

**City of Delano
County of Wright
State of Minnesota**

Ordinance O-24-05

1.3 Abrogation and Greater Restrictions. It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. The standards in this ordinance take precedence over any less restrictive, conflicting local laws, ordinances, or codes. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

1.4 Warning and Disclaimer of Liability. This ordinance does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. Not all flood risk is mapped. Larger floods do occur, and the flood height may be increased by man-made or natural causes, such as ice jams or bridge openings restricted by debris. This ordinance does not create liability on the part of Delano Minnesota or its officers or employees for any flood damages that result from reliance on this ordinance, or any administrative decision lawfully made hereunder.

1.5 Severability. If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this ordinance shall not be affected and shall remain in full force.

SECTION 2.0 DEFINITIONS

2.1 Definitions. The following definitions shall be applicable exclusively within the Floodplain overlay districts. Unless specifically defined, words or phrases used in this ordinance must be interpreted according to common usage and so as to give the floodplain ordinance its most reasonable application.

2.111 Accessory Structure. A structure, as defined in this ordinance, that is on the same parcel of property as, and is incidental to, the principal structure or use; an accessory structure specifically excludes structures used for human habitation.

2.112 Base Flood. The flood having a one-percent chance of being equaled or exceeded in any given year. “Base flood” is synonymous with the term “regional flood” used in Minnesota Rules, part 6120.5000.

2.113 Base Flood Elevation (BFE). The elevation of the base flood, regional flood (100 year flood event), or one-percent annual chance flood. The term “base flood elevation” is used in the flood insurance study.

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2.114 Basement. Any area of a structure, including crawl spaces, having its floor subgrade (below ground level) on all sides, regardless of the depth of excavation below ground level.

2.115 Building. See *Structure*.

2.116 Channel. A natural or artificial depression of perceptible extent, with definite bed and banks to confine and conduct flowing water either continuously or periodically.

2.117 Conditional Use. A land use or development that would not be appropriate generally but may be allowed with appropriate restrictions upon a finding that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood.

2.118 Critical Facilities. Buildings and structures that contain essential facilities and services necessary for emergency response and recovery, or that pose a substantial risk to the public in the event of failure, disruption of function, or damage by flooding. Specifically, this includes facilities identified as Flood Design Class 4 in *ASCE 24-14, Flood Resistant Design and Construction*, as amended. Examples include ~~health care facilities~~, facilities required for emergency response, power generating stations, communications towers, or electrical substations.

2.119 Development. Any man-made change to improved or unimproved real estate, including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

2.120 Equal Degree of Encroachment. A method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

2.121 FEMA. Federal Emergency Management Agency.

2.123 Flood. A temporary rise in the stream flow or water surface elevation from any source that results in the inundation of normally dry land areas.

2.124 Flood Fringe. The portion of the one-percent annual chance (100 year flood event) floodplain that is located outside of the floodway.

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2.125 Flood Insurance Rate Map (FIRM). An official map on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

2.126 Flood Insurance Study (FIS). The study referenced in Section 3.2, which is an examination, evaluation and determination of flood hazards, and if appropriate, corresponding surface elevations, or an examination, evaluation, and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.

2.127 Floodplain. The beds, channel and the areas adjoining a wetland, lake or watercourse, or other source which have been or hereafter may be inundated by the base flood.

2.128 Floodproofing. A combination of structural and non-structural additions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

2.129 Floodway. The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which must be reserved to carry or store the base flood discharge without cumulatively increasing the water surface elevation more than one-half foot.

2.130 General Floodplain. Those floodplains designated on the Flood Insurance Rate Maps referenced in Section 3.2, but that do not have a delineated floodway.

2.131 Lowest Floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR § 60.3.

2.132 Manufactured Home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include the term "recreational vehicle."

2.133 New Construction. Structures for which the start of construction commenced on or after the effective date of an adopted floodplain management regulation and includes any subsequent improvements to such structures.

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2.134 Principal Structure. The main building or other structure on a lot that is utilized for the property's principal use.

2.135 Reach. A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

2.136 Recreational Vehicle. A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. Those vehicles not meeting this definition shall be considered a structure for the purposes of this ordinance. For the purposes of this ordinance, the term recreational vehicle is synonymous with the term "travel trailer/travel vehicle."

2.137 Regulatory Flood Protection Elevation (RFPE). An elevation that is one foot above the elevation of the base flood plus any increases in the water surface elevation caused by encroachments on the floodplain that result from designation of a floodway. These increases in water surface elevations are typically identified in the Floodway Data Tables, found in the Flood Insurance Study.

2.138 Repetitive Loss. Flood related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25% of the market value of the structure before the damage occurred.

2.139 Stage Increase. Any increase in the water surface elevation during the one-percent annual chance flood caused by encroachments on the floodplain.

2.140 Start of Construction. Includes substantial improvement, and means the date the permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as

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dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

2.141 Structure. A roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Recreational vehicles not considered travel ready, as detailed in Section 11.22, shall also be considered a structure for the purposes of this ordinance.

2.144 Subdivision. Land that has been divided for the purpose of sale, rent, or lease, including planned unit developments.

2.145 Substantial Damage. Damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

2.146 Substantial Improvement. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either: A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or B. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure." For the purpose of this ordinance, "historic structure" is defined in 44 CFR § 59.1.

2.147 Variance. "Variance" means the same as that defined in 44 CFR § 59.1 and Minnesota Statutes, *Section 462.357, Subd. 6(2)*.

2.148 Watercourse. A channel in which a flow of water occurs either continuously or intermittently in a definitive direction. The term applies to either natural or artificially constructed channels.

SECTION 3.0 JURISDICTION AND DISTRICTS

3.1 Lands to Which Ordinance Applies. This ordinance applies to all lands within the jurisdiction of Delano Minnesota within the boundaries of the Floodway, Flood Fringe and General Floodplain Districts.