

**City of Rosemount  
Ordinance No. B-190**

**AN ORDINANCE AMENDING THE  
CITY OF ROSEMOUNT ZONING ORDINANCE B  
RELATING TO LANDSCAPE REQUIREMENTS AND TREE PRESERVATION**

THE CITY COUNCIL OF THE CITY OF ROSEMOUNT, MINNESOTA, ORDAINS that Ordinance B, adopted September 19, 1989, entitled “City of Rosemount Zoning Ordinance,” is hereby amended as follows:

Section 1. Rosemount Zoning Ordinance B, Section 11-6-13 B. is amended as follows:

**B. Minimum Number Of Plantings**

Zoning District	Overstory Trees	Foundation Plantings
AG	None	1 None
AG-P	None	1 None
RR	1 tree per unit/frontage <sup>1</sup>	1 None
RL	1 tree per unit/frontage <sup>1</sup>	1 None
R-1	1 tree per unit/frontage <sup>1</sup>	1 None
R-1A	1 tree per unit/frontage <sup>1</sup>	1 None
R-2	1 tree per unit/frontage <sup>2</sup>	1 None
R-3	1 tree per open space unit exposure <sup>3</sup>	See note <sup>4</sup>
R-4	8 trees minimum plus 1 tree per unit <sup>5</sup>	See note <sup>4</sup>
R-4	8 trees minimum plus 1 tree per 2 units <sup>6</sup>	See note <sup>4</sup>
All Cs	8 trees or 1 per 3,000 square feet land area <sup>7</sup>	See note <sup>4</sup>
BP	8 trees or 1 per 3,000 square feet land area <sup>7</sup>	See note <sup>4</sup>
IP	8 trees or 1 per 3,000 square feet land area <sup>7</sup>	See note <sup>4</sup>
PB	8 trees or 1 per 3,000 square feet land area <sup>7</sup>	See note <sup>4</sup>
<u>LI</u>	8 trees or 1 per 3,000 square feet land area <sup>7</sup>	<u>See note<sup>4</sup></u>
GI	8 trees or 1 per 3,000 square feet land area <sup>7</sup>	See note <sup>4</sup>
<u>HI</u>	8 trees or 1 per 3,000 square feet land area <sup>7</sup>	<u>See note<sup>4</sup></u>

Notes:

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

Section 2. Rosemount Zoning Ordinance B, Section 11-6-13 C. is amended as follows:

**E. Tree Preservation:**

1. Findings and purpose statement. The city council finds it is in the best interest of the city to protect, preserve, and enhance the natural environment of the community and to encourage a resourceful and prudent approach to the development and alteration of wooded areas. In the interest of achieving these objectives, the city has established the comprehensive tree preservation regulations herein to promote the furtherance of the following:
  - a. Protection and preservation of the environment and natural beauty of the city;
  - b. Assurance of orderly development within wooded areas to minimize tree and habitat loss;
  - c. Evaluation of the impacts to trees and wooded areas resulting from development;
  - d. Establishment of minimal standards for tree preservation and the mitigation of environmental impacts resulting from tree removal;
  - e. Provision of incentives for creative land use and environmentally compatible site design which preserves trees and minimizes tree removal and clearcutting during development; and
  - f. Enforcement of tree preservation standards to promote and protect the public health, safety and welfare of the community.

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

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

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

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

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

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

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

DIAMETER OF A CONIFEROUS TREE: Every two feet in height of a coniferous tree is equivalent to one caliper inch of diameter.

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

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

HARDWOOD DECIDUOUS TREE: includes ironwood, catalpa, oak, maple (hard), walnut, ash, hickory, birch, black cherry, hackberry, locust and basswood.

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

HERITAGE TREE: is a healthy hardwood deciduous tree measuring equal to or greater than twenty-seven (27) inches in diameter or a healthy coniferous evergreen tree greater than fifty (50) feet in height.

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

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

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

PROPERTY OWNER: The owner of a buildable property who is constructing or expanding a dwelling or a business on that property.

~~SIGNIFICANT TREE: A healthy deciduous hardwood tree measuring a minimum of six caliper inches (6") in diameter, a healthy softwood deciduous tree measuring a minimum of eight twelve caliper inches (812") in diameter for deciduous trees measured at four and one-half feet (4.5') above the ground, and , or a healthy coniferous tree measuring a minimum of twelve feet (12') in height for coniferous/evergreen trees.~~

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

SOFTWOOD DECIDUOUS TREE: includes cottonwood, poplars/aspen, box elder, willow, silver maple and elm.

~~2.3.~~ Application: The provisions of this subsection E shall apply to all ~~new development subdivision, grading permits or construction~~, except for preliminary plats approved by the city prior to the adoption hereof.

### 3.4. Process:

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

~~a.i.~~ Prepare a tree preservation plan which shall be incorporated on the grading plan.

~~b.ii.~~ Implement the tree preservation plan prior to and during site development.

~~c.iii.~~ Submit a performance of financial guarantee for compliance with the approved tree preservation plan.

~~d.iv.~~ Comply with the city's tree replacement procedure.

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

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

b. For Home and Business Owners: The following process for preserving trees shall be required from the home and business owner if trees are being removed during grading or construction:

i. Identify the significant trees and heritage trees on the property.

ii. Identify the significant trees and/or heritage trees removed due to grading or construction.

iii. Identify the protection measures used to protect the preserved trees during grading or construction.

iv. Comply with the city's tree replacement procedure.

The tree preservation plan shall be submitted with the grading permit or building permit application. The tree preservation plan may be prepared by the applicant of the grading permit or the building permit. The tree preservation plan will be approved by city staff. This decision may be appealed directly to the Board of Appeal and Adjustments.

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

fewest significant trees and significant woodlands being destroyed or damaged. The tree preservation plan shall include the following items:

- a. The name(s) and address(es) of property owners and developers.
- b. Delineation of the buildings, structures, or impervious surfaces situated thereon or contemplated to be built thereon.
- c. Delineation of all areas to be graded and limits of land disturbance.
- d. Size, species, and location of all significant trees ~~and significant woodlands~~ located within the area to be platted or the parcel of record.
- e. Identification of all significant trees ~~and significant woodlands~~ on all individual lots. (The developer shall be required to submit a list of all lot and block numbers identifying those lots.)
- f. Measures to protect significant trees ~~and significant woodlands~~.
- g. Identification of all significant trees ~~and significant woodlands~~ proposed to be removed within the construction area, including the contouring of all areas to be clear cut.
- h. Size, species, and location of all replacement trees to be planted on the property in accordance with the tree replacement schedule.
- i. Signature of the person preparing the plan and statement which includes acknowledgment of the fact the trees to be used as replacements are appropriate species with respect to survival of the replacement trees.

~~5.6.~~ 5.6. Mandatory Protection: Measures to protect significant trees ~~and significant woodlands~~ shall include:

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

~~6.7.~~ 6.7. Discretionary Protection: Measures to preserve or protect significant trees ~~and woodlands~~, which may be required by the city, include, but are not limited to:

- a. Installation of retaining walls or tree wells to preserve trees by eliminating the filling or cutting of soil within drip zones.
- b. Placement of utilities in common trenches outside of the drip line of significant trees, or use of tunneled installation.
- c. Prevention of change in soil chemistry due to concrete washout and leakage or spillage of toxic materials, such as fuels or paints.

- d. Use of tree root aeration, fertilization, and/or irrigation systems.
- e. Transplanting of significant trees into a protected area for later moving into permanent sites within the construction area.
- f. Safety pruning.

~~7.8. Significant Tree/Woodland Removal: Significant tree and significant woodlands removal shall be in accordance with the city approved tree preservation plan. This removal rate does not apply to unhealthy trees or to trees that the city may consider to be inferior in quality, including, but not limited to, box elder, cottonwood and poplar. The plan should remove no more than twenty five percent (25%) of the total significant trees and/or significant woodlands which were existing prior to the preliminary plat as a result of the following construction activities approved as a part of a preliminary plat:~~

- ~~a. Site grading.~~
- ~~b. Installation of public utilities including sanitary sewer, storm sewer, water, natural gas, electrical service, and cable TV.~~
- ~~c. Construction/grading of drainageways.~~
- ~~d. Filling of any area.~~
- ~~e. Any other construction activity within the construction area.~~

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

- a. Heritage Trees: Heritage trees are unique trees to Rosemount due to their size and age. All possible measures will be taken to preserve these trees. Heritage trees removal may occur only when there is not a practical alternative, such as the alignment of a collector or arterial streets or the installation of a trunk utility corridor. There is a zero percent (0%) removal threshold on heritage trees, meaning every caliper inch of heritage tree removed will require replacement in accordance with the standards of this subsection E10 of this section.
- b. Significant Tree Removal for Developments: Although the applicant must retain the maximum amount of woodland possible, the City recognizes that a certain amount of significant trees and tree cover removal is an inevitable consequence of the urban development process. Therefore, twenty-five percent (25%) of the existing caliper inches of trees can be removed during development without obligation of replacement. Any removal beyond twenty-five percent (25%) will require replacement as described in subsection E10 of this section.

c. Significant Tree Removal for Home and Business Owners: The majority of tree removal occurs during the grading and installation of infrastructure during subdivision. The City recognizes that additional tree removal may occur after subdivision to construct new houses or business, or the expansion of existing homes or business, but to a lesser degree than the original subdivision. Therefore, ten percent (10%) of the existing caliper inches of trees can be removed during home or business construction without obligation of replacement. Any removal beyond ten percent (10%) will require replacement as described in subsection E10 of this section.

d. Trees Exempt from Replacement: The following types of trees do not need to be included as part of the tally of tree removals:

a.i. Dead, diseased, or dying trees; or

b.ii. Trees that are transplanted from the site to another appropriate area within the city; or

c.iii. Trees that were planted as part of a commercial business such as a tree farm or nursery.

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

~~9.10. Replacement Procedure: Developers shall be required to replace the significant trees and significant woodlands (other than those trees that the city may consider to be inferior in quality, including, but not limited to, box elder, cottonwood and poplar) which were indicated on the tree preservation plan to be saved, but were ultimately destroyed or damaged up to a year after the development is complete. Significant trees and significant woodlands that suffered immediate destruction must be replaced prior to a certificate of occupancy being issued. The developer shall be required to replace each of the significant trees destroyed or damaged with replacement trees as follows: two (2) replacement trees for every deciduous tree twenty inches (20") or less in diameter, or for every coniferous tree twelve feet (12') or less in height; or, four (4) replacement trees for every deciduous tree greater than twenty inches (20") in diameter, or for every coniferous tree greater than twelve feet (12') in height. In the case of a significant woodland being damaged or destroyed, the amount of square footage removed must be replaced. The city may also determine that a tree has been damaged or destroyed once any protective measure identified in subsection E5 or E6 of this section has been violated. Replacement trees shall be in addition to other tree planting requirements of the city, including, but not limited to, boulevard trees per residential lot. Species available to nurseries most similar to lost tree types must be used; city staff may refuse inappropriate replacement trees. Replacement trees must consist of nursery stock and be no less than the following sizes:~~

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

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

~~Replacement trees shall not be placed on easements or street rights of way; the city, however, reserves the right to plant and care for trees planted in public rights of way. City staff can assist in the siting of replacement trees. Should placing the replacement trees on a site, once the site has been developed, prove difficult or impossible, the trees will be placed~~

on public property at the direction of city staff. The following list of materials is acceptable. Other selections may be approved by city staff.

~~DECIDUOUS TREES~~

<u>Small Trees</u>	<u>Medium Trees</u>	<u>Large Trees</u>
Crabapple	Green ash	Bur oak
Hawthorn	Hackberry	Kentucky coffee tree
Lilac	Honey locust	Maples (no silver maple)
Plum	Linden (bass wood)	
Serviceberry	River birch	

~~CONIFEROUS TREES~~

~~Canadian hemlock~~

~~Cedar~~

~~European larch~~

~~Fir~~

~~Pine~~

~~Spruce~~

Tree Replacement Formula: Replacement of removed or disturbed trees in excess of the percentage allowed by this subsection shall be according to the following guidelines:

- a. For development which exceeds the percentage of allowable removal of significant trees, all significant trees shall be replaced at the ratio of one half (0.5) caliper inch per one (1) caliper inch removed.
- b. For each heritage tree removed by the developer, all heritage trees shall be replaced at the ratio of one (1) caliper inch per one (1) caliper inch removed.

11. Size, Types and Diversification of Replacement Trees: Replacement trees shall be of a similar species to those that are removed, but also shall be a minimum of 25% conifers and 25% deciduous hardwoods. Required heritage tree replacement must be of the same species as the heritage tree removed. Replacement trees must be no less than the following sizes:

- a. Deciduous trees shall be no less than two and one half caliper inches (2.5"); and
- b. Coniferous trees shall be no less than six feet (6') high.



12. Acceptable Tree Replacement Species: The following list of trees are acceptable for tree replacement species. The City may, at its discretion, approve additional species if circumstances such as soil conditions, hydrology, topography, or recent tree diseases warrant.

Oaks, Maples (except Silver Maples), Walnut, Ash, Hickory, Black Cherry, Linden, Pine, Spruce, Fir and Cedar.

~~40.13.~~ Other Replacement Tree Requirements: Choice of replacement trees species and location of the trees should also be contingent on the following information:

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

14. Fee-in-Lieu of Tree Replacement or Replacement Trees Planted in Public Areas: The City recognizes that there may be instances where the total amount of tree replacement required cannot occur on site or that there are some land uses (such as refining) that are not compatible with trees. In those instances, the City may, at its option, accept a fee-in-lieu of tree placement or allow the planting of replacement trees in public areas. Tree replacement is encouraged to happen on site as much as possible and fee-in-lieu of tree replacement should be used only when replacement cannot occur on site. The fee-in-lieu of tree replacement will be determined annually by the City Council through the City Fee Schedule.

- F. Parking Lot Landscaping:** The need for internal parking lot landscaping will be subject to planning commission site review. When such landscaping is required, it will be to lessen the monotony, heat and wind associated with large parking lots. When the internal planting islands are required, the island boundaries must be constructed with concrete or of nondegradable material. The interior depth and total area of the island must allow the root zone of all planted materials to develop to their natural growth potential.
- G. Landscaping Performance Security:** The city may, at its option, withhold occupancy certification or require cash, a letter of credit or a bond satisfactory to the city in the amount of one hundred and ten percent (110%) of the value of the landscaping, securing the full performance of landscaping requirements. The amount of the security shall be determined by the contract value of the required improvements and may be held by the city for one full year from the date improvements were completed. (~~Ord. B, 9-19-1989~~)

Section 3.      EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage and publication according to law.

ENACTED AND ORDAINED into an Ordinance this 17<sup>th</sup> day of July, 2007.

CITY OF ROSEMOUNT

\_\_\_\_\_  
William H. Droste, Mayor

ATTEST:

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Amy Domeier, City Clerk

**Published in the Rosemount Town Pages this \_\_\_\_\_ day of \_\_\_\_\_, 2007.**