

## **SECTION 51.02. ADMINISTRATION**

**Subd. A. Administration: Amendments and Rezonings.** In accordance with the provisions of Minnesota Statutes, the City Council may from time to time amend the Zoning Ordinance text or map (re zoning). Amendments may be initiated by City Council, Planning Commission, or property owner. The procedure for an amendment to the Zoning Ordinance or Zoning District Map (rezone) shall be as follows:

1. **Application.** Requests for amendments or rezonings, as provided within this Ordinance, shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by a fee as provided for by Section 51.01, Subd. A.12 of this Ordinance. Such application shall also be accompanied by eight (8) large scale copies of detailed written and graphic materials fully explaining the proposed zoning change, development, or use, an eleven (11) inch by seventeen (17) inch reduced paper copy of all graphic materials, one (1) digital electronic copy in a format compatible with the City's computer system, and a list of affected property owners within three hundred fifty (350) feet of the subject property obtained from the current tax rolls provided in the City Hall or Wright County Offices and have the list verified by the City Administrator.
2. **Staff Review/Technical Assistance Reports.** Upon receipt of an application for an amendment or rezoning, the Zoning Administrator shall, when deemed necessary, refer the request to appropriate staff to ensure that informational requirements are complied with. When all informational requirements have been complied with, the request shall be considered officially submitted. Also, when deemed necessary, the Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports and/or provide general assistance in preparing a recommendation on the request to the Planning Commission and City Council.
3. **Public Hearing.** Upon official submission of the request, the Zoning Administrator shall set a public hearing on the request for the next regularly scheduled Planning Commission meeting occurring at least ten (10) working days from such date as a notice of the hearing is published in the official newspaper. Such notice shall contain a legal property description and description of the request, and shall be published no more than thirty (30) days and no less than ten (10) days prior to the hearing. When an amendment involves changes in district boundaries affecting an area of five (5) acres or less, a similar notice shall be mailed at least ten (10) days before the day of the hearing to each owner of affected property and property situated wholly or partly within three hundred fifty (350) feet of the property to which the amendment relates. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Ordinance.

4. **Planning Commission Action.** The Planning Commission shall conduct the public hearing at which time the applicant or a representative thereof shall appear to answer questions concerning the proposed request.

a. The Planning Commission shall consider possible adverse effects of the proposed amendment or rezoning. Its judgment shall be based upon (but not limited to) the following factors:

- 1) The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official City Comprehensive Plan.
- 2) The proposed use is or will be compatible with present and future land uses of the area.
- 3) The proposed use conforms with all performance standards contained herein.
- 4) The proposed use can be accommodated with existing public services and will not overburden the City's service capacity when:
  - a) The proposed development shall be served with adequate and safe water supply.
  - b) The proposed development shall be served with an adequate and safe sanitary sewer system.
  - c) The proposed development shall not result in the premature expenditures of City funds on capital improvements necessary to accommodate the proposed development.
- 5) Traffic generation by the proposed use is within capabilities of the streets serving the property when:
  - a) If the existing level of service (LOS) outside of the proposed site is A or B, traffic generated by a proposed site will not degrade the level of service more than one grade.
  - b) If the existing LOS outside of the proposed site is C, traffic generated by a proposed site will not degrade the level of service below C.
  - c) The existing LOS must be C or better for all streets and intersections providing access to the site. If the existing level of service is D, E or F, the site developer must provide, as part of the proposed project, improvements needed to

ensure a level of service C or better or the City may deem the development premature.

- d) Existing roads and intersections providing access to the site must have the structural capacity to accommodate projected traffic from the proposed site or the developer will pay to correct any structural deficiencies.
- e) The traffic generated from a proposed site shall not require City street improvements that are inconsistent with the Delano Capital Improvement Plan. However, the City may, at its discretion, consider developer-financed improvements to correct any street deficiencies.

b. The Planning Commission and City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, said information to be declared necessary to establish performance conditions in relation to all pertinent sections of this Ordinance.

c. The Planning Commission shall make a finding of fact and recommend such actions or conditions relating to the request as they deem necessary to carry out the intent and purpose of this Ordinance. Such recommendation shall be in writing and accompanied by any report and recommendation of the City staff. The written recommendation of the Planning Commission shall be forwarded to the Zoning Administrator for referral to the City Council.

5. **Referral to City Council.** Upon receipt of the Planning Commission report and recommendation, the Zoning Administrator shall place the request and any report and recommendation on the agenda of the next regularly scheduled meeting of the City Council. The Planning Commission must act and report its recommendation in a timely manner so that the City Council can act on the application within sixty (60) days of receipt of a complete application, unless the review period for the applicant has been extended pursuant to Minnesota Statutes 15.99.

6. **City Council Action.** Upon receiving the request and any report and recommendation of the Planning Commission and the City staff, the City Council shall have the option to set and hold a public hearing if deemed necessary and shall make a recorded and written finding of fact, and provide this written finding to the applicant within sixty (60) days of receipt of a completed application, unless the review period for the application has been extended pursuant to Minnesota Statutes 15.99.

- a. Approval of a proposed amendment shall require passage by a majority vote of all members of the City Council except that the adoption or amendment of any portion of a zoning ordinance which changes all or part of the existing classification of a zoning district from residential to either commercial or industrial requires a two-thirds (2/3) majority vote of all members of the City Council.
- b. In the case of an amendment, the amendment shall not become effective until such time as the City Council approves an ordinance reflecting said amendment and after said ordinance is published in the official newspaper.
- c. Whenever an application for an amendment or rezoning has been considered and denied by the City Council, a similar application for the amendment or rezoning affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six (6) months from the date of its denial, unless a decision to reconsider such matter is made by not less than a majority vote of the full City Council.

**Subd. B. Administration: Conditional Use Permits.** Certain uses, while generally not suitable in a particular zoning district, may under some circumstances be suitable. When such circumstances exist, a conditional use permit may be granted. Conditions may be applied to issuance of the permit and an annual review of the permit may be required. The permit shall be granted for a particular use and not for a particular person or firm. Conditional use permits may be granted in accordance with this subdivision for any use or purpose for which such permits are required or permitted by this ordinance or as listed as a conditional use for the zoning districts of this Ordinance.

1. **Application.** Requests for conditional use permits, as provided within this Ordinance, shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by a fee as provided for by Section 51.01, Subd. A.12 of this Ordinance. Such application shall also be accompanied by eight (8) large scale copies of detailed written and graphic materials fully explaining the proposed change, development, or use, an eleven (11) inch by seventeen (17) inch reduced paper copy of all graphic materials, one (1) digital electronic copy in a format compatible with the City's computer system, and a list of affected property owners within three hundred fifty (350) feet of the subject property obtained from the current tax rolls provided in the City Hall or Wright County Offices and have the list verified by the City Administrator.
2. **Staff Review/Technical Assistance Reports.** Upon receipt of an application for a conditional use permit, the Zoning Administrator shall, when deemed necessary, refer the request to appropriate staff to ensure that informational requirements are complied with. When all informational requirements have been complied with, the request shall be considered officially submitted. Also, when deemed necessary, the Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports and/or provide general assistance in preparing a recommendation on the request to the Planning Commission and City Council.
3. **Public Hearing.** Upon official submission of the request, the Zoning Administrator shall set a public hearing on the request for the next regularly scheduled Planning Commission meeting occurring at least ten (10) working days from such date as a notice of the hearing is published in the official newspaper. Such notice shall contain a legal property description and description of the request, and shall be published no more than thirty (30) days and no less than ten (10) days prior to the hearing. Written notification of the hearing shall also be mailed at least ten (10) working days prior to the date of the hearing to all owners of land within three hundred fifty (350) feet of the boundary of the property in question. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Ordinance.
4. **Planning Commission Action.** The Planning Commission shall conduct the public hearing at which time the applicant or a representative thereof shall appear to answer questions concerning the proposed request.

- a. The Planning Commission shall consider possible adverse effects of the proposed conditional use permit. Its judgment shall be based upon (but not limited to) the following factors:
  - 1) The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official City Comprehensive Plan.
  - 2) The proposed use is or will be compatible with present and future land uses of the area.
  - 3) The proposed use conforms with all performance standards contained herein.
  - 4) The proposed use can be accommodated with existing public services and will not overburden the City's service capacity when:
    - a) The proposed development shall be served with adequate and safe water supply.
    - b) The proposed development shall be served with an adequate and safe sanitary sewer system.
    - c) The proposed development shall not result in the premature expenditures of City funds on capital improvements necessary to accommodate the proposed development.
  - 5) Traffic generation by the proposed use is within capabilities of the streets serving the property when:
    - a) If the existing level of service (LOS) outside of the proposed site is A or B, traffic generated by a proposed site will not degrade the level of service more than one grade.
    - b) If the existing LOS outside of the proposed site is C, traffic generated by a proposed site will not degrade the level of service below C.
    - c) The existing LOS must be C or better for all streets and intersections providing access to the site. If the existing level of service is D, E or F, the site developer must provide, as part of the proposed project, improvements needed to ensure a level of service C or better, or the City may deem the development premature.

- d) Existing roads and intersections providing access to the site must have the structural capacity to accommodate projected traffic from the proposed site or the developer will pay to correct any structural deficiencies.
  - e) The traffic generated from a proposed site shall not require City street improvements that are inconsistent with the Delano Capital Improvement Plan. However, the City may, at its discretion, consider developer-financed improvements to correct any street deficiencies.
- b. The Planning Commission and City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, said information to be declared necessary to establish performance conditions in relation to all pertinent sections of this Ordinance.
- c. The Planning Commission shall make a finding of fact and recommend such actions or conditions relating to the request as they deem necessary to carry out the intent and purpose of this Ordinance. Such recommendation shall be in writing and accompanied by any report and recommendation of the City staff. The written recommendation of the Planning Commission shall be forwarded to the Zoning Administrator for referral to the City Council.

5. **Referral to City Council.** Upon receipt of the Planning Commission report and recommendation, the Zoning Administrator shall place the request and any report and recommendation on the agenda of the next regularly scheduled meeting of the City Council. The Planning Commission must act and report its recommendation in a timely manner so that the City Council can act on the application within sixty (60) days of receipt of a complete application, unless the review period for the applicant has been extended pursuant to Minnesota Statutes 15.99.

6. **City Council Action.** Upon receiving the request and any report and recommendation of the Planning Commission and the City staff, the City Council shall have the option to set and hold a public hearing if deemed necessary and shall make a recorded and written finding of fact, and provide this written finding to the applicant within sixty (60) days of receipt of a completed application, unless the review period for the application has been extended pursuant to Minnesota Statutes 15.99.

- a. Approval of a proposed conditional use permit shall require passage by a majority vote of all members of the City Council.

- b. In the case of a conditional use permit, the City Council may impose any condition it considers necessary to protect the public health, safety, and welfare.
- c. Whenever an application for a conditional use permit has been considered and denied by the City Council, a similar application for the conditional use permit affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six (6) months from the date of its denial, unless a decision to reconsider such matter is made by not less than a majority vote of the full City Council.

7. **Recording Conditional Use Permit.** Following approval of the conditional use permit, the City shall file a certified copy thereof including a legal description of the property with the County Recorder and/or Registrar of Title.

8. **Performance Security.**

- a. Except in the case of non-income producing residential property, upon approval of a conditional use permit the City may require a letter of credit, cash escrow, certificate of deposit, securities, or cash deposit prior to the issuing of building permits or initiation of work on the proposed improvements or development. Said security shall be non-cancelable and shall guarantee conformance and compliance with the conditions of the conditional use permit and the ordinances of the City.
- b. The security shall be in the amount of one and one-half (1-1/2) times the City Engineer's or a certified appraiser's estimated costs of labor and materials for the proposed improvements or development. Said project can be handled in stages upon the discretion of the City Engineer and Building Official.
- c. The City shall hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the conditional use permit and ordinances of the City has been issued by the City Building Official.
- d. Failure to comply with the conditional use permit or the ordinances of the City shall result in forfeiture of the security.

9. **Lapse of Conditional Use Permit by Non-Use.**

- a. Whenever within one (1) year after granting a conditional use permit, the use as permitted by the permit shall not have been completed or utilized, then such permit shall become null and void unless a petition for an extension of time in which to complete or utilize the use has been granted by the City Council. Such extension shall be requested in writing and filed

with the Zoning Administrator at least thirty (30) days before the expiration of the original conditional use permit. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete or utilize the use permitted in the conditional use permit. Such petition shall be presented to the Planning Commission for a recommendation and to the City Council for a decision.

b. All unused conditional use permits that were approved prior to the effective date of this Ordinance shall be utilized within one (1) year of the effective date of this Ordinance amendment, otherwise said permit shall become null and void, unless a petition for an extension of time in which to complete or utilize the permit has been granted by the City Council. Such extension shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of the conditional use permit. The request for extension shall state facts showing a good faith attempt to complete or utilize the use permitted in the conditional use permit. Such petition shall be presented to the Planning Commission for a recommendation to the City Council.

10. **Periodic Review.** If a time limit or periodic review is included as a condition by which a conditional use permit is granted, the conditional use permit may be reviewed at a public hearing with notice of said hearing published at least ten (10) days prior to the review; it shall be the responsibility of the City Clerk to schedule such public hearings and the owner of land having a conditional use permit shall not be required to pay a fee for said review.

11. **Conditional Use Permit Amendments.** Any change involving structural alteration, enlargement, intensification of use, or similar change not specifically permitted by the conditional use permit issued shall require an amended conditional use permit and all procedures shall apply as if a new permit were being issued. An amended conditional use permit application and requests for changes in conditions shall be administered in a manner similar to that required for a conditional use permit.

12. **Revocation.** If an approved conditional use permit is in violation of this Ordinance or the conditions of permit approval, the City may initiate a process to revoke the conditional use permit. The City shall then conduct a public hearing to consider the revocation of a conditional use permit. Notifications shall be distributed and published according to Section 51.02, Subd. 2.C. The public hearing shall be conducted by the Planning Commission, which shall make a recommendation to the City Council. In considering revocation, the Planning Commission and the City Council shall consider compliance with the approved conditions of the conditional use permit and the standards listed in Section 51.02,

Subd. 2.D. The City may also conduct a public hearing and consider revocation if the time requirements of Section 51.02, Subd. 2.I. have not been met.

Following a vote by the City Council to revoke the conditional use permit, the City shall file a certified copy thereof including a legal description of the property with the County Recorder and/or Registrar of Title.

13. **Application and Submittal Requirements.** Application for conditional use permits shall be filed with the Zoning Administrator and shall be accompanied by the appropriate fee and following information requirements:

- a. Proof of title and contract/purchase agreement and property owner signature on the application form when applicable.
- b. Eight (8) large scale copies and reduced (11" x 17") copies of detailed written materials, plans and specifications. One (1) electronic copy in a format compatible with the City's computer system.

**Note:** One or two *additional* large scale copies shall be provided for each of the following, if applicable:

- Project adjacent to a County Road or County State Aid Highway – (2 sets)
- Project adjacent to a State Highway – (2 sets)
- Project lies within a Shoreland District – (1 set)
- Project lies within a Floodplain District – (1 set)

- c. Certificate of Survey prepared by a licensed land surveyor identifying the following:
  - 1) Scale (engineering only) at one (1) inch equals one hundred (100) feet or less.
  - 2) North point indication.
  - 3) Existing boundaries with lot dimension and lot area.
  - 4) Existing buildings, structures and improvements.
  - 5) Easements of record.
  - 6) Delineated wetland boundary, to include the OHWL of any lakes or DNR waters.
  - 7) All encroachments.
  - 8) Legal description.

d. Site Plan using the current Certificate of Survey as a base depicting the following:

- 1) Name of project or development.
- 2) Name and address of developer and/or owner.
- 3) Name and address of engineer/architect/designer.
- 4) Date of plan preparation and dates of any subsequent revisions.
- 5) All proposed improvements, including:
  - a) Required and proposed setbacks.
  - b) Location, setback and dimensions of all proposed buildings and structures.
  - c) Location of all adjacent buildings and structures within one hundred (100) feet of the exterior boundaries of the subject property.
  - d) Location, number, dimensions of all proposed parking stalls, loading areas and drive aisles, with curbing shown.
  - e) Location and width of all proposed street accesses and driveways.
  - f) Location and type of all proposed lighting, including fixture details.
  - g) Provisions for storage and disposal of waste, garbage and recyclables, including details for enclosing and screening exterior containers.
  - h) Location of freestanding signs.
  - i) Location of HVAC equipment whether ground mounted or roof mounted.
- 6) Calculations for impervious/pervious surfaces.

e. Grading Plan (using the current Certificate of Survey as a base) depicting the following:

- 1) Existing contours at two- (2) foot intervals.

- 2) Proposed grade elevations at two- (2) foot maximum intervals.
- 3) Drainage plan, including the configuration of drainage areas and calculations.
- 4) Spot elevations.
- 5) Surface water ponding and treatment areas.
- 6) Erosion control measures.
- 7) Wetland replacement plan (when applicable).
- 8) Drainage calculations for 2-, 10-, & 100-year storm events.
- 9) Delineated wetland boundary, to include OHWL of any lakes or DNR waters.
- 10) Date of plan preparation and dates of any subsequent revisions.

f. Landscaping Plan using the current Certificate of Survey as a base depicting the following:

- 1) Planting schedule including:
  - a) Symbols.
  - b) Quantities.
  - c) Common and botanical names.
  - d) Sizes of plant materials.
  - e) Root specification (bare root, balled/burlapped, potted, etc.).
  - f) Special installation instructions.
- 2) Location, type and size of all significant trees to be removed or preserved.
- 3) Location and species of proposed plantings of all species.
- 4) Typical sections with details of fences, walls, and planter boxes.
- 5) Typical sections with details of landscape islands, planter beds, and foundation plantings with identification of materials to be used.
- 6) Delineation of both sodded and seeded areas with respective areas measured in square feet.

- 7) Coverage plan for underground irrigation systems, if any.
- 8) Other existing or proposed conditions that could be anticipated to affect landscaping.
- 9) Date of plan preparation and dates of any subsequent revisions.

g. Photometric Lighting Plan, to include fixture details/cut sheets/drawings.

- 1) Date of plan preparation and dates of any subsequent revisions.

h. Architectural Plans.

- 1) Date of plan preparation and dates of any subsequent revisions.
- 2) Architectural elevations of all principal and accessory buildings and structures (type and materials used in all exterior surfaces).
- 3) Typical floor plans and typical room plans drawn to scale with a summary of square footage by use or activity.

i. Utility Plan.

- 1) Location, sizing, and type of water and sewer system mains and proposed service connections, hydrants, valves, and manholes; or,
- 2) Location and size of proposed primary and secondary on-site treatment systems, when allowed (if ISIS is proposed).
- 3) Storm sewer, catch basins, invert elevation, type of castings and type of materials (refer to Engineering Manual for City standards).
- 4) Date of plan preparations and dates of any subsequent revisions.
- 5) Estimates of forecasted water consumption.
- 6) Location of electrical services and any transformers and meters.

j. Other plans and information as may be required by the Zoning Administrator which may include (but not be limited to) the following:

- 1) Location, type and size (area and height) of all signs to be erected upon the subject property.
- 2) Vicinity map showing the subject property in relation to nearby highways or major street intersections.

- 3) Sound source control plan.
- 4) Fire protection plan.
- 5) Proposed protective covenants or private restrictions.
- 6) Where landscaping or man-made materials are used to provide screening from adjacent properties, a cross section shall be provided showing the perspective of the site from neighboring properties at the property line elevation.
- 7) Traffic study.

k. For applications for new communication towers, the application shall include information to demonstrate compliance with the provisions of Section 51.03, Subd. M, including but not limited to:

- 1) Demonstration that a significant gap in coverage exists that would be resolved by the proposed location and that adequate service cannot be provided utilizing existing structures within a two (2) mile search radius of the proposed site.
- 2) Structural design information to ensure compliance with manufacturer specifications and to ensure the tower can accommodate additional antennas (co-location).
- 3) Authorization from the property owner if different from applicant.
- 4) Lease or agreement requiring removal of the tower and facilities after cessation of use.
- 5) Copies of applicable federal, state, and local licenses, permits, approvals.

## **Subd. C. Administration: Interim Use Permits.**

1. **Purpose and Intent.** The purpose and intent of allowing interim uses is:
  - a. To allow a use for a brief period of time until a permanent location is obtained or while the permanent location is under construction.
  - b. To allow a use that is presently judged acceptable by the City Council, but that with anticipated development or redevelopment, will not be acceptable in the future or will be replaced in the future by a permitted or conditional use allowed within the respective district.
  - c. To allow a use which is reflective of anticipated long range change to an area and which is in compliance with the Comprehensive Plan provided that said use maintains harmony and compatibility with surrounding uses and is in keeping with the architectural character and design standards of existing uses and development.
2. **Procedure.**
  - a. **Existing Uses.** All uses existing as of the effective date of this Ordinance that are included in the list of interim uses for the zoning district in which they are located shall be considered as having an interim use permit which contains conditions that permit the land use and structures as they existed on said date. Any enlargement, structural alteration, or intensification of such use shall require an amended interim use permit regulated by the Section 51.02, Subd. C of this Ordinance and shall be processed according to the submittal requirements, standards and procedures for a conditional use permit as established by Section 51.02, Subd. B of this Ordinance.
  - b. **New Uses.** Uses defined as interim uses which do not presently exist within a respective zoning district shall be processed according to the submittal requirements, standards and procedures for a conditional use permit as established by Section 51.02, Subd. B. of this Ordinance.
3. **General Standards.**
  - a. **Existing Uses.** Existing uses shall be in conformance with zoning and building standards in effect at the time of initial construction and development, and may not be enlarged or expanded except under the terms for newly established uses, and shall continue to be governed by such regulations in the future.
  - b. **New Uses.** New interim uses shall comply with the following:

- 1) The standards of a conditional use permit set forth in Section 51.02, Subd. B of this Ordinance shall be satisfied.
- 2) The use shall conform to the applicable performance standards of this Ordinance.
- 3) The use shall be listed as an allowed interim use in the respective zoning district.
- 4) The date or event that will terminate the use can be identified with certainty.
- 5) The use will not impose additional costs on the public if it is necessary for the public to take the property in the future.
- 6) The user agrees to any conditions that the City Council deem appropriate for permission of the use.

4. **Termination.** An interim use shall terminate on the happening of any of the following events, whichever first occurs:

- a. The date stated in the permit.
- b. Upon violation of conditions under which the permit was issued.
- c. Upon change in the City's zoning regulations which renders the use non-conforming.
- d. The redevelopment of the use and property upon which it is located to a permitted or conditional use as allowed within the respective zoning district.

5. **Revocation.** If an approved interim use permit is in violation of this Ordinance or the conditions of permit approval, the City may initiate a process to revoke the interim use permit. The City shall then conduct a public hearing to consider the revocation of an interim use permit. Notifications shall be distributed and published according to Section 51.02, Subd. B.3. The public hearing shall be conducted by the Planning Commission, which shall make a recommendation to the City Council. In considering revocation, the Board and the City Council shall consider compliance with the approved conditions of the interim use permit and the standards listed in Section 51.02, Subd. B.4.

#### **Subd. D. Administration: Variances and Appeals.**

1. **Variances.** Variances from the literal provisions of the ordinance may be granted in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration.
  - a. **Findings of Fact.** In considering all requests for variance or appeal and in taking subsequent action, the City shall make a finding of fact:
    - 1) That the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls.
    - 2) That the plight of the landowners is due to physical circumstances unique to his property not created by the land owner.
    - 3) That the hardship is not due to economic considerations alone if reasonable use for the property exists under the terms of the ordinance.
    - 4) That granting the variance requested will not confer on the applicant any special privilege that would be denied by this ordinance to other lands, structures, or buildings in the same district.
    - 5) That the proposed actions will be in keeping with the spirit and intent of the ordinance.
  - b. **Application.** Requests for variances, as provided within this Ordinance, shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by a fee as provided for by the City Council resolution. This fee shall not be refunded. Such application shall also be accompanied by eight (8) large scale copies of detailed written and graphic materials fully explaining the proposed change, development, or use, an eleven (11) inch by seventeen (17) inch reduced paper copy of all graphic materials, one (1) digital electronic copy in a format compatible with the City's computer system, and a list of affected property owners within three hundred fifty (350) feet of the subject property obtained from the current tax rolls provided in the City Hall or Wright County offices and have the list verified by the City Administrator.
  - c. **Staff Review/Technical Assistance Reports.** Upon receipt of an application for appeal or variance, the Zoning Administrator shall, when deemed necessary, refer the request to appropriate staff to ensure that informational requirements are complied with. When all informational requirements have been complied with, the request shall be considered officially submitted. Also, when deemed necessary, the Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports and/or provide general assistance in preparing a

recommendation on the request to the Planning Commission and City Council.

- d. Public Hearing. Upon official submission of the request, the Zoning Administrator shall set a public hearing on the request for the next regularly scheduled Planning Commission meeting occurring at least ten (10) working days from such date as a notice of the hearing is published in the official newspaper. Such notice shall contain a legal property description and description of the request, and shall be published no more than thirty (30) days and no less than ten (10) days prior to the hearing. Written notification of the hearing shall also be mailed at least ten (10) working days prior to the date of the hearing to all owners of land within three hundred fifty (350) feet of the boundary of the property in question. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Ordinance.
- e. Planning Commission Action. The Planning Commission shall conduct the public hearing at which time the applicant or a representative thereof shall appear to answer questions concerning the proposed request.
  - 1) The Planning Commission shall consider possible adverse effects of the variance. In the case of a variance request, the Planning Commission's judgment shall be based upon (but not limited to) the conditions set forth in Section 51.02, Subd. D.1.a of this Ordinance.
  - 2) The Planning Commission and City staff shall have the authority to request any additional information from the applicant deemed necessary to establish performance conditions pertaining to the request.
  - 3) The Planning Commission shall make a finding of fact and recommend such actions or conditions relating to the request as they deem necessary to carry out the intent and purpose of the Ordinance. Such recommendations shall be in writing and accompanied by any report and recommendation of the City staff. The written recommendation of the Planning Commission shall be forwarded to the Zoning Administrator for referral to the City Council within sixty (60) days of the receipt of a complete application, unless the review period is extended pursuant to Minnesota Statutes 15.99.
- f. Referral to City Council. Upon receipt of the Planning Commission report and recommendation, the Zoning Administrator shall place the request and any report and recommendation on the agenda of the next regularly scheduled meeting of the City Council. The Planning Commission must act and report its recommendation in a timely manner so that the City

Council can act on the application within sixty (60) days of receipt of a complete application, unless the review period for the applicant has been extended pursuant to Minnesota Statutes 15.99.

g. City Council Action. Upon receiving the request and any report and recommendation of the Planning Commission and the City staff, the City Council shall have the option to set and hold a public hearing if deemed necessary and shall make a recorded and written finding of fact, and provide this written finding to the applicant within sixty (60) days of receipt of a completed application, unless the review period for the application has been extended pursuant to Minnesota Statutes 15.99.

- 1) Approval of a request shall require passage by a majority vote of the City Council.
- 2) The City Council may impose any condition it considers necessary to protect the public health, safety, and welfare.
- 3) Whenever an application for a variance has been considered and denied by the City Council, a similar application for the variance affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six (6) months from the date of its denial; and a subsequent application affecting substantially the same property shall likewise not be considered again by the Planning Commission or City Council for an additional six (6) months from the date of the second denial unless a decision to reconsider such matter is made by not less than a majority vote of the full City Council.

h. Recording a Variance. Following approval of the variance, the City shall file a certified copy thereof including a legal description of the property with the County Recorder and/or Registrar of Title.

i. Lapse of Variance or Appeal.

- 1) Whenever within one (1) year after granting a variance, the use as permitted by the variance shall not have been completed or utilized, then such variance shall become null and void unless a petition for extension of time in which to complete or to utilize the use has been granted by the City Council. Such extension shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of the original variance. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete or utilize the use permitted in the variance. Such petition shall be presented

to the Planning Commission for a recommendation to the City Council for a decision.

- 2) All unused variances that were approved prior to the effective date of this Ordinance shall be utilized within one (1) year of the effective date of this Ordinance amendment. Otherwise, said variance shall become null and void unless a petition for extension of time in which to complete or utilize the use has been granted by the City Council. Such extension shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of the original variance. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete or utilize the use permitted in the variance. Such petition shall be presented to the Planning Commission for a recommendation to the City Council for a decision.

j. Performance Security. In such cases as a variance is approved contingent upon certain conditions imposed by the Council, the Council may require a performance security to be provided.

- 1) Upon approval of a variance, the City may require a letter of credit, cash escrow, certificate of deposit, securities or cash deposit prior to the issuing of building permits or initiation of work on the proposed improvements or development. Said security shall be non-cancelable and shall guarantee conformance and compliance with the conditions of the variance and the ordinances of the City.
- 2) The security shall be in the amount of one and one-half (1-1/2) times the City Engineer's or a certified appraiser's estimated costs of labor and materials for the proposed improvements or development.
- 3) The City shall hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the variance and ordinances of the City has been issued by the City Building Official.
- 4) Failure to comply with the conditions of the variance and the ordinances of the City shall result in forfeiture of the security for action necessary on the part of the City to correct problems or deficiencies.

k. Submittal Requirements. Applications for variances shall be filed with the City and shall be accompanied by the following submittal information:

- 1) Proof of title and contract/purchase agreement and/or property owner signature on the application form when applicable.
- 2) Five (5) large scale copies and reduced (11" x 17") copies of detailed written materials, plans and specifications to include the following information:
  - Project adjacent to a County Road or County State Aid Highway – (2 sets)
  - Project adjacent to a State Highway – (2 sets)
  - Project lies within a Shoreland District – (1 set)
  - Project lies within a Floodplain District – (1 set)
- 3) Certificate of survey prepared by a licensed land surveyor identifying the following: The City may waive the certificate of survey when the survey will not provide information relevant to the variance necessary to review the application.
  - a) Scale (engineering only) at one (1) inch equals one hundred (100) feet or less.
  - b) North point indication.
  - c) Existing boundaries with lot dimension and lot area.
  - d) Existing buildings, structures and improvements.
  - e) Easements of record.
  - f) Delineated wetland boundary, to include the OHWL of any lakes or DNR waters.
  - g) All encroachments.
  - h) Legal description.
- 4) Graphic information, plans, specifications, or other materials that illustrate the requested variance.
- 5) Narrative description that sets forth the reasons the variance is justified in order to make reasonable use of the land, structure or building and that the variance is the minimum variance required.

2. **Appeal.** An appeal shall only be applicable to an administrative permit, order, requirement or interpretation of intent of provisions of this Ordinance. Opinions and evaluations as they pertain to the impact or result of a request are not subject to the appeal procedure. The City Council shall be the Board of Appeals

and Adjustments with powers listed in Minnesota Statutes 462.357, subdivision 6.

a. Appeal Procedures.

- 1) The property owner or their agent shall file with the Zoning Administrator an application for appeal stating the specific grounds upon which the appeal is made. Said application shall be accompanied by a fee as established by City Council ordinance. In cases where the application is judged to be incomplete, the Zoning Administrator shall notify the applicant, in writing, within fifteen (15) days of the date of submission.
- 2) An appeal stays all proceedings and the furtherance of the action being appealed unless it is certified to the Board of Adjustment Appeals, after the notice of appeal is filed, that by reason of facts stated in the certificate a stay would cause imminent peril to life and property.
- 3) The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports when appropriate and shall provide general assistance in preparing a recommendation on the action to the Board of Adjustments and Appeals.
- 4) The Board of Appeals and Adjustment shall consider the application for appeal at a public meeting and consider testimony of the property owner and City staff.
- 5) Pursuant to Minnesota Statutes 15.99, the Board of Adjustment and Appeals shall make a recorded and written finding of fact, and provide this written finding to the applicant within sixty (60) days of receipt of a completed application, unless the review period for the application has been extended pursuant to Minnesota Statutes 15.99.
- 6) The Zoning Administrator shall serve a copy of the final order of the Board upon the applicant by mail.

**Subd. E. Administration: Administrative Permits.**

The purpose of this section is to establish regulations and procedures for the processing and consideration of activities allowed by administrative permit, and of matters requiring the approvals of the Zoning Administrator with the goal of protecting the health, safety, and welfare of the citizens of the City.

1. **Application.** Requests for administrative permits, as provided within this Ordinance, shall be filed with the Zoning Administrator on an official application

form. Such application shall be accompanied by a fee as provided for by Section 51.01, Subd. A.12 of this Ordinance. Such application shall also be accompanied by eight (8) large scale copies of detailed written and graphic materials fully explaining the proposed change, development, or use, and an eleven (11) inch by seventeen (17) inch reduced paper copy of all graphic materials, one (1) digital electronic copy in a format compatible with the City's computer system.

2. **Staff Review/Technical Assistance Reports.** Upon receipt of an application for an administrative permit, the Zoning Administrator shall, when deemed necessary, refer the request to appropriate staff to ensure that informational requirements are complied with. When all informational requirements have been complied with, the request shall be considered officially submitted. Also, when deemed necessary, the Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports and/or provide general assistance in preparing a recommendation on the request to the Planning Commission and City Council.
3. **Administrative Action.**
  - a. Zoning Administrator Action. The Zoning Administrator shall make a determination on approval or denial of the administrative permit within sixty (60) days from the date of submission of a complete application unless the review is extended as allowed by Minnesota Statutes 15.99.
  - b. Review Criteria. The Zoning Administrator shall consider possible adverse effects of the proposed administrative permit. Its decision shall be based upon (but not limited to) the following factors:
    - 1) The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official City Comprehensive Plan.
    - 2) The proposed use is or will be compatible with present and future land uses of the area.
    - 3) The proposed use conforms with all performance standards contained herein.
    - 4) The proposed use can be accommodated with existing public services and will not overburden the City's service capacity when:
      - a) The proposed development shall be served with adequate and safe water supply.

- b) The proposed development shall be served with an adequate and safe sanitary sewer system.
  - c) The proposed development shall not result in the premature expenditures of City funds on capital improvements necessary to accommodate the proposed development.
- 5) Traffic generation by the proposed use is within capabilities of the streets serving the property when:
  - a) If the existing level of service (LOS) outside of the proposed site is A or B, traffic generated by a proposed site will not degrade the level of service more than one grade.
  - b) If the existing LOS outside of the proposed site is C, traffic generated by a proposed site will not degrade the level of service below C.
  - c) The existing LOS must be C or better for all streets and intersections providing access to the site. If the existing level of service is D, E or F, the site developer must provide, as part of the proposed project, improvements needed to ensure a level of service C or better, or the City may deem the development premature.
  - d) Existing roads and intersections providing access to the site must have the structural capacity to accommodate projected traffic from the proposed subdivision or the developer will pay to correct any structural deficiencies.
  - e) The traffic generated from a proposed subdivision shall not require City street improvements that are inconsistent with the Delano Capital Improvement Plan. However, the City may, at its discretion, consider developer-financed improvements to correct any street deficiencies.
- c. Approval Report. A written report or letter of approval shall be issued to the applicant when a determination of compliance has been made. Specific conditions to assure compliance with applicable evaluation criteria, codes, ordinances, and the standards of this Ordinance shall be attached to the permit or letter.
- d. Non-Compliance. Determination of non-compliance with applicable codes, ordinances, and the standards in this paragraph shall be communicated to the applicant in writing and the application for the permit shall be considered denied; unless, within ten (10) days of the date of

such notice, the applicant submits revised plans and/or information with which the Zoning Administrator is able to determine compliance.

- e. **Disputes.** Unresolved disputes as to administrative application of the requirements of this paragraph shall be subject to appeal as outlined in Section 51.02, Subd. D.2 of this Ordinance.
4. **Information Requirement.** The information required for all administrative permit or approval applications shall include:
  - a. The applicant shall include as part of the application, the applicable submission information as identified in Section 51.02, Subd. F, Site and Building Plan Review. The Zoning Administrator may waive submission information not deemed necessary for the administrative review.
  - b. A concise statement describing the proposed use, event or activity, including the purpose, type of merchandise involved, dates and times of operation, number of employees involved, provisions for on-site security, provisions for on-site parking, and other pertinent information required by the Zoning Administrator to fully evaluate the application.
5. **Performance Standards.** All uses, events, or activities allowed by administrative permit shall conform to the applicable standards outlined in the zoning district in which such use, event or activity is proposed.
6. **Administration and Enforcement.**
  - a. The Zoning Administrator shall keep a record of applications and administrative permits or approvals.
  - b. A copy of all administrative permits issued shall be forwarded to appropriate staff as determined by the Zoning Administrator.
  - c. Enforcement of the provisions of this paragraph shall be in accordance with Section 51.02, Subd. I of this Ordinance. Violation of an issued permit or of the provisions of this section also shall be grounds for denial of future permit applications.

**Subd. F. Site and Building Plan Review.** The purpose of this section is to establish a formal plan review procedure and provide regulations pertaining to the enforcement of site design and construction standards as agreed to by the contractor through their officially submitted plan documents.

1. **Application.** Requests for site and building plan review, as provided within this Ordinance, shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by a fee as provided for by Section 51.01, Subd. A.12 of this Ordinance. Such application shall also be accompanied by detailed written and graphic materials fully explaining the proposed change, development, or use including but not limited to the following:

- a. Proof of title and contract/purchase agreement and property owner signature on the application form when applicable.
- b. Eight (8) large scale copies and reduced (11" x 17") copies of detailed written materials, plans and specifications. One electronic copy in a format compatible with the City's computer system.

**Note:** One or two *additional* large scale copies shall be provided for each of the following, if applicable:

- Project adjacent to a County Road or County State Aid Highway – (2 sets)
- Project adjacent to a State Highway – (2 sets)
- Project lies within a Shoreland District – (1 set)
- Project lies within a Floodplain District – (1 set)

- c. Certificate of Survey prepared by a licensed land surveyor identifying the following:
  - 1) Scale (engineering only) at one (1) inch equals one hundred (100) feet or less.
  - 2) North point indication.
  - 3) Existing boundaries with lot dimension and lot area.
  - 4) Existing buildings, structures and improvements.
  - 5) Easements of record.
  - 6) Delineated wetland boundary, to include the OHWL of any lakes or DNR waters.
  - 7) All encroachments.

8) Legal description.

d. Site Plan using the current Certificate of Survey as a base depicting the following:

- 1) Scale (engineering only) at one (1) inch equals one hundred (100) feet or less.
- 2) Name of project or development.
- 3) Name and address of developer and/or owner.
- 4) Name and address of engineer/architect/designer.
- 5) Date of plan preparation and dates of any subsequent revisions.
- 6) All proposed improvements, including:
  - a) Required and proposed setbacks.
  - b) Location, setback and dimensions of all proposed buildings and structures.
  - c) Location of all adjacent buildings and structures within one hundred (100) feet of the exterior boundaries of the subject property.
  - d) Location, number, dimensions of all proposed parking stalls, loading areas and drive aisles, with curbing shown.
  - e) Location and width of all proposed street accesses and driveways.
  - f) Location and type of all proposed lighting, including fixture details.
  - g) Provisions for storage and disposal of waste, garbage and recyclables, including details for enclosing and screening exterior containers.
  - h) Location of freestanding signs.
  - i) Location of HVAC equipment whether ground mounted or roof mounted.

- 7) Calculations for impervious/pervious surfaces.
- e. Grading Plan (using the current Certificate of Survey as a base) depicting the following:
  - 1) Existing contours at two- (2) foot intervals.
  - 2) Proposed grade elevations at two- (2) foot maximum intervals.
  - 3) Drainage plan, including the configuration of drainage areas and calculations.
  - 4) Spot elevations.
  - 5) Surface water ponding and treatment areas.
  - 6) Erosion control measures.
  - 7) Wetland replacement plan (when applicable).
  - 8) Drainage calculations for 2-, 10-, & 100-year storm events.
  - 9) Delineated wetland boundary, to include OHWL of any lakes or DNR waters.
  - 10) Date of plan preparation and dates of any subsequent revisions.
- f. Landscaping Plan using the current Certificate of Survey as a base depicting the following:
  - 1) Planting schedule including:
    - a) Symbols.
    - b) Quantities.
    - c) Common and botanical names.
    - d) Sizes of plant materials.
    - e) Root specification (bare root, balled/burlapped, potted, etc.).
    - f) Special installation instructions.
  - 2) Location, type and size of all significant trees to be removed or preserved.
  - 3) Location and species of proposed plantings of all species.
  - 4) Typical sections with details of fences, walls, and planter boxes.

- 5) Typical sections with details of landscape islands, planter beds, and foundation plantings with identification of materials to be used.
- 6) Delineation of both sodded and seeded areas with respective areas measured in square feet.
- 7) Coverage plan for underground irrigation systems, if any.
- 8) Other existing or proposed conditions that could be anticipated to affect landscaping.
- 9) Date of plan preparation and dates of any subsequent revisions.

g. Photometric Lighting Plan, to include fixture details/cut sheets/drawings.

- 1) Date of plan preparation and dates of any subsequent revisions.

h. Architectural Plans.

- 1) Date of plan preparation and dates of any subsequent revisions.
- 2) Architectural elevations of all principal and accessory buildings and structures (type and materials used in all exterior surfaces).
- 3) Typical floor plans and typical room plans drawn to scale with a summary of square footage by use or activity.

i. Utility Plan.

- 1) Location, sizing, and type of water and sewer system mains and proposed service connections, hydrants, valves, and manholes; or,
- 2) Location and size of proposed primary and secondary on-site treatment systems, when allowed (if ISIS is proposed).
- 3) Storm sewer, catch basins, invert elevation, type of castings and type of materials (refer to Engineering Manual for City standards).
- 4) Date of plan preparations and dates of any subsequent revisions.
- 5) Estimates of forecasted water consumption.
- 6) Location of electrical services and any transformers and meters.

j. Other plans and information as may be required by the Zoning Administrator which may include (but not be limited to) the following:

- 1) Location, type and size (area and height) of all signs to be erected upon the subject property.
- 2) Vicinity map showing the subject property in relation to nearby highways or major street intersections.
- 3) Sound source control plan.
- 4) Fire protection plan.
- 5) Proposed protective covenants or private restrictions.
- 6) Where landscaping or man-made materials are used to provide screening from adjacent properties, a cross section shall be provided showing the perspective of the site from neighboring properties at the property line elevation.
- 7) Traffic study.

2. **Staff Review/Technical Assistance Reports.** Upon receipt of an application for site and building plan review. The Zoning Administrator shall, when deemed necessary, refer the request to appropriate staff to ensure that informational requirements are complied with. When all informational requirements have been complied with, the request shall be considered officially submitted. Also, when deemed necessary, the Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports and/or provide general assistance in preparing a recommendation on the request to the Planning Commission and City Council.

3. **City Council Action.** Except in the case of minor projects, additions or alterations as determined by the Zoning Administrator, all building and site plans for multiple family, commercial or industrial construction shall be subject to review by the Planning Commission and approval by the City Council.

- a. The City shall approve or deny the application for site and building plan review within sixty (60) days of receiving a complete application and shall make a recorded and written finding of fact, and provide this written finding to the applicant within sixty (60) days of receipt of a completed application, unless the review period for the application has been extended pursuant to Minnesota Statutes 15.99.
- b. The applicant may appeal any denial or decision by the City according to Section 51.02, Subd. D.2.

- c. No application for a site and building plan review shall be resubmitted for a period of twelve (12) months from the date of said order of denial.
- d. The City shall provide to the City Council reports summarizing submitted site and building plan applications and outcomes regarding approval or denial as they occur.

4. **Review Criteria.** The Zoning Administrator shall consider possible adverse effects of the proposed site and building plan review. Its decision shall be based upon (but not limited to) the following factors:

- a. The proposed use conforms with all performance standards contained herein.
- b. The proposed use can be accommodated with existing public services and will not overburden the City's service capacity when:
  - 1) The proposed development shall be served with adequate and safe water supply.
  - 2) The proposed development shall be served with an adequate and safe sanitary sewer system.
  - 3) The proposed development shall not result in the premature expenditures of City funds on capital improvements necessary to accommodate the proposed development.
- c. Traffic generation by the proposed use is within capabilities of the streets serving the property when:
  - 1) If the existing level of service (LOS) outside of the proposed site is A or B, traffic generated by a proposed site will not degrade the level of service more than one grade.
  - 2) If the existing LOS outside of the proposed site is C, traffic generated by a proposed site will not degrade the level of service below C.
  - 3) The existing LOS shall be D or better for all streets and intersections providing access to the site. If the existing level of service is E or F, the site developer must provide, as part of the proposed project, improvements needed to ensure a level of service D or better.
  - 4) Existing roads and intersections providing access to the site shall have the structural capacity to accommodate projected traffic from

the proposed site or the developer will pay to correct any structural deficiencies.

- 5) The traffic generated from a proposed site shall not require City street improvements that are inconsistent with the Delano Capital Improvement Plan. However, the City may, at its discretion, consider developer-financed improvements to correct any street deficiencies.
- d. Approval Report. A written report or letter of approval shall be issued to the applicant when a determination of compliance has been made. Specific conditions to assure compliance with applicable evaluation criteria, codes, ordinances, and the standards of this Ordinance shall be attached to the permit or letter.
- e. Non-Compliance. Determination of non-compliance with applicable codes, ordinances, and the standards in this paragraph shall be communicated to the applicant in writing and the application for the permit shall be considered denied; unless, within ten (10) days of the date of such notice, the applicant submits revised plans and/or information with which the Zoning Administrator is able to determine compliance.
- f. Disputes. Unresolved disputes as to administrative application of the requirements of this paragraph shall be subject to appeal as outlined in Section 51.02, Subd. D.2 of this Ordinance.

5. **Plan Agreements.** All site and construction plans officially submitted to the City shall be treated as a formal agreement between the building contractor and the City. Once approved, no changes, modifications, or alterations shall be made to any plan detail, standard or specification without prior submission of a plan modification request to the Zoning Administrator for City review and approval.

## 6. **Performance Security.**

- a. Except in the case of non-income producing residential property, upon approval of a conditional use permit the City may require a letter of credit, cash escrow, certificate of deposit, securities, or cash deposit prior to the issuing of building permits or initiation of work on the proposed improvements or development. Said security shall be non-cancelable and shall guarantee conformance and compliance with the conditions of the conditional use permit and the ordinances of the City.
- b. The security shall be in the amount of one and one-half (1-1/2) times the City Engineer's or a certified appraiser's estimated costs of labor and materials for the proposed improvements or development. Said project

can be handled in stages upon the discretion of the City Engineer and Building Official.

- c. The City shall hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the conditional use permit and ordinances of the City has been issued by the City Building Official.
- d. Failure to comply with the conditional use permit or the ordinances of the City shall result in forfeiture of the security.

7. **Enforcement.** The Zoning Administrator shall have the authority to order the stopping of any and all site improvement activities, when and where a violation of the provisions of this section has been officially documented by the Zoning Administrator.

## **Subd. G. Duties of City Staff.**

1. **Duties of the Zoning Administrator.** The Zoning Administrator shall be appointed by the City Council. The Zoning Administrator shall enforce the provisions of this ordinance as provided herein; in addition to the duties and powers of the Zoning Administrator under this Ordinance, express or implied, the Zoning Administrator shall have the duty and power to:
  - a. Issue permits required by this ordinance.
  - b. Maintain all records necessary for the enforcement of this ordinance; including, but not limited to, all data, maps, amendments, rezonings, and conditional use permits, variances, appeal notices, certificates of occupancy, and applications thereof, nonconforming uses.
  - c. Receive, file and forward all appeals, notices, applications for variances, conditional use permits, certificates of occupancy, or other matters to the appropriate officials or boards.
  - d. Perform annual and/or periodic review of all conditional use permits.
  - e. Institute in the name of the City any appropriate actions or proceedings to enforce this Ordinance.
2. **Duties of the Building Official.** The Building Official shall enforce the provisions of this ordinance as provided herein; in addition to the duties and powers of the Building Official under this ordinance, express or implied, the Building Official shall have the duty and power to:
  - a. Conduct inspections of land, buildings or structures at reasonable times, to determine compliance with and enforce the provisions of this ordinance.
  - b. Perform all duties set forth in job description.

## **Subd. H. Certificate of Occupancy.**

1. No person may change the use of any land except for construction of essential services and transmission lines or occupy or utilize a new structurally altered building (except single-family detached dwellings or their accessory buildings or private garages in any district) or change the use of any building after the effective date of this ordinance unless they have first obtained a certificate of occupancy.
2. Application for a certificate of occupancy for a new building or for an existing building which has been so altered or the reuse of any land may be filed with the Building Official any time after the application for a building permit. The Certificate of Occupancy shall be issued within ten (10) days after the construction or alteration of such building or part thereof or site has been completed in conformity with the provisions of this ordinance and building code. The Building Official shall require an as-built certificate of survey prior to issuance of a Certificate of Occupancy as a means of verifying that construction and site grading has been completed in full conformance of City approvals and City regulations. Pending the issuance of said certificate, a temporary certificate of occupancy may be issued, subject to the provisions of the building code and zoning ordinance for a period not to exceed twelve (12) months during the completion of the erection or the alteration of such a building. The temporary certificate shall not be construed as in any way altering the respective rights, duties or obligations of the owners or of the community relating to the use or occupancy of the premises or any other matter, except under such restrictions and provisions as will adequately insure the safety of the occupants. Prior to issuance of a temporary occupancy permit, the City may require the applicant to furnish an escrow equal to one hundred fifty (150) percent of unfinished improvements required as part of a development application. The use of any structure for which a building permit is required or the use of any land shall be considered a violation of this ordinance unless a certificate of occupancy has been issued.
3. Application for a certificate of occupancy for a new use of land shall be made to the Building Official before any such land shall be so used. Such certificate of occupancy shall be issued within ten (10) days after this application if the use is in conformity with the provisions of this ordinance.
4. A record of all certificates of occupancy shall be kept on file with the City.

## **Subd. I. Enforcement and Penalties.**

### **1. Administration and Enforcement.**

- a. This Ordinance shall be administered and enforced by the Zoning Administrator who is appointed by the City Council. The Zoning Administrator may institute in the name of the City of Delano any appropriate actions or proceedings against a violator as provided by statute, ordinance, or code.
- b. Any person who violates any of the provisions of this Ordinance shall, upon conviction thereof, be fined not more than the maximum penalty for a misdemeanor prescribed under State law. Each day that a violation is permitted to exist shall constitute a separate offense.

## **Subd. J. PUD, Planned Unit Development.**

1. **Purpose.** This section is established to provide comprehensive procedures and standards designed for both district and conditional use permit planned unit development to allow the development of neighborhoods or portions thereof incorporating a variety of residential types and non-residential uses. Recognizing that traditional density, bulk, setbacks, use, and subdivision regulations which may be useful in protecting the character of substantially developed areas, may not be appropriate to control development in less developed areas.

The PUD, by allowing deviation from the strict provisions of this Ordinance related to setbacks, heights, lot area, width and depths, yards, etc., by conditional use permit or a mixture of uses by rezoning to a PUD District, is intended to encourage:

- a. A development pattern in harmony with the objectives of the Comprehensive Plan.
- b. Innovations in development that address growing demands for all styles of economic expansion, greater variety in type, design, architectural standards, and siting of structures through the conservation and more efficient use of land in such developments.
- c. Higher standards of site and building design through the use of trained and experienced land planners, architects and landscape architects.
- d. The preservation and enhancement of desirable site characteristics such as environmentally sensitive areas, existing vegetation, natural topography, greenway corridors, open space, geologic features, and the prevention of soil erosion.
- e. A creative use of land and related physical development which allows a phased and orderly transition of varying land uses in close proximity to each other.
- f. More convenience in location of accessory commercial and service areas.
- g. An efficient use of land resulting in smaller networks of utilities and streets thereby lowering development costs and public investments.
- h. To give the landowner and developer reasonable assurance of ultimate approval before expending complete design monies while providing City officials with assurance that the project will retain the character envisioned at the time of occurrence.

- i. Promotion of a desirable and creative environment that might be prevented through the strict application of City zoning and subdivision regulations.

2. **PUD Types.**

- a. Conditional Use Permit. Planned unit development allows for design flexibility related to density, setbacks, building heights, lot area, lot width, etc. However, the range of uses allowed in a conditional use planned unit development is limited to those uses allowed in the base zoning district.
- b. Planned Unit Development Zoning. A mixed use planned unit development that may include land uses from a variety of zoning districts must utilize the PUD Zoning District.

3. **General Requirements and Standards for a PUD.**

- a. Ownership. An application for PUD approval shall be filed by the landowner or jointly by all landowners of the property included in a project. The application and all submissions shall be directed to the development of the property as a unified whole. In the case of multiple ownership, the approved PUD shall be binding on all owners.
- b. Comprehensive Plan Consistency. The proposed PUD shall be consistent with the City Comprehensive Plan.
- c. Public or Common Open Space. Public or common open space at least sufficient to meet the minimum requirements established in this Ordinance and such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of the residents of the PUD shall be provided within the area of the PUD.
- d. Operating and Maintenance Requirements for PUD Common Open Space/Facilities. Whenever common open space or service facilities are provided within the PUD, the PUD plan shall contain provisions to assure the continued operation and maintenance of such open space and service facilities to a predetermined reasonable standard. Common open space and service facilities within a PUD may be placed under the ownership of one or more of the following, as approved by the City Council:
  - 1) Dedicated to public, where a community-wide use is anticipated and the City Council agrees to accept the dedication.
  - 2) Landlord control, where only use by tenants is anticipated.

- 3) Property owners association, provided all of the following conditions are met:
  - a) Prior to the use or occupancy or sale or the execution of controls for sale of an individual building unit, parcel, tracts, townhouse, apartment, or common area, a declaration of covenants, conditions and restrictions or an equivalent document or a document such as specified by Minnesota Common Interest Ownership Act set out in Minnesota Statutes Chapter 515B and a set of floor plans such as specified by Minnesota Statutes Chapter 515B shall be filed with the City of Delano. Said filing with the City to be made prior to the filings of said declaration or document or floor plans with the recording officers of Wright County, Minnesota.
  - b) The declaration of covenants, conditions and restrictions or equivalent documents shall specify that deeds, leases or documents of conveyance affecting buildings, units, parcels, tracts, townhouses, or apartments shall subject such properties to the terms of said declaration.
  - c) The declaration of covenants, conditions and restrictions shall provide that an owner's association or corporation shall be formed and that all owners shall be members of said association or corporation which shall maintain all properties and common areas in good repair and which shall assess individual property owners proportionate shares of joint or common costs. The intent of this requirement is to protect the property values of the individual owner through establishing private control. The homeowners association documents or the declaration of covenants, conditions and restrictions shall be submitted as part of the preliminary plat application and shall contain the following information:
    - (1) The legal description of the common lands or facilities.
    - (2) The restrictions placed upon the use and enjoyment of the lands or facilities including the persons or entities entitled to enforce the restrictions.
    - (3) A mechanism for resolving disputes among the owners or association members.

- (4) A mechanism to assess and enforce the common expenses for the land or facilities including upkeep and maintenance expenses, real estate taxes, and insurance premiums.
- (5) The conditions and timing of the transfer of ownership and control of land or facilities to the association or to common ownership.
- (6) Membership must be mandatory for each owner, and any successive buyer.
- (7) The open space restrictions must be permanent and not for a given period of years.
- (8) The association must be responsible for liability insurance, local taxes, and the maintenance of the open space facilities to be deeded to it.
- (9) Property owners must pay their prorata share of the cost of the association by means of an assessment to be levied by the association which meets the requirements for becoming a lien on the property in accordance with Minnesota Statutes.
- (10) The bylaws and rules of the association and all covenants and restrictions to be recorded must be approved by the City Council prior to the approval of the final PUD plan.

d) The declaration shall additionally, among other things, provide that in the event the association or corporation fails to maintain properties in accordance with the applicable rules and regulations of the City of Delano or fails to pay taxes or assessments on properties as they become due and in the event the said City of Delano incurs any expenses in enforcing its rules and regulations, which expenses are not immediately reimbursed by the association or corporation, then the City of Delano shall have the right to assess each property its prorata share of said expenses. Such assessments, together with interest thereon and costs of collection, shall be a lien on each property against which each such assessment is made.

e) Natural Habitat. Open space may be deeded to an established land trust, a government agency, or non-profit

organization. Management shall be the responsibility of the land trust or non-profit organization. Maintenance may be performed by the neighborhood homeowner association, through written agreement between the association and the land trust or non-profit organization.

- (1) Open space may be protected by establishing conservation easements in perpetuity in favor of an established land trust or non-profit organization as provided in Minnesota Statutes 84.64 – 84.65. Unless the document establishing the restrictions specifically provides to the contrary, the City shall have no responsibility for the maintenance or management of the area subject to the restrictions. The form and content of the deed or other instrument establishing the restrictions must be approved by the City prior to the execution and delivery thereof. Notwithstanding any provision of this Ordinance to the contrary, the City may, in cases where conservation restrictions are utilized to meet open space dedication requirements of this Ordinance, waive the requirement that the area subject to the restrictions be platted as a separate outlot.
- (2) Stormwater drainage systems located within open spaces or the residential lots shall be covered by utility and drainage easements dedicated on the final plat to the City.

f) Neighborhood Recreational and Trail Corridor. Recreational open space or trail corridors intended as public parks or public trails shall be dedicated to the City. Management and maintenance of the public recreational areas shall be the responsibility of the City.

e. Staging of Public and Common Open Space. When a PUD provides for common or public open space, the total area of common or public open space or land escrow security in any stage of development shall, at minimum, bear the same relationship to the total open space to be provided in the entire PUD as the stages or units completed or under development bear to the entire PUD.

f. Density. The maximum allowable density in a PUD shall be determined by reference to the Comprehensive Plan. Within that limit, the exact density allowable shall be determined by standards agreed upon between the applicant and the City. Whenever any PUD is to be developed in

stages, no such stage shall, when averaged with all previously completed stages, have a residential density that exceeds one hundred twenty-five (125) percent of the proposed residential density of the entire PUD.

- g. Utilities. In any PUD, all utilities, including telephone, electricity, gas and telecable shall be installed underground within a joint trench, whenever possible.
- h. Utility Connections.
  - 1) Water Connections. Where more than one (1) property is served from the same service line, a shut off valve must be located in such a way that each unit's service may be shut off by the City, in addition to the normally supplied shut off at the street.
  - 2) Sewer Connections. Where more than one (1) unit is served by a sanitary sewer lateral which exceeds three hundred (300) feet in length, provision must be made for a manhole to allow adequate cleaning and maintenance of the lateral. All maintenance and cleaning shall be the responsibility of the property owners association or owner.
- i. Roadways.
  - 1) All public streets shall conform to the design standards contained in the Delano Subdivision Ordinance, as may be amended.
  - 2) Private roadways within the project shall have an improved surface to twenty-four (24) feet in width, signed no parking, or twenty-eight (28) feet in width with parking allowed on one side, and shall be so designed as to permit the City fire trucks to provide protection to each building.
- j. Landscaping. In any PUD, landscaping shall be provided according to a plan approved by the City Council, which shall include a detailed planting list with sizes and species indicated as part of the final plan. In assessing the landscaping plan, the City Council shall consider the natural features of the particular site, the architectural characteristics of the proposed structure(s) and the overall scheme of the PUD plan. Common landscaped open space exclusive of natural habitat areas shall be irrigated.
- k. Development Agreement. Prior to a rezoning or the issuance of a building permit as part of Planned Unit Development, the permit, applicant, builder, or developer shall execute and deliver to the City Council a development agreement. The agreement shall detail all use restrictions and required on

and off-site improvements conditional to the PUD rezoning or CUP approval. The agreement shall provide for the installation within one (1) year of the off-site and on-site improvements (exclusive of building permit) as approved by the City Council, secured by a cash escrow or letter of credit in an amount and with surety and conditions satisfactory to the City, to insure the City that such improvements will be actually constructed and installed according to specifications and plans approved by the City as expressed in such agreement.

- I. Residential Planned Unit Developments, Conditional Use Permit Requirements. It is the intent of this section to establish special requirements for the granting of a conditional use permit for residential PUD projects which are in compliance with the density, permitted and conditional uses allowed in a specific base district including dwellings, offices and institutional uses of one (1) or more buildings in relation to an overall design, and integrated physical plan and in accordance with the provisions and procedures as prescribed in Sections 51.02, Subd. B of this Ordinance.
  - 1) Townhouse, quadraminium, cooperative, and condominiums apartments shall comply with the design standards of Section 51.03, Subd. C.3.b of this Ordinance.
  - 2) Setbacks.
    - a) The setback requirements at the periphery of the planned unit development site at minimum shall be the same as imposed in the respective districts.
    - b) Garages shall be located no less than twenty-five (25) feet from the back of the curb line along those roadways which are part of an internal street pattern to provide adequate off-street parking.
    - c) No building within the project shall be nearer to another building than one-half (1/2) the sum of the building heights of the two (2) buildings.
  - 3) Density Bonus. As a consequence of a planned unit development's planned and integrated character, the number of dwelling units allowed within the respective base zoning district may be increased up to twenty (20) percent based upon a finding by the City Council that such an increase is consistent with the goals of the Comprehensive Plan and achieves the PUD stated objectives

as follows. The building, parking and similar requirements for these extra units shall be observed in compliance with this Ordinance.

Bonus Feature	Required Lot Area Reduction Per Unit
1) <u>Construction.</u> Durable exterior wall finishes consisting of at least two (2) of the following: glass, brick, stone or stucco on at least seventy (70) percent of all wall faces.	300 square feet
2) <u>Underground Parking.</u> One (1) stall per unit of the required free parking shall be underground or within the principal structure (not including attached or detached garages).	300 square feet
3) <u>Recreation, Indoor.</u> Indoor recreation and social rooms equal to a minimum of twenty-five (25) square feet per unit or seven hundred fifty (750) square feet total, whichever is greater.	100 square feet
4) <u>Recreation, Outdoor.</u> Outdoor recreational facilities such as swimming pools, porches, tennis courts, or similar facilities requiring a substantial investment equaling at minimum five (5) percent of the construction cost of the principal structure.	100 square feet
5) <u>Open Space.</u> The preservation of natural open space, greenway corridors, and woodland areas.	200 square feet

m. Commercial or Industrial Planned Unit Development, Conditional Use Permit Requirements. The intent of this section is to establish special requirements for the granting of a conditional use permit to allow commercial or industrial PUD projects which are in compliance with the permitted and conditional uses allowed in a specific district in one (1) or more buildings in relation to an overall design, an integrated physical plan and in accordance with the provisions and procedures prescribed in Section 51.02, Subd. B of this Ordinance.

- 1) The site and building design comply with the performance standards of this Ordinance.
- 2) The PUD/CUP flexibility results in greater open space.
- 3) The utility and drainage system is subject to review and approval of the City Engineer.
- 4) The commercial or industrial PUD is consistent with the goals and objectives of the Delano Comprehensive Plan, Sanitary Sewer Plan, Water Master Study, and Stormwater Management Plan.

#### 4. **Procedure for Processing a Planned Unit Development.**

- a. **Stages of PUD.** The processing steps for a PUD are intended to provide for an orderly development and progression of the Plan, with the greatest expenditure of developmental funds being made only after the City has had ample opportunity for informed decisions as to the acceptability of the various segments of the whole as the plan affects the public interest. The various steps represent separate applications for purpose of review, compliant with Minnesota Statutes 15.99, outlined in detail in the following sections:
  - 1) **Application Conference.** Preliminary discussions.
  - 2) **General Concept Plan Application.** Consideration of overall concept and plan. The concept plan review is voluntary but strongly recommended.
  - 3) **Development Stage Plan Application.** One or more detailed Plans as part of the whole final plan.
  - 4) **Final Plan Application.** The summary of the entire concept and each Development Stage Plan in an integrated complete and final plan.
- b. **Application Conference.** Upon filing of an application for PUD, the applicant of the proposed PUD shall arrange for and attend a conference with the Zoning Administrator. At such conference, the applicant shall be prepared to generally describe the proposal for a PUD. The primary purpose of the conference shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of the proposal for the area for which it is proposed and its conformity to the provisions of this Ordinance before incurring substantial expense in the preparation of plans, surveys and other data.
- c. **Neighborhood Meeting.** The City may recommend the property owner/applicant hold a neighborhood meeting for informal comment and feedback prior to submitting a formal concept application.
- d. **Application.** The person applying for a planned unit development shall fill out and submit to the Zoning Administrator an official application form together with a fee per Section 51.01, Subd. A.12. The request for planned unit development shall be placed on the agendas of the Park Board and Planning Commission according to the City's deadline and meeting schedule.

- e. Planned Unit Development/Rezoning. Planned unit development/rezoning application shall be posted and advertised in accordance with Section 51.02, Subd. A of this Ordinance at time of development stage PUD.
- f. Planned Unit Development/Conditional Use Permit. Planned unit development/conditional use permit applications shall be posted and advertised in accordance with Section 51.02, Subd. B.3 of this Ordinance at time of development stage PUD.
- g. Public Hearings. Public hearings shall be held at the PUD development stage.
- h. General Concept Plan.
  - 1) Purpose. The General Concept Plan provides an opportunity for the applicant to submit a plan to the City showing the basic intent and the general nature of the entire development without incurring substantial cost. This Concept Plan serves as the basis for public hearing so that the proposal may be publicly considered at an early stage. The following elements of the proposed General Concept Plan represent the immediately significant elements which the City shall review and for which a decision shall be rendered:
    - a) Overall maximum PUD density range.
    - b) General location of major streets and pedestrian ways.
    - c) General location and extent of public and common open space.
    - d) General location of residential and non-residential land uses with approximate type and intensities of development.
    - e) A staging and time schedule of development.
    - f) Other special criteria for development.
  - 2) General Concept Plan Submission Information.
    - a) General Information.
      - (1) Owner. The landowner's name, address and telephone number and his interest in the subject property.

- (2) Applicant. The applicant's name, address and telephone number if different from the landowner. The applicant may designate an agent to be contacted by the City, who may speak for the applicant.
- (3) Consultants. The names and addresses of all professional consultants who have contributed to the development of the PUD plan being submitted, including attorney, land planner, engineer and surveyor.
- (4) Title of Applicant. Evidence that the applicant has sufficient control over the subject property to effectuate the proposed PUD, including a statement of all legal, beneficial, tenancy and contractual interests held in or affecting the subject property and including an up-to-date certified abstract of title or registered property report, and such other evidence as the City Attorney may require to show the status of title or control of the subject property.

b) Present Status of Premises and Adjacent Properties.

- (1) Description. The address and legal description of the subject property. A survey is required.
- (2) Zoning. The existing zoning classification and present use of the subject property and all lands within three hundred fifty (350) feet of the subject property.
- (3) Map. A single reproducible map or aerial photograph at a scale of not less than one (1) inch equals one hundred (100) feet, depicting the existing development of the subject property and all land within one hundred (100) feet thereof and showing the precise location of existing streets, property lines, utilities, easements, and wetlands.

c) Narrative Description. A written statement generally describing the proposed PUD and the market which it is intended to serve, showing its relationship to the City's Comprehensive Plan and how the proposed PUD is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable regulations of the City.

d) Site Conditions: Where deemed necessary by the City, graphic reproductions of the existing site conditions at a scale of one (1) inch equals one hundred (100) feet or less shall be submitted and shall contain the following:

- (1) Survey showing lot dimensions and existing easements and utilities.
- (2) Contours - minimum two (2) foot intervals.
- (3) Location, type, and extent of tree cover.
- (4) Slope analysis.
- (5) Location and extent of water bodies, wetlands, and streams and flood plains within three hundred (300) feet of the subject property.
- (6) Existing drainage patterns.
- (7) Vistas and significant views.
- (8) Soil conditions as they affect development.

All of the graphics should be the same scale as the final plan to allow easy cross reference. The use of overlays is recommended for clear reference.

e) Concept Drawing. Schematic drawing of the proposed development concept including, but not limited to, the general location of major circulation elements, public and common open space, residential and other land uses.

f) Number of Units. A statement of the estimated total number of dwelling and/or other units proposed for the PUD and a tabulation of the proposed approximate allocations of land use expressed in acres and as a percent of the total project area, which shall include at least the following:

- (1) Area devoted to residential uses.
- (2) Area devoted to residential use by building or structure or use type.
- (3) Area devoted to common open space.

- (4) Area devoted to public open space.
- (5) Approximate area devoted to streets.
- (6) Approximate area, and potential floor area, devoted to commercial uses.
- (7) Approximate area, and potential floor area, devoted to industrial or office uses.

g) Staged Development. When the PUD is to be constructed in stages during a period of time extending beyond a single construction season, a schedule for the development of such stages or units shall be submitted stating the approximate beginning and completion date for each such stage or unit and the proportion of the total PUD public or common open space and dwelling units to be provided or constructed during each such stage and the overall chronology of development to be followed from stage to stage.

h) Common Areas. When the proposed PUD includes provisions for public or common open space or service facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or service facilities. If it is proposed that such open space be owned and/or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and by-laws of such entity shall be submitted during the development stage.

i) Covenants. General intent of any restrictive covenants that are to be recorded with respect to property included in the proposed PUD.

j) Market Feasibility. Where deemed necessary, a market feasibility study including an analysis of the proposals economic impact on the City.

k) Exclusion of Information. The Planning Commission may excuse an applicant from submitting any specific item of information or document required in this stage, which it finds to be unnecessary to the consideration of the specific proposal for PUD approval.

I) Inclusion of Information. The Planning Commission may require the submission of any additional information or documentation which it may find necessary or appropriate to full consideration of the proposed PUD or any aspect or stage thereof.

3) Schedule.

- a) Developer meets with the Zoning Administrator to discuss the proposed development.
- b) Developer submits the necessary data as required in Section 51.02, Subd. J.4.h.2) of this Ordinance at least twenty-eight (28) days prior to Planning Commission meeting.
- c) A technical staff report shall be prepared on the proposed development, and distributed to the Planning Commission and the applicant prior to the meeting.
- d) The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed development.
- e) Planning Commission makes a recommendation to the City Council on the General Concept Plan.
- f) City Council reviews all recommendations and approves/ denies application(s).

4) Optional Submission of Development Stage Plan. In cases of single stage PUDs or where the applicant wishes to begin the first stage of a multiple stage PUD, immediately the applicant may, at their option, submit Development Stage Plans for the proposed PUD simultaneously with the submission of the General Concept Plan. In such case, the applicant shall comply with all provisions of the Ordinance applicable to submission of the Development Stage Plan. The Planning Commission and City Council shall consider such plans simultaneously and shall grant or deny Development Stage Plan approval in accordance with the provisions of this Ordinance.

5) Effect of Concept Approval. PUD concept approval only provides direction for the applicant to proceed to PUD Development Stage submission. The concept plan approval does not convey any development rights or privileges to the applicants.

- i. Development Stage. Development stage submissions shall depict and outline the proposed implementation of the PUD General Concept Stage. Information from the General Concept Stage may be included for background and to provide a basis for the submitted plan.
  - 1) Application. Requests for PUD Development Stage as provided within this Ordinance, shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by a fee as provided for by the City Council Resolution. This fee shall not be refunded. Such application shall also be accompanied by ten (10) copies of detailed written and graphic materials fully explaining the proposed change, development, or use and a list of affected property owners within three hundred fifty (350) feet of the subject property obtained from the current tax rolls provided in the City Hall or Wright County Offices and have the list verified by the City Administrator.
  - 2) Submission Information. The PUD Development Stage submission information shall include:
    - a) Zoning Required. Zoning classification required for Development Stage submission and any other public decisions necessary for implementation of the proposed plan.
    - b) Site Plan/Preliminary Plat. Drawn to a scale of one (1) inch equals one hundred (100) feet or less, containing the following information:
      - (1) Project Name. Proposed name of the development (which shall not duplicate nor be similar in pronunciation to the name of any plat theretofore recorded in the County where the subject property is situated).
      - (2) Survey. Property boundary lines and dimensions of the property and any significant topographical or physical features of the property. An accurate legal description of the entire area within the PUD for which final Development Plan approval is sought, correlated to the legal description defining use districts in this Ordinance.
      - (3) Preliminary Plat. Preliminary plat, if applicable, shall comply with all the performance standards of the Delano Subdivision Ordinance and this Ordinance.

- (4) Buildings. The location, size, use and arrangement including height in stories and feet and total square feet of ground area coverage and floor area, or proposed buildings, and existing buildings which will remain, if any.
- (5) Traffic Circulation. Location, dimensions and number of all driveways, entrances, curb cuts, parking stalls, loading spaces and access aisles, and all other circulation elements including bike and pedestrian; and the total site coverage of all circulation elements.
- (6) Common Areas. Location, designation and total area of all common open space.
- (7) Public Open Space. Location, designation and total area proposed to be conveyed or dedicated for public open space, including parks, playgrounds, school sites and recreational facilities.
- (8) Locate Existing Structures. The location, use and size of structures and other land uses on adjacent properties within one hundred (100) feet of the property boundaries.

- c) Residential Tabulation. A tabulation indicating the number of residential dwelling units by number of bedrooms and expected population/housing profile.
- d) Areas of Use. A tabulation indicating the approximate gross square footage, if any, of commercial and industrial floor space by type of activity (e.g. drug store, dry cleaning, supermarket).
- e) Architectural Plans. Preliminary architectural plans indicating use, floor plan, elevations and exterior wall finishes of proposed buildings and architectural guidelines for future development phases.
- f) Landscape Plan. A detailed landscaping plan including the type, size and quantity of all existing and proposed plantings.
- g) Grading and Drainage Plan. Preliminary grading and drainage plan illustrating changes to existing topography and natural site vegetation. The Plan should clearly reflect the

site treatment and its conformance with the approved concept plan.

- h) Erosion Control. A Soil Erosion Control Plan acceptable to watershed management organization and any other agency with review authority clearly illustrating erosion control measures to be used during construction and as permanent measures.
- i) Document Changes. A statement summarizing all changes which have been made in any document, plan data or information previously submitted, together with revised copies of any such document, plan or data.
- j) Preliminary Plat. A preliminary plat conforming to the Delano Subdivision Ordinance.
- k) Lighting Plan. A plan illustrating site lighting along with a photometric plan.
- l) Additional Data. Such other and further information as the Zoning Administrator, Planning Commission or City Council shall find necessary to a full consideration of the entire proposed PUD or any stage thereof.
- m) The Zoning Administrator may excuse an applicant from submitting any specific item of information or document required in this Section which it finds to be unnecessary for the consideration of the specific proposal for PUD approval.

3) Schedule/Review.

- a) Developer meets with the Zoning Administrator and City staff to discuss specific development plans.
- b) The applicant shall file the development stage application with six (6) months after concept plan review, together with all supporting data and filing fee, as established by City Council ordinance.
- c) Staff Review/Technical Assistance Reports. Upon receipt of an application for a PUD development stage, the Zoning Administrator shall, when deemed necessary, refer the request to appropriate staff to ensure that informational requirements are complied with. When all informational requirements have been complied with, the request shall be

considered officially submitted. Also, when deemed necessary, the Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports and/or provide general assistance in preparing a recommendation on the request to the Planning Commission and city Council.

- d) Other Agency Review. When appropriate, the Zoning Administrator shall forward the PUD development stage application to other special review agencies such as the Department of Natural Resources, soil conservation services, highway departments, or other affected agencies.
- e) The Zoning Administrator, upon verification of a complete application, shall instruct the City Clerk to set a public hearing for the next regular meeting of the Planning Commission. The Planning Commission shall conduct the hearing, and reports its findings and make recommendations to the City Council. Notice of said hearing shall consist of a legal property description, description of request and map detailing property location, and be published in the official newspaper at least ten (10) days prior to the hearing and written notification of said hearing shall be mailed at least ten (10) days prior to all owners of land within three hundred fifty (350) feet of the boundary of the property in question.
- f) Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Ordinance.
- g) The Planning Commission and City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, said information to be declared necessary to established performance conditions in relation to all pertinent sections of this Ordinance.
- h) The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed development.
- i) The Planning Commission shall review said reports and plans and submit recommendations to the Council. Such recommendations shall contain the findings of the Planning Commission with respect to the conformity of the Development Stage Plan to the approved General Concept

Plan. Should any changes be found to exist, the Planning Commission shall comment with respect to the merit or lack of merit of any departure of the Development Stage Plan from substantial conformity with the Concept Plan and with respect to the compliance of the Development Stage Plan with the provisions of this Ordinance and all other applicable federal, state and local codes and ordinances. If the Planning Commission shall find conformity or any changes merit approval and the Planning Commission shall further find the Development Stage Plan to be in all other respects completed and in compliance with this Ordinance and other applicable federal, state, and local codes and ordinances, it shall recommend approval. If the Planning Commission fails to act within the time specified herein, it shall be deemed to have recommended the plan for approval.

- j) Upon receipt of the Planning Commission report and recommendation, the Zoning Administrator shall place the request and any report and recommendation on the agenda of the next regularly scheduled meeting of the City Council. The Planning Commission must act and report its recommendations in a timely manner so that the City Council can act on the application within sixty (60) days of receipt of a complete application, unless the review period for the application has been extended pursuant to Minnesota Statutes 15.99.
- k) The Zoning Administrator shall instruct the City Attorney to draw up a PUD agreement which stipulates the specific terms and conditions approved by the City Council and accepted by the applicant. This agreement shall be signed by the Mayor of the City of Delano, City Clerk and the applicant within thirty (30) days of City Council approval of the Development Stage Plan. Where the Development Stage Plan is to be resubmitted or denied approval, the City Council action shall be by written report setting forth the reasons for its action. In all cases, a certified copy of the document evidencing City Council action shall be promptly delivered to the applicant by the Zoning Administrator.

4) Limitation on Development Plan Approval. Unless a Final Plan covering the area designated in the Development Stage Plan as the first stage of the PUD has been filed within six (6) months from the date the City Council grants Development Stage Plan approval, or in any case where the applicant fails to file Final Plans and to proceed with development in accordance with the provisions of this

Ordinance and/or an approved Development Stage Plan, the approval shall expire. Upon application by the applicant, the City Council may at its discretion may extend for not more than six months, the filing deadline for any Final Plan when, for good cause shown, such extension is necessary. In any case where Development Plan approval expires, the City Council shall forthwith adopt a resolution repealing the General Concept Plan approval and the Development Stage Plan approval for that portion of the PUD that has received Final Plan approval and re-establishing the zoning and other ordinance provisions that would otherwise be applicable.

j. Final Plan.

- 1) Purpose. The Final Plan is to serve as a complete, thorough and permanent public record of the PUD and the manner in which it is to be developed. It shall incorporate all prior approved plans and all approved modifications thereof resulting from the PUD process. It shall serve in conjunction with other City ordinances as the land use regulation applicable to the PUD. The Final Plan is intended only to add detail to, and to put in final form, the information contained in the General Concept Plan and the Development Stage Plan and shall conform to the Development Stage Plan in all respects.
- 2) Final Plan Submission Information. After review of a General Concept Plan for the PUD and approval of a Development Stage Plan for a section or sections of the proposed PUD, the applicant will submit the following material for review by the City staff prior to issuance of a building permit:
  - a) Recording Proof. Documents establishing the recording of any easement or other documents required by the City prior to the sale of any land or dwelling unit included in the PUD and of the establishment and activation of any entity that is to be responsible for the management and maintenance of any public or common open space or service facility.
  - b) Final Plans, Structures. Final architectural working drawings at all structures.
  - c) Final Engineering Plans. Final engineering plans and specifications for streets, drainage, utilities and other public improvements, together with a development contract providing for the installation of such improvements and

financial guarantees for the completion of such improvements.

- d) Other Plans. Any other plans, agreements, or specifications necessary for the City staff to review the proposed construction. All work shall be in conformance with the Building Code of the City.
- e) Recording of Final Plan. Within sixty (60) days of its approval, the applicant, or at its election, the City, shall cause the Final Plan, or such portions thereof as are appropriate, to be recorded with the County Recorder or Registrar of Titles, at the expense of the applicant. Certified copies of all relevant recorded documents shall be furnished to the City.
- f) Building and Other Permits. Except as otherwise expressly provided herein, upon receiving notice from the Zoning Administrator that the approved Final Plan and development agreement have been recorded, all appropriate officials of the City may issue building and other permits to the applicant for development, construction and other work in the area encompassed by the approved Final Plan or intermediate Development Stage Plan provided, however, that no such permit shall be issued unless the appropriate official is first satisfied that all requirements which are applicable to the permit sought, have been satisfied.
- g) Limitation on Final Plan Approval. Within one (1) year after the approval of a Final Plan for PUD, or such shorter time as may be established by the approved development schedule, construction shall commence in accordance with such approved plan. Failure to commence construction within such period shall, unless an extension shall have been granted and hereinafter provided, automatically render void the PUD permit and all approvals of the PUD plan and the area encompassed within the PUD shall thereafter be subject to those provisions of the Zoning Code, and other Code provisions, applicable in the district in which it is located. In such case, the Council shall adopt a resolution repealing the PUD permit and PUD approvals and re-establishing the zoning and other provisions that would otherwise be applicable.

3) Schedule.

- a) Upon approval of the Development Stage Plan and within the time established by Section 51.02, Subd. J.4.i.4) of this Ordinance, the applicant shall file with the Zoning Administrator a Final Plan consisting of the information and submissions required by Section 51.02, Subd. J.4.j.2) of this Ordinance for the entire PUD or for one (1) or more stages. This application will be considered at the next possible regular Planning Commission meeting.
- b) The findings and recommendations of the Planning Commission shall be forwarded to the City Council for consideration. If the Planning Commission fails to act within the time specified herein, it shall be deemed to have recommended the plan for approval.
- c) Within sixty (60) days of receipt of a complete PUD final plan application, unless the review period is extended in accordance with Minnesota Statutes 15.99, and receipt of the findings and recommendations of the Planning Commission, the City Council shall grant approval or denial of said request.
- d) The applicant shall cause the Final Plan, or such portions thereof as are appropriate, to be recorded with the Wright County Registrar of Deeds of Register of Titles. The applicant shall provide the City with a signed copy verifying County recording within forty (40) days of the date of approval.

4) Building and Other Permits. Except as otherwise expressly provided herein, upon receiving notice from the Zoning Administrator that the approved Final Plan has been recorded and upon application of the applicant pursuant to the applicant ordinances of the City, all appropriate officials of the City may issue building and other permits to the applicant for development, construction and other work in the area encompassed by the approved Final Plan provided, however, that no such permit shall be issued unless the appropriate official is first satisfied that the requirements of all codes and ordinances in which are applicable to the permit sought, have been satisfied.

5) Limitation on Final Plan Approval. Within one (1) year after the approval of a Final Plan for PUD, or such shorter time as may be established by the approved development schedule, construction shall commence in accordance with such approved plan. Failure to commence construction within such period shall, unless an

extension shall have been granted and hereinafter provided, automatically render void the PUD permit and all approvals of the PUD plan and the area encompassed within the PUD shall thereafter be subject to those provisions of the Zoning Ordinance, and other ordinances, applicable in the district in which it is located. In such case, the City Council shall forthwith adopt an ordinance repealing the PUD permit and all PUD approvals and re-establishing the zoning and other ordinance provisions that would otherwise be applicable. The time limit established by this section may, at the discretion of the City Council, be extended for not more than one (1) year by ordinance or resolution duly adopted.

6) Inspections During Development.

- a) Compliance with Overall Plan. Following Final Plan approval of a PUD, or a stage thereof, the Zoning Administrator shall, at least annually until the completion of development, review all permits issued and construction undertaken and compare actual development and within the approved development schedule.
- b) If the Zoning Administrator finds that development is not proceeding in accordance with the approved schedule, or that it fails in any other respect to comply with the PUD plans as finally approved, he shall immediately notify the City Council. Within thirty (30) days of such notice, the City Council shall either by ordinance revoke the PUD permit, and the land shall thereafter be governed by the regulations applicable in the district in which it is located; or shall take such steps as it deems necessary to compel compliance with the Final Plans as approved; or shall require the landowner or applicant to seek an amendment of the Final Plan.