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CHAPTER 61

LOT AND SITE DEVELOPMENT APPROVAL PROCEDURES

61.100 The requirements of this section identify which permits or certificates will be required prior to the commencement of any development involving the establishment, modification or change to a use on a parcel or tract of land within the City of Rochester.

61.110 ZONING CERTIFICATE:

A document issued by the Zoning Administrator authorizing a development to proceed based on information included on the application evidencing compliance with ordinance requirements.

61.111 When a Zoning Certificate is Required: Subdivision 1. A zoning certificate shall be required before (1) any new use may be established involving a change in the manner in which the exterior portion of a site is used or involving the erection, construction, reconstruction or alteration (as defined) of a building or structure; (2) an existing use is changed or modified so as to alter the character of its occupancy; (3) the re-establishment of a use involving the erection, reconstruction, construction or alteration of a building or structure; or (4) the establishment of a temporary use on a site may proceed.

Subd. 2. For purposes of this Chapter, the Zoning Administrator's signature appended to an Application for Sound Amplification Permit to be issued pursuant to Chapter 117 shall constitute zoning approval and an approved zoning certificate.

61.112 Procedure: All zoning certificates shall be processed under the Type I review procedure outlined in subsection 60.510.

61.113 Submission Criteria: Appendix B outlines the information that is to be submitted with an application for a zoning certificate.

61.114 Criteria or Approval of Zoning Certificates: It shall be the duty of the Zoning Administrator to issue the zoning certificate provided that he is satisfied that the use and layout of the development as indicated on the site plan conform with ordinance requirements. No zoning certificate authorizing a conditional use, or requiring a variance, special relief, or design modification, shall be issued until said permit has been approved under the regulations of this ordinance, and the zoning certificate evidences compliance with any conditions attached to the approval of said permit.

61.115 Approval of Temporary Uses: The zoning administrator may approve a zoning certificate for a temporary use in the form of a revocable permit for a period not to exceed 12 months subject to conditions that will safeguard the public health, safety and general welfare. Specific restrictions applying to certain types of temporary uses are:

A. **Carnival or Circuses:** No structure or equipment shall be within 500 feet of any residential property line.

- B. **Christmas Tree Sales:** Only permitted in non-residential zoning districts for a period not to exceed 45 days.
- C. **Contractor's Office and Construction Equipment Shed:** Permitted in any district where use is incidental to a construction project. The office or shed shall not contain sleeping or cooking accommodations and shall be removed upon completion of the construction project.
- D. **Seasonal Sales of Farm Produce:** Sale areas shall be set back a minimum of 20 feet from any right-of-way.
- E. **Public Gatherings (concerts, religious meetings, tent meetings):** Unless the public gathering is the subject of an approved Sound Amplification Permit issued pursuant to Chapter 117, the organizers of such events shall present a traffic control and parking plan that has been approved by the Police Department and the City Traffic Engineer. The site shall be cleared of debris at the end of the event and all temporary structures removed within 20 days after the close of the event.
- F. **Storage Containers:** Storage containers placed as temporary uses may not block fire lanes, no-parking zones or restrict emergency vehicles, delivery or other vehicle circulation. The placement of the container shall not block the visibility for vehicles or pedestrians entering or exiting the site. No solid or hazardous waste or hazardous material is permitted in or around the storage containers. No materials may be stacked or stored on top of the storage container.

61.116 **Certificate of Zoning Compliance:** A document issued by the Zoning Administrator permitting the occupancy of a Type III use in a building or on a parcel of land to commence, based upon a finding that the development is consistent with the terms of the zoning certificate authorizing the development. The Zoning Administrator may approve a conditional certificate of zoning occupancy where conditions beyond the control of the applicant exist which will not permit total completion of the development for a specified period of time.

61.117 REQUIREMENTS FOR ALL FLOODPLAIN DISTRICTS

- A. **Permit Required.** A permit must be obtained from the Zoning Administrator to verify a development meets the floodplain standards outlined in this ordinance prior to conducting the following activities:
 1. The erection, addition, modification, rehabilitation, or alteration of any building, structure, or portion thereof. Normal maintenance and repair also requires a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in this ordinance.
 2. The use or change of use of a building, structure, or land.
 3. The construction of a dam, on-site septic system, or fence, although a permit is not required for a farm fence as defined in this ordinance.
 4. The change or extension of a nonconforming use.
 5. The repair of a structure that has been damaged by flood, fire, tornado, or any other source.

6. The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.
 7. Relocation or alteration of a watercourse (including new or replacement culverts and bridges), unless a public waters work permit has been applied for.
 8. Any other type of "development" as defined in this ordinance.
- B. Building Sites. If a proposed building site is in a floodplain, all new construction and substantial improvements (including the placement of manufactured homes) must be:
1. Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 2. Constructed with materials and utility equipment resistant to flood damage;
 3. Constructed by methods and practices that minimize flood damage; and
 4. Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- C. Certification. The applicant is required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this ordinance. Floodproofing measures must be certified by a registered professional engineer or registered architect. Accessory structures designed in accordance with Section 6.212 are exempt from certification, provided sufficient documentation is provided.
- D. Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. No building, land or structure may be occupied or used in any manner until a certificate of zoning compliance has been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this ordinance.
- E. Record of First Floor Elevation. The Zoning Administrator must 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 Zoning Administrator must also maintain a record of the elevation to which structures and alterations or additions to structures are floodproofed.
- F. Notifications for Watercourse Alterations. Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to Minnesota Statutes, Section 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
- G. Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations. As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Zoning Administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.

61.120 HOUSING CERTIFICATE:

A document issued by the zoning administrator pursuant to Section 38.05 of the Rochester Code of Ordinances establishing that a rental unit meets all the provisions and requirements of the zoning ordinance. A housing certificate shall be issued before the City of Rochester Building Safety Department approves a registration certificate allowing an owner or operator to let for occupancy to another individual any habitable unit.

61.121 **Procedure:** All housing certificates shall be processed under the Type I review procedure outlined in Section 60.510.

61.122 **Submission Criteria:** Appendix B outlines the information that is to be submitted with an application for a housing certificate.

61.123 **Criteria for Issuance of a Housing Certificate:** It shall be the duty of the zoning administrator to issue the housing certificate if he is satisfied that the requirements of the zoning ordinance have been met.

61.130 SIGN PERMIT:

A document issued by the zoning administrator which permits the erection, alteration or replacement of any sign. Temporary signs do not require a sign permit but must comply with any applicable regulations herein.

61.131 When a Sign Permit is Required:

- 1) No person, corporation, organization, or institution shall be permitted to erect, alter, or replace a sign without first attaining a permit therefore. No sign shall hereafter be erected, altered or replaced within the municipal limits of the City of Rochester, Minnesota, by any individual until a sign permit has been issued by the zoning administrator which shall be affixed to the lower right hand corner of each sign.
- 2) A sign permit shall expire if the sign is not erected within 180 days after issuance and no permit fees or inspection fees for such sign shall be refunded.

61.132 **Procedure:** All sign permits shall be processed under the Type I review procedure outlined in subsection 60.510.

61.133 **Submission Criteria:** The submission criteria for a sign permit are listed in Appendix B.

61.134 **Criteria for Issuance of a Sign Permit:** The Zoning Administrator shall issue a sign permit if he is satisfied the proposed sign meets the requirements of the ordinance, particularly Section 63.220.

61.135 **Erection of a Sign Without a Permit:** Any person who erects, alters, structurally alters, or replaces a sign without first obtaining a required permit, or who otherwise erects a sign which does not comply with the provisions of the Zoning Ordinance and Land Development Manual, including but not limited to sections 63.220 – 63.229, is guilty of a misdemeanor.

61.140 CONDITIONAL USE PERMIT:

A document authorizing an applicant to proceed with application for zoning certificate approval where the development involves a use which, because of its potential impact, has been identified as a use requiring review through the Type II or Type III procedure. The intent of the Conditional Use Permit is to provide for the review of such use so that the community is assured it is compatible with its location and surrounding land uses.

61.141 **When a Conditional Use is Required:** A Conditional Use Permit shall be required for any use identified in the Zoning District Tables contained in Chapter 62 as a Type II or Type III Use. Issuance of a Conditional Use Permit is required as a precondition to the issuance of a zoning certificate for any development involving a Type II or Type III Use.

61.142 **Procedures:** Uses identified in the zoning district tables as Type II uses are reviewed under the Type II Review Procedures. Uses identified as Type III are reviewed under the Type III Review Procedure with a Phase I hearing process utilized. The designated hearing body shall be the Planning Commission. Uses identified as Type III in a Core Neighborhood Zoning District shall be reviewed under the Type III Review Procedure with a Phase III hearing process.

61.144 **Submission Criteria:** Appendix B outlines the information that is to be submitted with an application for a Type II or Type III Conditional Use Permit.

61.145 **Matters Under Consideration:** The review of a conditional use is necessary to insure that it will not be of detriment to and is designed to be compatible with land uses and the area surrounding its location. It also must be consistent with the objectives and purposes of this ordinance.

61.146 **Standards for Conditional Uses:** Subdivision 1. The zoning administrator, Commission or Council shall approve a development permit authorizing a conditional use unless it determines one or more of the following findings can be made with respect to the proposed development:

Subd. 2. Provisions for vehicular loading, unloading, parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets and ways will create hazards to safety, or will impose a significant burden upon public facilities.

Subd. 3. The site plan fails to provide pedestrian access to any customer/tenant ingress/egress of the building, including from a public right-of-way and off-street parking area that serves the use in a manner which minimizes non-vehicular/vehicular conflicts.

Subd. 4. The intensity, location, operation, or height of proposed buildings and structures will be detrimental to other private development in the neighborhood or will impose undue burdens on the sewers, sanitary and storm drains, water or similar public facilities.

Subd. 5. The provision for on site bufferyards and landscaping does not provide adequate protection to neighboring properties from detrimental features of the development.

Subd. 6. The site plan fails to provide for the soil erosion and drainage problems that may be created by the development.

Subd. 7. The provisions for exterior lighting create undue hazards to motorists traveling on adjacent public streets or are inadequate for the safety of occupants or users of the site or such provisions damage the value and diminish the usability of adjacent properties.

Subd. 8. The proposed development will create undue fire safety hazards by not providing adequate access to the site, or to the buildings on the site, for emergency vehicles.

Subd. 9. In cases where a Phase I plan has been approved, there is a substantial change in the Phase II site plan from the approved Phase I site plan, such that the revised plans will not meet the standards provided by this section.

Subd. 10. The proposed conditional use does not comply with all the standards applying to permitted uses within the underlying zoning district, or with standards specifically applicable to the type of conditional use under consideration, or with specific ordinance standards dealing with matters such as signs which are part of the proposed development, and a variance to allow such deviation has not been secured by the applicant.

61.147 **Conditions on Approval:** In considering an application for a development permit to allow a Conditional Use, the designated hearing body shall consider and may impose modifications or conditions to the extent that such modifications or conditions are necessary to insure compliance with the criteria of Paragraph 61.146.

61.148 **Staff Authorized Changes to Approved Conditional Use Permits:**

Subd 1. Subject to the restrictions provided in Subdivision 2, the zoning administrator is authorized to make changes to approved conditional use permits if necessitated by engineering factors, changing economic conditions, or other circumstances unforeseen at the time the plan was approved. Minor changes may include, but are not limited to, modification in building locations, building height, the amount of floor area, exterior facades, landscaping materials and placement, the design of public landscaping materials and placement, the design of public facilities, lot coverage, and the addition, deletion or change of accessory structures or uses.

Subd. 2. In making a determination to approve a change, the zoning administrator shall find that the proposed change will not adversely impact any adjacent property, and will not result in:

- A. In the case of residential development, an increase or decrease in the number of approved dwelling units by more than 10%;

- B. An increase or decrease in the floor area ratio which will result in more than ten (10%) percent change in building coverage on the lot; or
- C. Changes in site design that may create problems or conflicts associated with vehicular traffic, transit vehicle or patron, non-motorized vehicle or pedestrian circulation on-site and at access points; or
- D. Inadequate public facilities; or
- E. A reduction in off-street parking and loading spaces, unless accompanied by concurrent reduction in dwelling units or (in the case of non-residential development) floor area; or the reduction in parking does not result in non-conformance with the requirements of this Ordinance; or
- F. A change in building locations which would result in distance separations between structures in the development or on adjacent lots to fall below the normal separation that would be required under conventional zoning; or
- G. A significant change in the essence or character of the project as approved. Examples include, but are not limited to:
 - Elimination of one of the major approved elements of the project, such as; elimination of the residential, retail/commercial or hotel element.
 - Reduction of transparency at the ground level, by more than 10% either through elimination of glass, or obstruction of more than 10% of glassing (as approved) that reduces the visibility in and out of the structure.
 - Significant change in either the durability or quality of building materials or landscaping.

Subd. 3. All changes other than those listed above shall be subject to approval by the same type procedure by which the original approval was obtained.

Subd. 4. This section is not applicable to any aspect of an approved conditional use permit which is addressed in a public infrastructure related development agreement.

61.151 Purpose:

The City shall review any development project involving significant changes in land form to review impacts on drainage patterns, protect ground water supplies, to minimize risks from shifting or settling soils or rock formations, and to mitigate the visual impact of major grading.

61.153 Minor Grading Permit Required:

- 1) **Applicability:** A minor grading permit shall be required for any non-agricultural project involving the movement of 50 cubic yards or more of earth that involves a change in natural or preexisting grades of less than 10 vertical feet, except for excavation of a basement for which a building permit has been issued.
- 2) **Approval Process:** The application for a minor grading permit shall be reviewed through a Type I process.
- 3) **Submittal Requirements:** The applicant shall submit a completed application and grading plan to the City Engineer in accordance with Section 61.154.
- 4) **Review Criteria:** The City Engineer shall consider the following factors when reviewing a Minor Grading Permit:
 - a) Restoration and stabilization of cut and fill areas;
 - b) Impact on drainage patterns;
 - c) Impact on groundwater quality;
 - d) Permanent and interim erosion and sediment control plans;
 - e) The amount and type of material being moved to or from the site; and
 - f) Compliance with the Uniform Building Code, adopted Department of Public Works policies, and other state and federal requirements.
- 5) **Approval:** If the application is consistent with the standards established in Chapter 64 of the Rochester Code of Ordinances and adopted engineering standards, the permit shall be issued to authorize the proposed grading work. The duration of the permit shall not exceed 24 months.

61.154 Contents:

Refer to Section 50.01 (2) of the Rochester Code of Ordinance (also referred to as the Uniform Building Code) and the City's grading plan checklist for identification of the information to be included in a grading plan.

61.155 Exemptions:

The following activities are exempt from the grading permit requirements:

- 1) Agricultural operations involved in crop production;
- 2) Activity necessary as an emergency measure for the safety or protection of life or property; or
- 3) Other activities exempted under the applicable provisions of the Uniform Building Code.

61.200 SUBDIVISION ACTIVITIES:

The requirements of Sections 61.200 through 61.584 identify approvals that will be required to authorize any subdivision activity which is defined as a subdivision by statute or City ordinance. Any person seeking approval of subdivision activity, development activity or a conditional use permit must indicate whether there will be burning of brush, trees or debris that will be cleared as part of the subdivision activity.

61.210 GENERAL DEVELOPMENT PLAN:

This document, through the use of site plans and/or written materials, serves as a guide to the on and off site capital facilities required to meet the City's level of service standards for adequate public facilities, density, intensity, land uses, thoroughfares, pedestrian and bicycle ways, trails, parks, open space, and future lot, street and drainage patterns established for a site in the subdivision process. It is the intent of the general development plan requirement to insure that a landowner investigates the broad effects development of property will have not only on the site itself, but on adjacent properties and the on and off site public infrastructure system. Approval of a general development plan shall constitute approval of the conceptual land use mix, development intensity, general street patterns, drainage patterns, lot patterns, parks and open space lands, and the general layout of walkway easements, pedestrian ways and bicycle trail thoroughfares, provided that these are consistent with the comprehensive plan (where a change in a zoning district is contemplated or with regard to a transportation system characteristic) and zoning district requirements and may be modified in conjunction with subsequent approvals if additional information reveals development constraints that are not evident during general development plan review. Modifications to the plan may be required, based on specific information presented during land subdivision or site development plans. An amendment to the comprehensive plan may be approved concurrently with the general development plan. A general development plan may be processed simultaneously with a rezoning or plan amendment request.

61.211 When a General Development Plan is Required:

Subdivision 1. Approval of a General Development Plan shall be required for any site where the eventual platting of the property involves approval of a Type III land subdivision permit. A General Development Plan also shall be required for land use plan amendments and for any upzoning to the R-1x, CN-NR, R-2, R-3, R-4, M-1, M-2, M-3, B-1, B-2, B-4 and B-5 zoning districts and for the division of any land zoned as such, except where the General Development Plan, land use plan amendment or upzoning is initiated by the City. No Type III land subdivision permit shall be approved until a General Development Plan for the property has been approved. A General Development Plan is not required for Type I and II applications for which no TIR is required pursuant to section 61.520 and no new street connections are necessary.

Subd. 2. Except within the Decorah Edge as defined in chapter 59, a General Development Plan shall not be required for any portion of an area for which a general development plan has previously been approved by the Council, or where the zoning administrator determines that new proposed streets need not continue beyond the land to be subdivided in order to complete an appropriate street system or to provide access to adjacent property. Within the Decorah Edge, any General Development Plan approved prior to October 1, 2006, that has remained in effect in

accordance with the provisions of section 61.216 as of October 1, 2006, shall be exempt from the special protections afforded Edge Support Areas and Groundwater Supported Wetlands addressed in section 59.06 and from the standards applied to Substantial Land Alterations in section 62.1105 and shall remain in effect until October 1, 2011. After October 1, 2011, remaining portions of the General Development Plan and any proposed subdivision plats for the area of the General Development Plan must be brought into compliance with provisions of chapter 59 and of this ordinance applying to the Decorah Edge, Groundwater Supported Wetlands, and Edge Support Areas. The effect of this exemption shall apply to the conceptual land use mix, development intensity, street patterns, drainage patterns, lot patterns, parks and open space lands, and the general layout of walkway easements, pedestrian ways and bicycle trail thoroughfares as identified in the General Development Plan. The exemption shall also apply to grading and other construction activities only to the extent made necessary by the approved General Development Plan. Where by provisions of development agreements or other action the Council has committed to elements of a General Development Plan for a longer period of time than the five years provided above, the longer period shall apply.

Subd. 3. The Council shall have the authority to initiate a General Development Plan for an area for which there is no proposal for subdivision, provided the general development plan is given consideration under the Type III procedure.

Subd. 4. Except as provided in subdivision 3, a General Development Plan application may be initiated by the owner of property subject to the General Development Plan and consistent with section 61.214, subd. 2(B).

Subd. 5. The Zoning Administrator may waive the requirement of a General Development Plan for an up-zoning of property, as provided in this section, when all of the following criteria are met:

- A. The proposed re-zoning is consistent with the land use designation on the adopted Rochester Urban Service Area Land Use Plan;
- B. The property is not within the Decorah Edge as defined in chapter 59;
- C. The property is developed with a floor area ratio of at least 0.25; and
- D. The proposed re-zoning includes all of the contiguous land under the ownership or control of the property owner and the total of such contiguous parcels is not more than one acre in size; and
- E. No new right-of-way, street or utility easement is needed to accommodate the orderly development of the subject parcel and abutting property.

Subd. 6. In addition to the criteria provided in subdivision 5, the Zoning Administrator may waive the requirement of a General Development Plan for an up-zoning of property, as provided in this section, when there is a potential need for street or utility easement, drainage easement, access easement or street easement, and that need has been resolved to the satisfaction of the Council.

61.212 General Development Plan Procedure:

All General Development Plans shall be processed through the Type III Review procedure under a Phase II hearing process.

61.213 Notification Requirements:

Notices for the required public hearing shall be sent as provided in Section 60.630.

61.214 Submission Criteria

Subdivision 1. Appendix B outlines the information that must be submitted with an application of a General Development Plan. The plan must show the density, intensity, land uses, pedestrian and bicycle ways, trail thoroughfares, parks, open space and pattern of future streets within the development, and possible off-site drainage situations affecting other tracts within 500 feet surrounding and adjacent to the proposed land subdivision. The City Engineer may reduce the distance subject to a drainage analysis to 200 feet where stormwater is channeled into an existing drainage facility that is designed to carry projected runoff and is located within 200 feet of the site, or where the drainage plan is found to be consistent with the Stormwater Management Plan, or adopted drainage and stormwater policies.

Subd. 2. In addition to the information required in subdivision 1 of this section, every application for a General Development Plan must show one of the following:

- A. The proposed development is bounded on all sides by arterial or higher level streets, streams or other topographic constraints, existing development, land already included in an approved General Development Plan, or permanent open space that limits the inclusion of other abutting lands;
- B. The proposed development consists of at least 80 acres in land area regardless of ownership or interest, and consists of all lands for which the applicant has ownership or interest.

Subd. 3. If applicable, the applicant must provide the information required by Chapter 59.

Subd. 4. Each General Development Plan must also identify the following:

- A. Existing bicycle, pedestrian and transit facilities within 200 feet of the site;
- B. Proposed internal circulation, infrastructure and safety measures for pedestrians, bicycles and transit vehicles (if applicable) and patrons; and
- C. Existing and proposed pedestrian destinations within one-half mile.

61.215 Criteria for Approval of a General Development Plan: Subdivision 1. The Council shall approve a general development plan if it determines the plan satisfies all of the findings provided in subdivision 2.

Subd. 2. The findings for the approval of a general development plan are as follows:

- A. The proposed land uses are generally in accord with the adopted zoning map. If the general development plan is being processed concurrently with a rezoning request, the general development plan and the rezoning request must be consistent with the comprehensive plan. If the general development plan is being processed concurrently with an amendment to the land use plan map and a rezoning request, the land use plan map amendment, rezoning request and general development plan must be consistent with the policies of the comprehensive plan. If there is inconsistency between these documents, the means for reconciling the differences must be addressed.
- B. The proposed development, including its lot sizes and density is compatible with the existing and permissible future use of adjacent property.
- C. On-site access and circulation design for pedestrians, bicyclists, transit vehicles and patrons and private vehicles, and integration of these facilities with adjacent properties will support the safe travel of persons of all ages and abilities by minimizing vehicular, pedestrian and bicycle conflicts through the use of appropriate traffic calming, pedestrian safety, and other design features appropriate to the context.

(1) The roadway connectivity shall meet a minimum ratio as decided by the number of lots on a development, excluding outlots. Additional pedestrian links shall be provided to increase the overall connectivity index to the minimum, should the development fail to meet the minimum using roadway connections. Proposed subdivisions must meet the access requirements as required by Fire Code, Complete Streets Policy, and all Ordinances pertaining to access management and roadway placement.

(2) Minimum Required Connectivity Ratio

- i. Developments with 10 lots or fewer shall be required to meet a connectivity ratio of 1.0 or greater.
- ii. Developments with more than 10, but fewer than 50 lots shall be required to meet a ratio of 1.2 or greater.
- iii. Developments with greater than 50, but fewer than 100 lots shall be required to meet a ratio of 1.4 or greater.
- iv. Developments with more than 100 lots shall be required to meet a ratio of 1.5 or greater.

(3) Connectivity Index Calculation

- i. Arterial streets shall not be included in the calculation except when it is necessary to travel along the arterial street to reach any two nodes in the subdivision.

- ii. Existing intersections outside of the development area shall not be counted as node. However, streets extending into the development from these intersections shall be counted as links.
- iii. Stub streets that will eventually be connected from the subdivision to a future abutting subdivision or arterial or collector streets shall not be counted as a node. The segment of the stub street shall be counted as a link.
- iv. Alleys shall not be counted as a link, and locations where an alley intersects with a street shall not be counted as a node.
- v. Any location where a street creates a T-intersection with a street of any classification shall be considered a node.

(4) A subdivision may have a roadway connectivity index of less than the required minimum where specific features or constraints of the land being subdivided makes strict compliance impossible or impractical. Such features include the following:

- i. Natural features such as bodies of water, severe elevation changes (12% slope or greater), Decorah Edge, hydric soils or presence of wetlands.
- ii. Important cultural or archeological features such as historic landmarks or burial grounds.
- iii. Adjacent subdivisions which do not provide stub streets or other opportunities to connect to the proposed subdivision.
- iv. Situations where intersections, access management, and driveway separation requirements prevent the ability to provide additional connections to a public road.

(5) If the applicant is unable to meet the required minimum ratio listed in subsection A, then the applicant shall attach to the General Development Plan application an explanation of how the connectivity of the proposed development is hindered by the presence of any of the features listed above or similar features. The Development Services Team shall recommend the application for approval or approval with conditions if it determines that the connectivity of the proposed subdivision cannot meet the minimum index requirements (62.215, Subd. 2, C-2), due to the site constraints. Alternatively, the Development Services Team may recommend denial if it determines that the proposed development's connectivity can be reasonably improved in spite of the presence of said features.

- D. The mix of housing is consistent with adopted Land Use and Housing Plans.
- E. The proposed plan makes provisions for planned capital improvements and streets reflected in the City of Rochester's current 6-Year Capital Improvement Program, adopted Thoroughfare Plan, the ROCOG Long-Range Transportation Plan, Official Maps, and any other public facilities plans adopted by the City. Street system improvements required to accommodate proposed land uses and projected background traffic are compatible with the existing uses and uses shown in the adopted Land Use Plan for the subject and adjacent properties.
- F. On and off-site public facilities are adequate, or will be adequate if the development is phased in, to serve the properties under consideration and will provide access to adjoining land in a manner that will allow development of those adjoining lands in accord with this ordinance.
 - (1) Street system adequacy must be based on the street system's ability to safely accommodate trips from existing and planned land uses on the existing and proposed street system without creating safety hazards, generating auto stacking that blocks driveways or intersections, or disrupting traffic flow on any street, as identified in the traffic impact report, if required by Section 61.523 Subd. 2(C). Capacity from improvements in the first 3 years of the 6-year CIP must be included in the assessment of adequacy.
 - (2) Utilities are now available to directly serve the area of the proposed land use, or that the City of Rochester is planning for the extension of utilities to serve the area of the proposed development and such utilities are in the first three years of the City's current 6-Year Capital Improvements Program, or that other arrangements (contractual, development agreement, performance bond, etc.) have been made to ensure that adequate utilities will be available concurrently with development. If needed utilities will not be available concurrent with the proposed development, the applicant for the development approval must stipulate to a condition that no development will occur and no further development permit will be issued until concurrency has been evidenced.
 - (3) The adequacy of other public facilities must be based on the level of service standards in Section 64.130 and the proposed phasing plan for development.
- G. The drainage, erosion, and construction in the area can be handled through normal engineering and construction practices, or that, at the time of land subdivision, a more detailed investigation of these matters will be provided to solve unusual problems that have been identified.
- H. Wetlands and Edge Support Areas (as defined in Chapter 59) will be managed consistent with Chapter 59 and, where applicable, in such a way as to maintain the quality and quantity of groundwater recharging lower

aquifers and to protect discharge, interflow, infiltration, and recharge processes taking place; provided, however, that the Council may waive this requirement under the provisions of Chapter 59.

- I. The lot, block, and street layout for all development and the lot density for residential development are consistent with the subdivision design standards contained in Section 64.100 and compatible with existing and planned development of adjacent parcels.
- J. If the eventual platting of the area involves approval of a Type III Land Subdivision Permit, the proposed development must satisfy one of the following categories of development:
 - (1) A development bounded on all sides by arterial or higher level streets, streams or other topographic constraints, existing development, land already included in an approved General Development Plan, or permanent open space that limits the inclusion of other abutting lands;
 - (2) A development with adequate public facilities and constituting the entire remaining service area of a major public facility improvement (such as a trunk sewer or water tower) that has been identified as a project in the Capital Improvement Program;
 - (3) A development that consists of at least 80 acres in land area regardless of ownership or interest, and consists of all lands for which the applicant has ownership or interest; or
 - (4) A development for which a development agreement has been executed by the owner and the city for the entire property included in the proposed general development plan. The development agreement must have been drafted based on the development of the property occurring as proposed in the general development plan.
- K. The Plan is in compliance with the Comprehensive Plan, and the Complete Streets policy of the City.
- L. Where specific building footprint or layouts are identified on the Plan; the Plan demonstrates that pedestrian access to the customer/tenant ingress/egress locations in of the building(s), from facilities in both the public right-of-way, and off-street parking areas that serves the use are designed to minimize bicycle, pedestrian and vehicular conflicts.

61.216 Approval and Filing of a General Development Plan:

Except as provided in Section 61.211 for properties affected by provisions of Chapter 59 pertaining to the Decorah Edge, groundwater supported wetlands, or Edge Support Areas, the approval shall be valid so long as the applicant receives a valid subsequent development permit within two years of the General Development Plan approval. Except as provided through a subsequent development approval, development agreement, or action by the Council, the General Development Plan shall expire if no construction activity or subsequent development approval occurs for any two-year period. Upon final approval, a General Development Plan shall be made a matter of record as follows:

- A. The criteria for approval by the City Council shall be noted in their official minutes;
- B. The approved plan shall be indexed and filed by the zoning administrator in the office of the Rochester-Olmsted Planning Department.

61.217 General Development Plan Amendment:

Amendments to General Development Plans may be initiated by the owner of property within the General Development Plan area or by the Common Council subject to the following provisions:

- 1) **Minor Amendments:** Minor amendments may be approved by the Zoning Administrator pursuant to the Type I review procedure established in Section 60.510.
 - a) Minor amendments shall include the following changes:
 - 1) Changes in the internal alignment of roads that do not affect external properties;
 - 2) Changes in internal parcel boundaries that do not abut external property lines;
 - 3) Changes in setbacks along internal property lines;
 - 4) Changes in the routing of trail thoroughfares and pedestrian ways; and
 - 5) Changes in the orientation of buildings on internal parcels.
 - b) No minor change authorized by this section may cause any of the following:
 - 1) Change in the permitted uses or of development character;
 - 2) Increased intensity of use (as measured by the number of dwelling units or square feet of non-residential building area) of greater than 5%, provided that no increase shall exceed zoning density limits;

- 3) Increased trip generation or demand for public utilities of greater than 5%, provided that no additional demands shall exceed capacities for safe operation of streets and utilities;
 - 4) Decreased public or private open space area of greater than 5%; or
 - 5) Increased volume or velocity of stormwater runoff from the development of greater than 5%, provided that the increases shall not exceed facility capacities and adopted stormwater management standards.
- 2) **Major Amendments:** All other changes to an approved General Development Plan, whether initiated by the Common Council or the owner of property subject to the proposed changes in the General Development Plan, shall be processed as a Type III, Phase II application pursuant to Section 61.215. For any changes proposed by the Common Council, the owner of property subject to the General Development Plan shall be notified by the City a minimum of 30 days in advance of any hearings or actions which amend an approved General Development Plan.

61.220 LAND SUBDIVISION PERMIT:

A land subdivision permit is the initial document authorizing the creation of a subdivision. It is recognized as the preliminary plan under state law. For Type I subdivision, it will be the only approval required to permit the subdivision of land; for Type II and Type III subdivisions, final plat approval under the requirements of Section 61.230 will also be required before subdivision activity can proceed.

61.221 When a Land Subdivision Permit is Required:

A land subdivision permit shall be required before the subdivision (as defined) of a parcel can occur, except where the subdivision is exempted from regulation by Minnesota Statute Chapter 462. A subdivision in which all proposed lots front on a platted or dedicated street right-of-way and no major changes to the right-of-way are proposed may be exempted from the requirements of this paragraph by the zoning administrator.

61.222 Procedure Type:

All applications for a land subdivision permit shall be processed through either a Type I, II or III review procedure according to the following requirements.

Subdivision 1. **Type I Land Subdivision.** These land subdivisions may be processed through a Type I review procedure:

- A. The rearrangement of existing lot lines for either part of a platted lot or an unplatted parcel, when no additional lots or parcels are created. The need for and provision of general utility easements, drainage easements, access easements or street easements shall be resolved prior to the approval of the subdivision.
- B. A single re-subdivision and rearrangement of a single parcel or group of parcels in an R-Sa, R-1, R-1x, R-2 or R2x district so as to create no more than one additional lot or parcel, where the dedication of a street easement

necessary to provide access is not involved. The need for general utility easements, drainage easements or access easements shall be resolved prior to subdivision approval. This procedure may be used only once per parcel. The re-subdivision of any lot or parcel which was subdivided or modified through a Type I Land Subdivision after January 1, 1992 shall be subject to the Type II land subdivision process established in Section 61.222, subd. 2;

- C. Where street right of way providing access currently exists, but additional right of way is needed for improvements such as interchanges, turn lanes or acceleration lanes, the application shall be referred to the City Council for action by resolution. This review shall be scheduled by the zoning administrator at the next regularly scheduled Council meeting and need not be a hearing;

Subd. 2. **Type II Land Subdivision:** These land subdivisions may be processed through a Type II review procedure:

- A. The division of any land that will result in creation of up to five lots, provided the dedication of street easements is not involved. For the purposes of conformance with the state law, the Type II procedure shall constitute the preliminary approval.

Subd. 3. **Type III Land Subdivision:** All land subdivisions that are not exempted by state statute or previously described under the Type I or II procedures shall be processed under the Phase II of the Type III review procedure, with the Phase II hearing process utilized

61.223 **Notices:**

Notice of proposed action required by the Type II procedure shall be sent to all owners whose property directly abuts the property under consideration, or who are separated from it by only a street, alley, railroad right-of-way, trail easements, walkway, or public body of water. Notice of public hearing required under the Type III procedure shall be provided in accordance with Section 60.630.

61.224 **Submission Criteria:** Appendix B outlines the information that is to be submitted with an application for any type of land subdivision permit.

61.225 **Findings for Land Subdivision:**

Subdivision 1. The Zoning Administrator, Commission or Council shall approve a development permit authorizing a land subdivision if it determines the subdivision satisfies all of the findings provided in subdivision 2.

Subd. 2. The findings for the approval of a land subdivision are as follows:

- A. The proposed land subdivision conforms to all relevant requirements of this ordinance and variances have been granted to permit any nonconformance.
- B. The proposed water system and sanitary sewer system are adequate to serve the normal and fire protection demands of

proposed development and to provide for the efficient and timely extension to serve future development.

- C. The plan for soil erosion and stormwater management meets the adopted standards of the City of Rochester and is consistent with the adopted Stormwater Management Plan or adopted drainage or stormwater policies.
- D. The vehicular, pedestrian, transit and non-motorized system is consistent with adopted transportation plans and is consistent with the street layout standards listed in section 64.120 and traffic service standards in section 61.526.
- E. The lot and block layout provide for safe and convenient pedestrian, non-motorized vehicle, transit, vehicular, service and emergency access, efficient utility service connections, and adequate buildable area in each lot for planned uses.
- F. The proposed land subdivision has taken into account the current six-year and other Long-Range Capital Improvements Programs and the elements listed therein in the design of the subdivision.
- G. The proposed subdivision, if in a residential zoning district, addresses the need for spillover parking consistent with the requirements of section 63.426.
- H. The right-of-ways and easements of adequate size and dimension are provided for the purpose of constructing the street, utility, and drainage facilities needed to serve the development.
- I. The proposed parks, trail thoroughfares and open space dedications are consistent with adopted plans, policies and regulations.
- J. The proposed subdivision will not have off-site impacts on the street, drainage, water or wastewater systems that exceed adopted standards.
- K. The proposed subdivision will not have adverse impacts on the safety or viability of permitted uses on adjacent properties.
- L. The proposed land subdivision is designed in such a manner as to allow for continued development in an efficient manner on adjacent undeveloped lands.
- M. The soils, topography and water tables have been adequately studied to ensure that all lots are developable for their designated purposes.
- N. The proposed land subdivision is consistent with the standards of the City's adopted Comprehensive Plan.
- O. Any land located within the Special Flood Hazard Area as shown on

the currently adopted Flood Boundary and Floodway Maps of Flood Insurance Study, Rochester, Minnesota, prepared by the Federal Emergency Management Agency, is determined to be suitable for its intended use and that the proposed subdivision adequately mitigates the risks of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, or any other floodplain related risks to the health, safety or welfare of the future residents of the proposed subdivision in a manner consistent with this ordinance.

- P. The proposed land subdivision, if approved, would not result in a violation of federal or state law, or city or county ordinance.
- Q. The proposed land subdivision permit is consistent with any approved and applicable General Development Plan, Conditional Use Permit or Traffic Impact Study.
- R. All lots within the floodplain districts are able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation.
- S. For all subdivisions in the floodplain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads are clearly labeled on all required subdivision drawings and platting documents.
- T. All subdivisions must have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation.
- U. Subdivision proposals must be reviewed to assure that:
 - 1. All such proposals are consistent with the need to minimize flood damage with the floodplain area;
 - 2. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
 - 3. Adequate drainage is provided to reduce exposure of flood hazard.

61.226 **Conditions on Approvals:** In considering an application for a development permit to allow a land subdivision, the approving body shall consider and may impose modifications or conditions to the extent that such modifications or conditions are necessary to insure compliance with the criteria of Section 61.225.

61.227 **Changes to Approved Land Subdivision Permits:** Minor changes to the lot and block pattern, street alignment and drainage facilities or proposed utilities plans, may be made by the applicant on the application for final plat approval when the zoning administrator, in consultation with the City Engineer and other necessary referral agencies, determines that the changes will:

- 1) not materially alter the character of the approved Type II or Type III application;

- 2) not interfere with the intent and purposes of this ordinance; and
- 3) not create undue burden or effects on adjacent properties.

61.228 Approved Land Subdivision Permits:

An approved land subdivision permit shall permit a landowner to proceed to a final plat any time within a two (2) year period. The Council may approve a phasing plan extending the effective period of the land subdivision permit up to ten (10) years where it is the intent of the landowners to proceed to final plats covering only a portion of the site at any one time, provided that the landowner enters into a development agreement with the City. Beyond two (2) years or, in the case of phased development, ten (10) years, the applicant shall resubmit the land subdivision permit to the Zoning Administrator for review by staff and the referral agencies to insure that the application still is in compliance with this ordinance and any requirements of other agencies.

After the expiration of two years, following approval of a land subdivision permit, changes to the final plat may be required where a change in the comprehensive plan or implementing regulations has occurred which affect compliance of the application with the ordinance. The applicant may make the necessary changes and then proceed to a final plat, or may choose to resubmit the land subdivision permit for review through the normal permit review process.

61.230 FINAL PLATS:

Subdivision 1. There shall be a final plat for each subdivision that has received preliminary approval through either a Type II or Type III land subdivision or site planning permit process, unless the zoning administrator has waived the requirement for a land subdivision permit pursuant to Section 61.221. No final plat may include both conventional lots and common interest community lands. A final plat must receive approval within two years from land subdivision permit approval unless there exists a development agreement with the City which authorizes final plats of the subdivision to be phased. Phasing will be allowed up to six years for two phases, eight years for three phases and ten years for four phases.

Subd. 2. The final plat process is intended to be a “mechanical” stage of the approval process designed to verify compliance with the conditions of approval imposed on the land subdivision permit. It is not intended to reconsider those initial conditions of approval. Except as provided in Section 61.237, subd. 2, new conditions of approval unrelated to the land subdivision permit should not be imposed during final plat review. This subdivision does not apply to a development for which there is no preliminary plat.

Subd. 3. An applicant may request approval of a final plat that is submitted for only a portion of contiguous land holdings or one phase of a multi-phased or staged development included within a general development plan or land subdivision permit. In this case, the Council must consider the demand for adequate public facilities generated by subsequent phases of the development and must require a development agreement as to the design and construction of adequate on-site or off-site public or private facility improvements required to serve the subsequent phases.

61.231 Application for Final Plat: Subdivision 1. An applicant for a final plat must submit the materials described in this section at least two weeks prior to the Council meeting at which the applicant wishes to have the matter considered.

Subd. 2. Two copies of a final plat application on the appropriate form provided by the zoning administrator.

Subd. 3. Ten full size copies of the final plat on black or blue line prints and a reduced size copy of the plat on 8 ½ x 11", 8 ½ x 14" or 11 x 17" paper.

Subd. 4. Two copies of existing or proposed private deed restrictions, if any.

Subd. 5. An application fee as required by Section 60.175. A new application fee must be submitted if the final plat has been tabled at the request of the applicant for nine months or more from the original date of submittal.

Subd. 6. If a design modification request accompanies the final plat, the application form, processing fee and documentation supporting such a request.

Subd. 7. Two copies of the documents assigning responsibility for long-term maintenance of common lands and facilities.

Subd. 8. Two copies of the approved construction plans for street, sidewalk, trail, water, wastewater, grading, storm water management, and other public or private subdivision improvements.

Subd. 9. Two copies of a development agreement if the applicant intends to:

- A. record the final plat before completion of required on-site or off-site public or private facility improvements;
- B. stage or phase-in on-site or off-site public or private facility improvements required as part of a multi-stage or phase development; or
- C. fund off-site public or private facility improvements as required by the terms and conditions of an executed contribution or development agreement, or as described in Traffic Impact Study approved by the City or applicable road authority.

Subd. 10. Any supplemental information, which differs in any material respect from the information submitted and findings made at land subdivision permit approval as determined by the Zoning Administrator. A material change includes, but is not limited to a change which burdens adjacent properties or public facilities and utilities, increases the number of lots or dwelling units, increases the square footage of nonresidential development, will have a detrimental impact on public health or safety, will adversely affect the value of adjacent properties, will affect a floodplain or stream channel, will reduce the amount of neighborhood park land or open space, or will increase the potential for flooding of the subject property or adjacent properties.

61.232 **Submittal of Final Plat Documents:** The following materials shall be submitted following the City Council meeting at which the final plat is approved:

- A. One original mylar of the final plat which shall contain all of the certifications, signatures (of the City Clerk, County Auditor/Treasurer and County Recorder), and acknowledgments required to file and record the same in the office of the County

Recorder. If the boundary of the final plat is not coincident with the boundaries of an existing lot or record, then a legal description and survey plat of the remnant unplatted parcel created by the recording of the final plat must be provided.

- B. Except for the signature of the City Clerk, County Auditor/Treasurer and County Recorder, the final plat shall be in recordable form and shall include the fee to be charged for filing and recording the plat in the office of the County Recorder and a statement from the County Recorder indicating the amount of such fee.
- C. Two copies of a title opinion prepared by an attorney within 60 days prior to the application or certificate of title insurance identifying the owners and persons of record having an interest in the property being subdivided.

61.233 **Preparation of Final Plat:** Final plats must be prepared in accordance and compliance with the provisions of the Rochester Zoning Ordinance and Land Development Manual and the laws of the State of Minnesota. Appendix B contains a list of the information that must be included on final plats.

61.234 **Procedure:** A Final Plat shall be processed through the Type III Review Procedure, with the Phase I Hearing Process utilized. The Council shall be designated approval body for the Phase I Hearing.

61.235 **Notification:** Notification shall be sent as provided in with Section 60.630.

61.236 **Acceptance of Final Plat Application:** In addition to the requirements of Section 60.505, the Zoning Administrator may find the application incomplete if 1) any of the information required for Final Plats in Section 61.231 or Appendix B is not provided; 2) the final plat does not conform to the conditions attached to approval of the land subdivision permit; or 3) the plat is in conflict with the provisions of the ordinance and no variance or design modification has been approved or filed.

61.237 **Action on Final Plats:** Subdivision 1. Following completion of the Phase I Hearing Process, the Council shall either approve, conditionally approve or disapprove the final plat. The City must take such action pursuant to the time period provided by Minnesota Statutes, Section 462.358. The reasons for disapproval shall be recorded in the minutes of the Common Council and reported to the applicant and the zoning administrator by the City Clerk.

Subd. 2. In conditionally approving a final plat, the Council may introduce conditions not applied to the land subdivision permit or general development plan upon finding that new information reveals conditions that directly affect the subdivision's ability to satisfy the criteria established in Section 61.225.

Subd. 3. The final plat documents shall not be recorded until:

- A. there is satisfactory evidence filed with the City that all past taxes have been paid in full;
- B. the final plat is in a form acceptable for recording at the Office of the County Recorder;

- C. all required or voluntary development agreements with the City have been signed by the applicant;
- D. the final plat conforms and complies with all conditions of approval attached to the applicable land subdivision permit (preliminary plat); and,
- E. there is deposited with the City a filing fee sufficient to record those documents that are recorded.

61.238 **Recording a Final Plat:** Upon approval by the City Council, the City Clerk shall record the final plat in the office of the County Recorder as provided by law. The plat approval shall expire two years after acceptance of improvements by the City unless the plat is recorded or the Council has granted an extension.

61.240 **CONSTRUCTION PLANS:**

Following approval of the Subdivision Permit, the applicant shall have prepared, by a professional engineer, registered in the State of Minnesota, construction plans, consisting of complete construction drawings and specifications of all easements, streets, traffic control devices, sanitary sewers, storm water facilities, water system facilities, sidewalks and other improvements required by this Land Development Manual. Construction plans shall be submitted to the City Engineer for review and approval.

All improvements required pursuant to these regulations shall be constructed in accordance with the design standards and plan requirements of the Land Development Manual, the standards and specifications of the City, and, where applicable, the requirements and authorization of the appropriate state agency, utility company or local franchisee.

61.241 **Application for Construction Plans:**

Application for Construction Plans shall be consistent with the engineering standards adopted by Public Works in conjunction with the development of subdivisions.

61.242 **Public Agency Reviews:**

The City Engineer shall review and act on all construction plan applications within 30 days of submittal.

61.243 **Timing of Improvements:**

Land clearance prior to development of a parcel is prohibited. The owner of an undeveloped tract may remove not more than 10 percent of the trees or other vegetation on a site for the purpose of providing access for site survey and evaluation. This section precludes unauthorized land clearance and timber removal and is not intended to interfere with the normal management of landscaping. Except as provided in this Section no grading, removal of trees or other vegetation, land filling, construction of improvements, or other material change shall commence on the subject property without written approval of the City Engineer until the applicant has:

- 1) Received the approval of the Construction Plans and all necessary permits from the Zoning Administrator and City Engineer;
- 2) Entered into a Development Agreement with the City or otherwise arranged for completion of all required improvements; or
- 3) Received approval of a grading permit pursuant to Section 61.150.

61.244 **Modification of Construction Plans:**

All installations of improvements and all construction shall conform to the approved construction plans. If the applicant chooses to make minor modifications in design and/or specifications during construction, such changes shall be made at the applicant's own risk, but only with the written approval of the City Engineer. It shall be the responsibility of the applicant to notify the City Engineer in advance of any changes to be made from the approved drawings. In the event that actual construction work deviates from that shown on the approved construction plans and such deviation was not approved in advance by the City Engineer, the applicant may be required to correct the installed improvements to conform to the approved construction plans. In addition, the City may take such other actions as may be deemed appropriate including, but not limited to, revocation of permits already issued and/or withholding of future approvals and permits.

61.245 **Record Drawings**

Record drawings shall be consistent with the engineer's standards adopted by Public Works in conjunction with the development of subdivisions.

61.246 **Inspection and Acceptance of Improvements:**

- 1) **Inspection Required:** All improvements required by these regulations shall be inspected by the City Engineer, except as agreed to pursuant to an owner contract or development improvement agreement. Improvements made under the jurisdiction of other City-approved public agencies, shall be inspected by engineers or inspectors of such agencies. Where inspections are made by other agencies, the applicant shall provide the City Engineer with written reports of each final inspection.
- 2) **Inspection Schedule:** It shall be the responsibility of the applicant to notify the City Engineer of the commencement of construction of improvements twenty-four (24) hours prior thereto. Inspections shall be required at each of the following stages of construction or as otherwise determined through and owner contract or development improvement agreement:
 - a) Site grading/erosion control completion.
 - b) Underground utility installation.
 - c) Subgrade preparation prior to aggregate base installation.
 - d) Aggregate base compaction.
 - e) Concrete curb and gutter installation.
 - f) Bituminous binder placing.
 - g) Final surfacing prior to seal coat

- 3) **Compliance with Standards:** Installation and construction of improvements shall be consistent with the engineering standards adopted by Public Works in conjunction with the development of subdivisions.
- 4) **Acceptance:**
 - a) Approval of the installation and construction of improvements by the City Engineer shall constitute acceptance by the City of the improvement for dedication purposes.
 - b) Except for the removal of snow from substantially completed streets, the City shall not have any responsibility with respect to any street, or other improvement, notwithstanding the use of the same by the public, unless the street or other improvements shall have been accepted.
 - c) When improvements have been constructed in accordance with the requirements and conditions of these regulations and the specifications of the City, and the applicant has submitted as-built reproducibles to the City Engineer, the City Engineer shall accept the improvements for maintenance by the City, except that this shall not apply to improvements maintained by another entity.

61.247 Failure to Complete Improvements:

If a Development Agreement has been executed and security has been posted and required public improvements are not installed pursuant to the terms of the Agreement, the City may:

- 1) Declare the Agreement to be in default and require that all public improvements be installed regardless of the extent of completion of the development at the time the agreement is declared to be in default;
- 2) Obtain funds pursuant to the surety and complete the public improvements by itself or through a third party;
- 3) Assign its right to receive funds pursuant to the surety in whole or in part to any third party, including a subsequent owner of the subdivision or addition for whom the public improvements were not constructed, in exchange for the subsequent owner's Agreement to complete the required public improvements; and/or
- 4) Exercise any other rights available under the law.

61.250 DEVELOPMENT AGREEMENTS

61.251 Completion of Improvements:

Subdivision 1. Except as provided in Section 61.252 and before the final plat is recorded, all applicants shall be required to complete, to the satisfaction of the City Engineer, and Director of Parks or designee where required, all on-site or off-side public or private facility improvements of the subdivision or addition as required by these regulations.

Subd. 2. When an applicant provides all on-site or off-site public or private facility improvements prior to recording a plat for only a portion of contiguous land holdings or one phase of a multi-phase development, or any portion of a City-initiated and approved general development plan, the City, as a condition accompanying Final Plat approval, shall require the applicant to:

- A. deposit in escrow a deed describing by metes and bounds and conveying to the City all street rights-of-way, easements and public land required by these regulations for subsequent phases of the development; or
- B. execute a development agreement pursuant to Section 61.252 that guarantees the completion and performance of all required on-site and off-site private or public facility improvements for subsequent phases of the development.

Subd. 3. In the event the applicant is unable or unwilling to complete the required improvements in accordance with the city/owner contract, and such improvements are deemed necessary for the preservation of the public health and safety, the City may compel the delivery of the deed and guarantees in order to complete the improvements as required.

61.252 Development Agreement and Guarantee of Completion of Public Improvements:

Subdivision 1. **Development Agreement:** The cash escrow, surety bond or letter of credit shall be in an amount estimated by the City Engineer as reflecting 120 percent of the cost of the improvements in the approved construction plan and shall be sufficient to cover all promises and conditions contained in the Development Agreement. The City Council may waive the requirement for the completion of required improvements established in Section 61.251 if the applicant enters into a Development Agreement by which the applicant covenants and agrees to complete all required on-site and off-site public improvements no later than two years following the date upon which the final plat is recorded. Such two-year period may be extended for up to an additional two years upon its expiration at the discretion of the City Engineer. The City Engineer may require the applicant to complete and dedicate some required public improvements prior to approval of the final plat and to enter into a Development Agreement for completion of the remainder of the required improvements during such two-year period. The City Council may approve a Boulevard Tree Green Facilities Agreement for boulevard tree planting that shall determine the tree planting schedule. The City Attorney shall approve any Development Agreement as to form. Required improvements shall be reasonable related to the subdivision and the City Council shall adopt findings of fact establishing such reasonable relationship.

Subd. 2. **Covenants to Run with the Land:** The Development Agreement shall provide that the covenants contained therein shall run with the land and bind all successors, heirs and assignees of the applicant. The Development Agreement shall be recorded by the City with the County Recorder. All existing lien holders shall be required to consent to subordinate their liens to the provisions contained in the Development Agreement.

Subd. 3. **Performance Security:**

- A. Whenever the City permits an applicant to enter into Development Agreement, the applicant shall be required by the City to provide sufficient security to ensure completion of the required public improvements. The security shall be in the form of a cash escrow, a surety bond, or letter of credit.
- B. The cash escrow, surety bond or letter of credit shall be in an amount estimated by the City Engineer as reflecting 120 percent of the cost of the improvements in the approved construction plan and shall be sufficient to cover all promises and conditions contained in the Development Agreement.
- C. In addition to all other security, when the City participates in the cost of an improvement, the applicant shall provide a performance bond from the contractor, with the City as a co-obligee.
- D. The issuer of any surety bond or letter of credit shall be subject to the approval of the City Attorney.
- E. If security is provided in the form of a cash escrow or letter of credit, the applicant shall deposit with the City Director of Finance, a cash amount or certified check endorsed to the escrow agent for a face value in an amount not less than the amount specified by the City Engineer.
- F. The surety bond, cash escrow account or letter of credit shall accrue to the City for administering the construction, operation and maintenance of the improvements.
- G. Where oversized facilities are required by the City, the City and applicant shall specify a cost sharing/reimbursement procedure in the Development Agreement.

61.253 Maintenance of Improvements:

The applicant shall guarantee the improvements against defects in construction and materials for a period of two (2) years from the date of City acceptance of such improvements.

61.254 Temporary Improvements:

The applicant shall construct and pay for all costs of temporary improvements required by the City and shall maintain said temporary improvements for the period specified.

61.255 Timing of Development Agreement: If the eventual platting of the area involves approval of a Type III Land Subdivision Permit, the Council may approve any required or voluntary development agreement concurrently with or following approval of the General Development Plan, but may not approve any development agreement prior to its approval of the General Development Plan.

61.300 CONCURRENT REVIEW:

Two or more applications may be reviewed concurrently. The concurrent review of various types of permits or certificates shall be subject to the same criteria and findings listed elsewhere in the ordinance that apply to each matter individually. Each application requires a separate action by the designated hearing body.

61.301 Procedure for Concurrent Review:

- 1) The following matters may be reviewed concurrently:
 - a) Review of proposed provisional or permanent zoning districts;
 - b) General development plans;
 - c) Questions of Land Use Plan conformance that are to be decided by the Council after review;
 - d) Review and approval of a land subdivision permit;
 - e) Conditional Use Permit;
 - f) Variance
 - g) Design Modification
- 2) Concurrent review of the following matters shall be under the Type III review procedure with a Phase I hearing process. The Commission is the designated hearing body.
 - a) Any Type II or Type III Conditional Use permit and;
 - b) A request for a variance;
 - c) A request for a Design Modification.

61.302 Notification Requirements: Notification for a public hearing shall be sent as provided in Section 60.630.

61.303 Submission Criteria: To determine the applicable submission criteria refer to those sections of the ordinance, which deal specifically with component parts of each application under consideration.

61.400 PERFORMANCE DISTRICT PROCEDURES:

In the Developing District and Central Development Core certain procedures will apply to development requests due to the special nature of the regulations in those districts, as identified in the following paragraphs.

61.410 DEVELOPING DISTRICT:

In the Developing District, the initial development on a tract of land shall be required to obtain approval of a site planning permit through the Type III procedure prior to issuance of any zoning certificates. Exceptions to this requirement are:

- 1) A development consisting of only a one or two family dwelling or which is related to a farming operation may be processed as a Type I Zoning Certificate.
- 2) A development involving only Type I or Type II Permitted uses, or a Type I or Type II Land Subdivision Permit, where the development conforms to the Land Use Plan, may be processed as a Type II Site Planning Permit. Such development shall be restricted to a single use type with no more than three principal structures utilizing a combined land area of less than two (2) acres, with no new streets or right-of-ways needed to provide access to adjacent sites. Such development shall be consistent with any approved General Development Plans for the area and the Thoroughfare Plan.

61.420 CENTRAL DEVELOPMENT CORE:

In the Central Development Core, the zoning administrator will need to determine whether a proposed development conforms to the Land Use Plan prior to the issuance of any zoning certificate authorizing a development to proceed. Land Use Plan conformance shall be established through the steps identified in Section 61.510 of the ordinance.

61.500 ACCESSORY REPORTS:

Certain additional determinations or reports will be required from time to time in the administration of this ordinance. This section identifies those requirements.

61.510 DETERMINATION OF LAND USE PLAN CONFORMANCE:

All development occurring in Performance Districts shall be tested for Land Use Plan conformance as provided for in this section. Certain types of transitional development, as identified in Section 62.735 of the ordinance, shall also be subject to testing for land use plan conformance.

61.511 **Procedure:** The zoning administrator shall be responsible for determining Land Use Plan conformance. The determinations shall be made during the review of certificate or permit application for completeness as provided for in paragraph 60.505. This applies to all applications, whether they are to be processed under a Type I, II, or III procedure.

In the case of a negative determination, the zoning administrator shall notify the applicant, as provided for in Paragraph 60.507. The determination shall include the findings made, the method of appeal, and other options that the applicant has in pursuit of the matter.

61.512 **Appeals:** In the case of a negative determination on an application that would have been processed under a Type I or Type II procedure, the applicant can appeal the decision as provided for in Article 60.700.

In the case of a negative determination on an application that would have been processed under a Type III procedure, the applicant has the option of either appealing the determination separately as provided for in Article 60.700, or the applicant can notify the zoning administrator in writing that he would like to have the question of Land Use Plan conformance addressed as part of the Type II review procedure. If the applicant chooses this option, the approval body shall be bound to make the findings required in Paragraph 61.514 in determining if the use is in conformance with the Land Use Plan.

61.513 If a certificate or permit application involves a question regarding Land Use Plan conformance, the following information shall be included as part of the development permit application:

- 1) A map identifying all existing uses on the property under consideration and all properties wholly or partially within 150 feet of the boundaries of the property under consideration.
- 2) Information clearly establishing the nature of the proposed use for the property under consideration.
- 3) A written summary of the facts that, in the estimation of the applicant would support a positive determination of Land Use Plan conformance; including reference to applicable parts of the Land Use Plan text which outlines the criteria and policies on which this conclusion is based.

61.514 In reviewing an application for conformance with the Land Use Plan, the zoning administrator shall make a positive determination if the following findings are made:

- 1) That the proposed use or zoning is of a type that would be compatible with the type of use indicated in the Plan for the area under consideration, taking into account the locational criteria, neighborhood analysis, applicable area wide issues, and the purposes and policies set forth in the Land Use Plan.
- 2) That the proposed use or zoning will not be detrimental to the general interests of the community and will not significantly interfere with the enjoyment of other land in the vicinity.
- 3) That the proposed use or zoning does not raise questions with policy implications that properly should be addressed by the Commission and Council and which could result in a change of Land Use Plan policy.
- 4) That existing or planned public infrastructure are adequate to serve the type of land use contemplated.
- 5) That the physical characteristics and features of the site are not of a nature so unique and of possible benefit to the community that a different type of land use should be contemplated for the site.

61.520 TRAFFIC IMPACT STUDIES:

The intent of this section is to provide the information necessary to allow decision-makers to assess the transportation implications of site-generated traffic associated with a proposed development. The goal is to address the transportation-related issues associated with development proposals that may be of concern to neighboring residents, business owners and property owners, and to provide a basis for negotiation regarding improvements and funding participation in conjunction with an application for development. The isolated and cumulative impact of proposed development needs to be understood in relation to the existing and proposed capacity of the street system, to ensure that traffic congestion will be maintained at reasonable levels so as not to hinder the passage of public safety vehicles, degrade the quality of life, or contribute to hazardous traffic conditions. This section establishes requirements for the analysis and evaluation of transportation impacts associated with proposed developments.

61.521 **Purpose:** The purpose of the Traffic Impact Study is to identify the impacts on capacity, level of service and safety which are likely to be created by a proposed development. Traffic studies should identify what improvements, if any, are needed to:

- 1) ensure safe ingress to and egress from a site;
- 2) maintain adequate street capacity on public streets serving the development;
- 3) ensure safe and reasonable traffic operating conditions on streets and at intersections in the vicinity of a proposed development;
- 4) avoid creation of or mitigate existing hazardous traffic conditions;

- 5) minimize the impact of non-residential traffic on residential neighborhoods in the community; and
- 6) protect the substantial public investment in the existing street system.

61.522 **Types of Studies:** Traffic Impact Studies may be required at several stages in the development process. No application for development will be accepted without an appropriate traffic study unless a waiver has been obtained from the City Engineer. The types of traffic studies required under the ordinance are:

- 1) A Rezoning Traffic Analysis will be required for certain Rezoning and Land Use Plan amendment requests. The purpose of these studies will be to evaluate whether adequate transportation capacity exists or will be available within a reasonable time period to safely and conveniently accommodate proposed uses permitted under the requested land use or zoning classification. For purposes of this subsection, the Analysis shall address those standards listed at Section 61.526 (1), (3) and (4), assuming the area is fully developed.
- 2) A Traffic Impact Report will be required for certain permitted and Conditional Uses, Land Subdivisions and General Development Plans exceeding specific trip generation thresholds. The purpose of a Traffic Impact Report will be to supplement the rezoning traffic analysis as necessary to:
 - a) evaluate traffic operations and impacts at site access points under projected traffic loads;
 - b) evaluate the impact of site-generated traffic on affected intersections in the vicinity of the development site;
 - c) evaluate the impact of site-generated traffic on the quality of traffic flow on public streets located in the vicinity of the site;
 - d) evaluate the impact of the proposed development on residential streets in the vicinity of the site;
 - e) ensure that site access and other improvements needed to mitigate the traffic impact of the development meet commonly accepted engineering design standards and access management criteria;
 - f) ensure that adequate facilities for pedestrians, transit users and bicyclists have been provided;
 - g) identify transportation infrastructure needs and related costs created by the development.
- 3) All Land Subdivisions and General Development Plans which do not require a Traffic Impact Report will be required to complete a Traffic Design Analysis. The purpose of a Traffic Design Analysis will be to:
 - a) ensure that the proposed street layout is consistent with the Public Roadway Design Standards of Section 64.220;

- b) ensure the proper design and spacing of site access points and identify where limitations on access should be established;
- c) ensure that potential safety problems have been properly evaluated and addressed;
- d) ensure that internal circulation patterns will not interfere with traffic flow on existing public streets;
- e) ensure that appropriate facilities for pedestrians, transit users and bicyclists have been provided in plans for the development; and
- f) identify the transportation infrastructure needs and related costs created by the development.

61.523 **Applicability:** Subdivision 1. Traffic Impact Studies shall be required for any Land Use Plan Amendment, amendment to the Zoning Map, Land Subdivision Permit, Conditional Use Permit, Zoning Certificate, General Development Plan or Site Planning Permit under the conditions described in this section:

Subd. 2. A Rezoning Traffic Analysis shall be required for:

- A. A proposed rezoning that could generate 100 or more directional trips during the peak hour or at least 1000 more trips per day than the most intensive use that could be developed under existing zoning; or
- B. A proposed rezoning on a site located along, or which has the potential to take access within 500 feet of a corridor identified as a freeway or expressway on the Thoroughfare Plan; or
- C. A proposed amendment to the Land Use Plan involving more than one acre which would permit uses generating higher traffic than the existing Land Use Plan designation; or
- D. Proposed development for a 3.5-acre or larger site that is zoned B-4, M-1 or M-2.
- E. A proposed rezoning to the M-3 zoning district consisting of seven or more acres.

Subd. 3. Where a Rezoning Traffic Analysis is required, the time deadline provision of Minn. Stat. Section 15.99 begins after the Zoning Administrator determines the Analysis is complete and satisfies the requirements of this ordinance. If the Zoning Administrator determines the Analysis is not complete or does not satisfy the requirements of this ordinance, notice of such determination and the reasons supporting it must be provided to the applicant within ten business days of the receipt of the analysis.

Subd. 4. A Traffic Impact Report shall be required when a proposed conditional use, subdivision, general development plan, or site development plan is:

- A. Of a land use type which has an average trip generation rate of 125 trips per acre per day or greater, according to most current versions of the ITE Trip Generation Informational Report or comparable research data published by a public agency or institution, and which will generate, based on the size of the development, a 750 or more average daily trips; or
- B. Designed so as to concentrate 1,500 or more average daily trips through a single access point; or
- C. Designed so that it utilizes an at-grade access opening onto an existing or proposed freeway or expressway as indicated on the adopted Thoroughfare Plan.
- D. For property zoned B-4, M-1, or M-2 consisting of 3.6 acres or more.
- E. For property zoned M-3 consisting of seven or more acres.

Subd. 5. Traffic Design Analysis shall be required for any Land Subdivision or General Development Plan for which a Traffic Impact Report is not required. Studies completed at an early stage of development may need to be updated to include more detail as development plans become more specific or approval actions result in the reformulation of plans. As part of the review for determining whether a development application is complete, proposals for which an earlier traffic analysis study has been completed will be reviewed to insure consistency with previous approvals or to identify the need for revision or refinement of previously completed studies.

61.524 **Waiver:** The requirements of these Sections 61.520 through 61.529 for a Traffic Impact Study shall be waived by the City Engineer when it is the City Engineer determines that such report is not necessary to determine needed road improvements or that no unsafe or hazardous conditions will be created by the development as proposed. Developments in the Central Development Core District which are not required to provide on-site off-street parking are exempt from the requirements of these sections 61.520 through 61.529.

61.525 **Preparation:** The applicant may choose to have a traffic study prepared by a qualified professional with experience in the preparation of such analysis, or may choose to have the Zoning Administrator prepare a report once the development application is submitted. Where the applicant chooses to have the Zoning Administrator prepare the study, the time frame for the Zoning Administrator to render a decision in the Type I or Type II Review Procedure, or to prepare a report for the designated hearing body in the Type III Review Procedure, shall be extended by 45 days to permit time to prepare the study. The applicant shall be responsible for the costs of preparation of the traffic study incurred by the Zoning Administrator, as identified in Section 60.175.

61.526 **Traffic Service Standards:** The standards for traffic service that shall be used to evaluate the findings of traffic impact studies are:

- 1) **Capacity:** A volume to capacity (V/C) ratio of 0.80 shall not be consistently exceeded on any freeway or expressway as designated on the Thoroughfare Plan and a V/C ratio of 0.90 shall not be consistently exceeded on any arterial or collector street as designated on the Thoroughfare Plan. Consistently means that the V/C ratios are exceeded based on average daily peak hour traffic counts, projections or estimates.

- 2) **Level of Service:** For corridors including mainline, merging areas and ramp junctions, a Level of Service C shall be maintained on any expressway, freeway or arterial and a Level of Service D on any other designated non-local street on the Thoroughfare Plan. At all intersections, a Level of Service C shall be maintained on any arterial or higher order street and a Level of Service D on any other non-residential street. Individual movements within any intersection shall be maintained at or above a Level of Service E. Where the existing Level of Service is below these standards, a traffic impact study shall identify those improvements needed to maintain the existing level of service, and what additional improvements would be needed to raise the level of service to the standards indicated.
- 3) **Number of Access Points:** The number of access points provided shall be the minimum needed to provide adequate access capacity for the site. Evidence of Level of Service F operations for individual public street movements at access locations is a primary indication of the need for additional access points. However, the spacing and geometric design of all access points shall be consistent with the access management criteria of Section 64.140.
- 4) **Residential Street Impact:** Average Daily Traffic (ADT) on residential streets shall be within the ranges spelled out in the Thoroughfare Plan for the class of street involved. No non-residential development shall increase the traffic on a residential street with at least 300 average daily trips by more than 25%, and shall contribute no more than 20% of the traffic on any street segment providing residential access.
- 5) **Traffic Flow and Progression:** The location of new traffic signals or proposed changes to cycle lengths or timing patterns of existing signals to meet Level of Service standards shall not interfere with the goal of achieving adequate traffic progression on major public streets in the vicinity of the development;
- 6) **Vehicle Storage:** The capacity of storage bays and auxiliary lanes for turning traffic shall be adequate to insure turning traffic will not interfere with through traffic flows on any public street; and
- 7) **Internal Circulation:** On-site vehicle circulation and parking patterns shall be designed so as not to interfere with the flow of traffic on any public street and shall accommodate all anticipated types of site traffic.
- 8) **Safety:** Access points shall be designed to provide for adequate sight distance and appropriate facilities to accommodate acceleration and deceleration of site traffic. Where traffic from the proposed development will impact any location with an incidence of high accident frequency, defined as one of the 5 to 10 highest accident locations in the area, the accident history should be evaluated and a determination made that the proposed site access or additional site traffic will not further aggravate the situation. It is understood that the correction of an existing off-site safety deficiency is not typically the responsibility of the developer.

61.527 **Contents:** A Traffic Rezoning Analysis or Traffic Impact Report shall contain information addressing the factors listed below. For a Traffic Design Analysis, the City Engineer, the ROCOG Transportation planner and the traffic engineer(s) of the applicable road authority shall be consulted to establish the scope of the study. In general, the Traffic Design Analysis should address the standards of Section 61.522(3).

- 1) **Site Description:** The report shall contain illustrations and narrative that describe the characteristics of the site and adjacent land uses as well as expected development in the vicinity which will influence future traffic conditions. For a Rezoning Traffic Analysis, a description of potential uses and traffic generation to be evaluated shall be provided. For a Traffic Impact Report, a description of the proposed development including access plans, staging plans and an indication of land use and intensity, shall be provided.
- 2) **Study Area:** The report shall identify the geographic area under study and identify the roadway segments, critical intersections and access points to be analyzed. The focus shall be on intersections and access points adjacent to the site. Roadways or intersections within ½ mile of the site, where at least 5 percent of the existing peak hour capacity will be composed of trips generated by the proposed development shall be included in the analysis.
- 3) **Existing Traffic Conditions:** The report shall contain a summary of the data utilized in the study and an analysis of existing traffic conditions, including:
 - a) traffic count and turning movement information, including the source of and date when traffic count information was collected;
 - b) correction factors that were used to convert collected traffic data into representative design hour traffic volumes;
 - c) roadway characteristics, including the design configuration of existing or proposed roadways, existing traffic control measures (speed limits, traffic signals, etc.) and existing driveways and turning movement conflicts in the vicinity of the site; and
 - d) identification of the existing Level of Service for roadways and intersections without project development traffic using methods documented in the Special Report 209: Highway Capacity Manual, published by the Transportation Research Board, or comparable accepted methods of evaluation. Level of Service should be calculated for the weekday peak hour and, in the case of uses generating high levels of weekend traffic, the Saturday peak hour.
- 4) **Horizon Year(s) and Background Traffic Growth:** The report shall identify the horizon year(s) that were analyzed in the study, the background traffic growth factors for each horizon year, and the method and assumptions used to develop the background traffic growth. Unless otherwise approved by the City Engineer, the impact of development shall be analyzed for the year after the development is completed and 10 years after the development is completed.
- 5) **Time Periods to be Analyzed:** For each defined horizon year, specific time periods are to be analyzed. For most land uses, this time period will be the weekday peak hours. However, certain uses, such as major retail centers, schools or recreational uses, will have characteristic peak hours different than that found for adjacent streets, and these unique peak hours may need to be analyzed to determine factors such as proper site access and turn lane storage requirements. The City Engineer shall be consulted for determination of what peak hours are to be studied.

- 6) **Trip Generation, Reduction and Distribution:** The report shall summarize the projected peak hour and average daily generation for the proposed development and illustrate the projected distribution of trips to and from the site and should identify the basis of the trip generation, reduction and distribution factors used in the study.
- 7) **Traffic Assignment:** The report shall identify projected design hour traffic volumes for roadway segments, intersections or driveways in the study area, with and without the proposed development, for the horizon year(s) of the study.
- 8) **Impact Analysis:** The report shall address the impact of projected horizon year(s) traffic volumes relative to each of the applicable traffic service standards listed in Section 61.526 and shall identify the methodology utilized to evaluate the impact. The weekday peak hour impact shall be evaluated as well as the Saturday peak hour for those uses exhibiting high levels of weekend traffic generation.
- 9) **Mitigation/Alternatives:** In situations where the traffic level of service standards are exceeded, the report shall evaluate each of the following alternatives for achieving the traffic service standards listed in Section 61.526:
 - a) identify where additional right of way is needed to implement mitigation strategies;
 - b) identify suggested phasing of improvements where needed to maintain compliance with traffic service standards; and
 - c) identify the anticipated cost of recommended improvements.

61.528 **Process for the Review and Preparation of a Traffic Impact Study:** This section provides an outline of the steps to be included in the preparation and review of a Traffic Impact Study:

- 1) The City Engineer and Zoning Administrator shall be consulted for assistance in determining whether a traffic impact study needs to be prepared for a proposed development application;
- 2) The City Engineer and Zoning Administrator shall meet with applicants to identify study issues, assumptions, horizon years and time periods to be analyzed, analysis procedures, available sources of data, past and related studies, report requirements and other topics relevant to study requirements;
- 3) Following initial completion of a traffic impact study report, it shall be submitted to the Zoning Administrator for distribution to the staff of all roadway jurisdictions involved in the construction and maintenance of public roadways serving the development;
- 4) Within ten working days, staff shall complete an initial review to determine the completeness of the study and shall provide a written summary to the applicant outlining the need for any supplemental study or analysis to adequately address the Traffic Service Standards of Section 61.526 and the purposes listed in Section 61.522. A meeting to discuss the contents and findings of the study and the need for additional study may be requested by the applicant;

- 5) Following a determination that the technical analysis is complete, staff shall prepare a report outlining recommendations that have been developed to address the findings and conclusions included in the study regarding the proposed development's access needs and impacts on the transportation system. Depending on the type of traffic study, presentation of recommendations to the Planning Commission and/or City Council may proceed as follows:
 - a) For a Traffic Rezoning Analysis, staff recommendations will be presented as part of staff report to the Planning Commission and City Council as part of the proceedings on a rezoning or land use plan application;
 - b) For a Traffic Impact Report, a separate report will be forwarded to the City Council for consideration of the recommendations;
 - c) For a Traffic Design Analysis, staff recommendations will be presented as part of the staff report to the Planning Commission or City Council for any Land Subdivision or General Development Plan.
- 6) Negotiations based on the conclusions and finding resulting from the traffic study shall be held with the City Council. A Development Agreement, detailing the applicant's responsibilities and the City's responsibilities for implementing identified mitigation measures, shall be prepared following the negotiations for action by both parties.

61.529 Report Findings:

- 1) If staff finds that the proposed development will not meet applicable service level standards, staff shall recommend one or more of the following actions by the public or the applicant:
 - a) Reduce the size, scale, scope or density of the development to reduce traffic generation;
 - b) Divide the project into phases and authorize only one phase at a time until traffic capacity is adequate for the next phase of development;
 - c) Dedicate right-of-way for street improvements;
 - d) Construct new streets;
 - e) Expand the capacity of existing streets;
 - f) Redesign ingress and egress to the project to reduce traffic conflicts;
 - g) Alter the use and type of development to reduce peak hour traffic;
 - h) Reduce background (existing) traffic;
 - i) Eliminate the potential for additional traffic generation from undeveloped properties in the vicinity of the proposed development;

- j) Integrate design components (e.g., pedestrian and bicycle paths or transit improvements) to reduce vehicular trip generation;
 - k) Implement traffic demand management strategies (e.g. car or van pool programs, flex time, staggered work hours, tele-commuting, etc.) to reduce vehicular trip generation;
 - l) Recommend denial of the application for development for which the traffic study is submitted.
- 2) The Planning Commission may recommend, and the City Council may adopt by 5/7ths vote, a statement of principle partially or fully exempting a project from meeting the Traffic Service Standards of Section 61.526, where it finds that the social and/or economic benefits of the project outweigh the adverse impacts of the project.
 - 3) The City Council may, by 5/7ths vote, temporarily exempt certain street locations from some or all of the Traffic Service Standards of 61.526, owing to special circumstances that make it undesirable or not feasible to provide further capacity improvements at these locations. These special circumstances may include a finding that there would be significant negative fiscal, economic, social or environmental impact from further construction, or that a significant portion of the traffic is generated by development outside the control of the city. However, where these conditions exist, the City will make every effort to design alternate improvements, and development projects affecting these areas may be required to implement traffic demand management programs and other measures to reduce the impact on these locations as much as possible.

61.530 SITE CAPACITY CALCULATION:

Site capacity for any proposed development is equal to the net buildable area of the site multiplied by the density factor (in the case of residential uses) or by the floor area ratio (in the case of non-residential uses). The site capacity calculation provides the mechanism by which the total site area is adjusted to account for characteristics that constrain development potential. The result is to determine the extent to which a site may be utilized given its unique physical characteristics.

61.531 Site Capacity Calculation Required: The site capacity calculation shall be completed for every type of development involving the erection of or addition to a building to determine the allowable amount of dwelling unit density (for residential use) or square footage of floor area (for all other uses). Except within the Decorah Edge, where it is required for all development, the calculation need not be completed for any residential use type controlled by a lot size standard. Site capacity calculations shall be based on the vegetation and topography of the site in 1991, as determined from 1991 USGS digital elevation model data and 1991 aerial photography or an equivalent or better source. The density factor for all residential development in the Decorah Edge shall be as specified for performance residential development in the district, except that in the R-1 zoning district, the density factor shall be 5.5 for Type I residential development, 8.71 for Type II and 15.0 for Type III.

61.532 Site Capacity Calculation Procedure: The following procedure is used to calculate the site capacity.

A. Determine the Base Site Area:

- A. Base site area is calculated by subtracting the following areas from the gross site area as determined by an on-site survey.
 - (1) Site area devoted to planning or existing right-of-way of arterials or higher order streets and required easements of access.
 - (2) Land that is not contiguous, including:
 - (a) Separate parcels that do not abut, adjoin, or share common boundaries with the rest of the development; and,
 - (b) Land that is cut off from the main parcel by features such as a railroad, other existing land uses, or a major stream, such that common use is hindered.
 - (3) Lands that are reserved to satisfy requirements for storm water detention, usable recreation space or other open space use in a previously approved subdivision that has been partially or completely developed.
 - (a) Whenever a site contains land that is designated in more than two zoning districts, and the proposed development does not propose the integrated development of the site under the mixed-use provisions of the ordinance, the area zoned for non-residential purposes must be subtracted to determine the area available for residential use. (In the case of determining the area available for non-residential use, subtract the area devoted to residential uses.)

Subd. 3. Determine the Amount of Resource Protection Land (All Land Uses):

- A. All land area consisting of the natural resources or natural features listed below shall be measured. The total acreage of each resource shall be multiplied by its respective open space ratio to determine the amount of resource protection land. The resource protection ratio for lands exhibiting more than one characteristic shall be the highest single ratio applicable and not the sum of the ratios. The sum total of all resource protection land on the site equals TOTAL RESOURCE PROTECTION LAND.

RESOURCE PROTECTION LANDS

Resource/Natural Feature (All Districts)	Resource Protection Area Ratio	Acres of Land in Resource	Resource Protection Land (Acres in Resource x Resource Protection Area Ratio)
Lakes, ponds, or water courses	1.00	_____	_____
Wetlands	1.00	_____	_____
Edge Support Areas (RCO Chapter 59)	1.00	_____	_____

Drainageways	.20	_____	_____
Floodway	1.00	_____	_____
Floodway Fringe	.50	_____	_____
Moderate Slopes (18-30%)			
	.20	_____	_____
Steep Slopes (30% or Greater)	.80	_____	_____
TOTAL LAND IN RESOURCE	=	_____	_____
TOTAL RESOURCE PROTECTION LAND	=	_____	_____

Subd. 4. **Determination of Site Capacity/Permitted Amount of Building:**

- A. The site capacity for residential density is determined by calculating the NET BUILDABLE AREA and multiplying this number by the density factor permitted in the applicable zoning district. For residential uses types for which density factors are not provided, the density factors for performance residential development shall apply. For the CN-NR, R-1 and R-Sa Districts, the density factor for performance residential developments applicable in the R-1x District shall apply. The calculation is as follows:

BASE SITE AREA	=	_____	acres
SUBTRACT TOTAL RESOURCE PROTECTION LAND	-	_____	acres
EQUALS NET BUILDABLE AREA	=	_____	acres
MULTIPLY DISTRICT DENSITY FACTOR	x	_____	u/a
EQUALS NUMBER OF DWELLING UNITS	=	_____	units

- B. The permitted floor area for other uses is determined by calculating the NET BUILDABLE AREA, (adjusted to a square footage figure) and then multiplying this number by the floor area ratio permitted in the applicable zoning district. The calculation is as follows:

BASE SITE AREA	=	_____	acres
SUBTRACT TOTAL RESOURCE PROTECTION LAND	-	_____	acres
EQUALS NET BUILDABLE AREA	=	_____	acres
MULTIPLY BY 43,560	x	43,560	
EQUALS NET BUILDABLE AREA IN SQ. FT.	=	_____	Sq. ft.
MULTIPLY BY DISTRICT FLOOR AREA RATIO	x	_____	
EQUALS PERMITTED FLOOR AREA IN SQ. FT.	=	_____	Sq. ft.

61.533 **Density/Floor Area Bonuses:** The net density or floor area achieved through the site capacity calculations may be increased through the preservation of certain natural features in the development. The approving authority must make a finding during the review process that the design features justifying the proposed intensity increase have been provided in the development plan.

- A. **Preservation of Natural Features:** In the case of undisturbed slopes, woodland preservation, or preservation or restoration of other native habitats offered to achieve a density or floor area bonus, the development agreement must provide that the subject areas are protected from disturbance as a condition to approval of the permit authorizing the development. The area to be left undisturbed on the site must be specifically identified on the plan and permit documents. The area to be undisturbed on the site must be clearly marked and identified in the field prior to any development activity to insure that persons involved in the construction phase of the development do not disturb the subject area. Protection from disturbance may be provided for through conservation easements, deed restrictions, or other mechanisms and shall provide for monitoring by a land trust or public agency. Dedication of such areas as additional parkland beyond minimal required parkland dedication, where accepted, may be applied in density bonus calculations.
- B. **Maximum Bonus:** The maximum achievable intensity must not exceed the density or floor area ratio factor for the applicable zoning district and the applicable approval process.
- C. **Steep Slopes (slopes greater than 30 percent):** The net density or floor area may be increased by multiplying the net amount by the percentage listed in the table below where steep slopes are left undisturbed.

PERCENTAGE OF SITE IN STEEP SLOPES	PERMISSIBLE % INCREASE IN NET DEVELOPMENT
70% OR MORE	5% FOR EVERY 10% OF STEEP SLOPE AREA LEFT UNDISTURBED
50% TO 69%	4% FOR EVERY 10% OF STEEP SLOPE AREA LEFT UNDISTURBED
30% TO 49%	3% FOR EVERY 10% STEEP SLOPE AREA LEFT UNDISTURBED
15% TO 29%	2% FOR EVERY 10% OF STEEP SLOPE AREA LEFT UNDISTURBED
LESS THAN 15%	1% FOR EVERY 10% OF STEEP SLOPE AREA LEFT UNDISTURBED

- D. **Moderate Slopes (Slopes of 18-30%):** The net density or floor area may be increased by multiplying the net amount by the percentage listed in the table below where moderate slopes are left undisturbed.

PERCENTAGE OF SITE IN MODERATE SLOPES	PERMISSIBLE % INCREASE IN NET DEVELOPMENT
70% OR MORE	2.5% FOR EVERY 10% OF MODERATE SLOPE AREA LEFT UNDISTURBED
50% TO 69%	2% FOR EVERY 10% OF MODERATE SLOPE AREA LEFT UNDISTURBED
30% TO 49%	1.5% FOR EVERY 10% OF MODERATE SLOPE AREA LEFT UNDISTURBED
15% TO 29%	1% FOR EVERY 10% OF MODERATE SLOPE AREA LEFT UNDISTURBED
LESS THAN 15%	0.5% FOR EVERY 10% OF MODERATE SLOPE AREA LEFT UNDISTURBED

E. **Woodlands and Other Native Habitats:** The permitted number of dwelling units or permitted floor area may be increased by the percentage of the site area left as undisturbed woodlands or managed forest or as managed prairie, savanna, wetlands or other native habitats. [For example, if 50% of the site remains in undisturbed woodland after development, the permitted number of dwelling units would increase by 50%.]

61.540 ENVIRONMENTAL REVIEW:

The current rules issued under the authority granted in Minnesota Statutes Chapter 116D, implementing the Environmental Policy Act, shall be followed in determining the need for preparation of Environmental Review Program documents. Necessary documents, such as Environmental Assessment Worksheets and Environmental Impact Statements, shall be prepared and the review of such documents completed prior to final local action by the City of Rochester on any development related permit or process related to the project.

61.550 DRAINAGE PLAN:

A drainage plan shall be prepared to address the impact a development will have on existing drainage facilities and to provide a basis for designing the storm drainage system within the development. The plan shall be consistent with the Rochester Stormwater Management Plan or adopted drainage or stormwater policies.

61.551 Drainage Plan Required: A drainage plan shall accompany an application for:

- 1) A General Development Plan or Site Planning Permit involving an increase in impervious surface area. The drainage plan for a General Development Plan is conceptual in nature.
- 2) A Preliminary Plat of land for which no Drainage Plan has been prepared.
- 3) The master plan of any multi-phase development requiring only zoning certificate or conditional use approval.
- 4) Any lands not covered by a detailed drainage plan, including but not limited to lands subdivided through a Type I, II, or III process.

5) Other development requiring a grading plan, unless waived by the City Engineer.

61.552 **Modifications:** Modifications to an approved drainage plan may be submitted along with a Land Subdivision Permit or the application for approval of any phase of a multi-phase development.

61.553 **Waiver:** The requirement for a Drainage Plan may be waived by the City Engineer where the system of drainage for an area has been defined by development of surrounding property or where a plan for the entire watershed has been prepared. In the case of the review of General Development Plans, the Zoning Administrator upon agreement by the City Engineer may allow a period of grace on the submittal of the required drainage plan. If it will create problems, review of the General Development Plan maybe allowed to proceed prior to the drainage plan submittal, but the drainage plan shall be provided before the Planning Commission hears the application for a General Development Plan.

61.554 **Contents:** Refer to the document Engineering Standards for Public Works in Conjunction with the Development of Subdivision, Commercial and Industrial Property to determine Drainage Plan requirements.

61.555 **Approval:** The City Engineer shall approve any drainage plan that complies with the requirements of Section 61.554 and the Site Design Standards in Chapter 64 of this ordinance. The drainage plan shall be valid so long as development on which the plan is based is completed within three years or within the timeframe of a valid General Development Plan. If development has not been completed within 3 years of initial approval of the drainage plan (or within the timeframe of a valid General Development Plan) or the applicant modifies the development, the City Engineer may require the plan to be modified to address changing site conditions, standards or drainage plans.

61.560 GRADING PLAN:

A grading Plan shall be prepared to address the manner a proposed development will satisfy the Site Alteration Policies of Article 64.300 of the Ordinance.

61.561 **Grading Plan Required:** An approved grading plan shall he required:

- 1) As part of an application for a Final Plat;
- 2) As part of an application for a zoning certificate or conditional use which involves a development which was not included in a previously approved grading plan and will disturb over 10,000 square feet of area;
- 3) When any land disturbing activity involving the excavation or fill of earth material not associated with the development of a structure or the use of land on a site exceeds an accumulative total of 50 cubic yards of material and is left exposed for more than 45 days.

61.562 **Contents:** Refer to part 50.01 (2) of the Rochester Code of Ordinance (also referred to as Chapter 70 of the Uniform Building Code) for identification of the information to be included in a grading plan.

61.563 **Exemptions:** The following activities are exempt from the grading plan requirement:

- 1) Agricultural operations involved in crop production or in the propagation and management of timber or landscape materials;
- 2) Activity necessary as an emergency measure for the safety or protection of life or property.

61.564 Violations: Any person who does any grading work when an approved grading plan is required, without first receiving such approval, is guilty of a misdemeanor.

61.570 SITE PREPARATION:

Any zoning certificate application involving the initial development of a structure on a lot (except those for which a separate grading permit has been or will be completed) shall be accompanied by a copy of that portion of the approved original or revised subdivision grading plan for the lot under development and the abutting lots, along with the information identifying the approximate top of the foundation elevation, the curb elevation, the anticipated drainage pattern away from the building and any special structures proposed for use on the site (retaining walls, drains, etc.).

It shall be the joint responsibility of the builder and owner to insure that final lot elevations will not interfere with planned drainage patterns within the subdivision. Modifications to approved subdivision drainage plans resulting from the development of individual lots shall be approved by the City Engineer prior to the commencement of development activity.

61.580 SITE DEVELOPMENT PLAN:

The site plan review provisions and regulations are intended to promote the safe, functional and aesthetic development of property and to ensure that new structures, utilities, streets, parking, circulation systems, yards and open spaces are developed in conformance with the standards of this Code and the Comprehensive Plan. The site plan review shall consider the siting of structures and related site improvements so as to promote harmonious relationships with adjacent development, promote use of non-motorized transportation and transit, enhance the pedestrian environment and minimize bicycle, pedestrian and motorized vehicle conflicts.

61.581 Site Development Plan Required:

Site development plan review is required for all site development in the City requiring a development permit except a detached single family dwelling, duplex or two-family dwelling. Site development includes the construction or modification of structures, parking lots and the creation of impervious surfaces. Site development plan reviews also apply to any change of use on a site, as determined by the Zoning Administrator. This review shall occur prior to the issuance of a building permit. When a Site Planning Permit application is reviewed, or when the Final Plan for a Planned Development is reviewed, the site plan review is included as part of those reviews.

61.582 Contents:

Refer to the document Zoning Ordinance and Land Development Manual Informational Supplement to determine site development plan requirements.

61.583 Approval:

The site development plan shall be reviewed under the Type I review procedure. Development must commence within one year of site development plan approval, unless approved otherwise, or the approval becomes null and void.

61.584 Review Criteria:

Subdivision 1. The approving entity shall approve a site development plan if it determines the plan satisfies all of the findings provided in subdivision 2.

Subd. 2. The findings for the approval of a land subdivision are as follows:

- A. The proposed development is consistent with the Comprehensive Plan.
- B. The proposed development complies with all applicable laws and ordinances.
- C. The site plan layout satisfies the purpose, intent and all development standards of the zoning district unless a variance is approved.
- D. The proposed development, wherever practical, indicates all utility service transmission systems (including, but not limited to, water, sewer, natural gas, electrical and telephone lines) are placed underground.
- E. The proposed development will occur in a manner that will not impede the normal and orderly development or improvement of surrounding property for uses permitted by applicable laws and ordinances.
- F. The proposed development is consistent with adopted policies and standards for access, grading, drainage, erosion control and stormwater management.
- G. The proposed development is consistent with any approved General Development Plan, Conditional Use Permit and Traffic Impact Study approved for the property.
- H. There has been complete compliance with all issues addressed in any applicable development agreement.
- I. The proposed development provides convenient access for pedestrians and transit patrons to the building entrance(s), bicycle access to designated bicycle parking and motor scooter parking, unless determined by the Zoning Administrator to be unnecessary due to the context or programmed improvements.
- J. The proposed development, including its size and density is compatible with the existing and planned development of adjacent

property.

- K. On-site access and circulation design for pedestrians, bicyclists, transit vehicles and patrons and private vehicles and integration of these facilities with adjacent properties will support the safe travel of persons of all ages and abilities by minimizing vehicular, pedestrian and bicycle conflicts through the use of appropriate traffic calming, pedestrian safety, and other design features appropriate to the context.