) a grading plan shall be submitted and approved by the City in accordance with the recommendations of the University of Minnesota Extension Service and approved by the City Engineer. Said plan shall clearly demonstrate that storm water runoff from the hard surfaces on the property is directed away from the stable areas and manure containment facilities, and surrounding wetlands, streams or lakes (if any) and the site must maintain these drainage patterns to the satisfaction of the City;
- (viii) the site shall install runoff retention and vegetative infiltration systems, consistent with the recommendations of the University of Minnesota Extension Service and as approved by the City, down slope from the stables and manure containment area. The vegetation adjacent to any wetlands shall be subject to the city’s wetland protection ordinance;
- (ix) diligent effort shall be made to prevent the cribbing of trees in or near pastures, and efforts to maintain grass in the pastures by limiting use thereof as appropriate and by providing supplemental feed to prevent over grazing by instituting a pasture management program in accordance with the recommendation of the University of Minnesota Extension Service and as approved by the City; and
- (x) the city council may require compliance with any other conditions, restrictions or limitations it deems to be reasonably necessary to protect the residential character of the neighborhood.

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#### Amendment History of this Section

**November 5, 1985** – Ord. 224 – Added Section 826.26 and Subd. 3 of Section 826.01, establishing the Rural Residential 1 Zoning District.

**June 30, 1987** – Ord. 224 – Amended Section 826.25 regarding setbacks and height requirements.

**April 17, 1990** – Ord. 243-A – Added Sections 828.73, 828.48 and 828.60 as well as Subd. 5 of Section 826.09 and Subd. 5 of Section 826.19 regarding landspreading of yard waste.

**December 18, 1990** – Ord. 249 – Added Section 826.26.1, establishing the Rural Residential-2 (RR-2) Zoning District.

**March 5, 1991** – Ord. 251 – Amended Subd. 2 of Section 826.25, Subd. 2 of Section 826.51 and Subd. 2 of Section 826.63 adding that minimum lot size requirements are decided using “contiguous” soils in the Rural Residential District, Rural Commercial District and Rural Industrial District.

**May 7, 1991** – Ord. 253 – Former language of Section 826.26.1 was repealed in its entirety and replaced by the language in Ord. 253 regarding the Rural Residential-2 District.

**June 4, 1991** – Ord. 255 – Former language of Sections 826.75 through 826.97 were repealed in their entirety and replaced by the language of Ord. 255 regarding the Floodplain District.

**March 9, 1992** – Ord. 262 – Amended Subd. 3 and 11 of Section 826.19, Subd. 8 of Section 826.23, Subd. 3 of Section 826.31 and Subd. 6 of Section 826.33 regarding Home Occupations in the Rural Residential and Urban Residential Districts.

**May 19, 1992** – Ord. 268 – Amended Sections 826.47 through 826.67 regarding the Commercial and Industrial Districts.

**August 4, 1992** – Ord. 270 – Added Subd. 5 of Section 826.01 and Sections 826.26.2, 826.26.3, 826.26.4, 826.26.5, 826.26.6 and 826.26.7, establishing the Suburban Residential Zoning District.

**October 6, 1992** – Ord. 271 – Added Subd. 6 of Section 826.19, adding Home Occupations as a permitted use in the Rural Residential District. Amended Section 826.21, regarding conditional uses and Section 826.23 regarding permitted uses of the Rural Residential District. Amended Section 826.25 regarding Rural Residential District lot size requirements.

**December 15, 1992** – Ord. 273 – Amended Section 826.25 regarding building plan requirements and building height in the Rural Residential District. Also amended Section 826.26.6 regarding maximum building height in the Suburban Residential District.

**August 2, 1994**—Ord. 279—826.53 (adds flea markets as accessory use). 826.56 (flea market use conditions).

**October 4, 1994**—Ord. 280—826.01 (adds “P.U.D.” to zoning districts list).

**February 7, 1995**—Ord 282—significant revisions of Sections 826.07, 826.09, 826.11, 826.13, and 826.15 (major rewriting of Ag Preserve-related definitions, allowances, and restrictions).

**November 30, 1995**—Ord 287— added Subd. Within 826.49 and 826.61 (adult establishments added as conditional uses in the Rural Commercial and Rural Industrial zoning districts).

**April 16, 1996**—Ord 289—826.51, 826.57, 826.63, and 826.67 (regarding side and rear yard setbacks within the Urban Commercial and Industrial districts).

**August 15, 1996**—Ord 290—826.11, 826.21, 826.26.1, 826.26.4, 826.31, and 826.41 amended; 826.98 added.

**September 1996**—Ord 293—826.75, 826.79, 826.81, 826.85, 826.87, 826.91, 826.93, and 826.97.

**May 6, 1997** - Ord. 294 - Added Sections 826.49 - subd. 21, 826.55 - subd. 22, 826.61 - subd 13, 826.65 - subd 10 and 828.75 - 83 as they related to telecommunications towers and facilities.

**May 20, 1997** - Ord. 296 - Modified 826.15, 826.25, 826.51, 826.63 as they related to individual sewage treatment systems.

**June 19, 2001** - Ord 338 - Added Sections 826.25.1. through 826.25.5. Urban Reserve (UR).

**August 17, 2004** – Ord. 374 – Repealed Sections 826.75-826.97, regarding Floodplain District Regulations, in their entirety and replaced them with the text of Section 826.74 through 826.97.

**September 20, 2005** – Ord. 393 – Amended Subds. 2 and 3 of Section 826.25, Subds. 2 and 3 of 826.25.5, Subd. 2 of Section 826.26.1, Subd. 2 of Section 826.51, and Subd. 1 of Section 826.86. These sections regarded soil and septic requirements in different districts.

**April 18, 2006** – Ord. 403 – Amended subds. 1, 2, and 3 of subsection 825.25 regarding lot width and setbacks in the Rural Residential zoning district.

**September 5, 2006** – Ord. 413- Amended Subds. 2(c) and (d) of Section 826.98 regarding home occupations and cemeteries.

**October 3, 2006** – Ord. 415 – Amended Sections 826.25 and 826.25.5 regarding setback requirements.

**August 8, 2007** – Ord. 428- Amending Subd. 10 of Section 826.21 regarding AAT conditional uses. Amending Section 826.98 relating to AAT specific standards.

**October 2, 2007** – Ord. 430 – Correcting certain erroneous section references within Sections 826.09; 826.15; 826.26; 826.26.1; 826.26.3; and 826.33.

**October 16, 2007** – Ord. 431 – Amending Section 826.98, Subdivision 2 (o) related to Animal-Assisted Therapy.

**November 20, 2007** – Ord. 433 – Amending Section 826.98, subdivision 2(d) regarding cemeteries.

**January 15, 2008** – Ord. 436 – Amending Sections 826.21 and 826.98, Subdivision 2 removing Animal-Assisted Therapy as a Conditional Use.

**October 7, 2008** – Ord. 450 – Amending Sections 826.17, 826.19, 826.21, 826.23, 826.25, 826.25.1, 826.25.2, 826.25.3, 826.25.3, 826.25.4, 826.25.5, 826.26, 826.26.1, regarding the rural residential zoning districts.

**October 7, 2008** – Ord. 451 – Amending Section 826.98 regarding CUP standards for Agricultural Preservation and Residential Districts.

**June 16, 2009** – Ord. 460 – Creating the Rural Public/Semi-Public Zoning District, and Removing the Urban Industrial Zoning District; Amending Sections 826.01, 826.21, and 826.64 et.seq.

**July 21, 2009** – Ord. 465 – Amending Sections 826.25, 826.25.25, and 826.98 related to Animal Density Standards.

**July 20, 2010** – Ord. 485 – Amending Section 826.25.1 related to Rural Residential-Urban Reserve Purpose.