

Testing, research and laboratory uses.

Transit stations/park and ride facilities.

Veterinary services including kennels, subject to:

1. The requirements of title 7, chapter 4, "Animal Control", of this code.
2. The site shall not be less than twenty (20) acres in size.
3. All structures shall be located a minimum of seventy five feet (75') from any abutting residential use or district.

Warehousing, wholesaling and distribution uses.

C. Accessory Uses: The following uses shall be permitted accessory uses:

Off street parking or loading for a permitted, conditional or interim use.

Overnight sleeping facilities for security personnel.

D. Conditional Uses: The following uses are conditional uses in the LI light industrial district and are subject to the conditional use permit provisions outlined in this title.

Automotive repair, subject to the requirements of the C-3 district in subsection 11-4-13D of this chapter.

Landscape and horticultural services, subject to:

1. A principal structure must be built on the site.
2. Landscape and horticultural services, subject to the requirements of the GI district subsection 11-4-16D of this chapter for outdoor display/storage or sales.

Lumber and construction materials businesses, subject to:

1. A principal structure must be built on site.
2. Lumber and construction material businesses, subject to the requirements of the GI district subsection 11-4-16D of this chapter for outdoor display/storage or sales.

Medium manufacturing, processing, and assembly uses.

Motor freight terminals.

Nonservice station retail facilities having gasoline pumps, subject to the requirements of the C-3 district in subsection 11-4-13D of this chapter.

Outdoor storage, subject to the following:

1. Outdoor display/storage or sales related to motor and recreational vehicle, trailer, boat, or agricultural machinery sales or rental is prohibited.

2. The site and building(s) shall be designed to limit the effects of outdoor storage on adjacent properties and public rights of way.
3. The outdoor storage area is limited to an area equal to fifty percent (50%) of the gross floor area of the principal building.
4. The storage area shall be clearly identified on the approved site plan for the project, may only be located in either a side or rear yard, and shall not encroach into any required setback.
5. Any outdoor storage area shall be enclosed by a one hundred percent (100%) opacity screen to a height equal to the item being screened but not more than thirty five feet (35'). Any portion of the storage area adjacent to a public right of way (ROW) or any nonindustrial use or district shall be screened by building(s) or screening wall(s) made of the same materials as the principal building and shall not extend more than seventy feet (70') without a change in architecture to reduce its mass and appearance. Those portions of the storage area adjacent to any industrial use or district may be screened by fencing or the like.
6. The storage area shall be surfaced with concrete or an approved equivalent to control dust.
7. The storage area shall not take up, or interfere with access to, any required parking, loading, maneuvering or pedestrian area.
8. The storage area shall be maintained in a neat and orderly fashion.
9. The perimeter measurement of the outdoor storage shall be included in the calculation of required foundation plantings.
10. No public address system shall be audible from a noncommercial or nonindustrial use or district.

Self-service storage facilities, subject to requirements of the C-3 district in subsection 11-4-13D of this chapter except the following:

1. All storage shall be maintained in the storage space and there shall be no outdoor storage of any products, equipment or other material within the storage facility; provided, however, open storage for licensed, operable recreation vehicles shall be permitted, provided the amount is not more than fifty percent (50%) of the area occupied by buildings.

Other uses similar to those in this district as determined by the board of appeals and adjustments, subject issuance of a conditional use permit.

E. Interim Uses: The following uses are interim uses in the LI light industrial district and are subject to the interim use permit provisions outlined in this title:

Commercial outdoor recreation.

Temporary buildings accessory to an approved construction project, subject to:

1. Execution of an interim use permit agreement specifying the expiration of the IUP and removal of the temporary building(s).
2. Temporary buildings are subject to the interim use permit standards, findings and conditions specified in section 11-10-8 of this title.

3. Temporary buildings may be exempt from conformance with the following standards of the zoning ordinance at the discretion of the city:

- a. Supplementary regulations subsection 11-5-2A, "Building Type And Construction", of this title.
- b. Subsection 11-6-1L, "Off Street Parking Design And Construction Standards", and section 11-6-3, "Landscaping Requirements", of this title.
- c. Subsection G, "Site And Building Standards", of this section for the LI light industrial district.

4. Temporary buildings shall conform to all other general industrial district standards specified within this title, and be set back five hundred feet (500') from adjoining public right of way or visually screened from public right of way, public/institutional or residential districts or uses. If the building is not appropriately screened, the city may require additional landscaping or enhanced treatment of the temporary structure.

5. Temporary buildings are subject to building code permits and requirements.

6. Temporary buildings are subject to fire code permits and requirements.

7. The site must accommodate adequate parking for the intended use.

8. Site grading and drainage must comply with city ordinances and engineering guidelines. The city may, at its discretion waive some of the requirements if alternative solutions are acceptable.

Lot And Building Requirements:

1. Minimum lot area: Three (3) acres.

2. Minimum lot width: Two hundred forty feet (240').

3. Maximum lot coverage: Seventy five percent (75%).

4. Minimum district size: Five (5) acres.

5. Minimum front yard setback:

a. Principal structure: Thirty feet (30').

b. Accessory structures: Thirty feet (30').

6. Minimum side yard setbacks:

a. Principal structures: Ten feet (10').

b. Accessory structures: Ten feet (10').

7. Minimum rear yard setbacks:

a. Principal structures: Ten feet (10').

b. Accessory structures: Ten feet (10').

8. Parking setbacks:

a. Minimum front yard setback: Twenty feet (20').

b. Minimum rear yard setback: Ten feet (10').

c. Minimum side yard setback: Ten feet (10').

9. Buffer yard and setback increases: When a permitted, accessory, interim, or conditional use abuts any of the items listed in the table below, the applicable increased minimum yard setback shall apply.

Item	Increased Minimum Setback	
	Parking And Circulation	Structure
Principal arterial ROW	40 feet	75 feet
Minor arterial ROW	35 feet	60 feet
Collector ROW	30 feet	40 feet
Railroad	10 feet	30 feet
Noncommercial or nonindustrial uses/districts	30 feet or 2 x building height ¹	30 feet or 2 x building height ¹

Note:

1. See subsection F9a of this section.

a. Noncommercial Or Nonindustrial Uses/Districts: A buffer yard equal to thirty feet (30') or two (2) times the height of the building, whichever is greater, shall be required along any side or rear property line abutting any noncommercial or nonindustrial use or district. The minimum buffer yard for any single occupancy building with a footprint equal to or larger than forty thousand (40,000) square feet, but not greater than one hundred thousand (100,000) square feet, shall be increased by fifty percent (50%) of the required buffer yard. Buffer yards for buildings with a footprint exceeding one hundred thousand (100,000) square feet shall be increased by one hundred percent (100%). This area shall contain landscaping and berming to provide a ninety percent (90%) opacity screen to a height of at least six feet (6') and shall not contain any structures, parking, off street loading or storage. Should landscaping and berming be found ineffective by the city, the city may approve screening walls and/or decorative fencing as an alternative. Screening walls shall be constructed of the same materials as the principal building and shall not extend more than thirty five feet (35') without a change in architecture to reduce their mass and appearance.

G.Site And Building Standards: To prevent urban blight and ensure quality long lasting construction compatible with both adjacent properties and those throughout the district, all sites and buildings shall comply with the following standards, as well as applicable sections of this title:

1. Architectural Appearance: While variation in materials and colors that support the general theme may be allowed, the overall building shall have "360 degree" architecture. Nonearth tone materials shall be limited to architectural accents. The color of the nonbrick or stone portion of the

building shall match the predominant brick or stone color portion.

a. **Entry Features:** Building entrances facing a public right of way or abutting a required parking area shall be accented by visually pleasing entry features. This feature shall extend a minimum three hundred (300) square feet around a single entrance. Should the building have more than one entrance facing a public right of way or abutting a required parking area, this feature shall extend a minimum one hundred fifty (150) square feet around each individual entrance.

b. **Corner Architecture:** Corner architectural elements are encouraged to define the edges of a building.

2. **Building Massing:** Facades shall be articulated to reduce their mass and scale and provide visual interest consistent with Rosemount's identity, character, and scale. Large uninterrupted building walls or elevations are prohibited. Any wall more than one hundred feet (100') in length shall be divided into increments of no more than seventy feet (70') through the articulation of the facade. This shall be achieved through combinations of the following techniques:

- a. Divisions or breaks in the materials.
- b. Arcades, entry features, window bays, or the like.
- c. Variations in rooflines or slope plane.
- d. Variation in building plane or setback.
- e. Equivalent techniques approved by the city.

3. **Permitted Materials:** The exterior wall surfaces, except for windows, of all buildings shall be constructed of brick, natural stone, specialty integral colored concrete block (including textured, burnished, and rock faced block), tile (masonry, stone or clay), architectural textured concrete panels cast in place, precast concrete panels or better. Unadorned concrete is prohibited.

4. **Pedestrian Circulation:** Appropriate provisions shall be made to protect pedestrian areas from encroachments by parked or moving vehicles. Clear and well lighted walkways shall extend throughout the site and parking area(s) connecting building entrances to adjacent public sidewalks and any parking facilities located on the site.

- a. A walkway at least six feet (6') wide shall extend along any facade featuring a building entrance and any facade abutting a required parking area.
- b. A continuous and permanent concrete curb not less than six inches (6") above grade shall separate internal sidewalks from parking, loading, stacking and maneuvering areas.
- c. Concrete sidewalks, five feet (5') in width, shall be provided along any collector or arterial street.

5. **Lighting:** Lighting shall be consistent in character throughout the entire property site, in both design and bulb type.

- a. Any light fixture must be placed in such a manner that no light emitting surface is visible from any residential area or public/private roadway, walkway, trail or other public way when viewed at ground level.
- b. Light shall be directed toward the ground. Externally lit signs, display, building and aesthetic

lighting must be lit from the top and shine downward. Lighting must be shielded to prevent direct glare.

c. The level of lighting shall not exceed 0.5 lumens at any residential property line or 1.0 lumen at any nonresidential property line.

d. The maximum height for exterior lighting shall be thirty feet (30'). The maximum height for exterior lighting within one hundred feet (100') of a residential use or district shall be twenty feet (20').

e. All nonessential lighting will be required to be turned off after business hours, leaving only the necessary lighting for site security.

6. Parking And Loading Areas: To reduce the impact of large expanses of paved surfaces, provide screening, and supply adequate room for snow storage, all parking areas (including driveways and drive aisles) adjacent to a public right of way or nonindustrial uses or districts shall be screened and landscaped. Trees, shrubs, flowers and ground cover needed in these areas shall be in addition to the minimum number of the same required by this title. These screening standards shall also apply to loading areas with the additional requirement that no loading area may face a public right of way or nonindustrial use or district.

a. Screening: Landscaping and berming shall be the primary source for screening parking and loading areas. Should landscaping and berming be found ineffective by the city, the city may approve screening walls and/or decorative fencing as an alternative. Screening walls shall be constructed of the same materials as the principal building and shall not extend more than seventy feet (70') without a change in architecture to reduce their mass and appearance. Parking area screening shall provide a minimum fifty percent (50%) opacity screen to a height of at least four feet (4'). Loading areas screening shall provide a minimum ninety percent (90%) opacity screen to a height of at least eighteen feet (18').

b. Landscaping: A minimum of five percent (5%) of the parking area shall be landscaped. This landscaping shall be located on islands, peninsulas or the like within the perimeter of the parking area.

(1) The islands or peninsulas shall be a minimum eight and one-half feet (8.5') wide and extend the length of the adjacent parking stall(s). These dimensions may be altered to provide sufficient area for the proposed landscaping to mature.

(2) To ensure this landscaping is properly dispersed, a minimum of one island, peninsulas or the like shall be located within each six thousand (6,000) square feet of vehicular use area.

(3) A minimum of one tree shall be required for each two hundred fifty (250) square feet or fraction thereof, of required landscape area. Deciduous trees shall have a clear trunk of at least five feet (5') above the ground and a caliper of at least two and one-half inches (2.5"). Coniferous trees shall be at least four feet (4') in height. The remaining area shall be landscaped with shrubs or ground cover (not to include rocks or gravel except as a mulch around shrubs and ground cover) not to exceed two feet (2') in height.

7. Landscaping: All areas of land other than those occupied by building or hardcover shall be landscaped with a combination of sod and plantings. Rock or mulch may only be used as an accent material around sod or plantings. Trees, shrubs, flowers and ground cover needed in these areas shall be in addition to the minimum number of trees and foundation plantings required by this title. All landscaped areas shall be irrigated. Portions of the site may be exempt from these requirements with city approval where future development or expansion is planned within a

reasonable period of time. These areas shall either be graded and seeded with prairie or maintained grass in accordance with the city of Rosemount grading requirements or remain as undisturbed natural areas containing existing viable natural vegetation that can be maintained free of foreign and noxious plant material and will not produce soil erosion due to potential increases in storm water runoff.

8. Trash Handling: All trash, recycling and related handling equipment shall be stored in a manner consistent with the standards outlined in section 5-1-3 of this code.

9. Signage: Only wall and freestanding ground monument signs shall be permitted in the district in accordance with the city of Rosemount's sign regulations and these additional standards as follows:

a. Freestanding Ground Monument Signs: A freestanding ground monument sign shall be designed with a base structure of the same exterior decorative materials as the principal structure on the site; and that extends from the sign copy area fully to the ground, except for architectural relief treatments. All freestanding ground monument signs, if illuminated, shall use only indirect light with the light source fully diffused. These signs shall be appropriately landscaped and subject to the same requirements for all landscaping on the property.

b. Wall Signs: Wall signs shall consist of permanent high quality materials with finished edges. No wood signs shall be permitted. Where more than one wall sign is requested per building frontage (i.e., a multi-tenant center), a uniform sign criteria shall be prescribed by the building owner, subject to review and approval by the city. The sign criteria shall, among other things, describe the uniform type of sign to be allowed, limitations of placement on the building, the method of fastening, and the procedure for tenant sign approval.

10. Rooftop Utilities: The ground level view of all rooftop equipment, including, but not limited to, rooftop structures related to elevators and other mechanical utilities, shall be screened from public right of way and adjacent or nearby residential uses and districts. Screening should be accomplished by incorporating architectural building design features such as a parapet wall or sloping roof structures. Wood fencing shall not be permitted. If due to factors unique to the property or the project, it is physically impossible or impractical to screen these utilities, the city's planning commission may approve alternative solutions that render them aesthetically compatible with the building.

11. Underground Electrical Services: No building or structure located in the district shall be served other than by underground electric, telephone and cable distribution facilities. Poles, wires or other aboveground distribution facilities may only be temporarily installed during site construction or repair of the underground system. No changes in the grade or contours of land above or adjacent to these facilities, once installed, shall be made without the approved written consent of the city engineer and the utility company providing such services. (Ord. B-169, 4-4-2006)

11-4-16: IG GENERAL INDUSTRIAL DISTRICT:

A.Purpose And Intent: The general industrial district is intended to be exclusively for heavier industries which require large sites and outdoor storage. (Ord. B, 9-19-1989)

B.Uses Permitted By Right:

Adult uses as defined and regulated in section 11-7-5 of this title and title 3, chapter 8 of this code.

Asphalt, cement and concrete production.

Auto body and major repair, provided that any outdoor storage is completely screened.

Commercial use antennas and commercial use antenna towers; provided, however, commercial use antenna towers are permitted only in that part of the city east of a line that begins one-half (1/2) mile west of Rich Valley Boulevard.

Manufacturing, warehousing, wholesaling, distribution, processing, packaging, assembly, compounding and accessory uses.

Mineral extraction, subject to requirements of section 11-10-4 of this title.

Motor freight terminals.

Recycling operations, subject to requirements of section 11-10-5 of this title.

Refinery and storage of crude oil, refined oil, alcohol and other liquids and including fertilizer storage.

Related and support office and commercial uses provided they are located within the same structure as the principal use.

Self-service storage facility subject to the following standards:

1. The perimeter of the storage facility shall be entirely enclosed by a combination of buildings and decorative fencing. Chainlink, barbed wire or wood privacy fencing shall not be permitted as a decorative material, except as may otherwise be approved by the planning commission. For the purposes of calculating foundation planting requirements, the decorative fencing shall be included in the building perimeter calculation requirement.
2. All storage space openings shall be oriented internally to the facility and shall not directly face a public street or adjoining property.
3. Green space, planting clusters and berming shall, where possible, be strategically designed and located around openings between storage facility structures.
4. An accessory caretaker residence may be permitted with a storage facility, provided it is only used for resident security and management purposes and the exterior building materials shall match that of the principal and accessory storage facility structures.
5. Outdoor storage of equipment and materials may be approved for the storage facility outside of the individual storage spaces providing the following conditions are satisfied and met:
 - a. The outdoor storage area shall be completely contained within the perimeter of the storage facility building and fence enclosed area.
 - b. The height of the outdoor storage equipment and materials shall not exceed that of the adjacent building and/or fenced area.
 - c. Where the outdoor storage is adjacent to a fenced enclosure, the fence shall consist of the same materials as the principal structure(s) on the site and shall be one hundred percent (100%) opaque from the ground to the top of the enclosure.
 - d. The outdoor storage area shall not exceed twenty percent (20%) of the total impervious building and paved surface improvement areas upon the property. (Ord. B, 9-19-1989; amd.

C. Uses Permitted By PUD: Industrial developments involving multiple parcels, structures or uses shall be required to use the PUD procedure. Refer to section 11-10-6 of this title for PUD requirements. (Ord. B, 9-19-1989)

D. Uses Permitted By Interim Use Permit:

Asphalt plants and related processing of stockpiled materials subject to the following:

1. The asphalt plant and all equipment and materials associated with it shall be located a minimum of six hundred feet (600') from any nongeneral industrial district land, and two thousand six hundred feet (2,600') from any residential or public district.
2. The plant and all equipment and materials associated with it shall be set back a minimum of seventy five feet (75') from any property boundary line and screened by natural features including changes in elevation and vegetation. Year round one hundred percent (100%) opaque screening with earthen berms and landscaping shall be required from ground level to the first thirty percent (30%) of the overall height and fifty percent (50%) opaque to fifty percent (50%) of the overall height of the plant as viewed from eye level from surrounding right of way or roadways.
3. Asphalt plants are exempt from the minimum building size requirements specified in subsection E9b of this section.
4. Traffic generated by the asphalt plant shall utilize haul routes approved by the city and other agencies as required. The asphalt plant owner shall be responsible for road improvements and easements needed for ingress and egress subject to approval by the city, as well as the county highway department or the Minnesota department of transportation as required.
5. Traffic generated by the asphalt plants shall enter onto streets consistent with city access and design standards. The owner of the asphalt plant shall be responsible for all costs associated with road improvements required to serve the use.
6. Stockpiles associated with the asphalt plant shall be limited to a height of fifty feet (50').
7. No smoke or particulate matter shall be discharged that is darker than no. 1 classification of the Ringelmann smoke chart furnished by the U.S. bureau of mines, or twenty percent (20%) opacity as determined by the MPCA. Further, emissions shall conform to standards set by EPA and MPCA.
8. The asphalt plant shall operate so as not to discharge onto the soils of the lot, across the boundaries of the lot or through percolation into the subsoil of the lot or beyond the boundary of the lot where such use is located, toxic or noxious matter in such concentrations as to be detrimental to or endanger the public health, safety, comfort or welfare; or, cause injury or damage to property or business.
9. The asphalt plant shall operate in a way so as to prevent the emission of odorous matter of such quality as to be readily detectable beyond the lot line of the site on which such use is located.
10. The asphalt plant shall comply with the applicable operating, special requirements and bonding for restoration standards for mineral extraction specified in section 11-10-4 of this title.

Commercial outdoor recreation.

Spent bauxite disposal facility as an accessory use only.

Temporary buildings accessory to an approved construction project subject to:

1. Execution of an interim use permit agreement specifying the expiration of the IUP and removal of the temporary building(s).
2. Temporary buildings are subject to the interim use permit standards, findings and conditions specified in section 11-10-8 of this title.
3. Temporary buildings may be exempt from conformance with the following standards of the zoning ordinance at the discretion of the city:
 - a. Subsection 11-5-2A4 of this title.
 - b. Subsection 11-6-1L and section 11-6-3 of this title.
4. Temporary buildings shall conform to all other general industrial district standards specified within this title, and be set back five hundred feet (500') from adjoining public right of way or visually screened from public right of way, public/institutional or residential districts or uses. If the building is not appropriately screened, the city may require additional landscaping or enhanced treatment of the temporary structure.
5. Temporary buildings are subject to building code permits and requirements.
6. Temporary buildings are subject to fire code permits and requirements.
7. The site must accommodate adequate parking for the intended use, as proposed by the property owner.
8. Site grading and drainage must comply with city ordinances and engineering guidelines. The city may, at its discretion waive some of the requirements if alternative solutions are acceptable. (Ord. B, 9-19-1989; amd. Ord. B-13, 9-26-1991; Ord. B-32, 9-21-1993; Ord. B-144, 10-19-2004; Ord. B-150, 1-28-2005)

E. Lot And Building Requirements:

1. Minimum lot area: Five (5) acres.
2. Minimum lot width: n/a.
3. Maximum lot coverage: Fifty percent (50%).
4. Minimum district size: Ten (10) acres.
5. Minimum front yard setback:
 - a. Principal structure: Seventy five feet (75').
 - b. Accessory structure: Seventy five feet (75').
6. Minimum side yard setback:

- a. Principal structure: Fifty feet (50').
 - b. Accessory structure: Fifty feet (50').
7. Minimum rear yard setback:
- a. Principal structure: Fifty feet (50').
 - b. Accessory structure: Fifty feet (50').
8. Parking setback:
- a. Minimum front yard setback: Forty feet (40').
 - b. Minimum side yard setback: Twenty five feet (25').
 - c. Minimum rear yard setback: Fifty feet (50').
9. Building size:
- a. Maximum building height (principal or accessory): Seventy five feet (75').
 - b. Minimum building size: Ten percent (10%) of subject property excluding protective wetlands. (Ord. B-133, 8-7-2003)

11-4-17: WM WASTE MANAGEMENT DISTRICT:

Purpose And Intent: This district is intended to accommodate waste industries and the inherent environmental problems associated with waste management. (Ord. B, 9-19-1989)

B.Uses Permitted By Interim Use Permit:

Construction demolition waste facility subject to the following restrictions:

- 1. Facility construction debris does not exceed two hundred thousand (200,000) cubic yards of total permitted waste volume within the Rosemount corporate limits. Recycling operations subject to requirements of section 11-10-5 of this title.
- 2. The facility is developed, operated and maintained in accordance with an approved interim use permit by the city of Rosemount and all other applicable local, state and federal laws.
- 3. Permits for the facility by the state of Minnesota and Dakota County are pending or have received approval.

Nonhazardous industrial waste containment facility. (Ord. B, 9-19-1989; amd. Ord. B-64, 6-18-1996; Ord. B-126, 3-6-2003)

11-4-18: P PUBLIC AND INSTITUTIONAL DISTRICT:

Purpose And Intent: This district is primarily intended to accommodate major public and institutional uses of a governmental, educational, cultural, recreational, public service and healthcare nature that serve the entire community. Where available, structures shall be serviced by the public sewer and water systems.

B. Uses Permitted By Right: All public and institutional uses, facilities and structures. (Ord. B, 9-19-1989)

C. Uses Permitted By Conditional Use Permit (CUP): In accordance with section 11-10-7, "Conditional Use Permits (CUP)", of this title:

Cemeteries in accordance with the standards of section 11-10-10 of this title.

Commercial recreation, both indoor and outdoor by agreement or lease with a sponsoring governmental property owner for a facility that is jointly used by private and governmental entities.

Inflatable domes, stadiums and structures such as domes that are incompatible with residential districts shall be located a minimum of five hundred feet (500') from any residential district or use. (Ord. B, 9-19-1989; amd. Ord. B-130, 6-17-2003)

11-4-19: FP FLOODPLAIN DISTRICT:

A. Purpose And Intent: The floodplain district is designed to provide floodplain management for the city of Rosemount in accordance with the policies of Minnesota statutes ¹. The intent of the floodplain district is to regulate the flood hazard areas for the purposes of reducing the risk of loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

B. General Provisions:

1. Establishment Of Zoning District: The floodplain areas within the jurisdiction of this title are hereby designated floodplain district (FP). The boundaries of this district shall be shown on the 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 title. The attached materials shall include the flood insurance study for the city of Rosemount prepared by the federal insurance administration dated January 1980, and the flood boundary and floodway map, dated July 16, 1980, and floodway insurance rate map, dated July 16, 1992. The floodway and the flood fringe areas delineated on the flood boundary map comprise the area designated as the floodplain zoning district on the official zoning map. A copy of the official zoning map and all other maps referenced herein shall be on file in the office of the city clerk.

2. Rules For Interpretation Of Floodplain District Boundary: The boundary of the floodplain district established by this section shall be determined by scaling distances on the official zoning map. Where interpretation is needed as to the exact location of the boundary of the district as shown on the official zoning map or there is a conflict between a mapped boundary and actual field conditions, the planning commission shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile and other available technical data. The person contesting the location of the district boundary shall be given a reasonable opportunity to present their case to the planning commission and to submit technical evidence.

3. Compliance: No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this section and other applicable regulations which apply to uses within the jurisdiction of this title. Within the floodplain district, all uses not listed as permitted uses or conditional uses shall be prohibited. In addition, a caution is provided here that:

a. Modifications, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the

general provisions of this section and specifically subsection C of this section; and

b. As built elevations for elevated or floodproofed structures must be certified by ground surveys and floodproofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this section and specifically as stated in section 11-10-9 of this title.

4. Warning And Disclaimer Of Liability: This section does not imply that areas outside the floodplain district or land uses permitted within such districts will be free from flooding or flood damages. This section shall not create liability on the part of the city or any officer or employees for any flood damages that result from reliance on this section or any administrative decision lawfully made thereunder.

C.FP Floodplain District Regulations:

1. Uses Permitted By Right: The following uses shall be permitted within the floodplain district. These uses shall not obstruct flood flows or increase flood elevations. In addition, these uses shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

Agricultural uses such as general farming, pasture grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting.

Industrial-commercial loading and parking areas.

Private and public recreational uses such as 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 ranges, hunting and fishing areas, and single or multiple purpose recreational trails.

Residential uses such as lawns, gardens, parking areas, and play areas.

2. Uses Permitted By Conditional Use Permit: The following uses shall be permitted upon issuance of a conditional use permit subject to the procedures and standards set forth in section 11-10-9 of this title. These uses shall not be permitted if they will cause any increase in the stage of the regional flood or increase the potential for flood damage in the reach or reaches affected.

Extraction and storage of sand, gravel, and other materials.

Marinas, boat rentals, docks, piers, wharves, and water control structures.

Placement of fill.

Railroads, streets, bridges, utility transmission lines, and pipelines.

Storage yards for equipment, machinery, or materials.

Structures accessory to the uses listed in subsection C1 of this section and this subsection C2.

3. Additional Standards For Floodplain Conditional Uses:

a. Standards For Fill:

(1) Fill, dredge spoil and all other similar materials deposited or stored in the floodplain 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 C3a(2) of this section, 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 planning commission has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available.

b. Standards For Structures:

(1) Structures shall not be designed for human habitation.

(2) Structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of floodwaters:

(A) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and

(B) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

(C) Accessory structures shall be elevated on fill or structurally dry floodproofed in accordance with the FP-1 or FP-2 floodproofing classifications in the state building code. As an alternative, an accessory structure may be floodproofed to the FP-3 or FP-4 floodproofing classification in the state building code provided the accessory structure constitutes a minimal investment, does not exceed five hundred (500) square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All floodproofed accessory structures must meet the following additional standards, as appropriate:

(i) 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; and

(ii) Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly floodproofed.

c. Standards For 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 planning commission.

(3) No garbage and waste disposal sites shall be issued for floodway areas and there shall be no further encroachment upon the floodway at existing sites.

d. Standards For Flood Control:

(1) 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 statutes, chapter 103G. Communitywide structural works for flood control intended to remove areas from the regulatory floodplain shall not be allowed in the floodway.

(2) 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.

e. Standards For Public Utilities, Railroads, Roads And Bridges:

(1) Public Utilities: All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain shall be floodproofed in accordance with the state building code or elevated to above the regulatory flood protection elevation.

(2) Public Transportation Facilities: Railroad tracks, roads, and bridges to be located within the floodplain shall comply with this title. 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.

(3) On Site Sewage Treatment And Water Supply Systems: Where public utilities are not provided: a) On site water supply systems must be designed to minimize or eliminate infiltration of floodwaters into the systems; and b) new or replacement on site sewage treatment systems must be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters 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.

D. Permit Requirements:

1. Permit Required: All permits issued by the city in conformity with the provisions of this title shall be secured prior to the erection, addition, 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 change or extension of a nonconforming use; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.

2. Application For Permit: Application for a permit shall be made in duplicate to the planning department and shall include the following where applicable: a) plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; b) existing or proposed structures, fill, or storage of materials; and c) the location of the foregoing in relation to the stream channel.

3. State And Federal Permits: Prior to granting a local permit or processing an application for a conditional use permit or variance, the planning department shall determine that the applicant has obtained all necessary state and federal permits.

4. 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 planning department stating that the use of the building or land conforms to the requirements of this title.

5. Construction And Use To Be 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 title, and punishable as provided by section 11-10-2 of this title.

6. 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 title. Floodproofing measures shall be certified by a registered professional engineer or registered architect.

7. Record Of First Floor Elevation: The planning department 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 floodplain. The planning department shall also maintain a record of the elevation to which structures and alterations or additions to structures are floodproofed.

E. Variances: The variance provisions in section 11-12-2 of this title shall apply to this section, in addition to the following findings:

1. No variance shall provide for a lesser degree of flood protection than the regulatory flood protection for the particular area or permit standards lower than those required by state law.

2. Notice of any application for a variance shall be submitted to the commissioner of natural resources at least ten (10) days prior to the date of hearing on the variance. Such notice shall specify the time, place and subject matter of the hearing and shall be accompanied by such supporting information as is necessary to indicate the nature and effect of the proposed use. A copy of all decisions granting a variance under this section shall be forwarded to the commissioner of natural resources within ten (10) days of such action.

F. Flood Insurance Notice And Record Keeping: The planning department 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 twenty five dollars (\$25.00) for one hundred dollars (\$100.00) 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 community 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.

G. Amendments To This Section: The floodplain designation on zoning maps shall not be removed from floodplain areas unless it can be shown that the designation is in error or that the areas are filled to an elevation at or above the flood protection elevation and are contiguous to other lands lying outside the floodplain district. Special exceptions to this rule may be permitted by the commissioner of natural resources if he determines that, through other measures, lands are protected adequately for the intended uses.

All amendments 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 ten (10) days' written notice of all hearings to consider an amendment to this section, and said notice shall include a draft of the ordinance amendment or technical study under consideration.

... requests to change a special flood hazard area designation shall meet the criteria established by ... the federal emergency management agency. (Ord. B-25, 2-2-1993)

11-4-20: IP INDUSTRIAL PARK DISTRICT:

A. Purpose And Intent: This district is intended to accommodate new, modern, high performance, light industrial uses which are planned as a unit and include an internal circulation system. This district is located within the MUSA and is intended to be served by the public utility systems. Uses shall be conducted completely within structures except as provided for herein.

B. Uses Permitted By Right:

Business and professional offices.

Machine and repair shops.

Manufacturing, custom.

Manufacturing, warehousing, wholesaling, distribution, processing, packaging, assembly, compounding and accessory uses.

Outdoor storage of materials, supplies and finished or semifinished products provided such storage shall be completely screened from view from public streets and adjacent properties by a wall or fence.

Support commercial uses provided they are located within the same structure as the principal use, and are incidental to the principal use, and do not have an entrance except from within the principal building.

Television and radio studios.

Testing and research laboratories.

C. Uses Permitted By Planned Unit Development (PUD): Industrial developments involving multiple parcels, structures or uses shall be required to use the PUD procedure. (Ord. B, 9-19-1989)

CHAPTER 5 DISTRICT DEVELOPMENT REGULATIONS

11-5-1: DIMENSIONAL STANDARDS:

For additional requirements, refer to section 11-5-2, "Supplementary Regulations", of this chapter; chapter 6, "Off Street Parking, Loading And Landscaping", of this title; and chapter 7, "Special Overlay Regulations", of this title.

DIMENSIONAL STANDARDS TABLE

Minimum Minimum

Lot Size (Feet)	Yards (Feet) GUOS/Unit (Square Feet)	Other Standards									
Districts	Zone 1	Width (Feet)	Area	Depth	Front	Side 6	Rear	Maximum Density	Maximum Building Height (Feet)	Maximum Lot Cover 11	
AG	n/a	300	2.5 ac		50	30	30	1/40 ac	50	n/a	
AG-P	n/a	300	40 ac		50	30	30	1/40 ac	50	n/a	
RR	n/a	U-300 P-200	U-5 ac P-2.5 ac		40	30	30	1/5 ac	35	n/a	
RL	n/a	110	20,000	180	30	15	30	n/a	35	30%	
R-1	n/a	C-95 I-8012	C- 12,000 I- 10,0003	125	304	10	30	n/a	35	30%	
R-1A	n/a	C-95 I-80	C- 12,000 I- 10,0003	125	304	T- 10 S-5	25	n/a	35	30%	
R-21	n/a	100	12,000	120	304	10	30	6/ac	35	%5	
R-22	n/a	120	18,000	150	304	30	30	6/ac	35	75%	
R-3	n/a	150	22,500	150	304	30	30	12/ac	35	75%	
R-4	n/a	150	22,500	150	304	30	30	40/ac	35	75%	
C-1	1 ac6	150	15,000	125	304	107	107	n/a	35	75%	
C-2	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	35	n/a	
C-4 BP-2 BP-4	1 ac	120	20,000		304	107	107	n/a	35	75%	
BP-1 BP-3	5 ac	n/a	0.5 ac		30	308	308	n/a	40	75%	
IG	10 ac	n/a	5 ac		75	508	508	n/a	75	50%9 75%10	
WM	10 ac	n/a	5 ac		75	508	508	n/a	75	50%	
P	n/a	n/a	n/a		30	308	308	n/a	40	75%	
FP	n/a	n/a	n/a		n/a	n/a	n/a	n/a	n/a	n/a	

U - Unplatted C - Corner lot T - Two-story
P - Platted I - Interior lot S - Single story

Notes:

1. Single- and two-family.
2. Multiple-family, including townhomes.
3. Corner lots in R-1 shall have a minimum of 12,000 square feet in area.
4. Refer to subsection 11-5-2C4a of this chapter for established front yards.
5. Two-family dwellings: 30 percent.
 Single-family detached dwellings: 40 percent.
 Single-family attached dwellings: 70 percent.
6. See subsections 11-5-2C2a and C2d of this chapter.
7. 30 foot minimum side or rear yard where abutting an R district.
8. Refer to subsection 11-5-2C2a of this chapter for buildings exceeding 35 feet in height.
9. May exceed 50 percent lot coverage up to a maximum of 75 percent lot coverage if storm water runoff is managed on site in accordance with city standards.
10. In sewered areas within MUSA or in an area designated as a future phased addition to the MUSA in the comprehensive guide plan.
11. Includes structures, paved parking area, driveways and other impervious surfaces.
12. Minimum lot width for lots in Country Hills is 65 feet.

(Ord. B, 9-19-1989; amd. Ord. B-20, 5-28-1992; Ord. B-49, 10-18-1994; Ord. B-59, 5-7-1996)

11-5-2: SUPPLEMENTARY REGULATIONS:

A. Building Type And Construction:

1. General Provisions:

a. No galvanized or unfinished steel, galvalum or unfinished aluminum buildings (walls or roofs), except those specifically intended to have a corrosive designed finish such as Cor-ten steel shall be permitted in any zoning district, except in association with farming activities.

b. Buildings in all zoning districts shall maintain a high standard of architectural and aesthetic compatibility with surrounding properties to ensure that they will not adversely impact the property values of the abutting properties or adversely impact the community's public health, safety and general welfare.

c. Exterior building finishes shall consist of materials comparable in grade and quality to the following:

(1) Brick.

(2) Natural stone.

(3) Decorative concrete block - "rock face", "breakaway" or other types of decorative block.

(4) Cast in place concrete or precast concrete panels.

(5) Wood, provided the surfaces are finished for exterior use and wood of proven exterior durability is used, such as cedar, redwood, cypress.

(6) Curtain wall panels of steel, fiberglass and aluminum (nonstructural, nonload bearing), provided such panels are factory fabricated and finished with a durable nonfade surface and their fasteners are of a corrosion resistant design.

(7) Glass curtain wall panels.

(8) Stucco.

2. Commercial Districts (C-1, C-2, C-3, C-4): In commercial districts all buildings with exterior finish or curtain wall panels of finished steel, aluminum, or fiberglass shall be required to be faced with brick, decorative block, wood, stone, architectural concrete cast in place or precast concrete panels on one hundred percent (100%) of wall surfaces abutting a public right of way, residential uses, or public areas. The required wall surface treatment on the remaining walls may allow a maximum of fifty percent (50%) of the metal or fiberglass wall to remain exposed if it is coordinated into the architectural design. Any exterior metal used for the building shall have a factory applied permanent finish. (Ord. B-53, 4-18-1995)

3. Business Park District (BP): In the business park district all buildings with an exterior finish of curtain wall panels of finished steel, aluminum or fiberglass shall be required to face with one, or a combination, of the following materials: brick, decorative block, glass, stucco, stone, architectural concrete cast in place or precast concrete panels; on at least fifty percent (50%) of all wall surfaces. The use of wood as an exterior finish shall only be permitted as an accent material. Any exterior metal used for the building shall have a factory applied permanent finish. Overlay zones with larger percentages of the above required materials are as follows:

	Overlay Zone		
	<u>BP-1</u>	<u>BP-2</u>	<u>BP-4</u>
Percentage of decorative material treatment for all wall surfaces	50%	100%	<u>BP-3</u> 50% 100%

Note: 100% for all surfaces facing a public right of way, public, or residential uses or districts.

4. General Industrial District (IG): It is acknowledged that the uses permitted in the general industrial district suggest larger and more extensive uses than in other districts. (Ord. B-53, 4-18-1995)

a. In the general industrial district all buildings of one hundred fifty (150) to one hundred thousand (100,000) square feet of floor area in size constructed with exterior finish of curtain wall panels of finished steel, aluminum, or fiberglass shall be required to be fifty percent (50%) faced with brick, decorative block, wood, stone, architectural concrete cast in place, or precast concrete panels on wall surfaces abutting a public right of way, residential uses, or public areas. The required wall surface treatment on the remaining walls may allow a maximum of seventy five percent (75%) of the metal or fiberglass wall to remain exposed.

(1) Exception: The required building materials specified in the above referenced standards may be waived by the city council upon issuance of an interim use permit (IUP) for temporary buildings in the general industrial district. (Ord. B-144, 11-5-2004)

b. Buildings over one hundred thousand (100,000) square feet of floor area shall be reviewed under planned unit development (PUD) requirements. Any exterior metal used for the building shall have a factory applied permanent finish. (Ord. B-53, 4-18-1995)

5. Single-Family Dwelling Requirements: All single-family detached dwellings shall be constructed according to the following minimum standards:

a. All dwellings shall have a minimum width of twenty four feet (24').

b. All dwellings shall have a frost free foundation as defined by the applicable building code. Split level, split entry and earth sheltered homes shall be considered to comply with this requirement.

c. Main roofs shall have a minimum pitch of three to twelve (3:12) per definition of the applicable building code.

d. Roofs shall be shingled with asphalt, wood, tiles, sod or other comparable materials as approved by the applicable building code.

e. Metal siding, with exposed panels exceeding sixteen inches (16") in width, shall not be permitted.

f. Earth sheltered homes will be permitted on the basis of site conditions, which are conducive to such housing, or in areas where changes to existing site conditions are complementary to the site and adjacent properties and the existing character of property and structures in the area. (Ord. B, 9-19-1989)

6. Accessory Buildings: Prefabricated metal storage buildings are limited to one hundred twenty (120) square feet maximum area in the R-1, R-1A, R-2, RL, RR, and AG (under 20 acres and/or for nonagricultural use west of Akron Avenue) districts.

a. Maximum aggregate total for any accessory building(s), excluding attached garage, is one thousand (1,000) square feet in R-1, R-1A, R-2, and RL districts.

b. Maximum aggregate total for any accessory building(s), excluding attached garage, is one thousand two hundred (1,200) square feet in the RR or AG (under 20 acres and/or for nonagricultural use west of Akron Avenue) districts.

(1) Exceptions: In the RR or AG (under 20 acres and/or for nonagricultural use west of Akron Avenue) districts accessory structures may exceed one thousand two hundred (1,200) square feet under the following circumstances:

(A) The maximum aggregate area for accessory structures shall not exceed fifty percent (50%) of the ground floor area of the principal building, including attached garage.

(B) Maximum lot coverage shall not exceed ten percent (10%) impervious surface. (Ord. B-46, 9-23-1994)

c. Any accessory building in the R-1, R-1A, R-2, RL, RR, or AG (under 20 acres and/or for nonagricultural use west of Akron Avenue) districts over one hundred fifty (150) square feet

must be constructed of materials comparable with and complementary to the principal structure. Comparable treatment includes the following requirements:

- (1) A minimum three to twelve (3:12) roof pitch;
- (2) Roofs shall be shingled with asphalt, wood, or tile to match the home (principal building).
- (3) Adequate number of windows shall be provided to break up the solid plane or exterior walls to simulate the character of the home (principal building).
- (4) Siding which is identical or closely matches the home (principal building) shall be incorporated into the design of the accessory building.

d. Accessory buildings to be constructed in the AG (agriculture) or AG-P (agricultural preserves) districts east of Akron Avenue are limited to a maximum aggregate total of two thousand four hundred (2,400) square feet of area for properties under twenty (20) acres in size or if the building is for nonagricultural use.

e. In RR or AG districts (under 20 acres and/or for nonagricultural use west of Akron Avenue) existing accessory structures may be exempted from aforementioned comparable exterior materials and maximum aggregate total standards. This exemption applies only in the case of structures originally constructed for agricultural use, being in existence at the time of adoption hereof and qualifying as a barn under this title. This exemption does not apply to prefabricated structures and does not permit the expansion of the structure's footprint.

(1) Properties with structures (barns) qualifying for this exemption are located at the following addresses:

13345 Bonaire Path

12101 Dodd Boulevard

12391 Dodd Boulevard

3270 McAndrews Road

13429 South Robert Trail

(2) Any exterior improvements to these barns must replicate the original appearance or agricultural character of the existing structure and shall be approved by the planning commission.

(3) Exterior materials shall be limited to wood, metal, vinyl, brick or better and be comparable with the existing conditions of the barn in the areas of: a) color, b) texture or grain, c) orientation of siding (vertical or horizontal), and d) lap width. Metal siding shall be noncorrugated and have a thickness of at least nineteen millimeters (19 mm) while vinyl siding shall have a gauge of at least 0.044 inches. In addition, metal or vinyl siding shall have a manufacturer's guarantee of at least twenty five (25) years.

(4) Roof materials shall be noncorrugated standing seam metal, asphalt shingles, or better and shall be comparable to the original roof. Substitution of new materials will only be allowed in the case of replacing obsolescent roofing materials. (Ord. B-131, 7-15-2003)

Dimensional Standards For
Accessory
Buildings And Surface
Parking

Accessory Buildings Minimum Yards (Feet) Districts	Maximum Building Height (Feet)	Surface Parking					
	Minimum Yards (Feet) Front	Side	Rear	Front	Side	Rear	
AG	50	30	30	75	502	53	52
AG-P	50	30	30	75	502	53	52
RR	40	305	30	35	402	53	52
RL	30	15	15/30 4	18	302	53	52
R-1	301	105	5/304	18	302	103	102
R-1A	301	55	5/254	18	302	103	102
R-2 (2F)	301	105	5/304	18	302	53	52
(3+F)	301	105	10	18	30	10	10
R-3	301	105	10	18	30	10	10
R-4	501	105	10	18	30	10	10
C-1				18	20	20	10
C-2				18	n/a	n/a	n/a
C-3				25	20	10	10
C-4	Same as for principal buildings	25	20	10	10		
BP				40	20	15	15
IG				75	40	25	50
WM				75	40	25	50
P				40	20	20	20
FP				n/a	n/a	n/a	n/a

Notes:

1. Or the required front yard as may be prescribed by subsection C4a, "Established Front Yards", of this section.
2. Except parking may occur within a normal driveway that crosses a required yard.
3. Driveways shall comply with yard setback requirements for surface parking.
4. 120 square feet or less in R-1 and R-2 districts: 5 foot setback; R-1A district: 5 foot setback; in RL district: 15 foot setback; except double frontage or corner lots: 30 foot setback. Over 120 square feet: 30 foot setback.
5. See subsections C2a and C2d of this section.

B. Supplementary Height Regulations:

1. Permitted Exceptions: The following structural appurtenances shall be permitted to a height not to exceed twenty five feet (25') in addition to the maximum height permitted for the district provided they do not impair the solar access of buildings on adjoining properties and are not used for human occupancy or commercial enterprise:

- a. Ornamentation such as church spires, belfries, bell towers, cupolas, domes, monuments and flagpoles.
- b. Mechanical appurtenances such as solar collectors, chimneys, smokestacks, elevator and stairwell penthouses, antennas, transmission towers and other necessary structures. (Ord. B, 9-19-1989)
- c. In all districts, setbacks for all freestanding tower antennas shall be equal to the height of the antenna and its supporting structure. (Ord. B-33, 10-19-1993)

C. Supplementary Yard Regulations:

1. Permitted Yard Encroachments: No yard or required open space shall be so reduced in area or dimension so as to make any such area or dimension less than required by this title. If already less than the minimum required, a yard shall not be further reduced. The following encroachments into required yards shall be permitted:

- a. Special Structural Elements: Special structural elements attached to the principal building such as chimneys, solar collectors, flues, belt courses, sills, pilasters, lintels, ornamental features, cornices, eaves and gutters provided they do not extend more than two and one-half feet (2 1/2') into a yard.
- b. Yard Lights: Yard lights in R districts not closer than five feet (5') to the front lot line and lights in all districts for illuminating parking areas, loading areas or yards for safety and security purposes provided the direct source of light is not visible from the public right of way or adjacent residential property. (Ord. B, 9-19-1989)
- c. Decorative Landscaping: Decorative landscaping, trees, shrubs and other aesthetic or sculptural elements including arbors and trellises within the front, side, street side and rear yards except within sight triangles adjacent to intersections on corner lots.
- d. Accessory Appendages:

(1) Terraces, steps and stoops to the front (main) entrance of a structure may encroach into the required front, street side or side yards by not more than fifteen feet (15'). However, in no case shall they be closer than five feet (5') to a lot line or encroach into a utility easement, whichever is more restrictive.

(2) Balconies, decks, and uncovered porches may encroach into a required yard area as follows:

(A) Front Yards: If the balcony, deck, or uncovered porch is less than two feet (2') in height above finished grade (not including railings) measured vertically at the face of the principal structure, it may encroach into the required street front yard area fifteen feet (15'). Balconies, decks and uncovered porches higher than two feet (2') may only encroach into required street front yards by five feet (5'). In no case shall any balcony, deck or uncovered porch be closer than five feet (5') to a lot line or encroach into a utility easement, whichever is more restrictive.

(B) Street Side Yards: If the balcony, deck or uncovered porch is less than two feet (2') in height above finished grade (not including railings) measured vertically at the face of the principal structure, it may encroach into the required street side yard area fifteen feet (15'). Balconies, decks and uncovered porches higher than two feet (2') may only encroach into required street side yards by five feet (5'). In no case shall any balcony, deck or uncovered porch be closer than five feet (5') to a lot line or encroach into a utility easement, whichever is more restrictive.

(C) Rear Yards: Fifteen feet (15') into a required rear yard area but no closer than fifteen feet (15') to a rear lot line or encroach into a utility easement, whichever is more restrictive.

(D) Side Yards: Five feet (5') into a required side yard area but no closer than five feet (5') to a lot line or encroach into a utility easement, whichever is more restrictive. (Ord. B-33, 2-11-1994)

(3) Covered deck or porches may encroach into the required front yard setback as follows:

Single-family homes built prior to January 1, 1980, may have an open single-story porch that encroaches into the required front yard a distance not exceeding ten feet (10'), provided they maintain a minimum front yard setback of twenty feet (20'). The ten feet (10') shall include the roofline, support columns, and steps. The porch area may have a railing, but not a solid wall, that conforms to the Minnesota state building code standards but shall not exceed 3.5 feet in height. The porch area shall not be enclosed nor screened with mesh, glass, or other similar material but may have dividers, spindles or lattice no higher than 3.5 feet from the base of the porch with no more than fifty percent (50%) opacity. (Ord. B-146, 11-26-2004)

e. Fences And Walls: Fences and walls not exceeding six feet (6') in height, are permitted in any district in the side or rear yards, but shall not exceed forty two inches (42") in front yards, provided that no structure shall interfere with sight distances for vehicles approaching intersections. Fences not exceeding eight feet (8') in height are permitted in all commercial districts except along property lines adjacent to residential districts. All fences located in recorded easements are the sole risk of the property owner; and the cost of any removal, relocation, or placement of said structures caused by any activity permitted in said easements is the sole responsibility of the property owner. Link fences shall be constructed in a manner that no barbed ends shall be at the top. Barbed wire and electric boundary fences not exceeding six feet (6') in height shall only be permitted in the AG, AG-P, and RR districts when related to agricultural or permitted uses relative to animal husbandry. (Ord. B-21, 6-16-1992)

f. Picnic Shelters, Gazebos, Recreation Equipment, Etc.: Picnic shelters, gazebos, pool houses, stairs, fire escapes and recreation equipment may be placed only in side or rear yard areas and shall conform to the requirements of subsection A6, "Accessory Buildings", of this section.

Exception: Recreational equipment such as basketball backstops, hockey nets, skateboard ramps (less than 36 inches in overall height), bicycle ramps (less than 36 inches in overall height), and other small recreational play equipment associated with residential use may be used and stored in the driveway area of a residence. No recreational play equipment may be stored, or installed in the right of way, any easement, public or private street, cul-de-sac, alley, path or sidewalk. Larger recreational equipment such as swimming pools, trampolines, or sport courts are not exempted. (Ord. B-129, 6-3-2003)

g. Satellite Dishes: Satellite dishes in R districts shall not be closer than ten feet (10') from a side or rear lot line and shall not be placed in front or street front yards. (Ord. B-33, 10-19-1993)

Exception: Satellite dish antennas less than one meter (39.7") in diameter are exempted from

this requirement. (Ord. B-129, 6-3-2003)

h. Security Fences: Security fences not exceeding eight feet (8') in height are permitted in the IG general industrial and WM waste management districts but shall be a conditional use in the PI public/institutional. Said security fences are subject to the applicable standards listed below and throughout this title:

(1) The conditional use standards in section 11-10-7 of this title.

(2) Barbed wire may be permitted on top of a security fence where the applicant demonstrates the barbed wire is necessary for greater security and will not be harmful to the health, safety, or welfare of the community.

(3) The barbed wire portion of the fence may not have more than three (3) strands, the lowest of which shall be at least six feet (6') from finished grade.

(4) No portion of the barbed wire shall project over the public right of way or any adjacent public or private property.

(5) No security fence (with or without barbed wire) shall be constructed without issuance of the applicable city permit. (Ord. B-159, 10-18-2005)

2. Required Side And Rear Yard Enlargement:

a. Corner Lots: Where a side yard abuts a street which is adjacent to the front yard of one or more residential lots on the same block, such side yards shall meet the front yard setback requirement of the district. The same yard dimension determined for such a side yard shall apply to structures in the rear yard.

b. Through Lots: Through lots shall provide the required front yard on both streets.

c. Commercial, Industrial And Public Buildings: For commercial, industrial and public buildings exceeding thirty five feet (35') in height and located on a lot adjoining an R district, any such building shall be set back from the interior side or rear lot line abutting said R district a minimum of one additional foot for each foot of building height in excess of thirty five feet (35'). Where there is an intervening alley, one-half (1/2) the alley right of way may be subtracted from this computation.

d. Yards Abutting Dissimilar Districts: Rear or side yards for dissimilar abutting districts shall meet the requirements of the more restrictive of the two (2) districts.

3. Side Yards; Permitted Reduction: No side yard shall be required between attached housing units.

4. Front Yards; Permitted Reduction And Required Expansion:

a. Established Front Yards: Where forty percent (40%) or more of the lots on any block are developed with buildings, the average front yard for the block shall be computed.

(1) Established R District Front Yards: Where the average is less than the required front yard, the average or twenty feet (20'), whichever is greater, shall be the required front yard. Where the average is greater than the required front yard, the average shall be the required front yard.

(2) Established C District Front Yards: The average front yard shall be the required front yard. (Ord. B, 9-19-1989)

5. Visibility At Intersections: A minimum sight triangle shall be established on each corner lot at every street intersection through which motorists shall have reasonable unobstructed view. The minimum sight triangle shall be defined as a triangle located at the corner of intersecting streets. The adjacent sides shall be located along the street right of way line (and adjacent property lines) of the intersecting streets and shall be twenty five feet (25') in length. The third side shall be a straight line joining the end points of the adjacent sides. The city shall have the authority to order the removal of vision obstructions located within the minimum sight triangle. (Ord. B-21, 6-16-1992)

6. Scope: The following supplementary yard regulations shall apply to all subdivisions except lots platted or developments granted preliminary plat approval prior to the adoption date hereof.

a. Residential principal structures shall be set back a minimum of thirty feet (30') from any easement boundary on a lot or a parcel of land that abuts or is traversed by an easement intended for or containing high voltage transmission lines.

b. Residential lot dimensional standards and principal structure setbacks shall be increased on the side adjacent to freeways, arterial and collector streets, and railroad rights of way or easements. Driveways, surface parking and accessory structures shall have increased setbacks adjacent to freeways and arterial highways. The following standards shall be in addition to existing setback criteria and dimensional standards to provide space for earthen berms, buffer yards or planting strips:

Side Adjacent To	Principal Structures And Increased Dimensional Standards	Accessory Structures, Driveways And Surface Parking
Collector street ¹	10 feet	n/a
Minor arterial highway ¹	20 feet	10 feet
Principal arterial (freeways) ¹	30 feet	20 feet
Railroads	30 feet	n/a

Note:

1. As designated by the transportation element of the comprehensive guide plan.

c. No accessory or principal structure shall be constructed within any easement. (Ord. B-58, 3-6-1996)

d. In commercial, business park, industrial, multi-family residential and single-family developments, site plans or plats, no driveway from private property serving a commercial, business park, industrial, multi-family residential or single-family attached residential use entering a public or private street shall be less than twenty four feet (24') nor more than thirty six feet (36') in width (not including medians). One-way driveways shall be no less than twelve feet (12') wide. Single-family detached residential driveways are subject to the following requirements when connecting to and within the street right of way:

(1) Maximum Width: They shall not exceed twenty two feet (22') in width (curb cut radii

excluded).

(2) Encroachment: Curb cut radii shall not encroach upon the boulevard of abutting properties.

(3) Number Of Curb Cuts: Only one curb cut shall be permitted from a street, provided:

(A) The required driveway setback shall be a minimum of five feet (5') from interior lot lines, and the greater of the applicable front yard setback or the required sight triangle from the street side yard property line on corner lots. In the event that a lot of record does not have sufficient width to meet the applicable driveway standards, the width and placement of the required driveway shall be subject to the approval of the city engineer.

(B) The proposed curb cut is in compliance with subsection 11-6-1G1 of this title.

(C) All district setback regulations for surface parking and impervious surface limitations are met. (Ord. B-158, 9-20-2005)

CHAPTER 6 OFF STREET PARKING, LOADING AND LANDSCAPING

11-6-1: OFF STREET PARKING REQUIREMENTS:

A. Purpose And Intent: It is the intent of these regulations that off street parking be provided and maintained by each property owner for the use of occupants, employees and patrons. These regulations are further intended to promote the safe and efficient storage, circulation and channelization of motor vehicles on site to avoid undue congestion of the public streets.

B. Compliance Required: In all districts except where exempt by subsection K of this section, off street parking shall be provided as follows:

1. New Construction: Full off street parking compliance is required for all newly erected buildings.

2. Enlargement: Whenever a use or building requiring off street parking is increased in floor area or when interior building modifications or structural alterations result in an increase in effective capacity for any use, additional parking shall be provided in proper ratio to the increase in floor area or capacity.

3. Change In Use: Whenever a building or use or part thereof is changed in usage, such that the new use requires more parking than the old, the extent to which the use is changed shall be required to comply fully with the provisions of this title.

4. Parking Lot Construction And Expansion: All new parking lots and improvements and extensions to existing lots shall comply fully with the requirements of this title.

C. Permits And Improvement Guarantees Required:

1. Permits: Building permits shall be required for parking lot construction in all districts except for one- and two-family residences.

2. Improvement Guarantees: For any parking improvement for which a building permit is required, a performance bond, letter of credit or other financial guarantee, as approved by the city attorney, in the amount of one hundred twenty five percent (125%) of the estimated construction cost shall

be submitted prior to issuance of a building permit and retained until said parking improvement is completed and acceptable to the city. Where plant materials are used in lieu of a masonry screen wall, this portion of the financial guarantee shall remain in effect for a period of not less than one year after planting to ensure plant material life. (Ord. B, 9-19-1989)

D. Limitations On Use:

1. No commercial repair work or service of any kind, or sale or display thereof, or the storage of new or used vehicles which are not for the use of the occupant, employees and patrons shall be conducted in such parking area.
2. Off street parking once designated as required off street parking shall not be changed to any other use until equal facilities as required by this code are provided elsewhere.
3. Off street parking existing at the date of adoption hereof in connection with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or use.
4. Except while loading, unloading, or rendering a service in a designated loading area, no commercial trucks, truck-tractor, or semitrailer combinations shall be parked and/or stored longer than twenty four (24) hours. Semitrailers may not be used for outdoor sales, storage or display. (Ord. B-164, 11-15-2005)

E. Joint Use Of Parking Areas: Two (2) or more buildings or uses may collectively provide off street parking in which case the required number of parking spaces shall not be less than the sum of the requirements for the individual uses computed separately. In the case of the joint use of off street parking spaces where operating hours do not overlap, the board of appeals and adjustments may grant an exception to allow the total parking required to be reduced below the sum total of the individual uses provided a copy of an agreement between joint users is filed with the application.

F. Location: All off street parking required by this chapter shall be located on the same lot as the use of the property intended to be served. Said off street parking shall be located in the same district as the use it is intended to serve. In the R districts, all required parking shall be located on the lot it is intended to serve. (Ord. B, 9-19-1989)

G. Backing Into A Street:

1. One-family and two-family dwellings having a driveway on a street listed in this subsection G, shall be provided with, and shall maintain, a driveway that has a paved turnout or turnaround area that is so designed and located as to allow the safe and convenient turning of vehicles on the lot of the dwelling so that cars may avoid backing into such streets. No certificate of occupancy will be issued for any such dwelling until such driveway is completed. The requirement of this subsection applies to dwellings that have not been issued a certificate of occupancy before the effective date hereof. This requirement applies to lots having a driveway on any of the following streets:

Akron Avenue

Auburn Avenue

Bacardi Avenue

Bloomfield Path

Chippendale Avenue

Connemara Trail

County Road 38

County Road 42

County Road 46

County Road 73

Diamond Path

Emery Avenue

Evermoor Parkway

Fahey Avenue

Fischer Avenue

McAndrews Road

Pine Bend Trail

Rich Valley Boulevard

Shannon Parkway

South Robert Trail

STH 3

STH 52

STH 55

126th Street W

130th Street W

140th Street W

145th Street W

160th Street W

(Ord. B-113, 3-6-2001)

H. Off Street Parking Required: The minimum number of off street parking spaces required shall be as follows:

Minimum Parking Required

Residential uses:

Accessory apartments	1 per unit
Boarding and rooming houses	2 per 3 persons
Daycare centers, nursery and Montessori schools	1 per 20 individuals plus 1 per teacher and employee
Group and foster homes	1 per 6 individuals plus 1 per employee
Mobile homes (in mobile home parks)	2 per dwelling unit
Multiple dwellings	2 per dwelling unit
One- and two-family units	2 per dwelling unit
Senior citizens housing	0.5 per dwelling unit

Public and quasi-public uses:

Churches	1 per 3 seats in largest assembly room
Clubs and lodges, social and fraternal	2 persons, based upon occupancy rating
Elementary and junior high schools	1 per classroom plus 1 per 20 students
Golf and country clubs	6 per hole
Government offices	1 per 200 square feet GFA
Hospitals and extended care facilities	1 per bed plus 1 per employee
Museums, libraries and art galleries	1 per 500 square feet GFA
Nursing homes	1 per employee
Post high schools	1 per teacher and employee plus 1 per 5 students
Senior high schools	1 per classroom plus 1 per 20 students
Stadiums, arenas, auditoriums accessory to a school	1 per 6 seats
Stadiums, arenas, theaters and auditoriums	1 per 3 seats plus 1 per employee

Business uses:

Accessory car washes	2
Animal clinics	1 per 400 square feet GFA
Assembly halls	1 per 3 seats
Athletic and weight reduction facilities:	
Racquetball/tennis	6 per court
All other	1 per 200 square feet GFA
Auto repair and sales, repair shops and wholesale establishments	3 per 1,000 square feet GFA plus 1 per employee
Banks	1 per 400 square feet
Beauty and barber shops	3 per operator and employee
Bowling alleys	5 per lane
Business and general office	5 per 1,000 square feet GFA

Car washes (principal use)	1 per employee
Convenience grocery stores	7 per 1,000 square feet GFA
Drive-up restaurants	1 per 3 seats
Funeral homes and mortuaries	1 per 3 seats in largest parlor or chapel
Gasoline stations	1 per employee
Home furnishing stores	1 per 300 square feet GFA plus 1 per employee
Hotels and motels	1 per guestroom plus 1 per employee
Medical, dental offices and clinics	5 per doctor plus 1 per employee
Movie theaters	1 per 4 seats
Musical instrument sales, floral, jewelry and shoe stores	1 per 300 square feet GFA
Outdoor recreation	3 patron capacity
Pool halls, roller and ice rinks, exhibition halls	2 persons based on occupancy rating
Restaurants, cafes, bars	1 per 3 seats
Retail sales and services, except as specified herein	6 per 1,000 square feet GFA
Shopping centers	5 per 1,000 square feet GFA
Industrial uses:	
Custom manufacturing	1 per 300 square feet retail space plus 1 per employee
Manufacturing, printing, publishing, processing, packaging, assembly	1 per 300 square feet GFA
Office	1 per 200 square feet GFA
Testing and research	1 per 500 square feet GFA
Warehousing	1 per 2,000 square feet GFA

Notes:

1. Employee = maximum number of employees on largest shift.
2. GFA = gross floor area.
3. Uses with multiple functions may be required to provide parking in accordance with more than one minimum standard.

(Ord. B, 9-19-1989; amd. Ord. B-66, 6-18-1996; Ord. B-164, 11-15-2005)

I. Drive-Through Facilities For Restaurants, Banks And Other Similar Uses:

1. Circulation: No stacking space shall encroach into any drive aisle necessary for the circulation of vehicles on the lot.
2. Setbacks Required: All stacking shall comply with the setbacks required for parking spaces.

3. Size Of Stacking Spaces: The minimum size of stacking spaces shall be nine feet by eighteen feet (9' x 18').

4. Conformance To Standards: All drive-through facilities for restaurants, banks, and other similar uses shall conform to the standards listed above, the applicable conditional use permit standards outlined in sections 11-4-13, "C-3 Highway Commercial District", and 11-4-14, "C-4 General Commercial District", of this title as well as the applicable sections of this title. (Ord. B-164, 11-15-2005)

J. Fractional Spaces: When determining the number of required parking spaces results in a fractional space, any fraction up to and including one-half (1/2) shall be disregarded and fractions over one-half (1/2) shall be rounded to require one additional space.

K. Off Street Parking Exceptions:

1. Compact Cars: Up to fifteen percent (15%) of the parking required for a given use may be designed specifically for compact cars, provided:

- a. Signage is erected at appropriate locations indicating "For Compacts Only".
- b. Compact stalls are located in one continuous area and signage is erected at the parking lot entry showing directions to compact only parking.
- c. The minimum design and construction standards apply.

2. Proof Of Parking Required: Establishments shall be capable of providing the number of on site parking spaces required by this chapter at any time said parking is needed. However, all such required parking need not be constructed initially if it is demonstrated by the owner to be in excess of the real parking demand. Future parking sufficient in quantity to meet the ordinance requirement shall be shown on the official site plan for which a building permit request is made and said parking shall be constructed at the discretion of the city if it proves to be needed later.

3. Central Business District: Uses constructed in the C-2 community commercial district shall be exempt from this section except that all such parking provided shall comply with the parking design standards in subsection L of this section.

L. Off Street Parking Design And Construction Standards:

		Minimum Requirements					
Parking Angle (Degrees)		0°	30°	45°	60°	75°	90°
Full size cars:							
Maneuvering lane width	12'	12'	14'	18'	21'	24'	
Parking space width	8'	8.5'	8.5'	8.5'	8.5'	8.5'	
Parking space length	22'	18'	18'	18'	18'	19'	
Bay dimension (1 tier)	20'	29'	41'	38'	41'	43'	
Bay dimension (2 tiers)	28'	46'	61'	58'	61'	62'	
Compact cars:							
Maneuvering lane width	12'	12'	12'	16'	19'	22'	
Parking space width	7.5'	8'	8'	8'	8'	8'	
Parking space length	20'	16'	16'	16'	16'	17'	
Bay dimension (1 tier)	19.5'	27'	29'	34'	37'	39'	
Bay dimension (2 tiers)	27'	42'	46'	52'	55'	56'	

Note:

1. Handicapped parking shall be provided as required by applicable building code.

1. Bumper Overhang: The minimum parking space length may be decreased by up to two feet (2') for spaces which allow the bumper of the auto to project beyond the terminus of the parking space without obstructing other parking spaces or vehicle circulation.

2. Maneuvering Lanes: All maneuvering lanes shall permit only one-way traffic movements with the exception of the ninety degree (90°) pattern where two-way traffic may be permitted. Each parking space shall have direct unimpeded access to a maneuvering lane and dead end maneuvering lanes shall only be permitted with the ninety degree (90°) pattern which is designed to accommodate two-way traffic.

3. Surfacing: All parking lots and drives other than for a single-family residence without public sewer shall be paved with a concrete or bituminous surface in accordance with standards as established by the city. All parking spaces shall be striped with suitable paint in accordance with approved plans except for single-family residences.

4. Curb And Gutter And/Or Barriers: All lots shall have curb and gutter or other suitable parking bumpers or barriers to channelize the flow of traffic and clearly define parking spaces in the interest of efficient lot utilization and conflict minimization.

5. Drainage: All parking lots shall have a drainage system which is approved by the city.

6. Screening: When a required off street parking lot for six (6) or more cars is located adjacent to an R district, landscaping and berming to meet ninety percent (90%) opacity year round must be provided along the R district property line. In certain situations, the city may consider, but not necessarily approve, installation of a fence or screen wall not more than six feet (6') in height but not within the required front yard. (Ord. B-139, 5-18-2004)

7. Lighting: Lighting shall be so arranged to deflect the light away from R districts and public streets.

8. Maintenance: It shall be the joint responsibility of the operator and owner of any principal use to maintain, in a neat and aesthetic manner, the parking space, accessway, landscaping and required fences and walls. (Ord. B, 9-19-1989)

9. Exception: The off street parking and design and construction standards may be waived by the city upon issuance of an interim use permit (IUP) for temporary buildings in the general industrial district. (Ord. B-144, 11-5-2004)

M. Driveways On Certain Corner Lots: Driveways for one- and two-family dwellings on corner lots having one side on a street named in this subsection and one side on a street having a lower volume of traffic shall be constructed and maintained to the street with the lower volume of traffic and no closer than sixty three feet (63') from the corner of the lot nearest the intersection of the two (2) streets. This requirement shall apply to such corner lots having one frontage on any of the following streets:

Akron Avenue

Auburn Avenue

Bacardi Avenue

Bloomfield Path
Chippendale Avenue
Connemara Trail
County Road 38
County Road 42
County Road 46
County Road 73
Diamond Path
Emery Avenue
Evermoor Parkway
Fahey Avenue
Fischer Avenue
McAndrews Road
Pine Bend Trail
Rich Valley Boulevard
Shannon Parkway
South Robert Trail
STH 3
STH 52
STH 55
126th Street W
130th Street W
140th Street W
145th Street W
160th Street W
(Ord. B-112, 3-6-2001)

11-6-2: OFF STREET LOADING REQUIREMENTS:

A. Minimum Requirements:

1. Loading facilities shall be provided for every retail establishment, warehouse, manufacturing or industrial use, in excess of ten thousand (10,000) square feet gross floor area, with a general requirement of one dock or berth per seventy five thousand (75,000) square feet gross floor area (loading facilities include docks, berths and maneuvering area).
2. All docks shall be located within the perimeter of the structure housing the principal or accessory use and shall be completely enclosed.
3. Off street loading spaces shall be equal to at least ten feet by forty feet (10' x 40'), excluding maneuvering area.
4. At no time shall any vehicle be permitted to extend into a pedestrianway or public right of way while loading or unloading.
5. All berths shall be screened from view of all dissimilar abutting zoning districts by plant materials, walls, earthen berms, fences or combinations thereof. (Ord. B, 9-19-1989)

11-6-3: LANDSCAPING REQUIREMENTS:

Detailed landscaping plans shall be required in all development proposals requiring site plan review. Landscaping plans shall be prepared consistent with the general site plan requirements in section 11-10-3 of this title.

A. Landscaping Plan Content:

1. Planting schedule containing:
 - a. Symbols.
 - b. Quantities.
 - c. Common and botanical names.
 - d. Sizes of material at planting and mature material sizes.
 - e. Root specifications (bare root, B and B, potted, etc.).
 - f. Dates or seasons to plant material.
 - g. Special planting instructions.
2. Identify existing trees and shrubbery by common name and size, which of these will remain in the final site design and how they will be protected during construction.
3. Include typical sections or details of fences, tie walls, planter boxes, picnic areas, berms and the like.
4. Include typical sections of landscape islands and planter beds with identification of material used.
5. Include details of planting beds and foundation plantings.

6. Delineate square footage of both sodding and seeding areas.

7. Describe and detail methods of controlling soil erosion during and after construction.

B. Minimum Number Of Plantings:

Zoning District	Overstory Trees	Foundation Plantings
AG	None	None
AG-P	None	None
RR	2 trees per unit/frontage ¹	None
RL	1 tree per unit/frontage ¹	None
R-1	1 tree per unit/frontage ¹	None
R-1A	1 tree per unit/frontage ¹	None
R-2	1 tree per unit/frontage ²	None
R-3	1 tree per open space unit exposure ³	See note 4
R-4	8 trees minimum plus 1 tree per unit ⁵	See note 4
R-4	8 trees minimum plus 1 tree per 2 units ⁶	See note 4
All Cs	8 trees or 1 per 3,000 square feet land area ⁷	See note 4
BP	8 trees or 1 per 3,000 square feet land area ⁷	See note 4
IP	8 trees or 1 per 3,000 square feet land area ⁷	See note 4
PB	8 trees or 1 per 3,000 square feet land area ⁷	See note 4
IG	Per recommendation of planning commission	See note 4

Notes:

1. Trees shall be deciduous, planted at the boulevard of each tree exposure.
2. Two-family dwellings: Trees shall be deciduous, planted at the boulevard of each street exposure.
3. Other attached dwellings: Trees shall be deciduous; spacing must include trees at the boulevard at 50 foot intervals.
4. 1 foundation planting per 10 linear feet of building (principal or accessory) perimeter.
5. 1 to 3-story building: Spacing must include trees at the boulevard at 50 foot intervals.
6. Over 3-story building: Spacing must include trees at the boulevard at 50 foot intervals.
7. Whichever is greater: Spacing must include trees at the boulevard at 50 foot minimum intervals.

C. Minimum Planting Standards:

1. Overstory Trees; Minimum Planting Size:

- a. Deciduous trees: 2.0-2.5 inches as measured six inches (6") aboveground.

b. Coniferous trees: Six feet (6') in height.

2. Foundation Plantings; Minimum Planting Size: Coniferous and deciduous shrubs shall be planted a minimum of one-third (1/3) the mature spread and height of typical growth habits.

3. Planting Materials: All planting materials used in site developments shall be indigenous to the appropriate hardiness zone and physical characteristics of the site.

4. Boulevard Trees: All boulevard trees proposed to satisfy the minimum requirements shall be long lived hardwood species and guaranteed for no less than one full growing season from completion of site planting.

5. Percentage Of Deciduous Trees: In meeting the overstory tree requirements at least seventy five percent (75%) of the total stock shall be deciduous trees. All boulevard trees shall be of shade or flowering tree types.

6. Shade Trees: When entire streets or blocks are proposed for development, shade tree species must be diversified so as each side of a city block would contain at least three (3) different varieties of tree genera with at least two (2) different species (if same genus used more than once).

7. Materials In Healthy Condition: All planting materials shall be disease free and able to survive in assigned locations in a healthy condition with the benefit of only minor maintenance.

8. Standards: All stock to be planted (shade and flowering trees, deciduous shrubs, coniferous evergreens, broadleaf evergreens, roses, vines and ground covers and fruit trees) must follow the standards set forth by the "American Standards For Nursery Stock" as adopted by the American Association of Nurserymen.

9. Grade: Final grades in all developments shall not exceed a three to one (3:1) ratio unless plans for retaining walls, terraces or similar controls have been approved by the city.

10. Screening: Where natural materials such as trees or hedges are approved in lieu of required screening by means of walls or fences, the density and species of such plantings shall be such to achieve ninety percent (90%) opacity year round. Conifers used for screening must meet overstory planting requirements.

11. Credit For Existing Trees: Credit for the retention of existing trees which are of acceptable species, size and location may be given to satisfy the minimum number of requirements set forth in this chapter. (Ord. B, 9-19-1989)

12. Exception: The required plantings may be waived by the city council upon issuance of an interim use permit (IUP) for temporary buildings in the general industrial district. (Ord. B-144, 11-19-2004)

D. Special Planting Conditions: Planting materials within landscape designs shall be compatible with planned site use. As a result, trees and shrubs (except low creeping shrubs) shall not be planted:

1. Under existing or planned utility lines when the mature height and spread of the planting may conflict with utility lines.

2. Over existing or planned utility lines so that upon plant maturity the root system conflicts with the utility lines.

3. So that upon mature height and width of plant growth its form conflicts with local vehicular or pedestrian traffic.
4. So that upon mature height and width of the plant its growth habits would conflict with any public service or safety device such as stop signs, traffic lights, streetlights, etc.
5. Any closer than fifteen feet (15') from any fireplug.
6. Any closer than thirty feet (30') from any intersection, measured back from curb line.

E. Tree Preservation:

1. Definitions: For purposes of this subsection E, the following definitions shall apply:

CANOPY OF TREE: The horizontal extension of a tree's branches and foliage in all directions from its trunk and upper layer of green crown.

CONIFEROUS/EVERGREEN TREES: A woody plant bearing seeds and cones oftentimes, but not always, retaining foliage throughout the year.

CONSTRUCTION AREA: Any area in which movement of earth, alteration in topography, soil compaction, disruption of vegetation, change in soil chemistry, or any other change in the natural character of the land occurs as a result of site preparation, grading, building construction or any other construction activity.

DECIDUOUS/HARDWOOD TREES: A woody plant which has a defined crown, and which loses leaves annually.

DEVELOPER: Any person or entity who undertakes to improve a parcel of land, by platting for the purposes of establishing two (2) or more dwelling units, or grading which requires a grading permit.

DIAMETER OF DECIDUOUS TREE: The length of a straight line measured through the trunk of a tree at four and one-half feet (4.5') above the ground for trees greater than four inches (4") in diameter, or six inches (6") above the ground for trees four inches (4") or less in diameter (also referred to as caliper in this case).

DRIP LINE OR ROOT ZONE OF A TREE: An imaginary vertical line which extends from the outermost branches of a canopy to the ground.

FORESTER: A person holding at least a Bachelor's Degree in Forestry from an accredited four (4) year college of forestry or any official appointed by the city.

HEALTHY TREE: Average or better condition and vigor for area as may be determined by the forester.

LANDSCAPE ARCHITECT: A person licensed by the state of Minnesota as a landscape architect.

NEW DEVELOPMENT: A piece of property that is being platted for the purpose of establishing urban residential use with two (2) or more dwelling units or is being improved by grading which requires a grading permit. This definition does not apply to agricultural lot splits or to public street/utility projects.

NURSERYMAN: A person licensed by the state of Minnesota as a nurseryman.

SIGNIFICANT TREE: A healthy tree measuring a minimum of eight inches (8") in diameter for deciduous trees measured at four and one-half feet (4.5') above the ground, and a minimum of twelve feet (12') in height for coniferous/evergreen trees.

SIGNIFICANT WOODLAND: A grouping or cluster of six (6) or more significant trees with a contiguous drip line in the case of deciduous trees, six (6) or more significant coniferous trees, or a mixture of the two (2) types of trees occupying at least seven hundred fifty (750) square feet of property or less if the trees are part of a DNR designated wildlife corridor.

2. Application: The provisions of this subsection E shall apply to all new development, except for preliminary plats approved by the city prior to the adoption hereof.

3. Process: Unless otherwise determined by the city council, the following process for preserving trees shall be required from the developer:

- a. Prepare a tree preservation plan which shall be incorporated on the grading plan.
- b. Implement the tree preservation plan prior to and during site development.
- c. Submit a performance of financial guarantee for compliance with the approved tree preservation plan.
- d. Comply with the city's tree replacement procedure.

The tree preservation plan shall be submitted with preliminary plat plans or as part of the application for a grading permit. The tree preservation plan must be certified by a forester, landscape architect, or nurseryman retained by the developer.

The plat and grading plans will not be approved by the city without an approved tree preservation plan. In the case of grading permit applications, the tree preservation plan will be approved by city staff. This decision may be appealed directly to the city council.

4. Tree Preservation Plan: The developer shall be responsible for implementing the tree preservation plan prior to and during site grading and plan development. The tree preservation plan will be reviewed by city staff to assess the best overall design for the project taking into account significant trees and significant woodlands and ways to enhance the efforts of the developer to mitigate corresponding damage. The developer is encouraged to meet with staff prior to submission of the preliminary plat application or prior to application for the grading permit, whichever is sooner, to determine the placement of buildings, parking, driveways, streets, storage and other physical features which result in the fewest significant trees and significant woodlands being destroyed or damaged. The tree preservation plan shall include the following items:

- a. The name(s) and address(es) of property owners and developers.
- b. Delineation of the buildings, structures, or impervious surfaces situated thereon or contemplated to be built thereon.
- c. Delineation of all areas to be graded and limits of land disturbance.
- d. Size, species, and location of all significant trees and significant woodlands located within the area to be platted or the parcel of record.

- e. Identification of all significant trees and significant woodlands on all individual lots. (The developer shall be required to submit a list of all lot and block numbers identifying those lots.)
- f. Measures to protect significant trees and significant woodlands.
- g. Identification of all significant trees and significant woodlands proposed to be removed within the construction area, including the contouring of all areas to be clear cut.
- h. Size, species, and location of all replacement trees to be planted on the property in accordance with the tree replacement schedule.
- i. Signature of the person preparing the plan and statement which includes acknowledgment of the fact the trees to be used as replacements are appropriate species with respect to survival of the replacement trees.

5. Mandatory Protection: Measures to protect significant trees and significant woodlands shall include:

- a. Installation of snow fencing, silt fence, or polyethylene laminate safety netting placed at the drip line of significant trees and significant woodlands to be preserved.
- b. Identification of any oak trees requiring pruning between April 15 and July 1; any oak trees so pruned shall be required to have any cut areas sealed with an appropriate tree wound sealant.

6. Discretionary Protection: Measures to preserve or protect significant trees and woodlands, which may be required by the city, include, but are not limited to:

- a. Installation of retaining walls or tree wells to preserve trees by eliminating the filling or cutting of soil within drip zones.
- b. Placement of utilities in common trenches outside of the drip line of significant trees, or use of tunneled installation.
- c. Prevention of change in soil chemistry due to concrete washout and leakage or spillage of toxic materials, such as fuels or paints.
- d. Use of tree root aeration, fertilization, and/or irrigation systems.
- e. Transplanting of significant trees into a protected area for later moving into permanent sites within the construction area.
- f. Safety pruning.

7. Significant Tree/Woodland Removal: Significant tree and significant woodlands removal shall be in accordance with the city approved tree preservation plan. This removal rate does not apply to unhealthy trees or to trees that the city may consider to be inferior in quality, including, but not limited to, box elder, cottonwood and poplar. The plan should remove no more than twenty five percent (25%) of the total significant trees and/or significant woodlands which were existing prior to the preliminary plat as a result of the following construction activities approved as a part of a preliminary plat:

- a. Site grading.
- b. Installation of public utilities including sanitary sewer, storm sewer, water, natural gas,

electrical service, and cable TV.

c. Construction/grading of drainageways.

d. Filling of any area.

e. Any other construction activity within the construction area.

Where practical difficulties or practical hardships result from strict compliance with the provisions of this paragraph, removal of additional significant trees and/or significant woodlands may be permitted without requiring a variance as defined in chapter 12 of this title. The hardship conditions and extent of tree removal must be identified in the tree preservation plan as approved in subsection E3 of this section. Additional removal beyond the permitted twenty five percent (25%) shall follow subsection E9 of this section.

8. Financial Guarantee: Refer to subsection G of this section.

9. Replacement Procedure: Developers shall be required to replace the significant trees and significant woodlands (other than those trees that the city may consider to be inferior in quality, including, but not limited to, box elder, cottonwood and poplar) which were indicated on the tree preservation plan to be saved, but were ultimately destroyed or damaged up to a year after the development is complete. Significant trees and significant woodlands that suffered immediate destruction must be replaced prior to a certificate of occupancy being issued. The developer shall be required to replace each of the significant trees destroyed or damaged with replacement trees as follows: two (2) replacement trees for every deciduous tree twenty inches (20") or less in diameter, or for every coniferous tree twelve feet (12') or less in height; or, four (4) replacement trees for every deciduous tree greater than twenty inches (20") in diameter, or for every coniferous tree greater than twelve feet (12') in height. In the case of a significant woodland being damaged or destroyed, the amount of square footage removed must be replaced. The city may also determine that a tree has been damaged or destroyed once any protective measure identified in subsection E5 or E6 of this section has been violated. Replacement trees shall be in addition to other tree planting requirements of the city, including, but not limited to, boulevard trees per residential lot. Species available to nurseries most similar to lost tree types must be used; city staff may refuse inappropriate replacement trees. Replacement trees must consist of nursery stock and be no less than the following sizes:

a. Deciduous trees: Two inches (2") in diameter or caliper.

b. Coniferous trees: Six feet (6') in height.

Replacement trees shall not be placed on easements or street rights of way; the city, however, reserves the right to plant and care for trees planted in public rights of way. City staff can assist in the siting of replacement trees. Should placing the replacement trees on a site, once the site has been developed, prove difficult or impossible, the trees will be placed on public property at the direction of city staff. The following list of materials is acceptable. Other selections may be approved by city staff.

DECIDUOUS TREES

<u>Small Trees</u>	<u>Medium Trees</u>	<u>Large Trees</u>
Crabapple	Green ash	Bur oak
Hawthorn	Hackberry	Kentucky coffee tree

Lilac Honey locust Maples (no silver maple)
Plum Linden (bass wood)
Serviceberry River birch

CONIFEROUS TREES

Canadian hemlock

Cedar

European larch

Fir

Pine

Spruce

10. Other Replacement Tree Requirements: Choice of replacement trees species and location of the trees should also be contingent on the following information:

- a. Soil Composition: Comparisons should be made between soil conditions and the ecology of the proposed species to make sure they are compatible.
- b. Spatial Requirements: The potential height and crown spread of the proposed replacement trees should be known. Usually, half of the adult tree crown diameter is the amount of distance a tree should be planted from any aboveground objects.
- c. Diseases And Insect Problems: Appropriate replacement choices shall also consider insect and disease problems that may be common with particular species in the part of the state in which the city of Rosemount is located.

F.Parking Lot Landscaping: The need for internal parking lot landscaping will be subject to planning commission site review. When such landscaping is required, it will be to lessen the monotony, heat and wind associated with large parking lots. When the internal planting islands are required, the island boundaries must be constructed with concrete or of nondegradable material. The interior depth and total area of the island must allow the root zone of all planted materials to develop to their natural growth potential.

G.Landscaping Performance Security: The city may, at its option, withhold occupancy certification or require cash, a letter of credit or a bond satisfactory to the city, securing the full performance of landscaping requirements. The amount of the security shall be determined by the contract value of the required improvements and may be held by the city for one full year from the date improvements were completed. (Ord. B, 9-19-1989)

**CHAPTER 7
SPECIAL OVERLAY REGULATIONS**

7-1: IN GENERAL:

In addition to the requirements of the applicable zoning district, the following special overlay restrictions as laid out in this chapter shall apply. (Ord. B, 9-19-1989)

known water level
 Maximum building
 height

See sections
11-5-1 and 11-5-2
 of this title.

Maximum lot
 coverage with
 impervious
 surface

Sewage system setback from OHWE	n/a	150 ft.	n/a	150 ft.	n/a	150 ft.
Sewage system elevation above highest ground water level, bedrock or impervious soils	n/a	4 ft.	n/a	4 ft.	n/a	4 ft.

Notes:

OHWE = Ordinary high water elevation/mark

S = Sewered area

U = Unsewered area

Whenever the underlying zoning is more restrictive, the requirements of the zoning district shall apply.

D. Shoreland Alterations:

1. Natural Vegetation: The removal of natural vegetation shall be restricted to prevent erosion into public waters, to consume nutrients in the soil and to preserve shoreland aesthetics. Removal of natural vegetation in the shoreland overlay district shall be in accordance with the following criteria:

- a. Selective removal of natural vegetation shall be allowed, provided that sufficient vegetative cover remains to screen cars and structures when viewed from the water.
- b. Clear cutting of natural vegetation shall be prohibited except as necessary for placing public roads, utilities, structures and parking areas.
- c. Natural vegetation shall be restored insofar as is feasible after any construction project is completed.

2. Grading And Filling: Grading and filling in shoreland areas or any alterations of the natural topography where the slope of the land is toward a public water or watercourse leading to public water must be authorized by the city in accordance with the following criteria:

- a. The smallest amount of bare ground is exposed for as short a time as feasible.

b. Temporary ground cover, such as mulch, is used and permanent ground cover, such as sod, is planted.

c. Methods to prevent erosion and trap sediment are employed.

d. Fill is stabilized to accepted engineering standards.

3. Alteration Of Beds Of Public Waters:

a. Excavation on shorelands where the intended purpose is connection to a public water shall require approval from the city before construction is begun. Such approval may be obtained only after the commissioner has issued a permit for work in the bed of a public water.

E. Planned Unit Development: To encourage more creative design and greater environmental sensitivity in the development of land, planned unit development (PUD) may be utilized in the shoreland overlay district. PUD within the shoreland overlay district is subject to both the requirements of these regulations and additional standards established by the state of Minnesota, department of natural resources (DNR). Where requirements differ DNR standards shall take precedence.

F. Administration And Enforcement:

1. Permits Required: Before any construction, subdivision of land, installation of sewer and water facilities, grading and filling or removal of vegetation within any shoreland area is commenced, a permit shall be issued by the city.

2. Applications: Application shall be made by the owner on forms provided by the city. Said application shall be accompanied by plans drawn to scale showing the nature, location, dimensions and elevations of the lot and all proposed structures and such other information as shall be required by the director of community development.

3. Variances: All requests for variances shall be referred to the board of appeals and adjustments.

4. Lots Of Record: Lots of record which do not meet the requirements of this section shall not be required to comply herewith.

5. Referral To DNR:

a. Notices: Copies of all notices of any public hearings to consider variances, amendments or conditional uses relating to shoreland management shall be received by the commissioner at least ten (10) days prior to such hearings. Notices of hearings to consider proposed plats must include copies of the plats.

b. Final Decisions: A copy of approved amendments and plats, and final decisions granting variances or conditional uses with regard to the shoreland shall be received by the commissioner within ten (10) days of final action. (Ord. B, 9-19-1989)

11-7-3: WETLAND OVERLAY REGULATIONS:

Purpose And Intent: It is the intent of this section to protect designated public waters from the potential adverse effects of filling; excavation; structural encroachments; water level manipulation; and the construction of bridges, culverts and utilities.

B. Permit Required: Any alteration of any type 3, 4 or 5 wetland as depicted on the official city zoning

map shall require the issuance of a "protected waters permit" by the DNR prior to the issuance of a building permit by the city of Rosemount. (Ord. B, 9-19-1989)

11-7-4: MISSISSIPPI RIVER CORRIDOR CRITICAL AREA OVERLAY DISTRICT:

.. Intent And Purpose:

1. Findings: The city finds that the Mississippi River corridor within the metropolitan area of the city is a unique and valuable resource. The river is essential to local, regional, state, and national transportation, sewer and water, recreation, industry and serves important biological and ecological functions. The prevention and mitigation of irreversible damage to this resource and the preservation and enhancement of its natural, aesthetic, cultural, and historic values is in furtherance of the health, safety, and general welfare of the city.

2. Purpose And Intent: It is the purpose and intent of this section to prevent and mitigate irreversible damage to this unique national resource, to preserve and enhance its value to the public, and protect and preserve the system as an essential element in the city's development of transportation, sewer and water, recreation, and industry in accordance with the following policies:

a. The Mississippi River corridor shall be managed as a multipurpose public resource by continuing use of the river channel for transportation; conserving the scenic, environmental, recreational, industrial, economic, cultural, and historic resources and functions of the river corridor; and providing for the continued development of a variety of urban uses within the river corridor.

b. The Mississippi River corridor shall be managed in a manner consistent with its natural characteristics and existing development.

c. The Mississippi River corridor shall be managed in accordance with the critical areas act of 1973; the Minnesota environmental policy act of 1973; the governor's critical area designation order, executive order no. 130 (as amended) dated November 23, 1976; and pursuant to Minnesota statutes, chapter 116G.

d. Designation of suitable land use districts along the bluff land and shoreland of the Mississippi River.

3. Establishment Of Critical Area Overlay District: A critical area overlay district with its attendant regulations is hereby established. This district shall overlay the zoning districts established in this title so that any parcel of land lying in the overlay district shall also lie in one or more of the underlying established zoning districts. Territory within the overlay district shall be subject to the requirements established in this section, as well as the restrictions and requirements established by other applicable ordinances and regulations of the city. Within the overlay district, all uses shall be permitted in accordance with the regulations for the underlying zoning district(s) provided, however, that such uses shall not be entitled to or be issued the appropriate development permit until they have first satisfied the additional requirements established in this section.

4. District Boundaries: This overlay section shall apply to the critical areas district which is specially delineated on the official zoning map of the city. For purposes of determining the application of this section to any particular parcel of land, the above referenced map shall be on file in the office of the city clerk or city planner.

5. Definitions: For the purpose of this section, certain phrases and words are hereby defined as follows:

ACCESSORY USE: A use subordinate to and serving the principal use on the same lot and customarily incidental thereto, such as vegetative cutting, grading, and filling.

ACT: The critical areas act of 1973, Minnesota statute, sections 116G.01 to 116G.14.

ADJACENT: Having a boundary which physically touches or adjoins.

BARGE LOADING FACILITY: A facility and related equipment located on the riverfront for the loading or unloading of a barge, either as part of transshipment of goods or related specifically to a product manufactured, stored, excavated or utilized at the site.

BARGE SLIP: The basin, usually adjacent to a wharf, jetty, dock or other cargo handling facility, where barges are brought for the purpose of loading or unloading cargo.

BLUFF LINE: The line delineating the top of a slope connecting the points at which the slope becomes less than eighteen percent (18%). More than one bluff line may be encountered proceeding landward from the water. All setbacks required herein shall be applicable to each bluff line.

CLEAR CUTTING: The removal of an entire stand of trees and shrubs.

CRITICAL AREA: The Mississippi River corridor critical area as designated by the governor in executive order no. 130 (as amended) dated November 23, 1976.

HARBOR: The portion of a body of water along or landward of the natural shoreline deep enough for recreational watercraft navigation, and so situated with respect to shoreline features as to provide protection from winds, waves, ice, and currents. Natural harbors consist of bays and estuaries, while artificial harbors are constructed by dredging.

LIFT STATION: A facility, usually including pumping facilities, for the lifting of sewage or storm water runoff to a higher sewage or storm water runoff facility.

MARINA: An area of concentrated small craft mooring, where ancillary facilities may be provided for such services as fueling, sewage pump out, boat launching, repair and storage. Marina does not mean temporary docks associated with riparian residential development if the mooring area is of a size not to exceed the resource limitations of the site and the needs of the residents of the development.

MISSISSIPPI RIVER CORRIDOR: That area within the described boundaries of the Mississippi River corridor critical area and as shown on the official zoning map.

NATURAL RATE OF ABSORPTION: The amount of storm water absorbed into the soil during a storm of once in twenty (20) year occurrence.

NORMAL HIGH WATER MARK: The mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The normal high water mark is commonly that point where the natural vegetation changes from predominately aquatic to predominately terrestrial. In areas where the normal high water mark is not evident, setbacks shall be measured from the stream bank of the following water bodies that have permanent flow or open water; the main channel, adjoining side channels, backwaters, and sloughs.

PIPELINE: A line of pipe either aboveground or underground including associated pumps, valves, control devices and other structures utilized for conveying liquids, gases, sewage, or

other finely divided solids from one point to another.

PLEASURE CRAFT: A boat or yacht used primarily for recreational activity.

RETAINING WALL: A structure utilized to hold a slope in a position which it would not naturally remain in.

RIVERFRONT: Every lot or parcel of land which is immediately adjacent to the Mississippi River.

SELECTIVE CUTTING: The removal of single scattered trees or shrubs. Selective cutting shall not be construed to mean the removal of all trees or shrubs in a given area resulting in the clearing of the land.

SEPTIC TANK: Any device for the treatment and disposal of human waste which utilizes the percolation of the liquid portion of the waste into the soil, including all portions of said system which are not contained inside a building.

SLOPE: The inclination of the natural surface of the land from the horizontal.

STRUCTURE: Anything manufactured, constructed or erected which is normally attached to or positioned on land, including portable structures.

SUBSTANDARD LOT: Any lot which does not meet the minimum lot area, length, depth, width or other dimensional standards of this title.

TRANSMISSION SERVICES: Electric power, telephone, and telegraph lines, cables, or conduits used to transport large blocks of power between two (2) points. In the case of electrical power, this will generally mean sixty nine kilovolts (69 kV) or more. For mains or pipelines for gas, liquids or solids in suspension, this means those that are used to transport large amounts of gas, liquids or solids in suspension between two (2) points.

UTILITY FACILITY: The physical facilities associated with electric, telephone, telegraph, cable television, water, sewer, solid waste, gas, and similar service operations.

WATER BODY: Any lake, stream, pond, wetland or river.

WATER RELATED USE: Uses which, in order to exist or function, require a location on or use of the riverfront. Such uses include, but are not limited to: barge loading and fleeting areas; marinas; industries which receive or ship goods or materials by water as an essential part of their operation; boat and barge construction, dismantling, and repair; riverfront recreation; intakes and outfalls; and water monitoring and measuring facilities.

WETLAND: Land which is seasonably wet or flooded, including all marshes, bogs, and swamps.

B. Site Planning Requirements:

1. Site Plan Required: No building permit, zoning approval or subdivision approval permit or certificate shall be issued for any action located in an area covered by this section until a site plan has been prepared and approved in accordance with the provisions of this section.

2. Exceptions:

a. The city of Rosemount planning commission may waive certain requirements of subsection

B4 of this section if portions are not applicable to the proposed action.

3. Site Plan Application: A written application for site plan approval shall be filed with the city clerk or city planner as required by section 11-10-3 of this title and this subsection as follows.

4. Site Plan Contents:

a. Site plans shall be prepared to a scale appropriate to the size of the project and suitable for the review to be performed.

b. Site plans shall include information as required for planning commission review of site plans in section 11-10-3 of this title and additional information as follows:

(1) A topography map clearly delineating bluff lines and streams including intermittent streams and swales, rivers, water bodies, and wetlands located on the site including information on depth of water and bottom slope, a description of body materials and all vegetation found in the water body, a statement of water turbidity, a statement of water quality, and the classification given to the water body by the Minnesota department of natural resources (DNR) and the Minnesota pollution control agency (PCA), if any. The topography map shall also indicate the floodway and/or flood fringe lines and shall indicate the normal high water mark of the river if the property fronts on the river.

(2) A description of soils with a map indicating soil types.

(3) A description of existing drainage delineating the direction, volume, and rate at which storm water is conveyed from the site, and setting forth those areas of the site where storm water collects and is gradually percolated into the ground or slowly released to stream or lake.

(4) A proposed drainage plan of the developed site delineating the direction, volume, and rate at which storm water will be conveyed from the site, and setting forth the areas of the site where storm water will be allowed to collect and gradually percolate into the ground or be slowly released to stream or lake.

(5) A description of any features, buildings or areas which are of historic significance.

(6) Landscape plans with dimensions, distances, and the location, type, and description of existing vegetation. This shall clearly locate and describe vegetation proposed for removal and proposed landscape materials which will be added to the site as part of the development.

(7) A description of the method to provide vehicular and pedestrian access to the proposed development and public access to the river and/or public river view opportunities both before and after development; a description of the development's impact on existing views of and along the river.

(8) A description of all parking facilities provided as part of the development of the site including an analysis of parking needs generated by the proposed development.

(9) A delineation of any potential area or areas to be dedicated for public use.

(10) A delineation of the location and amounts of excavated soils to be stored on the site during construction.

(11) Other information pertinent to the particular project which, in the opinion of the city of

Rosemount or the applicant is necessary or helpful for the review of the project.

5. Site Plan Approval Standards: Site plans shall meet the following standards for approval:

a. Dredging and filling of water bodies shall be permitted only when there is no adverse effect on the ecological and hydraulic characteristics of the water body, unless no other feasible alternative exists for the removal or replacement of dredge spoils or fill and the activity is consistent with the Mississippi River corridor critical area plan and the underlying zoning district.

b. Development shall be permitted on land having a slope before alteration in excess of twelve percent (12%) but not greater than eighteen percent (18%) if the applicant meets the following conditions:

(1) The foundation and underlying material of any structure, including private roads, shall be adequate for the slope condition and soil type.

(2) Adequate controls and protection exist uphill from the proposed development such that there is no danger of structures or roads being struck by falling rocks, mud, uprooted trees or other materials.

(3) The proposed development presents no danger of falling rock, mud, uprooted trees or other materials to structures downhill.

(4) The view of the developed slope from the river and opposite riverbank shall be consistent with the natural appearance of the undeveloped slope, consistent with any historic areas nearby, and compatible with surrounding architectural features. To the maximum extent possible, the use of natural devices, including vegetation management, shall be preferred over the construction of artificial devices, including culverts, holding ponds, walls, and terracing.

(5) All structures other than buildings, warehouses, pipelines, conveyors, transmission services, utility facilities, storage tanks, and roadway surfaces, but including retaining walls, shall meet the following design requirements:

(A) Retaining walls or terrace contours shall not exceed five feet (5') in height.

(B) The minimum space in between terraces and retaining walls shall be twenty feet (20').

(C) Construction shall be of native stone or wood. In those situations where the use of metal pilings, metal tiebacks, metal retaining walls and precast or cast in place concrete retaining walls is necessary, they shall not be exposed.

(6) No septic tank shall be placed on a slope of greater than twelve percent (12%). The natural slope may not be altered in any way where the septic tank system or part thereof is to be located. The drain lines shall be located parallel to contour lines.

(7) In no case shall natural slopes in excess of eighteen percent (18%) be developed, except for conveyors, pipelines, and transmission services.

c. Wetlands and other water bodies shall not be used as primary sediment traps during or after construction.

d. The proposed development will minimize both increases in the natural rate of runoff and decreases in the natural rate of absorption of storm water.

- e. The development is consistent with the reasonable preservation of the view of the river corridor from other properties and by the public, and the walling off of views of the river corridor from other properties and public rights of way has been minimized.
 - f. Erosion protection measures shall make maximum use of natural in place vegetation rather than placing new vegetation on the site to control erosion. The use of natural erosion control devices shall be preferred to the maximum extent over the construction of artificial drainage devices including culverts, holding ponds, and ditches.
 - g. The development shall be located so as to minimize the removal of vegetation and alteration of the natural topography.
 - h. The grades of streets shall not exceed seven percent (7%), except those referenced in subsection B5b of this section.
 - i. The applicant shall demonstrate that there are no feasible or prudent alternatives to cutting trees on the site, and if trees are cut, the density of trees shall be restored to that which existed before development. The applicant shall demonstrate that all grading which takes place will be conducted in a manner that preserves the root zone aeration and stability of existing trees and provides an adequate watering area equal to at least one-half (1/2) of each tree's crown cover.
 - j. The applicant shall demonstrate that the types and densities of land use proposed shall be suited to the site and soil conditions and shall not present a threat to the maintenance of the ground water quality; a potential increase in maintenance cost of utilities, parking area or roads; and shall not be subject to problems due to soil limitations, including, but not limited to, soil bearing strength, shrink/swell potential and excessive frost movement.
 - k. The quality of water runoff and water infiltrated to the water table or aquifer shall be undisturbed after development to the maximum extent practicable.
 - l. The proposed development shall be adequate and consistent with local transportation and thoroughfare planning.
 - m. The proposed development shall not lessen existing public access to and along the riverbank, nor shall it lessen public opportunity to view the river from within the corridor.
 - n. Adequate parking facilities shall be provided to service the proposed development. The construction of said parking facilities shall be consistent with the character of the river corridor, screened from river view by natural vegetation, and not in excess of that reasonably foreseen to be required by the development proposal.
 - o. The conduct of all grading, landscaping, structure placement, and street routing shall be consistent with and, to the maximum extent, in furtherance of the goals and policies for the development of the river corridor in the Mississippi River critical area plan.
- C. Overlay District Designations:
- 1. Because the river shall be managed as a multiple purpose resource, and because it possesses a variation in both natural characteristics and type of urban and rural development, that portion of the Mississippi River corridor located in the city has been segmented into the following overlay districts:
 - a. Rural open space.

b. Urban diversified.

2. The rural open space and urban diversified districts have been established because they represent a distinct difference in development patterns which the city desires to continue, as is reflected in the corridor area plan.
3. The boundaries of the Mississippi River corridor and the urban diversified and rural open space districts within the corridor include all of the land riverward of the boundary line and as shown on the map designated as the official zoning map for the city.
4. Boundaries of the Mississippi River corridor and the urban diversified and rural open space districts on the map designated as the official zoning map for the city is made a part of this section and is on file with the city clerk and city planner.

D. Overlay Districts Dimensional Requirements:

1. Objectives: The objectives of dimensional requirements are: to maintain the aesthetic integrity and natural environment of certain districts, to reduce the effects of poorly planned shoreline and bluff line development, to provide sufficient setback for sanitary facilities, to prevent pollution of surface and ground water, to minimize flood damage, to prevent soil erosion and to implement metropolitan plans, guides, and standards.
2. Substandard Lot: A proposed new structure or changes to an existing structure on a substandard lot may be approved when the following findings are made:
 - a. The lot was recorded in the office of the county recorder prior to the effective date of the state of Minnesota governor's executive order, November 23, 1976, designating the Mississippi River corridor critical area.
 - b. The lot was in separate ownership from all abutting land on November 23, 1976.
 - c. The proposed use is consistent with the provisions of these regulations and other city ordinances.
 - d. It can be demonstrated that a proper and adequate sewage disposal system can be installed according to regulations of the health department and pollution control agency (PCA).
 - e. The lot size is within sixty percent (60%) of the size required in the underlying zoning district as specified in the dimensional standards of section 11-5-1 of this title.
3. Lot Size: In the urban diversified and rural open space districts the minimum lot size shall be consistent with the requirements of the underlying zoning district as specified in the dimensional standards of section 11-5-1 of this title.
4. Structure Setback:
 - a. All required setbacks shall be applicable to both the bluff line and one hundred feet (100') from the normal high water mark.
 - b. All new structures and roads shall meet the following minimum setbacks:
 - (1) In the rural open space district, no structure or road shall be placed less than two hundred feet (200') from the normal high water mark and no less than one hundred feet (100') from the bluff line.

(2) In the urban diversified district, the structure or road shall be placed no less than forty feet (40') from the bluff line.

c. Exceptions to setback provisions shall be:

(1) Public safety facilities, public bridges and their roadway approaches, railroad sidings, barge facilities, and minor public and private roadways serving water related uses on the riverfront.

(2) Pipelines, conveyors, and other devices used to move materials or products to or from transportation facilities on the riverfront, structures and facilities used to store such materials or products, and related equipment.

(3) Public recreation facilities, scenic overlooks, public observation platforms, the regional trail system, docks, and boat launching facilities.

(4) Approved river crossings of essential service and essential services distribution systems which are primarily underground, except for terminal and metering devices not exceeding six feet (6') in height and supporting structures for transmission crossing spans.

(5) The construction of aboveground pumping stations for sewer lines which shall be screened from view of the river.

(6) The reconstruction or restoration of historical structures or sites on the inventory of the State Historical Society or the National Register of Historic Places.

5. Heights Of Structures:

a. In the rural open space district:

(1) New structures and additions to existing structures shall be limited to a maximum of thirty five feet (35').

(2) The following exceptions to height limits shall be permitted:

(A) Barns, silos, and similar farm structures.

(B) Essential service distribution systems.

(C) Bridges, bridge approach roadways, and transmission services.

(D) Restoration or reconstruction of historical structures and sites on the inventory of the State Historical Society or the National Register of Historic Places.

b. In the urban diversified district height standards shall comply with the established underlying zoning district standards.

6. Placement Of Structures: Unless otherwise indicated, the following standards shall apply in both districts:

a. No new structures except conveyors, pipelines, and transmission services shall be placed on slopes which are eighteen percent (18%) or greater.

b. Structures may be permitted on slopes in excess of twelve percent (12%) but not greater than

eighteen percent (18%)-when the site plan approval standards of subsection B5 of this section are met.

c. Structure placement shall be governed by section 11-7-1 of this chapter regulating shoreland development.

d. In the urban diversified and rural open space districts no development shall be permitted on presently undeveloped islands, except those developments specifically related to wildlife preservation, recreation open space uses, and other water related uses.

7. Line Of Sight: In the rural open space district, the development of permitted uses shall be allowed if it cannot be seen from the normal high water mark on the opposite side of the Mississippi River. Water related uses are not subject to this requirement.

E. Permitted Uses In Urban Diversified And Rural Open Space Districts:

1. Residential Development: Residential development shall be permitted in both districts, consistent with the underlying zoning as established in this title. All structures and accessory uses or appurtenances of residential development shall be subject to the dimensional standards and criteria in subsection D of this section.

2. Commercial And Industrial Uses:

a. In the rural open space district the development of commercial and industrial uses shall not be permitted.

b. In the urban diversified district, new and expanded industrial and commercial developments shall be allowed if they meet the dimensional standards and criteria in subsection D of this section, if they do not require premature expansion of metropolitan public services, and if they meet the site plan requirements of subsection B of this section.

3. Agricultural Uses: All agricultural uses except new feedlots may be permitted in both districts.

4. Mining And Extraction:

a. In both districts:

(1) New mining and extraction may be permitted and shall be subject to the dimensional standards and criteria in subsection D of this section.

(2) New and, where practicable, existing extraction uses shall be appropriately screened from view of the river by establishing and maintaining natural screening.

(3) The unscreened boundaries of mining and extraction areas shall be limited to the loading area.

(4) Existing and future extractive uses shall be required to submit land reclamation and reforestation plans compatible with these regulations.

(5) Only one barge loading area, which shall be limited to the minimum size practicable, shall be permitted for each mining or extraction operation.

(6) All mining and extraction shall meet the standards of section 11-10-4 of this title, as amended, regulating mineral extraction.

5. Recreational Uses: In both districts, recreational uses and structures and accessory uses or appurtenances shall be permitted subject to the dimensional standards and criteria in subsection D of this section. Water related commercial recreation uses shall be subject to the dimensional standards and criteria in subsection D of this section.

6. Signs:

- a. In the rural open space district, general advertising signs shall be prohibited.
- b. In the urban diversified district, general advertising signs are permitted.
- c. All signs permitted in the established districts shall conform to all applicable standards of chapter 8 of this title, as amended, regulating signage within the city.

F. Specific Permitted Facilities:

1. Transmission Services: In both districts, the construction of new and reconstruction of existing transmission services shall meet the following standards:

a. Transmission services of under two hundred kilovolts (200 kV) which cross lands within the river corridor shall meet the standards set forth in this section.

b. When routing transmission services of under two hundred kilovolts (200 kV), the following shall be avoided where practicable:

(1) Steep slopes.

(2) Scenic intrusions into streams, valleys, and open exposures of water.

(3) Scenic intrusions into areas such as ridge crests and high points.

(4) Creating tunnel vistas by, for example, building deflections into the route.

(5) Wetlands.

(6) Forests by running along the fringe rather than through them. If necessary to route through forests, open areas should be utilized in order to minimize cutting.

(7) Soils susceptible to erosion which would create sedimentation and pollution problems.

(8) Areas of unstable soils which would be subject to extensive slippages.

(9) Areas with high water tables, especially if construction requires excavation.

(10) Open space recreation areas.

c. Transmission services shall be subject to the dimensional standards and criteria in subsection D of this section, except at crossing points.

d. Structural design of transmission services. When locating overhead or underground utilities:

(1) Primary considerations shall be given to underground placement in order to minimize visual impact. When considering overhead placement, the proposers shall explain the economic, technological or topographical factors which make underground placement

infeasible. Economic considerations alone shall not justify overhead placement.

(2) If overhead placement is necessary, the crossing should be hidden from view as much as practicable.

(3) Structures shall be made to appear as compatible with the natural area as practicable with regard to height, width, materials used, and color.

(4) With regard to the width of the right of way, the cleared portion of the right of way should be kept to a minimum.

(5) The location shall be in or adjacent to existing transmission service corridors whenever practicable.

e. In the construction of transmission services, the following guidelines shall be applied whenever practicable:

(1) Construction in wetlands shall minimize damage to vegetation and prevent erosion and sedimentation.

(2) Construction shall be undertaken at times when local fish and wildlife are not spawning or nesting.

(3) Effective erosion and sedimentation control programs shall be conducted during all clearing, construction or reconstruction operations in order to prevent degradation of the river and adjacent lands.

f. Developers must adhere to applicable federal and state safety regulations, both with regard to prevention (such as safety valves and circuit breakers) and with regard to emergency procedures in the event of failure (fire suppression, oil spill cleanup).

g. Right of way maintenance:

(1) If possible, natural vegetation that is of value to fish or wildlife and does not pose a hazard to or restrict reasonable use of the utility shall be allowed to grow in the right of way.

(2) Where vegetation has been removed, new vegetation consisting of native grasses, herbs, shrubs, and low growing trees shall be planted and maintained on the right of way.

(3) Chemical control of vegetation should be avoided when practicable, but where such methods are necessary, the chemicals used and the manner of their use must be in accordance with the rules, regulations, and other requirements of all state and federal agencies with authority over their use.

2. Pipelines: Pipeline facilities shall be permitted in both districts and shall be subject to the following standards:

a. All pipelines and underground facilities shall be subject to the site planning requirements set forth in subsection B of this section.

b. The facilities shall be located so as to minimize damage to wetlands, vegetation, and woodlands, and prevent soil erosion and sedimentation.

c. All underground placement of facilities and pipelines shall be followed by revegetation and

rehabilitation to the conditions which existed on the site prior to development.

d. All pipelines shall be located in or adjacent to existing pipeline corridors whenever practicable.

3. Sewage Treatment Plants: In both districts sewage treatment plants shall, wherever practicable, conform with the dimensional standards and criteria in subsection D of this section.

4. Essential Services And Public Safety Facilities:

a. Essential services and public safety facilities are permitted in both districts.

b. All essential services and public service facilities shall be subject to the site planning requirements set forth in subsection B of this section.

c. New essential services and public service facilities shall be compatible in height, scale, building materials, and landscaping with the natural environment in the Mississippi River corridor.

5. Transportation Facilities: The construction or reconstruction of all public transportation facilities and railroads shall be permitted in both districts, subject to the following standards and criteria:

a. The following guidelines shall be applied whenever practicable in selecting routes for public transportation facilities and railroads:

(1) Careful consideration should be given to the provision of scenic overlooks for motorists and safe pedestrian crossings and pathways along the river.

(2) If possible, access to the riverfront should be in public ownership and allow reasonable public use of the land between the river and the transportation facility.

(3) New roads should be located so as to avoid cuts and fills and to blend into the natural terrain.

(4) The following shall be avoided where practicable:

(A) Steep slopes.

(B) Scenic intrusion into stream, valley, and open exposures of water.

(C) Scenic intrusion into areas such as ridge crests and high points.

(D) Wetlands.

(E) Forests by running along fringes of forests rather than through them. If it is necessary to route through forests, open areas should be utilized in order to minimize destruction of commercial forest.

(F) Soils whose high susceptibility to erosion would create sedimentation and pollution problems during and after construction.

(G) Areas of unstable soils which would be subject to extensive slippage.

(H) Areas with high water tables, especially if construction requires excavation.

(l) Open space recreation areas.

b. Public transportation facilities and railroads shall be subject to the dimensional standards and criteria in subsection D of this section, except at crossing points.

c. The following guidelines shall be applied when practicable in constructing public transportation facilities and railroads:

(1) Reconstruction of an existing public road or railroad should be performed in a manner that would minimize any adverse effect on the natural beauty and environment of the river.

(2) Effective erosion and sedimentation control programs shall be conducted during all clearing, construction or reconstruction operations in order to prevent the degradation of the river and its adjacent lands.

(3) Construction across wetlands shall take place in a manner which minimizes damage to vegetation and prevents erosion and sedimentation.

(4) Construction shall occur at times when local fish and wildlife are not spawning and nesting.

d. Developers must adhere to applicable federal and state safety regulations with regard to new public road construction or reconstruction of an existing public road.

e. The following guidelines shall be applied when practicable for right of way maintenance:

(1) If possible, natural vegetation that is of value to fish or wildlife and which does not pose a safety hazard shall be allowed to grow in the roadside right of way.

(2) Where vegetation has been removed, new vegetation consisting of native grasses, herbs, shrubs, and trees shall be planted and maintained on the roadside right of way.

(3) Chemical control of vegetation is discouraged. But where such methods are justified, the chemicals used and the manner of their use must be in accordance with the rules, regulations, and other requirements of all state and federal agencies with authority over their use.

6. Private Roads: Private roads necessary for river access for water related commercial or industrial uses shall be permitted in the urban diversified district.

a. Private roads necessary for river access for water related commercial or industrial uses and pipelines, conveyors, and other devices used to move materials or products to or from transportation facilities on the riverfront shall be permitted on any slope, provided that steps are taken to minimize erosion and manage vegetation to control runoff in compliance with provisions of subsection B of this section.

7. Barge Facilities:

a. New barge loading facilities and barge slips shall not be permitted in the rural open space district.

b. Barge loading facilities and barge slips are permitted for industrial or commercial land operations in the urban diversified district.

c. Barge fleeting facilities related to on land industrial or commercial uses are permitted in the urban diversified district.

G. Earthwork And Vegetation:

1. Grading And Filling: In both districts, the following provisions shall apply to grading and filling:

a. Grading, filling, excavating or otherwise changing the topography landward of the normal high water mark shall not be conducted without a permit, except for the maintenance or repair of existing facilities. All grading and filling activities requiring a permit shall comply with the site planning standards in subsection B of this section.

b. A separate grading and filling permit is not required for grading, filling or excavating the minimum area necessary for a building site, essential services, sewage disposal systems, private roads, and parking areas undertaken pursuant to a validly issued building permit.

2. Vegetation Management:

a. In the rural open space district, clear cutting is prohibited on developed islands, public recreation lands, the slope or face of bluffs, within two hundred feet (200') of the normal high water mark of the river, and within the area forty feet (40') landward from bluff lines.

b. On all other lands within the rural open space district, and in the urban diversified district, clear cutting shall be guided by the following provisions:

(1) Clear cutting shall be conducted only where clear cut blocks, patches or strips are shaped and blended with the natural terrain where practicable.

(2) The size of clear cut blocks, patches or strips shall be kept at the minimum necessary.

(3) Where feasible, all clear cuts shall be conducted between September 15 and May 15. If natural regeneration will not result in adequate vegetative cover, areas in which clear cutting is conducted shall be replanted to prevent erosion and to maintain the aesthetic quality of the area. Where feasible, replanting shall be performed in the same spring or the following spring.

c. The selective cutting of trees greater than six inches (6") in diameter is permitted when the cutting is appropriately spaced and staged so that a continuous natural cover is maintained.

d. These vegetative management standards shall not prevent the pruning and cutting of vegetation to the minimum amount necessary for the construction of bridges and roadways and for the safe installation, maintenance, and operation of facilities, essential services, and permitted utility transmission services.

H. General Provisions:

1. Nonconforming Uses And Structures:

a. Any structure or use existing upon the effective date hereof which does not conform to the restrictions of a particular use district shall automatically continue as a nonconforming structure or use under the provisions of section 11-11-2 of this chapter regulating the alteration, maintenance, reconstruction, and abandonment of nonconforming uses.

b. Any extension, enlargement or alteration of an existing nonconforming structure or sanitary facility shall meet all the setback standards of this title.

2. Sanitary Standards And Criteria: The following standards shall apply to both districts:

- a. All parts of on site sewage disposal systems shall be set back at least seventy five feet (75') from the normal high water mark.
- b. No on site sewage disposal system shall be placed within designated floodplains.
- c. No person, firm or corporation shall install, alter, repair or extend any individual sewage disposal system without first obtaining a permit from the building inspector for the specifically approved installation, alteration, repair or extension.

3. Marinas And Boat Launching Ramps:

a. Boat Launching Ramps:

- (1) Boat launching ramps may be located only where access streets are adequate to handle the traffic load generated by the facility.
- (2) Shared or joint use accessory parking will be preferred. Loading will be permitted only at ramps. Parking areas must be screened from the river and adjoining residential property and located at least twenty five feet (25') from the normal high water mark.
- (3) The impact of the accessory parking must not adversely affect the environmental quality of the site or the surrounding land uses.
- (4) Boat launching ramps and minor accessory buildings and haul off facilities must be in character and scale with the surrounding land uses and the intent of the Mississippi River corridor designation.

b. Public Marinas: Public marinas shall be permitted subject to the following:

- (1) The marina must have on site lavatory facilities adequate to serve the marina clientele.
- (2) Off street parking areas should be provided in accordance with the requirements set for boat launching ramps.
- (3) Areas for the winter storing of boats should be naturally screened from view from the river and from upland lots.
- (4) The marina shall be designed for and used only by pleasure craft.
- (5) Maximum height of any buildings or structures shall be thirty five feet (35').
- (6) Accessory uses customarily incidental to public marinas, including fuel stations, may be permitted provided they are consistent in scale and intensity with the marina and surrounding uses and meet required standards of the department of natural resources, pollution control agency, and the U.S. army corps of engineers.

4. Riverfront Uses: Riverfront uses shall be preferred in the following order:

- a. Water related.
- b. Nonwater related with public pedestrian access.

c. Nonwater related without public pedestrian access.

5. Pilings, Dredging, And Filing: No pilings shall be driven into the riverbed except as is necessarily incident to water dependent uses. Landfill and dredging shall not be permitted except as incident to a water dependent use when no feasible alternative exists. Dryland disposal of dredge spoils shall be authorized on shore sites which contain no unique or valuable resources. Dryland disposal of dredge spoils shall be subject to the site planning requirements set forth in subsection B of this section.

I. Subdivision:

1. No land shall be subdivided which is found by the city to be unsuitable for reason of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewer disposal capabilities or any other feature likely to be harmful to the health, safety or welfare of the future residents of the proposed subdivision or the community. The city, in applying the provisions of this section, shall, in writing, cite the particular features upon which it bases its conclusions that the land is not suitable for the proposed use and afford the subdivider an opportunity to present evidence regarding such suitability at a public hearing. Thereafter, the city may affirm, modify or withdraw its determination of unsuitability.

2. All subdivision of property shall comply with the applicable provisions of the underlying zoning district standards and subdivision regulations of the city.

3. In the rural open space district the minimum lot size for residential units shall meet the minimum lot size requirements in the underlying zoning district as specified in this title.

Administration:

1. Procedures: In addition to applicable administrative procedures set forth in section 11-10-1 of this title, the following procedures shall be implemented with respect to land use, subject to this section:

a. A public hearing shall be held by the city of Rosemount for all underlying zoning district amendments, rural open space and urban diversified district amendments, plats, and variances to this section.

b. The city shall notify the environmental quality board (EQB) of applications for amendments filed with the city for the following:

(1) The amendment of the urban diversified and rural open space district boundaries.

(2) An amendment to this section.

c. The city council shall give due consideration to the comments, if any, received from the EQB concerning the application in making its decision.

d. Within ten (10) days after the final action, the city council shall notify the EQB of its final action on the application.

e. The city shall give notice of the purpose, time, and place of any such public hearing to all property owners as specified in subsection 11-10-11B4 of this title, affecting townships, and the municipal council of any municipality within two (2) miles of the affected property at least ten (10) days prior to the date of the hearing.

2. Variances:

- a. Variances shall only be granted where there are particular hardships which make the strict enforcement of this section impractical and where the variance will not alter the essential character of the locality. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest, especially in regard to the view from the river.
- b. The formal public hearing for a variance shall be held as set forth in chapter 12 of this title providing for actions before the board of appeals and adjustments.

3. Requirements Of The Applicant For A Public Hearing:

a. The applicant shall submit sufficient copies of the following information, and additional information as requested, to the city thirty (30) days prior to the public hearing on the application for a variance, platting of property, and rezonings:

- (1) Property survey showing the property location, boundaries, dimensions, elevations, bluff lines, utility and roadway corridors, the ordinary high water mark, floodway, and floodplain.
- (2) The most recent aerial photo of the property with property lines drawn in.
- (3) Location of existing and proposed structures including height and setback dimensions.
- (4) Location of existing and proposed alterations of vegetation and topography.
- (5) Adjoining water related uses.
- (6) Suitability of soils for on site waste disposal and information on the type, size, and location of the system.
- (7) Water supply system.

b. Factors to be considered:

- (1) When considering a proposal or zoning amendment within the Mississippi River corridor, the city shall address the following items in making its decisions:
 - (A) Preserving the scenic and recreational resources of the Mississippi River corridor, especially in regard to the view from and use of the river;
 - (B) The maintenance of safe and healthful conditions;
 - (C) The prevention and control of water pollution, including sedimentation; and
 - (D) The location of the site with respect to floodways, floodplains, wetlands, slopes, and bluff lines.

K. Violations And Penalties:

1. Any person who violates or fails to comply with any provisions of this section shall be guilty of a misdemeanor as provided in section 11-10-2, "Violations And Penalties", of this title.
2. In the event of a violation or threatened violation of this section, the city may institute

appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations. It is the duty of the city attorney to institute such action. (Ord. B-15, 10-1-1991)

1-7-5: ADULT USES ESTABLISHMENT REGULATIONS:

A. Findings And Purpose:

1. Findings: Studies conducted by the American Planning Association, the Minnesota attorney general's office and the governments of St. Paul, Minnesota; Phoenix, Arizona; Los Angeles, California; Rochester, Minnesota; Olmstead County, Minnesota; Indianapolis, Indiana; and Seattle, Washington have investigated the impacts that adult establishments have in their communities. These studies have concluded that adult establishments have negative secondary impacts on surrounding neighborhoods. Those impacts included increased crime rates, lower property values, increased transiency, neighborhood blight and potential health risks. Based on these studies and findings, the city council concludes:

a. Minnesota statutes, section 462.357, allows the city to adopt regulations to promote the public health, safety, morals, and general welfare.

b. The public health, safety, morals and general welfare will be promoted by the city adopting regulations governing adult establishments.

c. Adult establishments have adverse secondary impacts of the type found in the studies referenced in this section.

d. The adverse impacts caused by adult establishments tend to diminish if adult establishments are governed by location requirements, licensing requirements and health requirements.

e. It is not the intent to prohibit adult establishments from having a reasonable opportunity to locate in the city.

2. Definitions: For the purpose of this section, phrases and words shall have the meaning given them in section 3-8-2 of this code.

3. Permitted Locations: Adult use establishments as defined and regulated in title 3, chapter 8 of this code are permitted in an overlay district which is established in the general industrial (IG) zone east of Akron Avenue in the city of Rosemount. Adult uses will conform to the general industrial (IG) zone standards. Adult use establishments may be located within the overlay district provided they meet the following criterion: adult use establishments may not be located within five hundred feet (500') of a residential structure, or within one thousand feet (1,000') from the property line of a park, school, church, library, commercial daycare center, cemetery, or within one thousand feet (1,000') of another adult use establishment. (Ord. B-60, 5-17-1996)

CHAPTER 8 SIGNS

11-8-1: PURPOSE, DEFINITIONS, GENERAL PROVISIONS:

1. Purpose: The purpose of this provision shall be to achieve the following objectives:

1. To establish standards which permit businesses a reasonable and equitable opportunity to advertise.

2. To allow for effective identification, advertising and communication through the use of orderly, discrete and necessary communicative facilities.
3. To restrict the locations of advertising signs with messages which are not exclusively related to the premises in which they are located, to areas where visual intrusions have the least impact on the resident population yet allow maximum exposure to vehicular movement.
4. To create standards regulating the type, size, number and location of signs to promote uniformity and protect the investment of the most discriminating sign makers and users.
5. To prevent the use of signs from downgrading the appearance of residential and commercial neighborhoods or depreciating property values from the overcrowding or the oversizing of signs.
6. To prevent the location, size, display or lighting of signs from affecting the safety of vehicular movement.
7. To encourage a concern for the visual environment which makes the city a more desirable place to visit, work and live in.

B. Definitions:

BANNERS: Attention getting devices which resemble flags and are of a paper, cloth or plastic like consistency.

FLAG: A rectangular piece of fabric of distinctive design which is mounted on a pole that is used as a symbol (as a nation), signaling device (nautical), or attention getting device (advertising, commercial or noncommercial).

FREESTANDING SIGN: Any sign that is attached directly to the ground or is supported vertically by any structure having a source of support independent of any building existing on the premises on which the sign is located.

HEIGHT: The height of a sign shall be measured from the centerline of the street or highway toward which the sign is principally displayed to the top of the sign.

IDENTIFICATION SIGN: A sign which displays only the name, address and title of an occupant or the name and address of a building or development.

LEGAL NONCONFORMING SIGN: Any sign lawfully in existence on the effective date hereof or any sign lawfully in existence on the date of any amendment to this chapter which does not conform to the regulations affecting signs for the district in which the sign is situated.

NONCONFORMING SIGN: Any sign which does not conform to the regulations of this chapter.

OFF PREMISES ADVERTISING SIGN: Any sign that directs attention to a business, product, service, activity or entertainment not conducted upon the premises on which such sign is located or to noncommercial speech.

ON PREMISES SIGN: Any sign that directs attention to the name of the building, premises, or to the name of the building management firm, or to the business, principal product, service, entertainment, or activity conducted, sold or offered upon the premises on which such sign is located or to noncommercial speech.

PENNANT: A flag or banner which tapers to a point.

PORTABLE SIGN: A sign so designed as to be movable from one location to another, and which is not permanently attached to the ground, sales display device or structure.

PROJECTING SIGN: Any sign which is affixed to the outside of the exterior wall or soffit of any building and is not parallel to the plane of the wall or soffit.

SIDEWALK SIGNS: A portable sign for temporary placement on a sidewalk in the public right of way, intended for a building or business located adjacent to the right of way with no front yard or a front yard that will not accommodate a permanent freestanding sign as permitted by this chapter.

SIGN: Any letter, work, symbol, model, printed, projected or affixed device, poster, picture, reading matter, or other representation in the nature of an advertisement, announcement, direction or informative device including structural and component parts that is located outdoors and is larger than one square foot in area.

SIGN AREA: The area of a sign includes the space inside a continuous line drawn around and enclosing all letters, designs and background materials exclusive of border, trim and structural supports. For the purpose of calculating the area of multiple faced or back to back signs, the stipulated maximum sign area shall refer to a single face.

SIGN, READER BOARD: Any sign having letters not permanently affixed to the sign face. The intent of the changeable copy is to permit the owner of the sign to place messages corresponding to promotions or events at his establishment.

TRAFFIC SIGN: A sign which is erected by a governmental agency for the purpose of guiding vehicular traffic and providing information to motorists.

WALL SIGN: A sign which is affixed to the exterior wall, mansard roof or soffit of a building and which is parallel to the building wall. A wall sign does not project more than twelve inches (12") from the surface to which it is attached, nor extend beyond the top of the parapet wall. (Ord. B-5, 7-3-1990; amd. Ord. B-83, 4-15-1997)

C. General Provisions:

1. No sign shall be erected in or overhang upon a public right of way or otherwise interfere with safe pedestrian or vehicular movement, except traffic signs.
2. No sign shall contain colors, shapes, intermittent lighting or words such as "stop", "warning", "caution", etc., which may be confused with traffic signing or controls unless such signs are intended or approved for such use.
3. Electrical signs shall be installed according to state electrical codes and shall require underground wiring.
4. All permanent signs exposed to weather conditions shall be constructed of materials to prevent normal deterioration from weathering. Further, all signs shall be constructed and maintained in a safe, orderly condition.
5. Any sign or sign structure which is defaced, deteriorated, improperly maintained or otherwise altered from its original permitted condition shall be repaired, replaced or removed upon written notice from the city.
6. Sign structures not used for signing or signs and/or sign structures not properly maintained for six (6) consecutive months shall be removed.

7. No sign or sign structure shall be permitted to interfere with the safe access to doors, windows or fire escapes.

8. No permanent freestanding or building mounted sign shall be supported by guy wires.

9. No permanent or temporary (portable) sign shall contain intermittent, flashing or other type of lighting which changes in intensity or color when artificially illuminated, except time and temperature signs.

10. Flags displayed in commercial and industrial districts shall not exceed in surface area the maximum permitted for freestanding signs, provided further that the display of more than three (3) flags shall be debited against the total freestanding signage area permitted. (Ord. B-5, 7-3-1990)

11. New and existing buildings shall have building address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals. Numbers shall be a minimum of four inches (4") high with a minimum stroke width of one-half inch (1/2"). These numbers shall be affixed to the principal structure, except in nonsewered areas where address numbers shall be affixed to mailboxes or a separate structure plainly legible and visible from the street or road fronting the access to the property. (Ord. B-154, 5-17-2005)

12. No exterior sign shall pivot, move, rotate or display any moving parts including electronic reader boards, except time and temperature or other public information. Interior electronic reader boards visible to pedestrians on the outside are allowed only by permit in commercial or business park districts (see subsection 11-8-2E4 of this chapter).

13. Portable signs or revolving beacons are allowed in all commercial districts, all industrial districts and the public district in addition to permanent signs only by temporary permit issued by the community development department. The length of permits for revolving beacons or similar devices shall not exceed three (3) days and shall be issued a maximum of six (6) times per year. Permits for portable signs shall be issued a maximum of six (6) times per year for a maximum of ten (10) days per permit. Permit applications may be obtained from the community development department and must be submitted three (3) days prior to installation of a portable sign or beacon. Information required includes sign dimensions, height, colors, materials of construction, method of anchoring, content and location. Only one portable sign per lot may be permitted. Portable signs may not be situated within any public street right of way or easement and must conform with the setback of any existing freestanding sign on the property.

14. No sign shall be painted directly on the exterior surface of any building.

15. Projecting signs are prohibited in all districts.

16. Ribbons, banners, pennants, and similar devices are allowed in addition to permanent signs in all commercial districts, all industrial districts and the public district. It is the intent that these means of advertising be used on a temporary basis and if they are torn, discolored or in any way damaged to substantially modify the original appearance they must be removed upon written notice of the community development department.

17. Permanent or temporary (portable) signs which advertise a business, activity, product or service not located exclusively on the premises are prohibited except as regulated herein.

18. No signs shall be closer than ten feet (10') from any property line or corner lots except in the C-2 district and as otherwise regulated herein.

19. No sign may contain more than two (2) sides.
20. Rooftop signs are prohibited in all districts. (Ord. B-5, 7-3-1990)
21. Sidewalk signs are allowed without a permit only in the community commercial (C2) district with the following standards:
 - a. Signs shall be limited to two feet (2') in width and three and one-half feet (3.5') in height, including support members.
 - b. No sign shall have more than two (2) faces.
 - c. Signs shall not limit the normal pedestrian use of the sidewalk, and a minimum passable contiguous space of three feet (3') shall be maintained at all times.
 - d. One sign is permitted for each building adjacent to the public right of way, unless multiple businesses within one building allow separate business signs to be spaced no closer than thirty feet (30') from another sidewalk sign.
 - e. A business or building with two (2) right of way frontages may display a sidewalk sign on either frontage.
 - f. All signs must be removed from the sidewalk at the end of each business day.
 - g. No sidewalk sign shall be lighted by attached external or individual internal lights. (Ord. B-83, 4-15-1997)

Exceptions:

1. Movie theaters are allowed chasing and running lights on marquees subject to the requirements for wall signs in commercial and business park districts and the following standards:
 - a. Running and chasing lights are only allowed in the C-4 general commercial and C-2 community commercial districts; (Ord. B-44, 7-5-1994)
 - b. Signs with running and chasing lights are not permitted on walls that are within two hundred fifty feet (250') of residential districts or uses from which the sign is visible, and the lights shall not exceed an illumination intensity of 0.5 lumens at the property line. (Ord. B-78, 12-3-1996)
 - c. No signs with running and chasing lights are allowed in a front yard setback;
 - d. Signs with running and chasing lights shall be a minimum of twelve feet (12') above the adjacent grade elevation and street grade elevation;
 - e. The power of illumination of running and chasing lights shall be limited to fifteen (15) watts per bulb;
 - f. Running and chasing lights shall not be located near intersections nor within the sight triangle adjacent to an intersection;
 - g. Only permanent wall signs shall be allowed running and chasing lights; and
 - h. Hours of illumination shall be limited to between the hours of eleven thirty o'clock (11:30) A.M. and eleven o'clock (11:00) P.M. (Ord. B-44, 7-5-1994)

11-8-2: PERMITTED SIGNS:

A.All Districts: The following signs are allowed without a permit in all zoning districts, but shall comply with all other applicable provisions of this chapter:

1. Traffic signs.
2. Public signs. Signs including public information, points of interest, memorials and other noncommercial information provided such signs are erected by or on the order of the city or other public agency having jurisdiction.
3. Directional signs. Signs giving direction for pedestrian and vehicular movement on the premises in which the signs are located, not exceeding four (4) square feet in area nor three feet (3') in height.
4. Commemorative signs. Signs or plaques stating the name, date of construction, etc., of the building itself as opposed to the name or nature of a business, unless they are one and the same.
5. Holiday signs. Temporary signs or displays relating noncommercial messages associated with national, state or local holidays or festivals.
6. Campaign signs. Signs or displays naming candidates or issues to be voted upon at public elections, provided such signs are posted no sooner than ninety (90) days before an election and are removed ten (10) days after an election.
7. Real estate signs. Signs displaying sale or lease of property and contacts of owners or agents not exceeding twenty four (24) square feet in area, provided only one sign is erected per street frontage and all signs are removed within ten (10) days after the sale or lease of the property, except in commercial/industrial areas where up to two (2) signs per street frontage shall be permitted not exceeding seventy (70) square feet.
8. Rummage sale signs. Signs announcing rummage or garage sales not exceeding four (4) square feet in area, provided such signs are located on private property and are removed immediately after the sale. (Ord. B-5, 7-3-1990)
9. Address signs. Signs displaying letters or numbers (meeting the requirements of subsection 11-8-1C11 of this chapter) naming only the owners and/or address of the property not exceeding four (4) square feet located at the street frontage property line, except on corner lots where such signs shall be set back at least fifteen feet (15') from either property line. Address signs allowed under this subsection will be allowed in addition to the required address numbers displayed on principal structures in sewerage areas but shall not be substituted for the address numbers required by subsection 11-8-1C11 of this chapter. (Ord. B-154, 5-17-2005)

B.Signs Allowed By Permit In All Districts:

1. Construction signs. Signs naming a project, owners, contractors, etc., not exceeding thirty two (32) square feet in area or ten feet (10') in height, provided such signs contain no other advertising and are removed upon completion of the project or two (2) years from erection, whichever is sooner.
2. Development signs. Signs promoting subdivision developments under construction not exceeding one hundred (100) square feet in area or twenty feet (20') in height, provided such signs are located on the development site and are removed after ninety percent (90%) of the lots have been sold.

3. Institutional signs. Signs displaying names, addresses or directions for schools, churches, public buildings, nonprofit organizations, tax exempt organizations, fraternal organizations, clubs, parks, public events, etc., not exceeding three (3) square feet in area or six feet (6') in height.

C Signs Allowed By Permit In Agricultural Districts:

1. One sign per farm identifying the name of said farm not exceeding twenty four (24) square feet.
2. One sign per farm advertising agricultural products raised in part on the premises not exceeding thirty two (32) square feet.

D. Signs Allowed By Permit In Residential Districts:

1. Permanent identification signs for residential developments not exceeding thirty six (36) square feet per sign with a maximum of two (2) signs at each principal entrance; provided signs are located on private property and do not jeopardize traffic or pedestrian safety.
2. One identification sign for multiple-family dwellings not exceeding twenty four (24) square feet, set back a minimum of ten feet (10') from all property lines not exceeding three feet (3') in height.
3. One temporary freestanding sign per residential development advertising the sale or lease of dwelling units on the premises not exceeding one hundred (100) square feet nor twenty feet (20') in height.
4. One identification sign per each permitted public and institutional principal building or use not exceeding thirty six (36) square feet or six feet (6') in height. (Ord. B-5, 7-3-1990)

E Signs Allowed By Permit In Commercial And BP Districts:

1. In commercial districts situated north of CSAH 42, one freestanding sign for each principal structure not exceeding eighty (80) square feet nor twenty feet (20') in height. In commercial districts situated south of CSAH 42 and in the business park district, one freestanding sign for each principal structure not exceeding one hundred (100) square feet nor twenty feet (20') in height.
2. For the purposes of creating identity in planned commercial and industrial park subdivisions, in addition to other freestanding signs allowed by this chapter, one freestanding subdivision identification sign shall be allowed. In commercial subdivisions situated north of CSAH 42 subdivision identification signs shall be limited to eighty (80) square feet and twenty feet (20') in height. In commercial subdivisions situated south of CSAH 42 and in industrial park subdivisions subdivision identification signs shall be limited to one hundred (100) square feet and twenty feet (20') in height. Commercial and industrial park subdivision identification signs shall only be permitted on property within the subdivision being identified which is situated on a principal or minor arterial as identified in the city of Rosemount comprehensive guide plan. Furthermore, no commercial or industrial park subdivision identification sign shall be situated closer than one hundred feet (100') to any other permitted freestanding sign.
3. Wall signs in commercial districts situated north of CSAH 42 not exceeding fifteen percent (15%) of the total area of the wall on which the signs are affixed. Wall signs in commercial districts situated south of CSAH 42 and in the business park district not exceeding twenty percent (20%) of the total area of the wall on which the signs are affixed. Wall signs to be constructed on structures with more than one sign shall be designed according to an approved sign concept plan in which all signs have complementary designs, similar shapes and sign areas. Consideration may be made by PUD to permit variation in size and design of signs for major tenants or anchor businesses in

larger complexes.

4. Changeable letter reader boards provided the sign area is included in the total sign area permitted. Electronic reader boards may be displayed from the inside of buildings to be visible through windows by pedestrians. Maximum size for electronic reader boards displayed in this fashion shall be determined by the planning commission; in general, such displays should be limited to a size which does not represent a distraction to passing motorists.
5. Temporary signs as permitted in residential districts, provided not more than one such sign is permitted on any one parcel nor located any closer than one hundred fifty feet (150') from any other freestanding sign.
6. Public and institutional identification signs as permitted in residential districts. (Ord. B, 9-19-1989)

F. Signs Allowed By Permit In IG Districts:

1. One freestanding sign for each principal structure not exceeding one hundred (100) square feet nor twenty feet (20') in height.
2. Wall signs not exceeding twenty percent (20%) of the total area of the wall on which the signs are affixed.
3. Temporary signs as permitted in residential districts, provided not more than one such sign is permitted on any one parcel nor located any closer than one hundred fifty feet (150') from any other freestanding sign.
4. Public and institutional signs as permitted in residential districts.
5. Off premises advertising signs, provided such signs are located adjacent to principal arterials as defined in the comprehensive guide plan. Such off premises advertising signs shall not exceed one hundred (100) square feet in area nor twenty feet (20') in height, nor be located at intervals exceeding two thousand five hundred feet (2,500') radius; provided further such signs shall not be located closer than five hundred feet (500') from any residence, public or institutional use or municipal corporate limits. Off premises advertising signs are considered a separate use of property and not an accessory use, and may only be located on a parcel which meets zoning requirements for the IG district.

G. Signs Allowed By Permit In PUD Districts:

1. One freestanding sign for each principal structure not exceeding eighty (80) square feet or twenty feet (20') in height.
2. Wall signs not exceeding fifteen percent (15%) of the total area of the wall on which the signs are affixed.

H. Signs Allowed By Permit In FW Districts:

1. Navigational signs including barge ship identification and directional signs.
2. Park identification and interpretation signs. (Ord. B-5, 7-3-1990)

11-8-3: PERMITTING PROCEDURES AND ORDINANCE COMPLIANCE REQUIREMENTS:

A. Permit Requirements: Except as otherwise provided in this chapter, no sign or structure shall be erected, constructed, altered, rebuilt or relocated until a permit has been issued by the city.

1. Application Requirements: Applicants should contact the community development department to obtain the necessary application form. Information required includes sign dimensions, height, colors, materials of construction, method of anchoring, content and location. A sketch or photograph of the proposed sign is required as well as a site plan which adequately illustrates the proposed location of the sign.

2. Application Review Procedure: Upon the filing of an application for a sign permit, community development department staff shall examine the plans and specifications and the premises upon which it is proposed to erect the sign. If the proposed sign is in compliance with this chapter, the building code of the city and all other laws and ordinances of the city the sign permit will be approved.

3. Fee: The required fee as established by resolution of city council shall be paid to the city before issuance of a sign permit.

B. Ongoing Ordinance Compliance Requirements For New And Existing Signs:

1. Unsafe Signs, Notice: If the city finds that any sign or other advertising structure regulated herein is unsafe or insecure, a menace to the public, or in violation of the provisions of this chapter, written notice from the community development department shall be issued to the holder of the permit. The holder of the permit shall remove or alter the structure so as to comply with the standards required by this chapter and indicated by the community development department within ten (10) days after issuance of such notice.

2. Existing Signs: Any sign legally existing on the effective date hereof which does not conform to the requirements set forth in this chapter shall become a nonconforming use. Nonconforming signs shall be allowed to continue, but shall not be rebuilt, relocated, replaced or altered without being brought into compliance with all the requirements of this chapter. Maintenance of nonconforming signs shall comply with provisions of chapter 11 of this title.

3. Removal Of Signs: The community development department shall order the removal of any sign erected or maintained in violation of this chapter. Thirty (30) days notice in writing shall be given to the owner of such sign, or of the building, structure or premises on which such sign is located, to either comply with this chapter or remove the sign. (Ord. B-5, 7-3-1990)

CHAPTER 9 PERFORMANCE STANDARDS; ALL DISTRICTS

11-9-1: RESIDUAL FEATURES:

Uses which because of the nature of their operation are accompanied by excess of noise, vibration, dust, dirt, smoke, odor, noxious gases, glare or wastes shall not be permitted. These residual features shall be considered "excessive" when they either exceed or deviate from the limitations set forth in the following performance standards:

A. Noise: Noise shall be muffled so as not to become objectionable due to intermittence, beat frequency, shrillness or intensity. Noise levels shall be regulated by the standards of the Minnesota pollution control agency (MPCA).

B. Vibration: No activity or operation shall at any time cause earth vibrations perceptible beyond the

limits of the immediate site in which the operation is conducted. Temporary vibrations resulting from normal construction or reconstruction projects may be excepted.

- C. Dust, Dirt, Smoke, Odor, Gases: The release of solid and liquid particulates, smoke, gases, toxic or noxious materials and other materials or odors shall be regulated by the standards of the MPCA.
- D. Glare: Glare from high intensity lighting or high temperature processes, whether direct or indirect, and as differentiated from street lighting or general illumination, shall not be visible beyond the limits of the immediate site from which it originates. General lot lighting or security spot lighting shall be directed away from adjacent properties, eliminating or reducing the illumination generated on the site.
- E. Wastes: All solid waste materials, debris, rubbish, junk, refuse or garbage shall be kept within a completely enclosed building or properly contained within a closed container specifically designed for such purpose. In no case shall noxious or odorous refuse or garbage be kept outside of a completely enclosed building for a period of time exceeding the average interval of refuse collection by commercial rubbish haulers. Hazardous wastes generated from any activity or operation shall be properly contained, labeled and stored for transfer to an authorized processing, storage or burial facility, according to the laws of the state of Minnesota. All waste storage shall comply with sections 5-1-2 and 5-1-3 of this code. (Ord. B, 9-19-1989; amd. Ord. XIV.21, 3-7-2002)

11-9-2: EXPLOSIVES:

Any activity or operation requiring the use, storage or manufacturing of explosives shall be located no closer than five hundred feet (500') from any residential district, provided further that the location of any activity or operation is such that damage from explosion, including flying debris, vibration or smoke, is limited to the site on which the activity or operation is permitted. (Ord. B, 9-19-1989)

11-9-3: NONHAZARDOUS INDUSTRIAL WASTE CONTAINMENT FACILITY:

A. Permit applicants shall submit the following information together with any other information requested by the city:

1. The proposed project layout including site drawings showing building locations, access roads, buffers and all major facilities.
2. Proposed technology and design.
3. A complete description of the proposed project's operation, including, but not limited to, phasing and anticipated operating lifetime, types of wastes to be accepted and methods to verify the waste stream, record keeping methods, staffing, anticipated waste volumes, containment facilities, contingency and response plans.
4. A description of anticipated traffic generated by the facility, routes to be used, and access to the site.
5. Identification of known and potential environmental risks associated with the construction, operation and closure of the facility.
6. Closure, postclosure and contingency plans, including financing plans.
7. A description of the existing site and surrounding area including current ownership and land

uses, current zoning, transportation access to the site, topography, existing soil and hydrogeologic conditions, vegetation, wildlife, surface waters.

8. Need for city emergency services including fire, police, emergency response, medical.

9. A description of the applicant's experience in operating the technology, proposed training for all operation staff, and the environmental record of the technology.

B. Permits for nonhazardous industrial waste land disposal facilities shall only be issued if the following standards are met or exceeded:

1. The facility must represent the best available technology for land disposal of nonhazardous industrial waste.

2. The operator and staff must have sufficient experience in the operation of such facilities to ensure competent operation.

3. The design, construction and operation of the facility must minimize negative environmental impacts and must mitigate such impacts to the fullest extent possible.

4. Public health, safety and welfare must be ensured.

5. Adequate closure, postclosure and contingency plans must be established.

6. An emergency response plan must be established and accepted by the city.

7. An environmental impact statement must be completed and declared adequate by the responsible governmental unit.

8. There must be adequate access to the site.

9. The proposed project must be compatible with surrounding land use.

10. The applicant provides financial security sufficient to guarantee compliance with the terms of the permit.

11. The economic benefits, incentives and other advantages to the city and community must outweigh any known or potential negative aspects of the facility.

12. The applicant must have a plan for working with industry to develop techniques and markets for recycling industrial waste streams.

13. An interim permit shall not be issued until all required local, state and/or federal permits have been obtained by the applicant. (Ord. B, 9-19-1989)

The city may allow interim permits that were previously approved and are in the process of being amended or reissued to continue to operate under the existing permit conditions during the review process by the city or other governmental agencies. (Ord. B-79, 1-21-1997)

14. The applicant must notify each user of the site that free liquids cannot be placed in the containment cell; inspect each container of waste for the presence of free liquids; and have procedures to prevent any free liquid from being placed in the cell. (Ord. B, 9-19-1989)

11-9-4: AM RADIO COMMUNICATIONS ANTENNAS AND SUPPORTING TOWERS:

A. Submittal Of Information: Permit applicants shall submit the following information together with any other information requested by the city:

1. In submitting an application for an interim use permit for the construction and maintenance of radio antennas, and accessory structures, the applicant shall provide sufficient information to indicate that construction, installation and maintenance of the antenna and tower will not create a hazard to the health, safety and general welfare of surrounding property owners, animal population or natural environment.
2. This information shall include an outside consultant conducting an independent study at the cost of the applicant, demonstrating that the tower complies with structural standards for steel antenna towers and antenna supporting structures, engineering department, Electronic Industries Association (EIA); describing the capacity of the tower, including the number and type of antennas that it can accommodate and the basis for the calculation of capacity; and demonstrating that the application complies with FAA, FCC and, if applicable, state aeronautics division requirements.
3. A site plan including contents as specified in section 11-10-3 of this title.
4. A written analysis of the impacts of the proposed project shall be required. The applicant must discuss issues related to the aesthetics of the project, any implications or nuisances in the operations of the project and property tax implications for long term use of the site.

B. Permit Requirements For Construction And Maintenance: Permits for AM radio communications antenna, towers and accessory structures erected, constructed or located on any property and all supporting devices thereof shall only be issued if the following standards are met or exceeded:

1. The tower shall not exceed four hundred feet (400') above grade or less as authorized by law.
2. Antenna and/or tower setbacks shall be such that the distance from the base to the nearest property line or nonowned structures is not less than the calculated structural collapse radius.
3. No part of any antenna or tower nor any lines, cable, equipment or wires or braces in connection with either shall at any time extend across or over any part of the right of way, public street, highway, sidewalk or property line.
4. Towers with antennas shall be designed to withstand a uniform wind loading as prescribed by the state building code and the Electronic Industries Association recognized national standards, whichever is more restrictive.
5. Antenna and metal towers shall be properly protected against direct strike by lightning, either by adequate grounding or suitable circuits designed to provide such protection. The installation shall comply with all applicable electrical wiring codes, statutes, regulations and standards.
6. The city shall determine whether self-supporting towers or towers supported by cables or guy wires serve to protect the public health, safety and welfare.
7. All signal and remote control conductors of low energy extending horizontally above the ground between the tower or antenna and structure, or between towers, not buried underground, shall be at least twelve feet (12') above the ground at all points.
8. The base of the tower and all anchors shall be surrounded with a minimum six foot (6') high security fence with the appropriate warning signs posted on all sides.
9. No accessory structure or appurtenances shall be temporarily or permanently affixed to AM

radio antennas or supporting towers except as required to accomplish the license service for which the antenna or tower is authorized by the FCC, or as may be approved by city council.

10. The economic benefits, incentives and other advantages to the city and community must outweigh any known or potential negative aspects of the project.

11. The applicant shall furnish the city with copies of all correspondence with the FCC and FAA regarding permit performance of the AM radio antennas; or any matters affecting public health, safety and welfare.

12. If use of the tower is discontinued for a period of twelve (12) months, or upon expiration of the interim use permit the AM radio communications antennas, supporting towers and all above and below ground appurtenances shall be removed.

13. The applicant shall be required to adequately maintain the AM radio communications antennas, supporting towers and related accessory structures and property upon which those facilities do not represent a hazard or nuisance to the public, animal population or natural environment.

C. Broadcast Interference: The applicant shall be responsible to investigate all and remedy legitimate complaints regarding interference to consumer electronic equipment alleged to be caused by signals from the broadcast facility.

D. Advisory Commission: The city council may establish an advisory commission to hear disputes that cannot be resolved between the broadcast representatives and affected parties.

E. Tower Use Fee: The city council may require an annual use fee in lieu of taxes. (Ord. B-4, 5-15-1990)

11-9-5: SPENT BAUXITE DISPOSAL FACILITY:

A. Permit applicants shall submit the following information together with any other information requested by the city:

1. The proposed project layout including site drawings showing building locations, access roads, buffers and major facilities.

2. Proposed technology and design.

3. A complete description of the proposed project's operation, including, but not limited to, phasing and anticipated operating lifetime, description of waste, record keeping methods, staffing, anticipated waste volumes, containment facilities, contingency and response plans.

4. A description of anticipated traffic generated by the facilities, routes to be used and access to the site.

5. Identification of known and potential environmental risks associated with the construction, operation and closure of the facility.

6. Closure, postclosure and contingency plans, including financing plans.

7. A description of the existing site and surrounding area including current ownership and land uses, current zoning, transportation access to the site, topography, existing soil and hydrogeologic conditions, vegetation, wildlife, surface waters.

8. Need for city emergency services including fire, police, emergency response, medical.
 9. A description of the applicant's experience in operating the technology, proposed training for all operation staff and the environmental record of technology.
10. Permits for spent bauxite disposal facilities shall only be issued if the following standards are met or exceeded:
1. The facility must represent the best available technology for land disposal of spent bauxite.
 2. The operator and staff must have sufficient experience in the operation of such facilities to ensure competent operation.
 3. The design, construction and operation of the facility must minimize negative environmental impacts and must mitigate such impacts to the fullest extent possible.
 4. Public health, safety and welfare must be ensured.
 5. Adequate closure, postclosure and contingency plans must be established.
 6. An emergency response plan must be established and accepted by the city.
 7. All environmental studies required must be completed and declared adequate by the responsible governmental units.
 8. There must be adequate access to the site.
 9. The proposed project must be compatible with surrounding land uses.
 10. The applicant provides financial security sufficient to guarantee compliance with the terms of the permit.
 11. The economic benefits, incentives and other advantages to the city and community must outweigh any known or potential negative aspects of the facility.
 12. The applicant must demonstrate that reuse or recycling of spent bauxite is not feasible during the term of the permit and that land disposal is the only practical alternative.
 13. An interim use permit shall not be issued until all required local, state and/or federal permits have been obtained by the applicant. (Ord. B-13, 9-17-1991)

11-9-6: COMMERCIAL USE ANTENNA TOWERS:

- A. No commercial use antenna tower may be constructed in the city without first applying for a permit. The permit application must be accompanied by a nonrefundable application fee. The application fee shall be established by the city council. The permit fee shall be calculated according to the city's schedule of rates and fees. All technical data and all relevant information shall be submitted to the planning commission for its review including information specified in subsections 11-9-4A4 and B of this chapter.
1. Upon receiving approval by the planning commission and obtaining the appropriate permits, the following standards for commercial use antenna towers shall be met:
 - a. Commercial use antenna towers shall not be multicolored, and shall contain no signage,

including logos, except as may be required by any state and federal regulations.

b. Commercial use antenna towers shall be permitted in the general industrial (IG) zone east of Akron Avenue and not within two (2) miles of another commercial use antenna tower.

c. No guy wires shall be used.

d. The setbacks of commercial use antenna towers shall be no less than the height of the tower. The height of the tower shall not exceed two hundred fifty feet (250'). A commercial use antenna tower cannot locate any closer than five hundred feet (500') from a residential structure.

e. The structural integrity of a commercial use antenna tower shall be approved by a certified engineer.

f. A commercial use antenna tower shall not be artificially illuminated unless required by the FAA, FCC or other federal or state authority. Any illumination shall be oriented inward whenever possible while complying with federal or state requirements. If lighting is required, it shall be oriented inward, if possible, so as not to project onto surrounding residential property.

g. Nonclimbable fencing shall enclose the area on which the commercial use antenna tower is located.

h. Accessory structures in accordance with applicable IG standards shall enclose transmission equipment, power equipment, or any equipment located on the ground near the tower that is used in conjunction with the commercial use antenna tower.

i. Commercial use antenna towers located within six hundred sixty feet (660') (1/8 mile) of a public right of way (ROW) or a residential (R) or public (P) district shall be landscaped along the side adjacent to the ROW, R or P district with boulevard trees planted on fifty foot (50') spacing in accordance with section 11-6-3 of this title.

j. Applicant must provide data indicating location of proposed antenna in relationship with nearest existing or anticipated antenna locations that would provide optimum service involving the city of Rosemount.

B. Should the commercial use antenna tower owner engage in any activity that violates these standards or endangers the public health, safety, and welfare, the city may require the abatement of said tower from its current site. The city will provide notice to the commercial use antenna tower owner of the violations, and provide an opportunity for the owner to address the city council regarding the proposed action. The city may require immediate abatement in the case that there is an immediate public health threat.

C. An obsolete or unused commercial use antenna tower and accompanying accessory facilities shall be removed within six (6) months of the cessation of operations unless a time extension is approved by the city council. If a time extension is not approved, the commercial use antenna tower may be deemed a nuisance pursuant to Minnesota statutes section 429. In the event a tower is determined to be a nuisance, the city of Rosemount may act to abate such nuisance and require the removal of the commercial use antenna tower at the property owner's expense. The owner shall provide the city with a copy of the notice of the federal communication commission's (FCC) intent to cease operations and shall be given six (6) months from the date of ceasing operations to remove the obsolete commercial use antenna tower, and all accessory structures including anything that may have been placed belowground. In the case of multiple operators sharing the use of a single commercial use antenna tower, this provision shall not become

effective until all users cease operations for a period of six (6) months. The equipment on the ground shall not be removed until the tower structure has first been dismantled. After the facilities are removed, the site shall be restored to its original, or to an improved state. (Ord. B-74, 11-5-1996)

CHAPTER 10 ADMINISTRATION AND ENFORCEMENT

11-10-1: ZONING ADMINISTRATOR:

The council shall designate a zoning administrator, who shall administer and enforce the provisions of this title and for the purpose of this title shall have the power of a police officer. The zoning administrator shall also maintain current and permanent records of this title, including, but not limited to, amendments, variances, appeals and conditional uses. (Ord. B-96, 12-2-1997)

11-10-2: VIOLATIONS AND PENALTIES:

Any person who violates or fails to comply with any provisions of this title shall be guilty of a misdemeanor and upon conviction thereof shall be punished to the maximum extent authorized in Minnesota statutes section 412.231, as amended from time to time. Each day the violation continues shall constitute a separate offense. (Ord. B-96, 12-2-1997)

A. Enforcement: This title shall be enforced by the community development department designee, who is authorized to take any appropriate actions or proceedings against a violator as provided by statute or ordinance. Such activities may include, but not be limited to, the following:

1. Periodically inspect of buildings, structures, or uses of land to determine compliance with the terms of this title.
2. Notify, in writing, any person responsible for violating a provision of this title, indicating the nature of the violation and ordering the action necessary to correct it.
3. Order discontinuance of illegal use of land, buildings or structures; order removal of illegal buildings, structures, additions or alterations; order discontinuance of illegal work being done; or take any other action authorized by this title to ensure compliance with or to prevent violation of its provisions, including cooperation with the city attorney in the prosecution of complaints.
4. Seek immediate enforcement, without prior written notice, whenever it is determined that an emergency exists in relation to the enforcement of a provision of this title that requires immediate action to protect the health, safety, or welfare of occupants of any structure, or the public. (Ord. B-148, 1-18-2005)

11-10-3: SITE PLAN AND BUILDING DESIGN REVIEW:

A. Purpose: The purpose of this section is to establish a formal site plan review procedure for commercial, industrial, institutional, and multiple-family development projects and provide regulations pertaining to the enforcement of site design standards consistent with the requirements of this title.

Exemptions: Unless otherwise specifically required in this title, the following shall be exempt from the requirements for commission review. All exemptions remain subject to the requirements of this title.

1. The erection or alteration of permitted agricultural structures, when all other provisions of this

title are met.

2. Single-family and two-family dwellings, when all other provisions of this title are met.

3. Construction of or addition to an accessory structure not exceeding fifty percent (50%) of the building footprint of the principal structure, when all other provisions of this title are met.

4. Interior alterations of all structures that do not affect the existing uses or intensity of use, when all other provisions of this title are met.

5. Minor revisions or additions to existing principal structures, provided the proposed modifications do not exceed thirty percent (30%) of the floor area of said structure or ten thousand (10,000) square feet, whichever is less and all other provisions of this title are met.

6. The erection or alteration of commercial or industrial structures or accessory structures permitted in the BP business park district, when all other provisions of this title are met.

C. Review Procedures: Applicants shall submit to the city a completed official city application, the associated application fee set by council resolution and all supportive or supplementary information required by this section prior to any consideration for a site plan review. The city shall process all site plan applications in conformance with all applicable city, county, and state standards and requirements.

D. Review Process: Prior to filing a formal site plan application, applicants may present a concept plan to the city. The community development department designee shall have the authority to refer said plan to the planning commission and/or city council for discussion, review, and informal comment. Any opinions or comments provided to the applicant regarding a concept site plan application are to be considered advisory only and shall not constitute a binding decision on the request. Subsequent to any concept plan review, an applicant may present a formal site plan application to the city. The community development department designee shall refer all formal site plan applications to the planning commission. The commission shall hold a public hearing to review the formal site plan application and act on said application in accordance with subsection C of this section or applicable state statute.

1. Public Hearing: Unless exempted by this section, no site plan shall be considered until a public hearing has been held by the commission. A notice of the time, place and purpose of the hearing shall be published in the city's official newspaper, at least ten (10) days prior to the hearing. Notices shall be mailed to each property owner within three hundred fifty feet (350') of the affected property, except when located in agriculture, agriculture preserve and rural residential districts in which case notice shall be mailed to each property owner within one-fourth (1/4) mile of the affected property. The city shall use its best available records to determine the names and addresses of property owners to receive notice. During the public hearing city staff shall present their findings with regard to the site plan application.

2. Appeals: The applicant, the administrator, a member of the council, or any person owning property or residing within the prescribed notification area may appeal the commission decision to the council. An appeal, as provided for within section 11-12-3 of this title, must be filed with the community development department within ten (10) working days after a final decision is made by the commission.

Review Standards: The community development department shall review each application for site plan review for compliance with the performance standards contained in the comprehensive plan, this title and other applicable city codes and policies. These standards may include, but are not limited to, the following:

1. Land use and zoning standards.
2. Access, parking and loading.
3. Exterior building materials.
4. Trash enclosure.
5. Landscaping and berming.
6. Signage.
7. Lighting.
8. Engineering, grading and drainage.
9. Traffic and pedestrian circulation.
10. Parks and open space.
11. Compliance with other applicable ordinances and approved comprehensive plans.

F. Submittal Requirements: Site plan applications shall be accompanied by twenty (20) full size copies, one eleven inch by seventeen inch (11" x 17") reduction, and one digital copy drawn at a common legible scale. The scale used shall be no smaller than one inch equals fifty feet (1" = 50') unless it is impractical to illustrate the entire site on a single sheet in which case a smaller scale may be acceptable. The maximum size of plans shall be thirty inches by forty inches (30" x 40"), and the minimum size shall be eleven inches by seventeen inches (11" x 17"). All site plan applications shall be based on a certificate of survey prepared by a licensed land surveyor and contain the information listed below, unless specifically waived by the city:

1. Existing conditions plan.
2. Site plan including information specified in subsection G of this section.
3. Architectural elevations, color drawings or renderings, and sample building materials of all principal and accessory buildings, identifying type and color of materials used on all exterior surfaces.
4. Typical floor plan and room plan drawn to scale with a summary of square footage for each use or activity.
5. Sign plan including, but not limited to, the type, location and size of all proposed signage.
6. Vicinity map showing the property in relation to nearby highways or major street intersections.
7. Any other information deemed necessary by the city to facilitate review.

G. Required Information: For the given application, plans shall contain the information listed below, unless specifically waived by the city. The city may also ask for other information deemed necessary of a particular application.

1. Concept Site Plan: All concept site plan shall be drawn to scale, indicate the location of existing and proposed structures, and may include the following:

- a. Minimum two foot (2') topography and draining conditions on adjacent properties within a minimum of two hundred feet (200').
- b. Natural features.
- c. Tentative access, circulation and street alignments, both public and private.
- d. Amenities to be provided such as recreational areas, open space, walkways, and landscaping.
- e. Location and number of parking stalls.
- f. Proposed public sanitary sewer, water and storm management.
- g. A statement showing the proposed density of the project with the method of calculating said density also shown.

2. Formal Site Plans And Building Permits: Formal site plan and/or building permit applications shall be based on a certificate of survey prepared by a licensed land surveyor and contain the information listed below, unless specifically waived by the city:

a. General Information:

- (1) Name of project/development.
- (2) Location of project/development.
- (3) Location map, including area within one-half (1/2) mile of site.
- (4) Name and mailing address of developer/owner.
- (5) Name and mailing address of engineer/architect.
- (6) Date of plan preparation and any revisions.
- (7) North point indicator.
- (8) Scale.

b. Site Information:

- (1) Boundary line of property with dimensions.
- (2) Location, identification and dimensions of existing and proposed:
 - (A) Two foot (2') topographic contours.
 - (B) Adjacent streets and street rights of way.
 - (C) On site streets and street rights of way.
 - (D) Utilities and utility rights of way and easements, including electric, natural gas, telephone, water (domestic and fire) and sewer (sanitary and storm).

(E) Existing and proposed buildings and structures.

(F) Parking facilities.

(G) Water bodies, flood fringe, floodplain and floodway, if applicable, and impacts in the floodplain.

(H) Sidewalks, walkways, driveways, loading areas and docks and bikeways.

(I) Fences and retaining walls with elevation information.

(J) Exterior signs.

(K) Exterior refuse collection areas.

(L) Exterior lighting.

(M) Landscaping, including species, sizes and locations.

(N) Traffic flow on site.

(O) Traffic flow off site.

(P) Transit facilities and movements.

(Q) Recreation facilities.

(3) Cross sections of property as required by the director of community development.

(4) Number of employee and nonemployee parking spaces existing and proposed and total square footage of each.

(5) Site statistics, including site square footage, percent of site coverage, dwelling unit density and percent of park or open space.

(6) Grading, drainage and erosion control in accordance with the most recent city of Rosemount engineering guidelines for design.

(7) Wetlands and surface water:

(A) Wetland delineation(s) and classifications per the city of Rosemount comprehensive wetland management plan.

(B) Proposed wetland impacts and replacement areas when applicable.

(C) Proposed wetland buffer and conservation easements.

c. Building Information:

(1) Elevation drawings of all proposed structures and buildings, with dimensions.

(2) Preliminary floor plans for all stories of proposed structures and buildings, with room usage labeled and dimensions.

(3) Elevation and height above mean sea level of all floors and the roof, floodproofing measures, and construction materials.

(4) Gross square footage of existing and proposed structures and buildings.

(5) Exterior finish materials.

(6) Type of construction.

d. Other Items: Other items as may be deemed necessary by the city.

H. Building Permit: No person, firm or corporation shall erect, alter, construct, enlarge, repair, move, improve, convert, demolish, equip, use, occupy, or maintain any building, structure, or portion thereof, within the city of Rosemount until proper permits and/or a certificate of occupancy has been issued by the protective inspections division of the city. All work for which a permit has been issued must be completed in accordance with title 9 of this code and applicable federal, state and county laws, codes and regulations.

1. Except as provided for by this section, no building permit shall be issued until a site plan has been prepared in accordance with the provisions of this title and approved by the commission. Upon approval of the site plan by the commission, the building official will be authorized to process a building permit for the proposed project pursuant to adopted building and fire codes. The site plan approval process does not imply compliance with the requirements of said building and fire codes.

I. Plan Conformance: Development of the site shall conform to all site and construction plans officially submitted to and approved by the city. Once approved, no changes, modifications or alterations shall be made to any plan detail, standard, or specification without prior submission of a plan modification request.

J. Plan Modifications: Major amendments to an approved site plan may be approved by the planning commission. The notification, public hearing, and appeal procedure for such amendments shall be the same as those for the original site plan review. Any other amendments may be made administratively when the director of community development determines that review and approval by the planning commission of a detailed site and building plan is unnecessary to meet the purpose and intent of this section. The director's decision regarding classification of an amendment is final. When determining if an amendment is major, the director of community development may consider their determination on whether the amendment:

1. Substantially alters the location of buildings, parking areas or vehicle access.

2. Increases the total gross floor area of all buildings by more than five percent (5%) or increases the gross floor area of any individual building by more than ten percent (10%).

3. Increases the number of stories of any building.

4. Decreases the amount of open space by more than five percent (5%) or alters it in such a way as to change its original design or intended use.

5. Changes the exterior building materials or color of the building.

6. Creates noncompliance with any special condition attached to the approval of the site plan or applicable provision of this title.

K. Term Of Approval: Unless otherwise specified, an approved site plan shall become null and void one year from the date of approval unless the property owner or applicant has substantially commenced construction of any building, structure, addition or alteration, or use requested as part of the approved plan or unless a petition for a time extension has been granted by the planning commission. All extension requests shall be submitted in writing to the community development department at least thirty (30) days prior to expiration of the site plan and shall state facts showing a good faith effort to complete work permitted under the original approval.

L. Site Improvement Performance Agreement And Financial Guarantee: Following the approval of a site plan required by this title and prior to issuance of a building permit, the applicant, if deemed necessary by the planning commission, shall guarantee to the city the completion of all improvements as shown on the approved site plan and as required by the site plan approval. This guarantee shall be made by means of a site performance agreement and a financial guarantee as provided below.

1. The applicant shall execute the site performance agreement on forms provided by the city. The agreement shall define the required work and reflect the terms of this section as to the required guarantee of the performance of the work by the applicant.

2. The required work includes, but is not limited to, private exterior amenities such as landscaping, turf establishment, private driveways, parking areas, curb and gutter, recreational facilities, wetland buffers, erosion control, fences and screening, and other similar facilities. The required work shall also include all aspects of the tree preservation plan, if applicable.

3. A financial guarantee shall be submitted with the executed site performance agreement as provided herein:

a. Financial guarantees acceptable to the city include cash escrow, an irrevocable letter of credit, or other financial instrument that provides equivalent assurance to the city and that is approved by the community development director.

b. The term of the financial guarantee shall be for the life of the site improvement performance agreement, and it shall be the applicant's responsibility to ensure that a submitted financial guarantee shall continue in full force and effect until the community development department designee shall have approved and accepted all of the work undertaken to be done and shall thereby have released the guarantee or reduced the amount of the guarantee as provided in this section.

c. When any instrument submitted as a financial guarantee contains provision for an automatic expiration date, after which the instrument may not be drawn upon, notwithstanding the status of the site performance agreement or of the required work, it shall be the applicant's responsibility to notify the city in writing, by certified mail, at least sixty (60) days in advance of the expiration date of the intent either to renew or not to renew the instrument. If the instrument is to be renewed, a written renewal shall be provided at least thirty (30) days prior to the expiration date. If the instrument is not to be renewed, and has not been released by the community development department designee, another acceptable financial guarantee in the appropriate amount shall be submitted at least thirty (30) days prior to the expiration date. Upon receipt of an acceptable substitute financial guarantee, the community development department designee may release the original guarantee.

d. The amount of the financial guarantee shall be established by the community development department designee based upon an itemized estimate of the cost of all required work as provided by the applicant. A cash escrow or irrevocable letter of credit shall be in the amount of one hundred twenty five percent (125%) of the approved estimated cost. The amount of any

other approved financial instrument shall be determined by the community development department designee.

e. At the option of the city the applicant may submit a separate financial guarantee for that portion of the required work consisting solely of landscaping improvements with another financial guarantee for all other exterior amenities and improvements that comprise the work. All trees shall be warranted to be alive, of good quality, and disease free for twelve (12) months from the time of planting. Any subsequent replacement shall be warranted for twelve (12) months from the time of planting.

4. The time allowed for completion of the required improvements shall be set forth in the site performance agreement. This agreement and the financial guarantee shall guarantee compensation for the required improvements and provide for reimbursement to the city of the cost of enforcement measures. As the applicant completes various portions of such required work, the community development department designee may release such portion of the financial guarantee as it is attributable to such completed work. Landscaping improvements shall not be deemed complete until the city has verified survivability of all required plantings through one winter season, defined for the purposes of this section as the period between October 31 and April 30.

5. The applicant shall notify the community development department in writing when all or part of the required improvements have been completed in accordance with the approved plan and may be inspected. Upon receipt of such notice, the community development department designee shall be responsible for the inspection of the improvements to determine that the work performed meets the standards of this title and any conditions imposed by the planning commission and the standards for the particular industry, profession or material used in the performance of the work. Any required work failing to meet such standards shall not be deemed complete and the applicant shall be notified in writing as to required corrections. Upon determination that required work has been completed, including the winter season survivability of landscape plantings, notice shall be given to the applicant of the date of completion and action taken by the community development department designee to release, or to reduce the amount of, the financial guarantee. (Ord. B-149, 1-18-2005)

11-10-4: MINERAL EXTRACTION:

A. Permit Required: It shall be unlawful for any person, firm or corporation to remove, store or excavate rock, sand, gravel, clay, silt or other like material in the city, or to fill or raise the existing surface grades, without receiving a permit for mineral extraction. Such permits may only be issued in the zoning district when mineral extraction is listed as a permitted use with special restrictions. Furthermore, mineral extraction shall not be allowed in that portion of Rosemount located west of Akron Avenue, so as not to interfere with the orderly growth and expansion of public utilities.

B. Exceptions: An extraction permit shall not be required for any of the following:

1. Excavation for a foundation, cellar or basement of a building if a building permit has been issued.
2. Excavation by state, county or city authorities in connection with construction or maintenance of roads, highways or utilities.
3. Curb cuts, utility hookups or street openings for which another permit has been issued by the city.
4. Excavation less than one hundred (100) square feet in area or one foot (1') in depth.

5. Excavation or grading for agricultural purposes. (Ord. B, 9-19-1989)

C. Application, Public Hearing, Notice And Procedure: The application, public hearing, public notice and procedure requirements for mineral extraction permits shall be the same as those for amendments as provided in section 11-10-11 of this chapter, except that the permit shall be issued on the affirmative vote of a majority of the entire council. Application for the extraction permit shall be made in writing in the form specified by the city. The application shall contain the following information:

1. The correct legal description of the land upon which excavation is proposed.
2. The name and address of the applicant, the owner of the land and the person or corporation conducting the actual removal operation.
3. The names and addresses of all adjacent landowners within three hundred fifty feet (350') or, if the subject property is located in agricultural (AG), agricultural preserve (AP) or rural residential (RR) district, within one-fourth (1/4) mile.
4. The purpose of the proposed excavation.
5. The estimated time required to complete the proposed excavation and rehabilitation.
6. The names of the highways, streets or other public roadways within the city upon which the material shall be transported. (Ord. B-96, 12-2-1997)

D. Standards: The following standards shall apply to all extraction operations:

1. Boundary: Extraction operations shall be conducted within the confines of the excavation site described in the application.
2. Access: Extraction operations shall only be allowed on sites which have direct access to either a principal arterial, minor arterial, a collector street, or to a local street if approved by the public works department, as designated in the city of Rosemount comprehensive guide plan.
3. Prohibited Areas: Extraction operations shall not be conducted within the following:
 - a. Five feet (5') of the right of way or easement of an existing public utility.
 - b. Thirty feet (30') of the boundary of an adjoining property which is not being used for extraction operations. (Ord. B, 9-19-1989)
 - c. Fifty feet (50') of the right of way of a public street or highway. (Ord. B-96, 12-2-1997)
4. Phasing Of Operations: Extraction operations to be conducted on a site larger than fifteen (15) acres shall be subject to the following requirements:
 - a. A phasing plan must be prepared which limits operations to a maximum area of fifteen (15) acres per phase of operations.
 - b. A mineral extraction permit for the first phase of an extraction operation shall be limited to a maximum area of fifteen (15) acres. An extraction permit for phase two (2) or subsequent phases of a mineral extraction operation shall not be issued until at least seventy percent (70%) of the previous phase of operations has been rehabilitated according to an approved comprehensive rehabilitation plan.

c. No mineral extraction permit shall authorize extraction operations to be conducted in more than two (2) phases of an extraction operation concurrently.

d. No mineral extraction permit shall authorize extraction to be conducted on more than nineteen and one-half (19 1/2) acres at one time.

5. Fencing: During excavation operations, access to any area where collections of water are one and one-half feet (1 1/2') in depth or more or where excavation slopes are steeper than one foot (1') vertical to one and one-half feet (1 1/2') horizontal and any other areas where obvious danger to the public exists shall be controlled by a fence erected and maintained around the entire site or portions thereof and shall be a type specified by the council.

6. Appearance And Screening:

a. All machinery shall be kept operational.

b. Abandoned machinery and rubbish shall be promptly removed from the excavation site.

c. Within three (3) months after the termination of excavation operations or within three (3) months after the expiration of the extraction permit provided by this section, the applicant or owner shall dismantle buildings and structures incident to excavation operations and shall grade the excavation site as well as complete all rehabilitation on the site as provided by the rehabilitation plan.

d. When required, the perimeter of the excavation site shall be planted or otherwise screened.

e. Existing tree and ground cover shall be preserved to the maximum extent feasible, maintained or supplemented by selective cutting, transplanting and replanting of trees, shrubs and other ground cover along all setback areas.

7. Excavation Operating Standards:

a. Noise: Maximum noise level at the perimeter of the excavation site shall comply with the limits or standards established by the Minnesota pollution control agency and the United States environmental protection agency.

b. Hours: All excavation operations shall be conducted between seven o'clock (7:00) A.M. and seven o'clock (7:00) P.M., Monday through Saturday only. The council may restrict excavation, processing or related operations on legal holidays if such activities cause noise or other disturbances offensive to adjacent property owners.

c. Explosives: The use and handling of explosives at the excavation site shall be coordinated with the police department. Blasting shall occur only at hours specified in the extraction permit.

d. Fugitive Dust: Excavation operators shall use all practical means to reduce the amount of fugitive dust generated by excavation operations. In any event, the amount of dust or other particulate matter generated by the excavation shall not exceed air pollution standards established by the Minnesota pollution control agency.

e. Water Pollution: Excavation operators shall comply with all applicable Minnesota pollution control agency and department of natural resources regulations and all applicable United States environmental protection agency regulations for the protection of water quality. No waste products or processed residue, including untreated wash water, shall be deposited in any public waters of the state of Minnesota.

f. Topsoil Preservation: All topsoil shall be retained at the excavation site until the completion of rehabilitation work in accordance with the rehabilitation plan.

g. Slopes During Excavation Operations: During the entire period of operations, all excavations other than the working face, shall be sloped on all sides to a maximum ratio of one foot (1') horizontal to one foot (1') vertical, unless a steeper slope is approved by the city. Where excavations are adjacent to a public roadway or other right of way, the excavation shall have a maximum slope of four feet (4') horizontal to one foot (1') vertical. Slopes adjacent to waterways shall not exceed six feet (6') horizontal to one foot (1') vertical.

h. Equipment: All equipment and machinery shall be operated and maintained in such a manner as to minimize dust, noise and vibration. Power drives or power producing machines shall not be housed or operated less than one thousand feet (1,000') from a residential use. Access roads shall be maintained in dust free condition by surfacing or other treatment as may be specified by the city engineer.

i. Processing: Crushing, washing and refining, or other similar processing may be authorized by the council as an accessory use, provided, however, that such accessory processing shall not be in conflict with the use regulations of the district in which the operation is located.

j. Council Waiver: The council, at the time of issuance of the extraction permit, may waive or modify any of the provisions in this section or impose additional requirements if it finds that the plan of operation or other materials submitted with the application or other factors make appropriate more suitable measures for standards consistent with the public health, safety and welfare.

E. Special Requirements: The council, as a prerequisite to the issuance of an extraction permit, or after an extraction permit has been granted, may require the applicant or owner of the premises to:

1. Reimburse the city for the cost of periodic inspections for the purpose of determining that the provisions of the extraction permit and this title are being followed.
2. Submit to council a detailed map of the streets on which the material removed shall be transported (haul roads). The city shall inspect the haul roads proposed to be used by the applicant or owner and shall recommend to the council necessary upgrading or repairing of the haul roads prior to their use by the applicant or owner. The council shall designate the haul roads and shall incorporate the recommendations of the responsible city officials in the extraction permit issued to the applicant. It shall be the responsibility of the applicant or owner to maintain the haul roads in accordance with the provisions set forth in the permit. The city shall periodically inspect haul roads to ensure compliance with the permit. During the period of or upon completion of the excavation operations, the applicant or owner shall make any necessary repairs to the haul roads as recommended by the city. All costs of inspection provided for in this subsection shall be borne by the applicant or owner. The use of the haul roads shall be further subject to any road and weight restrictions imposed by the city.
3. Submit annually in writing to the council the estimated quantity of minerals to be excavated. If the quantity of minerals to be excavated is for any reason likely to exceed the original estimate herein required, the applicant or owner shall notify the council of the change in estimated quantity.
4. Comply with such other requirements as the council shall from time to time deem proper and necessary for the protection of its citizens and the general welfare.

F. Inspections: The city may inspect all excavation sites where an extraction permit has been issued.

The operator or owner of any excavation operation found in violation of the requirements of this title or its extraction permit shall remedy such violations within the time specified by written notice from the city.

G. Duration Of Extraction Permit: The excavation license shall run from January 1 through December 31 of the same year or for a lesser period of time as the council may specify at the time of issuance of the extraction permit. If the extraction permit is to run for less than a full year, the fee shall be prorated as determined by the council.

H. Extraction Permit Fee: The applicant or owner of the premises on which the excavation operation is located shall annually submit to the council written estimates of:

1. The total area of the mineral extraction operation (expressed in acres) to be actively mined during the forthcoming year; and
2. The total area for which an extraction permit permitting mineral extraction operations has been granted (expressed in acres) which will not be actively mined in the forthcoming year.
3. The council shall, by resolution, establish an annual per acre permit fee.

I. Surety Bond: The council shall require the applicant or owner of the premises on which the excavation operation is located to post a surety bond with a surety acceptable to the city, cash escrow or letter of credit ("security") in an amount determined by the council, running to the city, conditioned to pay the city the extraordinary costs and expense of repairing any streets where such repair work is made necessary by the special burden resulting from hauling and travel, and removing material from any pit or excavation, and conducting required rehabilitation and conditioned further to comply with all the requirements of this title and the particular extraction permit, and to pay any expense the city may incur by reason of doing anything required to be done by any applicant to whom a permit is issued. The security shall remain in full force and effect for a minimum period of one year after expiration of the extraction permit to guarantee the required rehabilitation as well as the other requirements herein provided. (Ord. B, 9-19-1989)

J. Cement Or Concrete Production: Cement or concrete production may be allowed in the AG agricultural district as a conditional use provided the site has an approved mineral extraction permit in compliance with this section and section 11-10-7, "Conditional Use Permits", of this chapter. In addition to these sections, the following performance standards shall apply:

1. Council Review: The council, at the time of issuance of a CUP for cement or concrete production, may waive or modify any of the provisions of this section or section 11-10-7 of this chapter or impose additional requirements if it finds that the plans or other factors make appropriate more suitable measures for standards consistent with the public health, safety, and welfare.
2. Inspection: The city may inspect all sites with or requesting a CUP for cement or concrete production. The operator or owner of any cement or concrete production site found in violation of the requirements of this section or its CUP shall remedy such violations within the time specified by written notice from the city. Failure to remedy any violations within the specified time frame may result in revocation of the CUP.
3. Location: The plant shall be located in such a way that it is not visible from an adjacent residential use or a public right of way. This may be accomplished through topography, berming or setback. The minimum setback from any property line shall be twice the height of the plant or applicable setback under this code, whichever is greater.

4. Height: The maximum height of any concrete plant shall be seventy five feet (75').

5. Outdoor Storage: There shall be no outdoor storage of vehicles. All equipment and material associated with the cement or concrete plant must be screened from view from an adjacent residential use or public right of way in conformance with section 11-2-9, "Outdoor Storage", of this title. (Ord. B-132, 8-7-2003)

11-10-5: RECYCLING OPERATIONS:

A. Permit Required: It shall be unlawful for any person, firm or corporation to establish or expand, in any way, a recycling operation without first receiving a permit from the city. Such permit may only be issued in a zoning district where such use is listed as a permitted use.

B. Permit Application Requirements: Application for a permit shall be made in writing in the form specified by the city and shall contain the following information:

1. The correct legal description of the land.

2. The name and address of the applicant and the owner of the land if different from the applicant.

3. Maps, photographs and surveys illustrating the relationship of the site to the community and surrounding properties and existing site conditions including vegetation, surface waters and topography.

4. A description of the operation as regards the sales of parts and the use of cutting, compressing and packaging equipment.

5. A site plan, to scale, showing the location and intended use of all structures, storage areas, driveways, parking and equipment.

C. Development And Operating Standards:

1. The site shall be a minimum of five (5) acres in size.

2. A solid wall or opaque fence at least eight feet (8') in height shall be provided around the entire perimeter of the site to screen said site from public streets and surrounding property. Such fence shall be of sound construction and shall be properly maintained.

3. All activities shall be confined within the fenced in area. There shall be no stacking of material above the height of the fence or wall except that equipment used on the site may exceed the wall or fence height. No equipment, material, signs or lighting shall be used or stored outside the fenced area. There shall be no storage of materials within semitrailer units or other vehicles which would extend above the height of the fence.

4. All equipment used in industrial processes, including that used for cutting, compressing or packaging, shall be within a completely enclosed building.

5. The fenced area shall be set back at least two hundred feet (200') from any street and the area within front or street side yards shall be planted with trees, grass and shrubs in accordance with section 11-6-3 of this title.

6. Whenever the operation abuts an R district, a transition strip of at least two hundred feet (200') in width shall be provided between the fenced area and the R district boundary. Said transition strip shall be landscaped as prescribed in subsection C5 of this section.

7. The fenced area shall be set back at least thirty feet (30') from any nonresidential district.

D. Additional Requirements: The city may attach such additional conditions as may be required to ensure compliance with this title. (Ord. B-96, 12-2-1997)

11-10-6: PLANNED UNIT DEVELOPMENTS (PUD):

A. Purpose: The purpose of the planned unit development (PUD) district is to provide a district that will encourage the following:

1. Flexibility in land development and redevelopment in order to utilize new techniques of building design, construction and land development.
2. Provision of life cycle housing to all income and age groups.
3. Energy conservation through the use of more efficient building designs and sitings and the clustering of buildings and land uses.
4. Preservation of desirable site characteristics and open space and protection of sensitive environmental features, including, but not limited to, steep slopes, trees and poor spoils.
5. More efficient and effective use of land, open space and public facilities through mixing of land uses and assembly and development of land into larger parcels.
6. High quality of design and design compatible with surrounding land uses, including both existing and planned.
7. Sensitive development in transitional areas located between different land uses and along significant transportation or scenic corridors within the city.
8. Development that is consistent with the comprehensive plan.

B. Development Standards: Within the PUD district, all development shall be in compliance with the following:

1. Uses: For a given PUD, all uses shall be consistent with the comprehensive plan and the master development plan as approved.
 - a. Area Used For Land Uses: The city may permit up to ten percent (10%) of the gross floor area of all buildings in a PUD to be used for land uses for which the site is not designated in the comprehensive plan if the city council finds that such use is in the best interests of the city and is consistent with the requirements of this chapter. If nondesignated uses are to be incorporated into a PUD, the city may forward a copy of the request to the metropolitan council for review.
 - b. Designated For More Than One Use: Where the site of a proposed PUD is designated for more than one land use in the comprehensive plan, the city may require that the PUD include all the proposed land uses.
 - c. Single Land Use Or Housing Type: Any PUD which involves a single land use type or housing type may be permitted; provided, that it is otherwise consistent with the objectives of this title and the comprehensive plan.

2. Area: Each PUD shall have a minimum area of ten (10) acres, excluding areas within a designated wetlands, floodplain or shoreland district or right of way, unless the applicant can

demonstrate the existence of one of the following:

- a. Unusual physical features of the property itself or of the surrounding neighborhood such that development as a PUD will conserve a physical or topographic feature of importance to the neighborhood or community.
 - b. The property is directly adjacent to or across the right of way from property which has been developed previously as a PUD and will appear as and will function as an extension of that previously approved development.
 - c. The property is located in a transitional area between different land use categories or on a collector or arterial (minor or principal) street, as defined in the comprehensive plan.
3. Density: Each residential PUD or the residential portion of each mixed use PUD shall have a density within the range specified in the comprehensive plan for the PUD site. The density of individual buildings or lots within a PUD may exceed these standards, provided the density for the entire PUD does not exceed the permitted standards.
- If the site is not designated in the comprehensive plan for residential use, the appropriate density shall be determined by the city based upon the city council's finding that such density is consistent with the intent of the PUD and of the comprehensive plan.
4. Streets, Utilities, Public Facilities And Subdivisions: The city ordinances governing the specifications and standards for streets, utilities, public facilities and subdivisions may be modified based upon the unique characteristics of the PUD. The city council may therefore approve streets, utilities, public facilities and land subdivisions that are not in compliance with usual specifications or ordinance requirements if it finds that strict adherence to such standards or requirements is not required to meet the intent of this chapter or to protect the health, safety or welfare of the residents of the PUD, the surrounding area or the city as a whole.
5. Parking: Parking provided for uses within a PUD shall be consistent with the parking requirements contained in chapter 6 of this title, unless the developer can demonstrate to the city's satisfaction that a lesser standard should be permitted on the grounds of complementary peak parking demands by the uses within the PUD. The city may require execution of a restrictive covenant limiting future use of the property to those uses that will continue the complementary peak parking demands or a proof of parking agreement.
6. Setbacks, Buffers And Greenspace: Setback, buffers and greenspace within a PUD shall be consistent with applicable sections of this title and title 12 of this code unless the developer can demonstrate to the city's satisfaction that a lesser standard should be permitted with the addition of a screening treatment or other mitigative measures.
7. Covenants: All applicants for a PUD shall establish an association to oversee the maintenance of commonly held properties and review of architectural modifications to the approved plans.
8. Architectural And Landscape Design: The applicant shall demonstrate that the architectural and landscape design proposed for all residential PUD or the residential portion of a mixed use PUD will provide privacy for both internal and exterior living areas. This provision shall include, but not be limited to, landscape and fence screens, location of HVAC equipment, and location of structures relative to adjacent homes. Deviations from approved plans must be approved by both the city council and by the established homeowners' association.
9. Buildings Per Lot: The city may permit more than one building to be placed on one platted or recorded lot in a PUD.

10. Private Recreational Uses: Each residential PUD comprised of units other than single-family detached housing or within a mixed use PUD shall provide an area dedicated for private recreational uses for project residents. Such areas will be for active or passive recreational uses suited for the needs of the residents of the project, including, but not limited to, swimming pools, trails, nature areas, picnic areas, tot lots and saunas.

11. Unified Ownership Or Control: All property to be included within a PUD shall be under unified ownership or control or subject to such legal restrictions or covenants as may be necessary to ensure compliance with the approved master development plan and final site and building plan.

12. Signs: Signs shall be restricted to those permitted under chapter 8, "Signs", of this title or in a sign plan approved by the city regulated by permanent covenants.

13. Application Of Other Provisions: The requirements contained in this title shall apply to a PUD as deemed appropriate by the city.

C. Application And Review Process: All applications for a planned unit development (PUD) shall include both a master development plan and final site and building plan. Prior to submission of these formal applications, an applicant may submit a concept plan for review and comment by the planning commission and city council.

Upon receipt of a complete application for concept plan, master development plan, or final site and building plan, the community development department designee shall set a date for a public hearing as outlined in section 11-10-3 of this chapter for formal review of the PUD application. The applicant shall make a presentation of the applicable PUD application at a public hearing before the commission. The commission shall recommend approval, revision, reapplication or denial of the applicable plan to the council.

1. Basis For Action: The planning commission and city council shall base their recommendations and actions regarding the applicable PUD application on consideration of the items listed below. The planning commission and city council may attach such conditions to their actions as they shall determine necessary or convenient to better accomplish the purposes of this chapter.

a. Compatibility of the proposed plan with this chapter and the goals and policies of the comprehensive plan.

b. Effect of the proposed plan on the neighborhood in which it is to be located.

c. Internal organization and adequacy of various uses or densities, circulation and parking facilities, public facilities, recreation areas, open spaces, screening and landscaping.

d. Consistency with the standards of section 11-10-3 of this chapter pertaining to site and building plan review.

e. Such other factors as the planning commission or city council deems relevant.

2. Classification Of PUD District: All PUD master development plan applications shall include a proposed rezoning to a specific PUD district. The district shall be designated by the letters "PUD" followed by the alphanumeric designation of the underlying zoning district, which may be either the prior zoning classification or a new classification. For mixed use PUDs, the city council shall, whenever reasonably practical, specify underlying zoning classifications for the various parts of the PUD. When it is not reasonably practical to specify the underlying zoning classification, the city council may rezone the district, or any part thereof, to "PUD-mixed".

No building or other permits shall be issued for any work on property included within a proposed or approved PUD nor shall any work occur unless such work is in compliance with an approved PUD.

Regulations governing uses and structures in the PUD shall be the same as those governing the underlying zoning district subject to the following:

- a. Regulations may be modified expressly by conditions imposed by the council at the time of rezoning to PUD.
- b. In the case of districts rezoned to PUD-mixed, the council shall specify regulations applicable to uses and structures in various parts of the district.

3. PUD Concept Plan: In order to receive guidance in the design of a PUD prior to submission of a formal application, an applicant may submit a concept plan for review and comment by the planning commission and city council. The comments of the planning commission and city council shall address the consistency of the concept plan with this chapter. The comments of the planning commission and city council shall be for guidance only and shall not be considered binding upon the city regarding approval of the formal PUD application when submitted. Submission of a concept plan is optional but is highly recommended for large PUDs. In order for the review to be of most help to the applicant, the concept plan should contain such specific information as is suggested by the city including, but not limited to, the following:

- a. Approximate building and road locations.
- b. Height, bulk and square footage of buildings.
- c. Type and square footage of specific land uses.
- d. Number of dwelling units.
- e. Generalized grading plan showing, method of storm water management and areas to be cut, filled, and preserved.
- f. Staging and timing of the development.

4. PUD Master Development Plan And Rezoning: Approval of a rezoning to PUD and master development plan shall occur simultaneously and be subject to the procedures outlined in sections 11-10-3 and 11-10-11 of this chapter. After rezoning of the property to PUD, nothing shall be constructed on the PUD site except in conformance with the approved plans and this chapter. The master development plan shall contain the following:

- a. Building location, height, bulk and square footage.
- b. Type and square footage of specific land uses.
- c. Number of dwelling units.
- d. Detailed parking, street and utility locations and sizes.
- e. Storm water management plan and computations, including location and size of pipes and storm water ponds. Specific requirements are on file with the engineering department.
- f. Grading plan.

- g. Generalized landscape plan.
- h. Generalized plan for uniform signs and lighting.
- i. Plan for timing and phasing of the development.
- j. Covenants or other restrictions proposed for the regulation of the development.
- k. Renderings or elevations of the entrance side of buildings to be constructed in the development.

5. PUD Final Site And Building Plan: Approval of a final site and building plan for the entire PUD or for specific parts of the PUD shall be subject to the procedures outlined in section 11-10-3 of this title. Applicants may combine the final site and building plan review with the master development plan review by submitting all information required for both stages simultaneously. Approval of a final site and building plan shall signify approval of all plans necessary prior to application for a building permit subject to other necessary approvals by the city including, but not limited to, platting. The final site and building plan shall contain information as required by the city, including, but not limited to, the following:

- a. Detailed parking, utility, street, grading and drainage plans in accordance with city of Rosemount guidelines on file with the engineering department.
- b. Detailed building elevations and floor plans.
- c. Detailed landscaping, sign and lighting plans.

6. Substantial Compliance: The final site and building plan shall be in substantial compliance with the approved master development plan. Substantial compliance shall be determined by the director of community development based on the following standards:

- a. Buildings, parking areas and roads are in substantially the same location as previously approved.
- b. The number of residential living units has not increased or decreased by more than five percent (5%) from that approved in the master development plan.
- c. The floor area of nonresidential uses has not been increased by more than five percent (5%) nor has the gross floor area of any individual building been increased by more than ten percent (10%) from that approved in the master development plan.
- d. There has been no increase in the number of stories in any building.
- e. Open space has not been decreased or altered to change its original design or intended use.
- f. All special conditions required on the master development plan by the city have been incorporated into the final site and building plan.

7. Conditions Of Approval: The city may impose such conditions on approval of a master development plan and rezoning or PUD final site and building plan as the council deems necessary to assure compliance with the purposes of this section, including the requirement that the developer execute and record such covenants and restrictions on the PUD property as the city deems necessary to assure that the property is developed and used in accordance with the approved plans.

D. Term Of Approval: If an application has not been made for a final site and building plan pursuant to the approved master development plan for all or a part of the property within a PUD or construction on the property has not been initiated in conformance with the approved site and building plan within one calendar year of the date on which the PUD rezoning became effective or if within that period no extension of time has been granted, the city council may rezone the property to the zoning classification at the time of the PUD application or to a zoning classification consistent with the comprehensive plan designation for the property. In the absence of a rezoning, the approved master development plan and approved site and building plan, if applicable, shall remain the legal control governing development of the property included within the PUD.

E. Amendments: Major amendments to an approved master development plan may be approved by the city council after review by the planning commission. The notification and public hearing procedure for such amendment shall be the same as for approval of the original PUD. Any other amendment may be made administratively where the director of community development determines that review and approval by the planning commission and city council of a detailed site and building plan is unnecessary to meet the objectives of this chapter.

1. Amendment Classification: When determining if an amendment is major, the director of community development shall base their determination on whether the amendment:

- a. Substantially alters the location of buildings, parking areas or roads.
- b. Increases or decreases the number of residential dwelling units by more than five percent (5%).
- c. Increases the gross floor area of nonresidential buildings by more than five percent (5%) or increases the gross floor area of any individual building by more than ten percent (10%).
- d. Increases the number of stories of any building.
- e. Decreases the amount of open space by more than five percent (5%) or alters it in such a way as to change its original design or intended use.
- f. Creates noncompliance with any special condition attached to the approval of the master development plan.

F. Exemptions: This chapter shall not apply to any PUD that has received final approval by the city council prior to the effective date hereof unless such is requested by the property owner and approved by the city council. (Ord. B-143, 10-19-2004)

11-10-7: CONDITIONAL USE PERMITS (CUP):

A. Purpose: The purpose of conditional use permits is to allow for those uses which are not generally suitable within the zoning district, but which under some circumstances may be suitable. The applicant for a CUP shall have the burden of proof that the use is suitable and that the standards set forth in this chapter have been met.

B. Application, Public Hearing, Notice And Procedure: The application, public hearing, notice and procedure requirements for CUPs shall be the same as those for amendments to this title, as identified in section 11-10-11 of this chapter. CUPs may be granted only by a four-fifths (4/5) vote of the entire council. Specific submissions required to complete an application for a CUP shall address all standards applicable to the proposed use. The applicant shall provide information as required in the site plan review.

C. Standards: The commission shall recommend a CUP and the council may issue such CUP if it finds that such use at the proposed location:

1. Will not be detrimental to or endanger the public health, safety, or general welfare of the neighborhood or the city.
2. Will be harmonious with the objectives of the comprehensive plan and city code provisions.
3. Will be designed, constructed, operated and maintained so as to be compatible or similar in an architectural and landscape appearance with the existing or intended character of the general vicinity and will not change the essential character of that area, nor substantially diminish or impair property values within the neighborhood.
4. Will be served adequately by existing (or those proposed in the project) essential public facilities and services, including streets, police and fire protection, drainage, structures, refuse disposal, water and sewer systems and schools.
5. Will not involve uses, activities, processes, material equipment and conditions of operation that will be hazardous or detrimental to any persons, property, or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare or odors.
6. Will have vehicular ingress and egress to the property which does not create traffic congestion or interfere with traffic on surrounding public streets.
7. Will not result in the destruction, loss or damage of a natural, scenic, or historic feature of major importance and will comply with all local, state, and federal environmental quality standards.
8. These standards apply in addition to specific conditions as may be applied throughout this code.

D. Conditions: In reviewing applications for CUPs, the commission and the council may attach whatever reasonable conditions they deem necessary to mitigate anticipated adverse impacts associated with these uses, to protect the value of other property within the district, and to achieve the goals and objectives of the comprehensive plan and city code provisions. Such conditions may include, but are not limited to, the following:

1. Controlling the number, area, bulk, height, density, intensity, and location of such uses.
2. Regulating ingress and egress to the property and the proposed structures thereon with particular reference to vehicle and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other catastrophe.
3. Regulating off street parking and loading areas where required.
4. Specifying utilities with reference to location availability and compatibility.
5. Requiring berming, fencing, screening, landscaping or other facilities to protect nearby property.
6. Ensuring compatibility of appearance.

In determining such conditions, special consideration shall be given to protecting immediately adjacent properties from objectionable views, noise, traffic and other negative characteristics associated with such uses.

E.Revocation: Failure to comply with any condition set forth in a CUP, or any other violation of city code provisions, shall also constitute sufficient cause for the termination of the CUP by the council following a public hearing.

F.Expiration: In any case where a conditional use has not been established within one year of the date on which the CUP was granted, the permit shall be null and void. If the conditional use is discontinued for six (6) months, the CUP shall be null and void.

G.Permittee: A CUP shall be issued for a particular use and not for a particular person. (Ord. B-96, 12-2-1997)

11-10-8: INTERIM USE PERMITS (IUP):

A.Application, Public Hearing, Notice And Procedure: The application, public hearing, public notice and procedure requirements for interim use permits shall be the same as those for amendments as provided in section 11-10-11 of this chapter, except that the permit shall be issued on the affirmative vote of a majority of the entire council. Specific submissions required to complete an application for an interim use permit shall be specified for each type of interim use allowed.

B.Termination: An IUP shall terminate on the happening of any of the following events, whichever first occurs:

1. The date stated in the permit.
2. Upon violation of the condition under which the permit was issued.
3. Upon change in the city's zoning regulation which renders the use nonconforming.

C.Standards:

1. The interim use must be allowed in the zoning district where the property is located.
2. The interim use must meet or exceed the performance standards set forth in this title and other applicable city ordinances.
3. The interim use must comply with the specific standards for the use identified in this title, and must comply with all conditions of approval which shall be included in an IUP agreement.

D.Conditions: The city may attach conditions to approval of a permit to mitigate anticipated adverse impacts associated with the use, to ensure compliance with the standards of approval, to protect the value of other property, and to achieve the goals and objectives of the comprehensive plan. (Ord. B, 9-19-1989)

E.Findings For Interim Use Permits:

1. The extent, location, and intensity of the use will be in substantial compliance with the comprehensive plan.
2. The use will provide adequate ingress and egress to minimize traffic congestion in the public streets.
3. The use will not be detrimental to the existing character of the development in the immediate neighborhood or endanger the public health, safety, and general welfare.

4. The use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

5. The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

F.Modification Of Standards Or Conditions: The council, after public hearing, may modify standards or conditions required for the IUP, when strict application of such standards or conditions would unreasonably limit or prevent otherwise lawful use of a property or an existing structure and would result in exceptional undue hardship to the owner of such property or structure; provided, that such modification will not impair the intent and purpose of such standards or conditions and is consistent with reasonable enjoyment of adjacent property. (Ord. B-32, 9-21-1993)

11-10-9: FLOODPLAIN DISTRICT CONDITIONAL USES:

A.Application: The commission shall hear and decide applications for conditional uses permissible under section 11-4-19, "FP Floodplain District", of this title. Applications shall be submitted to the planning department and forwarded to the commission for consideration. The applicant shall furnish the following information as deemed necessary by the community development department for determining the suitability of the particular site for the proposed use:

1. Plans in triplicate drawn to scale prepared by a registered engineer showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, floodproofing measures, and the relationship of the above to the location of the stream channel and meeting all other requirements of section 11-10-3, site plan contents, of this chapter.

2. Specifications for building construction and materials, floodproofing, filling, dredging, grading, channel improvement, storage of materials, water supply, and sanitary facilities.

The city engineer or designee shall evaluate 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. Based upon the technical evaluation, the commission shall determine the specified flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

B.Factors And Conditions: In reviewing conditional use applications, the commission shall consider all relevant factors specified in other sections of this title 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 floodplain 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 floodwaters expected at the site.
12. Such other factors which are relevant to the purposes of this section.

C. Public Hearings: Within sixty (60) days from the date of application for conditional use permit, the community development department shall submit the application to the commission. The commission shall set a time for public hearing and give the applicant at least ten (10) days' written notice thereof. Notice of the hearing shall be published at least ten (10) days prior to the hearing and notice shall be mailed to each property owner within one-fourth (1/4) mile of the affected property.

D. Decisions: The commission shall render its written decision on a conditional use permit within thirty (30) days following the public hearing. In granting a conditional use permit the commission may prescribe appropriate conditions and safeguards which are in conformity with the purposes of this section. The conditional use permit must be title registered with the property in the office of the county recorder.

E. Subject To Appeal: All decisions by the commission granting or denying a conditional use permit shall be final subject to appeal to the council as outlined in section 11-10-3 of this chapter.

F. Notify Commissioner Of Natural Resources: A copy of the application for the proposed conditional uses shall be submitted to the commissioner of natural resources sufficiently in advance so that the commissioner will receive at least ten (10) days' notice of the hearing. A copy of all decisions granting conditional use permits shall be forwarded to the commissioner of natural resources within ten (10) days of such action.

G. Conditions Imposed: The commission may attach such conditions to the granting of conditional use permits deemed necessary to fulfill the purposes of this section. 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. Floodproofing measures, in accordance with the state building code and this title. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

H. Violation Of Conditional Use Permit: Violations of 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 section punishable under section 11-10-2 of this chapter. (Ord. B-25, 2-2-1993)

11-10-10: CEMETERIES:

A. Application, Public Hearing, Notice, And Procedure: The application, public hearing, public notice, and procedure requirements for cemeteries shall be the same as for planned unit development (PUD) as provided in section 11-10-6 of this chapter. At the time of plat approval, a security in the form of a performance bond, letter of credit or other such form as deemed necessary to secure the landscape improvements and perpetual maintenance for the platted portion of the cemetery will be required.

1. All cemeteries must be platted so that each gravesite will have a lot and block number.
2. Cemeteries must have a minimum acreage size of five (5) acres.
3. All gravesites must be set back a minimum of fifty feet (50') from any cemetery property boundary.
4. All gravesites must be set back a minimum of one hundred fifty feet (150') from any potable water well.
5. No gravesite shall be located in a flood hazard area within a 500-year flood event boundary.
6. Any cemetery not completely enclosed by a secured fence after closing, nor staffed by on site personnel during daylight hours shall be developed as a memorial park with no aboveground gravesite markers.
7. All cemeteries must have planting strips or buffer yards adjacent to residential districts or uses, public uses and public rights of way. In the absence of a planting strip along a property line, boulevard trees are required to be planted at fifty foot (50') intervals. The interior of the cemetery must have a minimum of one tree per five thousand (5,000) square feet to break up the large expanse of turf area. (Ord. B-43, 7-29-1994)
8. All gravesites must be within two hundred feet (200') of interior access drives, if the cemetery is to be open to public access. All interior driveways must be paved in accordance with standards specified in chapter 6 of this title. (Ord. B-96, 12-2-1997)
9. All gravesites must have minimum direct frontage to a six foot (6') wide land containing no gravesites to provide access to gravesites for equipment.
10. All burials must utilize a concrete vault to avoid risk of cave ins, buried to a minimum depth of six feet (6') so that no portion of the grave is above the frost line during winter months.
11. Cemeteries must have direct access to a collector or arterial street. (Ord. B-43, 7-29-1994)
12. All cemetery development will require site plan review approval and will be subject to the conditions for grading permits as specified in section 11-10-3 of this chapter. In addition, soil borings will be required to determine the depth of the water table and the soil structure appropriateness for burials. (Ord. B-96, 12-2-1997)
13. All gravesites shall be set back a minimum of one hundred feet (100') from any wetland. (Ord. B-43, 7-29-1994)

11-10-11: AMENDMENTS:

A.Purpose: The purpose of this section is to allow for additions or revisions to the provisions of this title and changes in zoning district boundaries.

B.Procedures:

1. Initiation: An amendment to this title may be initiated by the council, commission or by petition of an affected landowner.
2. Application: Applications provided by the city shall be completed in writing prior to any consideration of an amendment of this title. Zoning amendment fees are established by resolution of the council. Applications shall not be formally accepted until all supportive or supplementary information has been furnished by the applicant. Applications for an amendment to the text of this title shall be submitted by an affected property owner on forms provided by the city and shall include the proposed text for the ordinance amendment in proper ordinance form. Applications to amend the text of this title must be received by the council, which will then forward the petition to the commission for public hearing and recommendation.
3. Commission Recommendation: An amendment not initiated by the commission shall be referred to the commission for study and report and may not be acted upon by the council until it has received the recommendation of the commission on the proposed amendment or until sixty (60) days have elapsed from the date of reference of the amendment without a report by the commission.
4. Public Hearing: No amendment to this title shall be considered until a public hearing has been held by the commission. A notice of the time, place and purpose of the hearing shall be published in the city's official newspaper, at least ten (10) days prior to the hearing. Amendments affecting changes in zoning districts shall require mailed notice to each property owner within three hundred fifty feet (350') of the affected property owner. However, zoning changes in the agriculture, agriculture preserves and rural residential districts shall require mailed notice to each property owner within one-fourth (1/4) mile of the affected property. The city shall use its available records to determine the names and addresses of property owners. Failure to give notice to individual property owners or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt was made to comply with these provisions.
5. Council Action: Amendments to this title require a two-thirds (2/3) vote of the council.
6. Reapplication: No application for the same or substantially the same amendment shall be made within six (6) months of the date of denial.
7. Generally: Notice requirement and procedures set forth in this section in excess of those required by state law are directory. Failure to comply with such procedures will not invalidate the proceedings. (Ord. B, 9-19-1989)

CHAPTER 11 NONCONFORMING BUILDINGS, STRUCTURES, AND USES

11-11-1: PURPOSE:

This chapter is established in recognition of the existence of uses, structures, site improvements, and lots which were lawfully established but which do not currently comply with the provisions of this title or subsequent amendment. It is further established to specify the requirements, circumstances and

conditions under which nonconforming buildings, structures, site improvements, and uses will be operated and maintained and to encourage actions that bring nonconforming uses into conformity with this title. (Ord. B-151, 2-15-2005)

11-11-2: CONTINUANCE OF NONCONFORMING USES AND STRUCTURES:

Any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption hereof, may be continued through repair, replacement, restoration, maintenance or improvement but not through expansion, unless:

- A. The nonconformity or occupancy is discontinued for a period of more than one year; or
- B. Any nonconforming use is destroyed by fire or other peril to the extent of greater than fifty percent (50%) of its market value and no building permit has been applied for within one hundred eighty (180) days of when the property is damaged. In this case, the city may impose reasonable conditions upon a building permit to mitigate any newly created impact on adjacent property.

Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. (Ord. B-151, 2-15-2005)

11-11-3: EXPANSION OF NONCONFORMING USES AND STRUCTURES:

No nonconformity may be added to or enlarged in any manner unless such additions or enlargements are made so as to bring said building or structure into conformity with the regulations of the zoning ordinance. (Ord. B-151, 2-15-2005)

11-11-4: CONDITIONS:

The city may, by ordinance, impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety. (Ord. B-151, 2-15-2005)

11-11-5: RELATIONSHIP TO ADULT USES:

This chapter does not prohibit the city from enforcing an ordinance that applies to adults only bookstores, adults only theaters, or similar adults only businesses, as defined by this code. (Ord. B-151, 2-15-2005)

11-11-6: NONCONFORMING LOTS OF RECORD:

Multiple lots or parcels of record shall be considered a single undivided parcel if such lots or parcels:

- A. Are under common ownership;
- B. Are contiguous; and
- C. Do not meet the area or dimensional standards for the applicable zoning district.

No portion of such single parcels may be used, sold, or subdivided in a manner that lessens compliance with applicable area or dimensional standards. (Ord. B-151, 2-25-2005)

CHAPTER 12 BOARD OF APPEALS AND ADJUSTMENTS

11-12-1: AUTHORIZATION, POWERS AND DUTIES:

The planning commission shall act as the board of appeals and adjustments and shall have the power to hear and decide, subject to appeal to the city council, requests in the following cases:

- A. Interpretation: Hearing appeals where it is alleged that there is an error in a decision or judgment made by an administrative officer in the interpretation or enforcement of this title or in the interpretation of zoning district boundaries.
- B. Variances: Grant variances from literal ordinance requirements in instances where strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration. (Ord. B, 9-19-1989)

11-12-2: PROCEDURES:

Interpretations may be requested to be heard by the board of appeals and adjustments at any regularly scheduled meeting of the planning commission. Requests for variances are subject to the following:

- A. Applications: Applications provided by the city must be completed in writing prior to any consideration of variance petitions. Fees for variances are established by resolution of the city council.
- B. Applicant To Provide Plans, Maps, Surveys, Etc.: The board of appeals and adjustments shall require the applicant to provide plans, maps, surveys, etc., as deemed necessary, to ensure proper review and consideration of variance petitions.
- C. Public Hearing: Within thirty (30) days after the filing of an application, the board of appeals and adjustments shall set a date for a public hearing. Notice of the hearing shall be published at least ten (10) days prior to the date of the hearing, and notice shall be mailed to each property owner within three hundred fifty feet (350') of the property to which the variance relates. However, zoning changes in the agriculture district, agriculture preserve and rural residential districts shall require mailed notice to each property owner within one-fourth (1/4) mile of the affected property. The city shall use its available records to determine the names and addresses of property owners. Failure to give notice to individual property owners or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt was made to comply with these provisions.
- D. Approval Or Denial: Upon hearing the request, the board of appeals and adjustments shall either approve or deny the variance and shall state the reasons for said action. Conditions for approval may be attached to any variance granted.
- E. Generally: Notice of requirement and procedures that are set forth in this section in excess of those required by state law are directory. Failure to comply with such procedures will not invalidate the proceedings. (Ord. B, 9-19-1989)
- F. Appeal: Within ten (10) working days of the action of the board of appeals and adjustments, the applicant, the zoning administrator, a member of the city council or any person owning property or residing within three hundred fifty feet (350') of the property affected by the decision may appeal the decision to the city council. The appeal must be filed with the planning department. (Ord. B-20, 5-19-1992)
- G. Findings: The board of appeals and adjustments and the city council, upon appeal, must find as follows in the granting of a variance from this title:

1. Granting a variance will not adversely affect the public health, welfare and safety and will not be detrimental or injurious to property or improvements in the neighborhood.
2. Strict interpretation or enforcement would result in a practical difficulty or unnecessary hardship inconsistent with the intent of this title and the comprehensive guide plan.
3. There are exceptional or extraordinary circumstances or conditions applicable to the property, use or facilities that do not apply generally to other properties in the same district.
4. Strict or literal interpretation would deprive the applicant of the use and enjoyment of his property in a manner similar to other owners in the same district.
5. Granting of the variance will not allow a use which is otherwise not a permitted use in the zoning district in question.

H. Lapse And Reapplication:

1. A variance granted but not used shall become void one year after its effective date.
2. No application for the same or substantially the same variance shall be made within six (6) months of the date of denial. (Ord. B, 9-19-1989)

11-12-3: APPEALS TO CITY COUNCIL:

- A. The city council shall have the power to hear and decide appeals where it is alleged by the appellant that there is an error in any fact, procedure, or finding made by the board of appeals and adjustments or the planning commission.
- B. Building permits shall not be issued after an appeal has been filed with the planning department. If permits have been issued before an appeal has been filed, then the permits are suspended and construction shall cease until the city council has made a final determination of the appeal.
- C. The city council shall conduct a hearing within thirty (30) days after the receipt by the city council of the appeal from the action of the planning commission. As provided in section 11-12-2 of this chapter, the city council shall give due notice of the hearing. The city council shall render a decision on the appeal without unreasonable delay.

Any person may appear and testify at the hearing either in person or by duly authorized agent or attorney.

- D. A fee to be established by resolution of the city council shall be paid to the planning department by the appellant at the time the notice of appeal is filed. Such resolution may provide for waiver or refund of such fee under specific circumstances. (Ord. B-20, 5-19-1992)

TITLE 12 SUBDIVISION REGULATIONS

CHAPTER 1 GENERAL REQUIREMENTS

12-1-1: TITLE:

This title shall be known and may be cited as the *SUBDIVISION ORDINANCE* of the city of Rosemount. (Ord. B-91, 8-5-1997, eff. 8-11-1997)

12-1-2: AUTHORITY:

The council shall be the platting authority. (Ord. B-91, 8-5-1997, eff. 8-11-1997)

12-1-3: PURPOSE:

All subdivisions of land hereafter submitted for approval shall comply in all respects with the regulations set forth herein. It is the purpose of these regulations to:

- A. Encourage well planned, efficient, and attractive developments by establishing adequate standards for design and construction.
- B. Provide for the health, safety, and welfare of people by requiring properly designed and coordinated streets and adequate sewage, water, and drainage facilities.
- C. Secure the rights of the public with respect to public land and waters.
- D. Serve as a tool to carry out the objectives and policies of the comprehensive guide plan.
- E. Provide for a means to provide adequate recreational areas, school sites, and other public facilities. (Ord. B-91, 8-5-1997, eff. 8-11-1997)

12-1-4: SCOPE:

This title shall apply to the subdivision of land in the city. All subdivisions in which any of the resulting parcels is less than five (5) acres in area or three hundred feet (300') in width shall be platted. (Ord. B-91, 8-5-1997, eff. 8-11-1997)

12-1-5: LOTS OF RECORD, RECORDING AND CONVEYING OF LAND:

Whenever any subdivision of land is proposed, before any binding contract is made for the sale of any part thereof, before the subdivision is recorded with the county and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdividing owner, or its authorized agent, shall apply for and secure approval of such subdivision in accordance with the procedures herein.

conveyance involving the division of land to which these regulations are applicable shall be filed or recorded with the Dakota County recorder's office if the land is described in the conveyance by reference to an unapproved registered land survey made after or to an unapproved plat made after such regulations became effective. No building permit shall be issued and no public utilities provided

to a lot, piece or parcel of land created by a division of land made in violation of the subdivision regulations of the city. (Ord. B-91, 8-5-1997, eff. 8-11-1997)

12-1-6: CONFLICT WITH PUBLIC AND PRIVATE PROVISIONS:

- A. Private Provisions: These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provision of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant or other private agreement or restriction, the requirement of these regulations shall govern.
- B. Public Provisions: These regulations are not intended to interfere with, abrogate or annul any other ordinance, rule, regulation, statute, or other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule, or regulation, or other provision of the law, whichever provisions are more restrictive or impose higher standards shall control. (Ord. B-91, 8-5-1997, eff. 8-11-1997)

12-1-7: DEFINITIONS:

ADMINISTRATOR: The Rosemount city administrator or the administrator's designee.

ALLEY: A right of way that provides a secondary means of vehicular access to the side or rear of two (2) or more properties abutting on a street.

APPLICANT: The person or persons requesting approval of a subdivision by the council. Consent shall be required from the legal owner of the property proposed for subdivision in the event that the applicant does not own the affected property.

ATTORNEY: The Rosemount city attorney.

BLOCK: An area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river, lake, wetland or railroad right of way.

BOARD: The Rosemount board of appeals and adjustments.

BOULEVARD: That portion of a street right of way between the curb or curb line and the property line.

BUILDING: Any structure having a roof which may provide shelter or enclosure of persons, animals or chattel, and when said structure is divided by party walls without openings, each portion of such building so separated shall be deemed a separate building.

BUILDING SETBACK: The minimum horizontal distance from a lot boundary to the nearest part of the foundation wall of a building as defined in title 11 of this code.

CITY: The city of Rosemount, Dakota County, state of Minnesota.

CLERK: The Rosemount city clerk.

COMMISSION: The planning commission of the city.

COMPREHENSIVE GUIDE PLAN OR COMPREHENSIVE PLAN: As defined in the city's zoning

ordinance.

COUNCIL: The Rosemount city council.

COUNTY RECORDER: The county recorder of Dakota County, Minnesota.

DEVELOPER: The applicant or owner of land proposed to be subdivided or his/her representative who has petitioned the city for the installation of public improvements including streets and/or utilities. Consent shall be required from the legal owner of the proposed subdivision if the developer does not own the affected property.

EASEMENT: Authorization by a property owner for another to use the owner's property for a specified use.

ENGINEER: The Rosemount city engineer.

ESCROW: A deposit of funds held by the city for the purpose of securing public infrastructure or subdivision improvements or other costs or obligations of the developer as required or specified by resolution by the city council, ordinance, subdivision agreement or agreed to by the developer.

FINAL PLAT: A drawing, in final form, showing a proposed subdivision containing all information and detail required by state statutes and by this title to be presented to the city council for approval, and which, if approved, may be duly filed with the county recorder.

FINANCE DIRECTOR: The Rosemount finance director or treasurer.

FRONTAGE: That side of a lot abutting on a public street right of way.

GRADE: The ratio of horizontal or vertical dimensions of slope of the road, street, or other public way specified as a percentage of slope.

HIGHWAY, LIMITED ACCESS: A freeway or expressway, providing a trafficway for through traffic, in respect to which owners or occupants of abutting property of lands and other persons have no legal right to accesses to or from the same, except at such points and in such manner as may be determined by the public authority having jurisdiction over such trafficway.

IMPROVEMENTS: See definition of Public Improvement.

LETTER OF CREDIT: A letter provided to the city authorizing person(s) to pay money or extend credit to another on the credit of the writer to secure the promise to perform some act.

LOT: As defined in the city's zoning ordinance.

METES AND BOUNDS: A method of property description whereby properties are described by means of their direction and distance from an easily identified location.

MONUMENT: An iron stake or pin placed in the ground indicating the location of intersecting property boundary lines.

NONACCESS EASEMENT: An easement restricting vehicular access from a public or private property.

OUTLOT: A parcel of land designated on a plat intended for future development purposes that is restricted from private development or use, and will be replatted in accordance with an adopted

preliminary plat, or a platted parcel intended for public or quasi-public use including parks or ponding.

OWNER: Any individual, firm, corporation, association, syndicate, partnership, or trust with an interest in the land sought to be subdivided under these regulations.

PEDESTRIANWAY: A public pedestrian walkway provided between lots where required by the city to allow for pedestrian accessibility to streets or public areas. This may also be referred to as a "trailway".

PLANNED UNIT DEVELOPMENT: As defined in the city of Rosemount's zoning ordinance.

PLAT: The drawing or map of a subdivision prepared for filing or recording pursuant to Minnesota statutes, chapter 505 and containing all elements and requirements set forth in applicable local regulations adopted pursuant to Minnesota statutes, section 462.358 and chapter 505.

PROTECTIVE COVENANT: A contract between parties which constitutes a restriction on the use of the property. Such restrictions are not enforced by the city.

PUBLIC IMPROVEMENT: An infrastructure facility such as sanitary sewer, water main, storm sewer, street, or other facilities intended for the public welfare for which the city may ultimately assume the responsibility for maintenance and operation.

PUBLIC LAND: Land owned and/or operated by a governmental unit dedicated for public use.

PUBLICATION: As defined in the city's zoning ordinance.

REPLATTING: The platting of an area that was previously final platted and recorded with Dakota County.

RIGHT OF WAY: As defined in the city's zoning ordinance.

RURAL SUBDIVISION: A low density subdivision in the agriculture or rural area beyond the metropolitan urban service area (MUSA) with on site individual sewage treatment facilities.

SHALL: Mandatory.

SIDEWALK: A paved pedestrian walkway separate from the street surface.

STREET: As defined in the city's zoning ordinance.

STREET, COLLECTOR: A street intended to move traffic from local streets to arterial streets across the city.

STREET, CUL-DE-SAC: A street with only one vehicular outlet.

STREET FRONTAGE: That part of a lot which abuts a public right of way.

STREET, LOCAL: A street to serve primarily as an access to abutting properties.

STREET, MINOR ARTERIAL: A street intended to collect and distribute traffic from minor traffic generating areas such as community commercial areas, primary and secondary educational facilities, hospitals, major recreational areas, churches, and offices. They are designed to carry traffic from collector streets across the county to regional system of principal arterial highways.

STREET, PRINCIPAL ARTERIAL: A road intended to move through traffic to and from major traffic generators such as central business districts, regional shopping centers, colleges, and/or universities, military installations, major industrial areas, and similar traffic generators within the governmental unit; and/or as a route for traffic between communities or large areas and/or which carries interstate and/or high volumes of traffic.

STREET, PRIVATE: A street which is not dedicated to the city for public use.

STREET WIDTH: On a street with curbs, a measurement from the face of curb, or the measurement of the paved or improved surface of a street perpendicular to the centerline.

STRUCTURE: As defined in the city's zoning ordinance.

SUBDIVIDER: Any person, firm, corporation, partnership, or association, who shall lay out any subdivision or part thereof as defined therein, either by themselves or with others.

SUBDIVISION: The separation of an area, parcel or tract of land under single ownership into two (2) or more parcels, tracts, lots or long term leasehold interests where the creation of the leasehold necessitates the creation of streets, roads, or alleys for residential, commercial industrial, or any other use, or any combination thereof, except those separations:

A. Where all the resulting parcels, tracts, lots, or interests will be twenty (20) acres or larger in size and five hundred feet (500') in width for residential uses and five (5) acres or larger in size for commercial and industrial uses;

B. Creating cemetery lots;

C. Resulting from court orders or the adjustment of a lot line by the relocation of a common boundary.

SUBDIVISION AGREEMENT: A contractual agreement providing for public infrastructure improvements and land development entered into between the city and subdivider to be completed prior to final plat approval.

SURVEY MONUMENT: See definition of Monument.

SURVEYOR: A person duly registered as a land surveyor by the state of Minnesota.

URBAN RESIDENTIAL SUBDIVISION: A subdivision serviced or to be serviced with municipal sanitary sewer, storm sewer and municipal water developed within the metropolitan urban service area (MUSA).

VARIANCE: As defined in the city's zoning ordinance, title 11, chapter 12 of this code.

ZONING DISTRICT: As defined in the city's zoning ordinance.

ZONING ORDINANCE: Title 11 of this code. (Ord. B-91, 8-5-1997, eff. 8-11-1997)

CHAPTER 2 PLAT PROCEDURES

12-2-1: PREAPPLICATION:

The subdividers or owners should meet with city officials (engineer and planner) in order to be made fully aware of all applicable ordinances, policies, regulations, and plans pertinent to the proposed subdivision. Staff will then inform the subdividers of the specific requirements for subdivision approval. (Ord. B-91, 8-5-1997, eff. 8-11-1997)

. 2-2-2: SUBDIVISION PLATTING REQUIREMENTS:

All subdivisions are subject to platting requirements unless otherwise provided for herein. Platting requires two (2) sequential review and approvals by council. A preliminary plat is required for overall public infrastructure phasing and capital improvement planning, and a final plat is required for recording each phase or addition. Prior to granting final plat approval, the council may permit or require the plat to be divided into two (2) or more additions or may impose such conditions upon filing of the additions as it may deem necessary to ensure the orderly development of the plat.

Preliminary and final plats may be combined as a simple plat under circumstances elsewhere described herein.

- A. Application And Fees: All applications for subdivisions shall be filed with the city and shall include all of the information required on the application form provided by the city and all of the information required by this title. Failure by the applicant to provide all of the required information may result in immediate rejection of the application by staff. Application and processing fees shall be established by fee resolution adopted from time to time by the council.
- B. Staff Review Of Application: Within ten (10) days of the receipt of the application, staff shall complete the initial review to determine if all required information has been filed. The applicant will be notified of incomplete or unacceptable application upon completion of initial review. Failure by the city to inform the applicant does not obligate the city in any manner.
- C. Public Hearing: When the application is complete, the city shall conduct a public hearing before the commission according to the procedures specified in section 11-12-2 of this code.
- D. Council Approval: The council shall act following the receipt of a complete application as required accompanied by recommendations forwarded by the parks and recreation committee, planning, and utilities commissions regarding the subdivision in accordance with Minnesota statutes 462.358. (Ord. B-91, 8-5-1997, eff. 8-11-1997)

12-2-3: PRELIMINARY PLAT:

A. Application Information: The preliminary plat, at a minimum, shall include the following information:

1. Twenty (20) copies of the preliminary plat including all information required in this title or as established by city policy;
2. Completed and signed application with corresponding fee(s) as established by resolution of the council;
3. Exact legal description of the property; and
4. Abstractor's certificate of property owners within three hundred fifty feet (350') of the preliminary plat boundaries.

B. Staff Review, Public Hearing, And Approval: The city shall complete the review, public hearing and approval process according to the requirements of section 12-2-2 of this chapter.

C. Final Requirements: Prior to a final plat submission, the following information shall have been reviewed and approved by the council:

1. A preliminary plat in accordance with the provisions of this title;
2. An environmental assessment worksheet (EAW) when required and subject to the provisions of Minnesota state statutes;
3. Approval of other governmental jurisdictions that have approval authority of preliminary plats;
4. An engineering feasibility report unless this requirement has been waived by the council; and
5. A tree preservation plan in accordance with subsection 11-6-3E of this code.

D. Lapse And Extension Provision: Approval shall be effective for a period of one year after action by the council unless otherwise specified by the council. Upon expiration of the time limit, all approvals for preliminary plat or portions thereof for which a final plat has not been recorded with the county, shall be null and void and a new petition and processing shall be necessary to revalidate the preliminary plat unless the council shall grant an extension of time prior to the expiration date. (Ord. B-91, 8-5-1997, eff. 8-11-1997)

12-2-4: FINAL PLAT:

A. Application Information: The final plat, at a minimum, shall include the following information:

1. Twenty (20) copies of the final plat including all plat information required in this title or as established by city policy;
2. Completed and signed application with corresponding fee(s) as established by resolution of the council;
3. Easements or deeds as may be required by the city for trailways, ponding, parks, utilities or similar public purposes in a form prescribed by the attorney; and
4. Bond, escrow, letter of credit or similar guarantees to the city related to performance and/or for installation of public improvements and/or developer to install improvements.

B. Staff Review And Approval: The staff shall review the final plat and forward a recommendation to the commission. The commission shall review the final plat and forward a recommendation to the council.

C. Final Requirements: Prior to the city executing the final plat, the following information shall have been received and approved by the council:

1. A subdivision agreement, drafted by the city that identifies all requirements of the developer and the city;
2. The approved phasing of the subdivision, which may include the use of additions and/or outlots with dedication of public rights of way and/or public easements;
3. Approval of other governmental jurisdictions that have approval authority of preliminary plats;
4. An engineering feasibility report; and

5. Review and approval by the city's public utilities commission and park and recreation committee; and

6. A copy of the abstract when required by the city for a title search. (Ord. B-91, 8-5-1997, eff. 8-11-1997)

12-2-5: PLATTING ALTERNATIVES:

Alternatives to the standard preliminary and final plat procedures and requirements may be permitted under certain conditions as defined below in administrative plats and simple plats.

A. Administrative Plat Procedures: Administrative plats shall conform to all requirements of standard subdivision except that some of the information requirements such as the engineering feasibility report may be waived by the city staff. Property may be subdivided through an administrative platting procedure which combines the preliminary and final plat procedures in conformance with the following conditions:

1. The resulting subdivision shall contain no more than three (3) parcels.
2. The proposed subdivision shall be in areas where municipal streets and utilities are already in place and capable of serving the plat.
3. Future streets shall not be constructed and the proposed subdivision shall not interfere with proper development of neighboring adjacent properties.
4. Resulting parcels shall conform with all zoning ordinance requirements.

B. Simple Plat Procedures: A simple plat shall combine the procedures required for preliminary and final plats to include one review and approval sequence before the commission and council. Property may be subdivided through a simple platting procedure in conformance with the following conditions:

1. The resulting subdivision shall contain no more than five (5) acres or three (3) lots for commercial plats, and no more than ten (10) acres or twenty (20) lots for residential plats.
2. Resulting parcels shall conform with all zoning ordinance requirements.
3. The proposed subdivision shall contain no more than one phase for final platting. (Ord. B-91, 8-5-1997, eff. 8-11-1997)

12-2-6: RECORDING REQUIREMENTS FOR FINAL PLATS:

A. Vested Rights: No vested rights, in terms of conveying lots, shall accrue to any plat by reason of preliminary or final approval until the actual signing of the plat by the city after all requirements are met and recorded with the county.

B. Signing Of Plat: Signatures shall be recorded upon the final plat as required by the county.

1. The signatures of the commission chair and vice chair or their designee, attesting to the date upon which the commission made a recommendation on the preliminary plat after a public hearing.

2. The signature of the mayor or vice mayor attesting to the date upon which the council approved

the final plat.

3. The signature from the clerk's office and seal of the city attesting to the above referenced actions by the city and valid signatures.

Release Of Plat: The final plat shall not be released by the clerk for recording with the county until the following have been completed:

1. The recording of signatures upon the final plat as listed in subsections A and B of this section.
2. The recording of signatures upon the appropriate subdivision agreement(s).
3. The submittal of all required fees and appropriate financial guarantees to the city, if any, ensuring the applicant's performance of the terms of these regulations.

D. Recording Of Plat:

1. It shall be the responsibility of the subdivider to file with the county recorder within two (2) years after the plat has been released for recording by the city unless a time extension has been granted by the council.

2. Failure to record the plat within two (2) years of council approval shall render all approvals by the city null and void until a new application has been processed and approved by the city or until the city has granted an extension in time in which the final plat shall be recorded.

E. Proof Of Recording: The city shall not take any action related to the plat such as issuing building permits or awarding public utility or street contracts on the platted property until such time as the clerk has been satisfied that the plat has been recorded with the county recorder. (Ord. B-91, 8-5-1997, eff. 8-11-1997)

12-2-7: QUALIFICATIONS GOVERNING APPROVAL OF PLATS:

All subdivisions shall conform to the following criteria:

- A. That the proposed subdivision complies with applicable ordinances and the comprehensive guide plan.
- B. That the design or improvement of the proposed subdivision complies with applicable plans of Dakota County, state of Minnesota or the metropolitan council.
- C. That the physical characteristics of the site, including, but not limited to, topography, vegetation, susceptibility to erosion, and filtration, susceptibility to flooding, water storage and retention, are such that the site is suitable for the type of development or use contemplated.
- D. That the site physically is suitable for the proposed density of development.
- E. That the design of the subdivision or the proposed improvements are not likely to cause environmental damage.

That the design of the subdivision or the type of improvements are not likely to cause health problems.

- G. That the design of the subdivision or the type of improvements will not conflict with the easements of record or with easements established by judgment of court.

- H. That completion of the proposed development of the subdivision can be completed in a timely manner so as not to cause an economic burden upon the city for maintenance, repayment of bonds, or similar burden.
- I. That the design of the subdivision is compatible and consistent with the platting or approved preliminary plat on adjacent lands.
- J. That all proposed urban residential subdivisions are in the metropolitan urban service area (MUSA). (Ord. B-91, 8-5-1997, eff. 8-11-1997)

CHAPTER 3 SUBDIVISION DESIGN STANDARDS AND IMPROVEMENTS

12-3-1: STREET DESIGN STANDARDS:

- A. A subdivision shall provide for the continuation or appropriate projection of existing streets in surrounding areas; or a subdivision shall conform to a plan for the neighborhood approved, or adopted by the council to meet a particular situation where topography or other conditions make continuance or conformance to existing streets impractical.
- B. Local streets shall be so laid out that their use by through traffic will be discouraged and so that they will not function as collector streets.
- C. Where a subdivision abuts or contains an existing or proposed collector or arterial street, the city may require such treatment as may be necessary for adequate protection of residential property and to afford separation of through and local traffic.
- D. Where a subdivision borders on or contains a railroad right of way, or limited access highway right of way, the city may require a frontage street approximately parallel to and on each side of such right of way, at a distance suitable for the appropriate use of the intervening land. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.
- E. Street intersections with centerline offsets of less than two hundred fifty feet (250') for local street to local street and six hundred sixty feet (660') for local to collector intersections shall not be allowed.
- F. When connecting street lines of the same street from each other at any point by more than ten degrees (10°), they shall be connected by a curve with a radius adequate to meet Minnesota department of transportation (Mn-DOT) adopted sight distance guidelines, and of such greater radii as the engineer shall determine for special cases.
- G. Streets shall be laid out as so to intersect, as nearly as possible, at right angles and no street shall intersect any other street at less than seventy five degrees (75°).
- H. Sight easements with tangent distances of twenty five feet (25') shall be provided at street intersections or the city may permit property lines at street intersections to be rounded with a radius deemed necessary.

treet right of way and widths shall meet the following minimum criteria:

STREET DESIGN

Classifications	Right Of Way (ROW) (Feet)	Street Widths ¹ (Feet)
Principal or minor arterial	As required by state or county	As required by state or county
Collector	80-100	36-52
Local	60	32

Note:

1. Measured face of curb to face of curb.

ROW dedications, excluding turnaround area may be reduced from sixty (60) to fifty feet (50'), and pavement widths reduced from thirty two (32) to no less than twenty eight feet (28') in areas as determined by the city to be environmentally sensitive due to topography, forestation and/or wetlands.

- J. The construction of half streets shall be prohibited, but half of the required right of way shall be platted within such tract where streets are appropriate as determined by the city.
- K. Cul-de-sac dead end streets, designated to be so permanently, shall not serve more than fifteen (15) single-family dwelling units or twenty five (25) multiple dwelling units and shall not be longer than seven hundred feet (700') and shall be provided at the closed end with a turnaround having roadway diameter of at least ninety feet (90') (measured face of curb to face of curb) and street property line diameter of at least one hundred twenty feet (120').
- L. Cul-de-sacs shall only be developed where justified by irregular topography or where adjacent to limited access streets.
- M. Street grades, wherever feasible, shall not exceed the following, with vertical curves design each meeting Mn-DOT approved standards:

<u>Street Type</u>	<u>Percent Grade</u>
Arterial	5
Collector	7
Local	8

N. No street grade in new subdivisions shall be less than one percent (1.0%). At intersections, the street grade shall not exceed two and zero-tenths percent (2.0%) for the first one hundred feet (100') approaching said intersection. (Ord. B-91, 8-5-1997, eff. 8-11-1997)

12-3-2: STREET SECTIONS:

The street section shall comply with design standards as set forth in the city standard specification. All street designs are subject to review and approval of the engineer. (Ord. B-91, 8-5-1997, eff. 8-11-1997)

12-3-3: SIDEWALKS, TRAILS, OR PATHWAYS:

Sidewalks, trails or pathways shall be provided in each plat in accordance with provisions of the city policy. (Ord. B-91, 8-5-1997, eff. 8-11-1997)

12-3-4: EASEMENT DETAILS:

- A. Utility and drainage easements abutting public street right of way and centered on rear or side lot lines shall be at least ten feet (10') wide or wider as may be required by the city.
- B. Where a subdivision is traversed by a ponding area, watercourse, ponding or utility easements, drainage, channel, or stream there shall be provided a drainage conforming substantially with the lines of such watercourse, and such further width or construction, or both, as will be adequate for the purpose as determined by the city. Said drainage or ponding easements shall be laid out and located in such a manner as to provide reasonable access for maintenance and dredging purposes without undue infringement upon the property over which access is taken.
- C. Trails or pedestrianways shall be shown as trailways on the plat as separate easements or recorded at the county as the city may direct.
- D. When double frontage or reverse frontage lots are incorporated in a plat, a planting screen easement of at least ten feet (10') in width may be required along the line of lots abutting a collector street, minor or principal arterial highways. (Ord. B-91, 8-5-1997, eff. 8-11-1997)

12-3-5: LANDLOCKED PARCELS:

As a general rule, the city shall not permit landlocked parcels or parcels that are only served by private easements. However, the city may permit the following:

- A. Landlocked parcels in multiple dwelling or commercial complex provided said parcel(s) have access to public street by an easement over another parcel within the same multiple dwelling or commercial complex.
- B. Landlocked parcels which are reserved for public use or platted as an outlet for such use as ponding areas may be permitted. (Ord. B-91, 8-5-1997, eff. 8-11-1997)

12-3-6: PARK DEDICATION:

- A. Comprehensive Plans: Where a proposed park, trailway, ponding, or open space area, shown on the city's comprehensive guide plan, park development guide, comprehensive storm sewer plan or official map, is located in the whole or in part in a subdivision, such area or areas shall be shown on the preliminary plat. Such area or areas shall also be dedicated to the city by the subdivider if the council requests such dedication under the provisions of the subsections below.
- B. Dedication: In all subdivisions, the city shall require that a reasonable portion of such land be set aside and dedicated to the public for parks, playgrounds or other public use exclusive of property dedicated for streets and other public ways.
 1. In all residential subdivisions it shall be presumed that a reasonable amount of land has been dedicated for parks and playgrounds if the subdivider dedicates at least one twenty-fifth (1/25) of an acre for each dwelling unit of the proposed subdivision (acres to be dedicated = 0.04 x number of dwelling units). The city shall determine whether a cash payment in lieu of land dedication is appropriate. The amount of cash dedication shall be determined by multiplying the number of dwelling units of the proposed subdivision times the designed fee per dwelling which may be set from time to time by resolution of the council.
 2. In all commercial and industrial subdivisions, it shall be presumed that a reasonable amount of land has been dedicated to serve the needs of the resident and working population for parks and playgrounds if the subdivider dedicates at least five percent (5%) of the land in the subdivision for parks, recreation and usable open space. The city shall determine whether a cash payment in lieu of land dedication is appropriate. The amount of the cash dedication shall be determined by

multiplying the number of acres (determined by application of the formula stated above) times the designated fee per acre which may be set from time to time by resolution of the council.

3. The dedication of a portion of land for parks or playgrounds, or the payment of cash in lieu thereof, provided for all above shall be presumed to be reasonable. However, upon the request of the applicant, the recommendation of park and recreation committee, or at the discretion of the council, the city may either increase or decrease such dedication or payment upon a determination by the council that such dedication or payment is unreasonable or insufficient given the specific characteristics of the proposed subdivision and its intended use.

4. Ponding areas, needed as part of the overall city storm drainage plan, shall be dedicated as land or easement at the option of the city and as accepted by the city. However, no credit shall be given for park dedication unless said area meets the criteria for public parks as stated in the city's park dedication resolution and is approved by the council. Said dedication of land or easement shall be in a form approved by the council.

5. In the case of subdivisions of land which have previously been subdivided and for which land has been dedicated for parks or playgrounds, or cash payments in lieu of such dedication have been made, the council shall make reasonable adjustments to recognize such previous dedication or payment.

C. Timing Of Park Dedication: If a new subdivision is designed to be platted into more than one addition, all park and other public use lands contemplated under this section in the total subdivision area, shall be dedicated with the final plat of the first phase or addition of the subdivision unless otherwise approved by the council.

D. Condition Of Land To Be Dedicated: Land to be dedicated for public park, trail, or ponding shall be brought to a suitable condition by the subdivider in accordance with city policy. All disturbed areas shall have topsoil restored, be regarded with turf established according to specifications provided by the city.

E. Abstract: Such lands shall be free and clear of all liens and encumbrances including special assessments as evidenced by a recent abstract of title or registered property abstract to be submitted at developer's cost to the city for its examination.

F. Dedicated Property: City must have received warranty deed or equivalent for dedicated park property by the city before final plat is approved. (Ord. B-91, 8-5-1997, eff. 8-11-1997)

12-3-7: REQUIRED IMPROVEMENTS:

The following required improvements shall be installed in accordance with the engineering policy, standards, and specifications which have been or may in the future be adopted by the council. Where standards and specifications have not been adopted, the improvements shall be made in accordance with good engineering practices.

A. Survey Monuments: Shall be placed at all block and lot corners, angle points, points of curves in streets and at intermediate points as shall be required by the city. The monuments shall be of such material, size, and length as may be approved by the city. It shall be the applicant's responsibility to see that the survey monuments are maintained in good order during construction and development.

B. Sanitary Sewer Systems:

1. Where available, municipal sewer facilities shall be provided in the development of the

subdivision.

2. Prior to providing plans for utilities, analysis of the soil to the depth of the utility proposed should be made and provided with the utility report when required by the city.

3. Where municipal sewer facilities are not available, individual sewage systems shall be provided in accordance with this code.

C. Water Systems:

1. Where available, municipal water facilities shall be provided in the development of the subdivision.

2. Where municipal water facilities are not available, individual water systems shall be provided in accordance with the Minnesota department of health and Dakota County adopted standards.

D. Drainage Facilities: Storm sewer, open drainage, or other facilities and easements shall be installed and provided, which will adequately provide for the drainage of surface waters.

1. Said drainage facilities shall be provided as approved by the city engineer.

2. Storm sewer and/or other drainage facilities shall be installed as determined to be necessary by the city engineer for proper drainage of the surface waters.

E. Streetlights: Streetlights shall be installed as provided by the city's adopted policy.

F. Driveway Approaches: Concrete or bituminous driveway surfaces over boulevard for lots adjacent to streets improved to city standards shall be provided for the development.

G. Turf: Topsoil shall be spread to a minimum depth of four (4) to six inches (6"), and lawn grass shall be established on each lot upon the completion of the paving of adjacent street(s). In addition, prior to the issuance of occupancy permits for a dwelling so provided, seeding shall be established and maintainable as a lawn, sod shall be installed upon the unpaved street right of way fronting the lot and in any drainage swales adjacent to the lot. (Ord. B-91, 8-5-1997, eff. 8-11-1997)

12-3-8: GRADING OF SITE PRIOR TO FINAL PLAT:

Approval of a subdivision grading permit does not obligate the city in any manner to approve a final plat. For further example, please refer to title 9 of this code. (Ord. B-91, 8-5-1997, eff. 8-11-1997)

**CHAPTER 4
VARIANCES, EXCEPTIONS, AND PLANNED UNIT DEVELOPMENTS**

12-4-1: VARIANCES:

The board of appeals and adjustments shall have the authority to grant variances from the requirements of this title subject to the same procedures, conditions, and findings required by the city's zoning ordinance. (Ord. B-91, 8-5-1997, eff. 8-11-1997)

12-4-2: EXCEPTIONS:

The following subdivisions may be exempted from normal platting requirements:

- A. Simple Lot Division: A simple, easily described division of a platted lot of record (for example, east 1/2 of lot 31, north 150 feet of lot 31) may be exempted from the platting requirements of this title provided the resultant parcels meet all zoning requirements. Such division requires the approval of the council.
- B. Agricultural Lot Divisions: Lot divisions for single-family dwellings in the agricultural district may be exempted from platting requirements in accordance with the requirements of section 11-4-1 of this code.
- C. Lot Recombination: To divide on recorded lot or parcel in order to permit the adding of a parcel of land to an abutting lot and create two (2) buildable lots. The proposed lots shall not cause the remaining portion of the existing lots or parcels to be in violation of this regulation or the zoning ordinance.
- D. Consolidation: The owner of two (2) or more contiguous parcels or lots of record may, subject to council approval, consolidate said parcels or lots into one lot of record by recording the consolidation with the county and filing a copy of a certificate of survey showing same, with the clerk within thirty (30) days of recording. No hearing or commission review is necessary unless the proposal is referred to the commission by the planner for clarification. The proposed lots shall not cause any portion of the existing lots, parcels, or existing buildings to be in violation of this regulation or the zoning ordinance.
- E. Corrections: When a survey or description of a parcel or lot has been found to be inadequate to describe the actual boundaries, approval of a corrective plat may be requested. This type of subdivision creates no new lots or streets. The proposed corrective subdivision, in sketch plan form, along with a letter signed by both property owners agreeing to the new subdivision, shall be submitted to the council for approval. No hearing or commission review is necessary unless the proposal is referred to the commission by the planner for clarification. The proposed lots shall not cause any portion of the existing lots, parcel, or existing buildings to be in violation of this regulation or the zoning code. A certificate of survey may be required on any proposed lot with existing buildings in order to determine the placement of the building on the proposed lot.
- F. Registered Land Survey (RLS): Registered land surveys shall not be used to avoid the requirements of this title. A registered land survey for parcels of less than five (5) acres in size or three hundred feet (300') in width shall be reviewed by the commission and approved by the council in the same manner as a subdivision plat. Such approval shall be attached to the survey. All registered land surveys shall be prepared in conformance with Minnesota statutes, section 508.47, subdivision 4. Prior to approval of a registered land survey, the council may require the dedication of street or utility easements or public park land to the city. (Ord. B-91, 8-5-1997, eff. 8-11-1997)

12-4-3: PLANNED UNIT DEVELOPMENT:

The city may combine public hearing requirements for subdivisions with those required of the planned unit developments. (Ord. B-91, 8-5-1997, eff. 8-11-1997)

CHAPTER 5 ADMINISTRATION AND ENFORCEMENT

5-1: AUTHORITY TO ENFORCE THIS TITLE:

The administrator, or the administrator's designee, shall administer and enforce the provisions of this title and shall have said authority to:

- A. Enter upon the land or within a building during reasonable working hours as found necessary to fulfill his/her duties as administrator of this title.
- B. Conduct inspections of buildings and use of land to determine compliance with the terms of this title.
- C. Maintain permanent and current records of this title, including, but not limited to, maps, amendments, bonds, variances, waivers, plats, development agreements, and applications thereto.
- D. Institute in the name of Rosemount appropriate citations or proceedings against a violator as provided by law. (Ord. B-91, 8-5-1997, eff. 8-11-1997)

12-5-2: PREMATURE SUBDIVISIONS:

Any preliminary plat/final plat and/or development deemed premature pursuant to the criteria listed below shall be denied by the council.

- A. Lack Of Adequate Drainage: A condition of inadequate drainage shall be deemed to exist if:
 - 1. Surface or subsurface water retention and runoff is such that it constitutes a danger to the structural security of the proposed structures.
 - 2. The proposed subdivision will cause pollution of water sources or damage from erosion and situation on downhill or downstream land.
 - 3. The proposed site grading and development will cause harmful and irreparable damage from erosion and situation on downhill or downstream land.
 - 4. Factors to be considered in making these determinations may include: average rainfall for the area; the relation of the land to floodplains; the nature of soils and subsoils and their ability to adequately support surface water runoff and waste disposal systems; the slope of the land and its effect on effluents; and the presence of streams as related to effluent disposal.
- B. Lack Of Adequate Water Supply: A proposed subdivision shall be deemed to lack an adequate water supply if the proposed subdivision does not have adequate sources of water to serve the proposed subdivision if developed to its maximum permissible density without causing an unreasonable depreciation of existing water supplies for surrounding areas.
- C. Lack Of Adequate Roads Or Highways To Serve The Subdivision: A proposed subdivision shall be deemed to lack adequate roads or highways to serve the subdivision when:
 - 1. Roads which serve the proposed subdivision are of such a width, grade, stability, vertical and horizontal alignment, site distance and surface condition that an increase in traffic volume generated by the proposed subdivision would create a hazard to public safety and general welfare, or seriously aggravate an already hazardous condition, and when, with due regard to the advice of the county and/or the Mn-DOT, said roads are inadequate for the intended use.
 - 2. The traffic volume generated by the proposed subdivision would create unreasonable highway congestion or unsafe conditions on highways existing at the time of the application or proposed for completion within the next two (2) years.
- D. Lack Of Adequate Waste Disposal Systems: A proposed subdivision shall be deemed to lack adequate waste disposal systems if in subdivisions for which sewer lines are proposed, there is

inadequate sewer capacity in the present system to support the subdivision if developed to its maximum permissible density after reasonable sewer capacity is reserved for schools, planned public facilities, and commercial and industrial development projected for the next five (5) years; or if in subdivisions where sewer lines are neither available nor proposed, there is inadequate on site sewer capacity potential to support the subdivision if developed to the maximum permissible density indicated in the Rosemount comprehensive plan, as may be amended.

- E. **Inconsistency With Comprehensive Plan:** A proposed subdivision shall be deemed inconsistent with the city's comprehensive plan when the subdivision is inconsistent with the purposes, objectives and recommendations of the adopted comprehensive plan of Rosemount, as may be amended. Subdivisions which do not follow planned public improvements shall be deemed inconsistent with the city's growth strategies as outlined in the comprehensive plan.
- F. **Public Service Capacity:** A proposed subdivision shall be determined to lack necessary public service capacity when services such as recreational facilities, schools, police and fire protection and other public facilities, which must be provided at public expense, cannot reasonably be provided for within the next two (2) years.
- G. **Minnesota Environmental Quality Commission (EQB) Policies:** The proposed subdivision is inconsistent with the policies of the environmental quality board, as may be amended, and could adversely impact critical environmental areas or potentially disrupt or destroy historic areas, which are designated or officially recognized by the council, in violation of federal and state historical preservation laws.
- H. **Inconsistency With Capital Improvement Plan:** A proposed subdivision shall be deemed inconsistent with capital improvement plans when improvements and/or services necessary to accommodate the proposed subdivision have not been programmed in the Rosemount, county or other regional capital improvement plans. The council may waive this criteria when it can be demonstrated that a revision to capital improvement programs can be accommodated. (Ord. B-91, 8-5-1997, eff. 8-11-1997)

12-5-3: BUILDING PERMITS:

No building permit shall be issued until public improvements have been accepted by the city. (Ord. B-91, 8-5-1997, eff. 8-11-1997)

12-5-4: VIOLATIONS AND PENALTIES:

Any person who violates or fails to comply with any provisions of this title shall be guilty of a misdemeanor, and upon conviction thereof shall be punished according to Minnesota statutes, section 609.02, subdivision 3. (Ord. B-91, 8-5-1997, eff. 8-11-1997)

12-5-5: REPEALS:

The board of appeals and adjustments and its functions are provided by title 11, chapter 12 of this code. (Ord. B-91, 8-5-1997, eff. 8-11-1997)