

SECTION 51.03. GENERAL PROVISIONS

Subd. A Non-Conforming Building, Structures, and Uses.

1. **Purpose.** It is the purpose of this section to provide for the regulation of non-conforming buildings, structures and uses and to specify those requirements, circumstances, and conditions under which non-conforming buildings, structures and uses will be operated and maintained. The Zoning Ordinance establishes separate districts, each of which is an appropriate area for the location of uses which are permitted in that district. It is necessary and consistent with the establishment of these districts that non-conforming buildings, structures and uses not be permitted to continue without restriction. Furthermore, it is the intent of this section that all non-conforming uses shall be eventually brought into conformity.
2. **Grandfather Clause.** Any structure or use lawfully existing upon the effective date of this Ordinance shall not be enlarged, but may be continued at the size and in the manner of operation existing upon such date except as hereinafter specified or, subsequently amended.
3. **Repair Work.** Nothing in this Ordinance shall prevent the placing of a structure in safe condition when said structure is declared unsafe by the Building Official providing the necessary repairs do not result in the expansion of the structure.
4. **Moving of Non-Conforming Structures.** No non-conforming building, structure, or use shall be moved to another lot or to any other part of the parcel of land upon which the same was constructed or was conducted at the time of this Ordinance adoption unless such movement shall bring the non-conformance into compliance with the requirements of this Ordinance.
5. **Reversal of Non-Conformity.** When any lawful non-conforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to any non-conforming use.
6. **Reduction of Non-Conformity.** A lawful non-conforming use of a structure or parcel of land may be changed to lessen the non-conformity of use. Once a non-conforming structure or parcel of land has been changed, it shall not thereafter be so altered as to increase the non-conformity.
7. **Destroyed Non-Conforming Use.** If at any time, a non-conforming building, structure or use shall be destroyed to the extent of more than fifty (50) percent of its fair market value, said value to be determined by the City, then without further action by the City Council, the building and the land on which such building was located or maintained shall, from and after the said of said destruction, be subject to reasonable conditions imposed on a building permit in order to mitigate any

newly created impact on adjoining properties. Any building which is damaged to an extent of less than fifty (50) percent of its value may be restored to its former extent provided reconstruction is completed within twelve (12) months of said damage. Estimate of the extent of damage or destruction shall be made by the Building Official.

8. **Discontinuance.** Whenever a lawful non-conforming use of a structure or land is discontinued for a period of one (1) year, any future use of said structure or land shall be made to conform with the provisions of this Ordinance.
9. **Alterations.** Alteration and normal maintenance to a lawful non-conforming building or structure may be made provided:
 - a. The alterations do not expand the building size.
 - b. The alterations do not change the building occupancy capacity or parking demand.
 - c. The alteration does not increase the non-conformity of the building or the use.

10. **Expansion of Non-Conforming Buildings or Structures.**

- a. **Administrative Approvals.** The expansions of lawful non-conforming single family or two family residential buildings and related accessory structures may be approved through the administrative permit process by the Zoning Administrator subject to provisions of Section 51.02, Subd. E of this Ordinance. The Zoning Administrator shall make a determination that the building expansion will have no external negative impacts upon adjacent properties or public rights-of-way.
 - 1) Expansion of buildings found to be non-conforming only by reason of height, yard setback, lot area or off-street parking may be permitted provided the structural non-conformity is not increased and the expansion complies with the performance standards of this Ordinance.
 - 2) Lawful non-conforming single family and two family units may be expanded to improve the livability provided the non-conformity of the structure is not increased.
- b. **Conditional Use Permit.** Lawful non-conforming commercial, industrial, public, semi-public, and multiple family structures may be expanded on the same lot by conditional use permit in accordance with Section 51.02, Subd. B of this Ordinance.

- 1) Expansion of buildings found to be non-conforming only by reason of height and setback.
 - 2) Except for the above, the expansion will not increase the non-conformity of the building or site.
 - 3) The new building expansion will conform with all applicable performance standards of this Ordinance. A conditional use permit shall not be issued under this section for a deviation from other requirements of this Ordinance unless variances are also approved.
 - 4) The request for conditional use permit shall be evaluated based on standards and criteria set forth in Section 51.02, Subd. B.4.a of this Ordinance.
11. **Non-Conforming Lots.** A lot of record, existing upon the effective date of this Ordinance in a residential district, which does not meet the requirements of this Ordinance as to area or width may be utilized for single family detached dwelling purposes provided:
- a. The lot measurements for lot area and width are within seventy (70) percent of the applicable zoning district standards.
 - b. The building setbacks of the applicable zoning district of this Ordinance are met.
 - c. Single family home is a permitted use within the zoning district.

Subd. B. Lot and Yard Provisions.

1. **Purpose.** This section identifies minimum yard spaces, exceptions, and areas to be provided for in each zoning district.
2. **Detailed Data Required.** All applications for building permit in which new structures or building foot print expansion of existing structures are proposed, with the exception of Section 51.03, Subd. B.2.a below, shall be accompanied with a registered certificate of survey including all the information contained in Section 51.03, Subd. B.2.b below.
 - a. **Exemptions.** The following shall be exempt from Section 51.03, Subd. B.2, above:
 - 1) Structures that are constructed to allow for the passage of storm water, and does not change site topography or drainage patterns, including but not limited to decks, gazebos, and driveways, provided all required setbacks are met.
 - 2) Building additions provided the following:
 - a) The project does not change site topography.
 - b) The project does not change drainage patterns.
 - c) The project does not increase drainage onto adjoining properties.
 - d) The site is not located within the 100 year floodplain.
 - e) The building addition complies with all zoning district setbacks, and easements of record. In the case of a non-conforming structure, the building addition does not increase the non-conformity of the structure, or obstruct access to or from adjacent property.
 - f) In place of a registered survey, a detailed site plan must be submitted to include the following items:
 - (1) Scale of drawing, north arrow, and a legal description of the property.
 - (2) Dimensions of all lot lines, and all easements of record.
 - (3) Names of all abutting streets.

- (4) Location of all existing and proposed buildings, accessory additions, and future garage and deck locations on the lot.
- (5) Outside dimensions of proposed structure, including decks, porches, stairways, fireplaces, bay and bow windows.
- (6) If necessary, should the proposed structure or addition be set close to an apparent lot line, and the Building Official and/or Zoning Administrator is not able to determine the setback, the applicant is responsible (via a registered surveyor) to locate the lot line stakes to provide the exact location of the existing lot line, and that the structure will not encroach within the required setback area.

b. Survey Requirements.

- 1) All surveys must be certified by a Minnesota Registered Land Surveyor. Civic engineers may certify topographic surveys.
- 2) Scale of drawing, north arrow, and a legal description of the property.
- 3) Dimensions of all lot lines and all easements of record.
- 4) Location of all utilities as shown on recorded plats.
- 5) Names of all abutting streets.
- 6) Location of all existing and proposed buildings, accessory additions, and future garage and deck locations on the lot.
- 7) Outside dimensions of proposed structure, including decks, porches, stairways, fireplaces, bay and bow windows.
- 8) Location of stakes established by the surveyor along each side lot line. The maintenance of these stakes, once established by the surveyor, shall be the responsibility of the building permit applicant.
- 9) Grade elevations of the following points:
 - a) Each lot corner (both existing and proposed).

- b) Center of existing or proposed street at each lot line extended and at the driveway.
- c) Proposed grades around buildings, driveway, and walkout if included.
- d) Proposed floor elevations, basement, top of foundation, and garage.

Such elevations may be based on assumed data but shall be tied by the surveyor to a specified benchmark, if there is a known N.G.V.D. within a one-half (1/2) mile distance. In either case, benchmark description shall be given on the drawing.

- 10) The proposed disposal of drainage and surface water, indicating direction of surface water drainage by arrows. This must concur with any existing subdivision drainage plan.
- 11) The garage must be noted along with the driveway position.
- 12) Any existing wetlands, ponds, streams and lakes. For ponds and lakes, the normal water level and the 100 year flood elevation must be indicated on the survey.
- 13) Location of sewer and water connections.
 - a) In the case of private septic systems and wells, location of each shall be shown as appropriate and septic system drainfield laid out on the plan with proposed elevations.
 - b) If stubs for City water and sewer are available from City records, the location, size, and elevations shall be shown on the survey.
 - c) If stubs are not available, survey to determine elevation of inverts to nearest manholes up and down stream of the proposed building and show proposed location.

3. **Minimum Lot Area Requirements.**

- a. The minimum lot area shall conform to the standards of the applicable zoning district. No lot, yard, or other open space shall be reduced in area

or dimensions so as to make such lot, yard, or open space less than the minimum required by this Ordinance, and if an existing yard or other open space is less than the minimum required, it shall not be further reduced. No required open space provided about any building or structure shall be included as a part of any open space required for another structure.

- b. **Buildable Area.** The required minimum lot area shall be buildable land, as defined in Section 51.02 of this Ordinance and exclusive of utility transmission easements.
- c. **Open Space.** Each multiple family dwelling site of more than four (4) units shall contain at least five hundred (500) square feet of usable open space, as defined in Section 51.02 of this Ordinance, for each dwelling unit contained thereon.

4. **Building Placement and Multiple Structures.**

- a. **Street Obstructions.** All buildings shall be so placed so that they will not obstruct future streets which may be constructed by the City in conformity with existing streets and according to the system and standards employed by the City.
- b. **Principal Buildings.** Except in an approved planned unit development that specifically allows it, as provided for in Section 2, Subd. 10 of this Ordinance, not more than one (1) principal building shall be located on a lot.

5. **Yards and Setbacks.**

- a. **Setbacks.**
 - 1) **Reductions.** No setback, yard or other open space shall be reduced in area or dimension so as to make such setback, yard or other open space less than the minimum required by this Ordinance, and if the existing setback, yard or other open space as existing is less than the minimum required, it shall not be further reduced.
 - 2) **Front Setback Exception.** Where adjacent structures within the same block have front yard setbacks different from those required, the front yard minimum setback shall be the average of the adjacent structures. If there is only one (1) adjacent structure, the front yard minimum setback shall be the average of the required setback and the setback of the adjacent structure. In no case shall the required front yard setback exceed that required minimum established within the districts of this Ordinance.

- 3) Traffic Visibility Setback. On corner lots in all districts, no structure or planting in excess of thirty (30) inches above the street center line grade shall be permitted within a triangular area defined as follows: beginning at the intersection of the projected property lines of two (2) intersecting streets, thence twenty (20) feet along the property line, thence diagonally to a point twenty (20) feet from the point of beginning.
- b. Permitted Yard Encroachments. The following structural elements or equipment shall not be considered as encroachments on setback requirements subject to other conditions provided herein:
- 1) All Yards.
 - a) Flag poles, sidewalks, wheelchair ramps, name plate signs, trees, shrubs, plants, yard lights, mailboxes, floodlights, or other sources of light illuminating authorized illuminated signs, or light standards for illuminating yards for safety and security reasons, provided the direct source of light complies with Section 51.03, Subd. D.2 of this Ordinance. These uses may be permitted in any yard provided they are not located in any easement.
 - b) Flues, belt course, bay windows, leaders, sills, pilaster, eaves, gutters, awnings, open terraces, open canopies, chimneys, ornamental features, open fire escapes extending from the principal structure, provided they do not project more than two (2) feet into a required setback.
 - c) In rear yards, laundry drying equipment, recreational equipment (non-vehicular), trellises, open arbors, detached outdoor living rooms not to exceed five hundred (500) square feet provided they maintain a five (5) foot setback from the side and rear lot lines. No encroachment shall be permitted within existing drainage or utility easements.
 - d) Terraces, steps, uncovered porches, deck stoops, landings, or other similar features that do not extend above the entrance floor of the building may extend into the required front yard setback no more than five (5) feet.
 - e) Uncovered porches, decks, balconies, and/or similar features may extend into a required side yard abutting a street setback or required rear yard setback provided the structure does not extend more than ten (10) feet into the

required setback and maintains not less than twenty (20) foot setback from the side lot line abutting the street or rear lot line.

- f) In the case of a residential lot in an R-E, R-1, R-2, or R-3 District backing onto a railroad, a public park, trail, wetland or other such similar permanently reserved open space, the required rear yard setback for terraces, elevated decks, ground level uncovered porches, stoops, landings or similar features may extend into a required rear yard setback, to a distance not less than ten (10) feet from a rear lot line. No encroachment shall be permitted in existing or required drainage and utility easements.
- g) Accessory buildings or equipment including: detached accessory buildings, air conditioners, accessory antennas, sport courts, swimming pools, and trash enclosures as regulated by Section 51.03, Subd. C.7 of this Ordinance.
- h) Fencing and landscaping as regulated by Section 51.03, Subd. D.10 of this Ordinance.

c. B-4 Zoning District Right-of-Way Permitted Encroachments.

- 1) Awnings and marquees provided that:
 - a) No encroachment over the public right-of-way shall project more than six (6) feet from the building or closer than two (2) feet from the curb line or street surface, whichever is least.
 - b) No encroachment may interfere with existing street lighting, or overhead power lines.
 - c) All portions of the marquee or awning framing extending over a public right-of-way shall be at least seven (7) feet above the ground or pavement.
 - d) Maximum thickness of a marquee measured from its lowest to highest point shall not exceed four (4) feet.
 - e) The marquee or awning shall be constructed with a design and materials consistent with the general character of the principal structure and the Central Business District.
- 2) Projection signs as regulated by Section 51.03, Subd. N of this Ordinance.

d. Zero Lot Line Subdivisions.

- 1) Townhomes and Apartments. If existing townhouses or apartment units not on separate unit lots are to be subdivided on an individual unit or condominium basis for owner occupancy, it shall require a planned unit development according to the provisions of Section 2, Subd. 10 of this Ordinance.
- 2) Subdivision of Two Family or Quadraminium Lots. The subdivision of base lots containing two family dwellings or quadraminiums to permit individual private ownership of a single dwelling within such a structure is acceptable subject to City Council approval. Approval is further contingent upon the following requirements:
 - a) Prior to a two family dwelling or a quadraminium subdivision, the base lot shall meet all the requirements of the zoning district.
 - b) There shall be no more than one (1) principal structure on a base lot in all residential districts. The principal structure on a unit lot created in a two family or quadraminium subdivision will be the portion of the attached dwelling existing or constructed on the platted base lots.
 - c) Permitted accessory uses as defined by the zoning districts are acceptable provided they meet all the zoning requirements.
 - d) A property maintenance agreement shall be arranged by the applicant and submitted to the City Attorney for review and subject to approval. The agreement shall ensure the maintenance and upkeep of the structure including but not limited to siding, roofing (type and color), fencing, driveways, maintenance, etc. and the lots to meet minimum City standards. The agreement is to be filed with the Wright County Recorder's office as a deed restriction against the title of each unit lot.
 - e) Separate public utility service shall be provided to each subdivided unit and shall be subject to the review and approval of the City Engineer.
 - f) The subdivision is to be platted and recorded in conformance to requirements of the Delano Subdivision Ordinance.

Subd. C. General Building and Use Provisions.

1. **Purpose.** This section identifies general building design size requirements and exceptions to general height requirements applicable within each zoning district.
2. **Dwelling Unit Restriction.** No cellar, garage, tent, travel trailer, motor home, basement with unfinished structure above, or accessory building shall at any time be used as a dwelling unit.
3. **Building Type and Construction.**
 - a. **Single Family Dwellings.** All single family detached dwellings in the R-A, R-E, R-1, R-2, R-3, R-4 and R-5 Districts shall meet the following design criteria:
 - 1) All structures shall have permanent concrete or treated wood foundations which will anchor the structure, which comply with the State Building Code as adopted in the State of Minnesota and which are solid for the complete circumference of the house.
 - 2) Sixty (60) percent of a residential structure shall have a minimum width or depth of twenty (20) feet. Width measurement shall not take into account overhangs or other projections. Such width requirement shall be in addition to the minimum area per dwelling requirements established within this Ordinance.
 - 3) Single family dwellings shall have at least a four/twelve (4/12) roof pitch and shall be covered with shingles or tiles or a standing seam metal roof.
 - 4) All single family structures shall be built in conformance with Minnesota Statute 327.31 to 327.35 of the State Building Code as adopted in the State of Minnesota.
 - 5) The exterior walls of all single family residences shall be similar in appearance to normal wood or masonry residential construction. Any metal siding upon single family residence structures shall have a vertical dimension no greater than twelve (12) inches. Sheet metal siding shall not be permitted in such districts.
 - 6) Single family homes constructed after the effective date of this Ordinance shall have a minimum finished habitable floor area of one thousand (1,000) square feet.

b. Two Family and Townhome Design and Construction Standards.

- 1) Unit Width. The minimum width of a two family or townhome dwelling unit shall be twenty-four (24) feet. Minimum floor area per unit shall be established within the zoning district.
- 2) Unit Size. Two family and townhome dwelling units shall have a minimum finished habitable floor area of one thousand (1,000) square feet.
- 3) Unit Construction.
 - a) Building elevations and floor plans shall be furnished illustrating exterior building materials and colors to demonstrate compliance with Section 51.03, Subd. C.3.b.3.d)) of this Ordinance. Building floor plans shall identify the interior storage space within each unit.
 - b) Decks or Porches. Provision shall be made for possible decks, porches, or additions as part of the initial dwelling unit building plans.
 - c) Minimum Overhang: In case of gable roof, a minimum eighteen (18) inch roof overhang, soffit shall be required for all dwelling unit building plans.
 - d) Exterior Building Finish: The exterior of townhome dwelling units shall include a variation in building materials which are to be distributed throughout the building facades and coordinated into the architectural design of the structure to create an architecturally balanced appearance. In addition, townhome dwelling structures shall comply with the following requirements:
 - (1) A minimum of twenty-five (25) percent of the combined area of all building facades of a structure shall have an exterior finish of brick, stucco and/or natural or artificial stone.
 - (2) Except for brick and/or natural or artificial stone, no single building facade shall have more than seventy-five (75) percent of one type of exterior finish.
 - (3) For the purpose of this section, the area of the building facade shall not include area devoted to

windows, entrance doors, garage doors, or roof areas.

4) **Storm Shelter.** In cases where dwelling units are constructed slab on-grade, provisions shall be made to provide for storm protection either internally to the unit or in a separate storm shelter structure. Compliance with this requirement shall be based upon Federal Emergency Management Agency (FEMA) guidelines and standards which are on file with the City Building Official.

5) **Garages.**

- a) Each dwelling unit shall include, at a minimum, a two stall garage.
- b) Garages shall comply with the following minimum size standards:
 - (1) Dwellings With Basements. Four hundred forty (440) square feet (twenty (20) feet by twenty-two (22) feet).
 - (2) Dwellings Without Basements. Five hundred (500) square feet (twenty (20) feet by twenty-five (25) feet).
 - (3) Garages shall be a minimum of twenty (20) feet in width.

6) **Utilities.**

- a) **Public Utility Service.** Separate public utility services shall be provided to each unit unless exempted by the City Engineer.
- b) **Sewer Connection.** Where more than one (1) unit is served by a sanitary sewer service, all maintenance and cleaning shall be the responsibility of the property owners' association or owners.

7) **Homeowners' Association.** A homeowners' association shall be established for all quadraminium, three and four plex multiple family and townhome developments subject to review and approval of the City Attorney. The homeowners' association shall be responsible for all exterior building maintenance, approval of any exterior architectural modifications, landscaping, snow clearing and regular maintenance of private driveways and other areas owned in

common when there is more than one (1) individual property owner having interest within the development.

c. Multiple Family Apartments Design Construction Standards:

1) Unit Size.

- a) Multiple family dwelling units, except for elderly housing dwelling units defined as multiple family, shall have the following minimum floor area per unit:

Efficiency Units	500 square feet
One Bedroom Units	700 square feet
Two Bedroom Units	800 square feet
More than Two Bedroom Units	An additional 100 square Feet per bedroom

- b) Elderly (Senior Citizen) and/or Physical Disabled Housing. Dwelling units defined as elderly housing or physically disabled housing shall have the following minimum floor areas per unit:

Efficiency Units	440 square feet
One Bedroom Units	520 square feet
Two Bedroom Units	700 square feet

- 2) Exterior Treatment. The exterior of multiple family dwelling structures shall include a variation in building materials which are to be distributed throughout the building facades and coordinated into the architectural design of the structure to create an architecturally balanced appearance. In addition, multiple family dwelling structures shall comply with the following requirements:

- a) A minimum of thirty-three (33) percent of the combined area of all building exterior walls of a structure shall have an exterior finish of brick, stucco, and/or natural or artificial stone.
- b) For the purposes of this section, the area of the building facade shall not include area devoted to windows, entrance doors, garage doors, or roof areas.

d. Commercial Design Construction Standards. All buildings erected on land within commercial zoning districts shall conform with the following:

- 1) Minimum Floor Area. Commercial buildings (principal structure) having less than one thousand (1,000) square feet of floor area may only be allowed upon approval of a conditional use permit, as provided for in Section 51.02, Subd. B of this Ordinance.
- 2) Exterior Building Elevations.
 - a) Within the B-1 and B-2 Zoning Districts, all exterior wall surfaces may be a combination of materials including brick, dimensioned stone, rock faced block, decorative concrete panel, architectural concrete block, cast-in-place concrete, stone, stucco, wood, or glass. An average of said materials shall constitute no less than ninety (90) percent of the exterior wall façade less windows, doorways, roof, and/or garage doors (except as allowed in Section 51.03, Subd. C.3.f or Subd. C.3.g of this Ordinance).
 - b) Within the B-3 and B-W Zoning Districts, all exterior wall surfaces may be a combination of materials including brick, dimensioned stone, rock face block, decorative concrete panels, stone stucco, wood, glass, or metal panels. Metal panels shall not encompass more than fifty (50) percent of the building elevation abutting a public right-of-way or residentially zoned property. Metal panels shall not exceed seventy-five (75) percent of all other exterior wall surfaces, except as allowed in Sections 51.03, Subd. C.3.f of this Ordinance.
 - c) Within the B-4 Zoning District, all exterior wall surfaces may be a combination of materials including brick, dimensioned stone, rock faced brick, decorative concrete panels, architectural concrete block, cast in place concrete, stone, wood, or glass. Exterior wall surfaces shall be compatible with the Delano Central Business District Architectural Guidelines.
 - d) In all zoning districts, mechanical equipment such as heating, ventilation, or air conditioning units located anywhere on the property shall be screened and painted to match the building exterior.

e. Industrial Design Construction Standards. All buildings erected on land within industrial zoning districts shall conform with the following:

- 1) Minimum Floor Area. Industrial buildings (principal structure) having less than one thousand (1,000) square feet of floor area may only be allowed upon approval of a conditional use permit, as provided for in Section 51.02, Subd. B of this Ordinance.
- 2) Exterior Building Elevations.
 - a) Within the I-1 Zoning District, all exterior wall surfaces may be a combination of materials including brick, dimensioned stone, rock faced block, decorative concrete panels, architectural concrete block, cast-in-place concrete, stone, wood, glass, or metal panels. Metal panels shall not encompass more than an average of twenty-five (25) percent of all building elevations combined except as may be allowed by Section 51.03, Subd. C.3.f or Subd. C.3.g of this Ordinance.
 - b) Within the I-2 Zoning District, all exterior walls may be a combination of materials including brick, dimensioned stone, rock faced block, decorative concrete panels, architectural concrete block, cast in place concrete, stone, wood, glass or metal panels. Metal panels shall not encompass more than an average of seventy-five (75) percent of all building elevations combined except as may be allowed by Section 51.03, Subd. C.3.f or Subd. C.3.g of this Ordinance.
- f. Exterior Building Elevation Deferment. The City may grant by conditional use permit a deferment to a developer of commercial and industrial metal buildings or building additions from the exterior wall design requirements when the building or building addition will be constructed in more than one phase.
 - 1) The deferment shall be until the second construction phase is completed or two (2) years, whichever is less.
 - 2) The developer shall provide the City with an irrevocable letter of credit for an amount one and one-half (1-1/2) the estimated cost of the required exterior wall treatment. The bank and letter of credit shall be subject to the approval of the City Attorney. The letter of credit shall secure compliance with Section 51.03, Subd. C.3.d.2) of this Ordinance.
- g. Exterior Building Elevation Exception. Exceptions to exterior building elevation provisions of this Ordinance may be granted as a conditional use permit by the City Council, provided that:

- 1) The proposed building maintains the quality and value intended by this Ordinance.
 - 2) The proposed building is compatible and in harmony with other structures within the district.
 - 3) The provisions of Section 51.02, Subd. B of this Ordinance are considered and the request is found to comply with these criteria.
- h. All mechanical equipment, such as air conditioning units located anywhere on the property, etc. shall be screened and/or painted to match the building exterior.
- i. Quasi-Public Structures.
- 1) No quasi-public structure shall be located within the public right-of-way except as approved by the City Council. Such structure shall include but not be limited to trash containers, bicycle racks, benches, planting boxes, awnings, flag poles, light standards, stairs, stoops, light wells, signs and others.
 - 2) Public and quasi-public utility poles and underground services may be permitted within public right-of-way provided that:
 - a) A permanent identification tag or marking is affixed to each structure.
 - b) The City is notified as to the location and date of placement of the structure.
 - c) The City is notified of any change of structure ownership, removal or modification.
 - d) Lease or joint use agreements or arrangements applicable to each utility structure are disclosed.

4. Height.

- a. Exceptions. The building height limits established herein for districts shall not apply to the following:
- 1) Farm structures.
 - 2) Church spires.

- 3) Belfries.
 - 4) Cupolas.
 - 5) Windmills.
 - 6) Solar energy devices.
 - 7) Chimneys and smokestacks.
 - 8) Flag poles mounted on a building.
 - 9) Non-commercial television and radio antennae, and satellite dishes not exceeding twenty (20) feet above the roof.
 - 10) Parapet walls extending not more than three (3) feet above the limiting height of the building.
 - 11) Elevator penthouses.
 - 12) Cooling towers/water towers.
 - 13) Lighting structures for public outdoor recreational fields not exceeding eighty (80) feet in height.
 - 14) Lighting structures for public hockey rinks not exceeding sixty (60) feet in height.
 - 15) Telecommunication antenna and antenna towers as regulated by Section 51.03, Subd. M of this Ordinance.
 - 16) Poles, towers and other structures for essential services.
- b. No roof equipment exceeding beyond the limited height of a building may occupy more than twenty-five (25) percent of the area of such roof nor exceed ten (10) feet unless otherwise noted.
- c. Conditional Use Permit. Building heights in excess of those standards contained in the district provisions and any other sections of this Chapter may be allowed through a conditional use permit, provided that:
- 1) Demonstrated need is established for the increase in height and said increase will not violate the intent and character of the zoning district in which the structure is located.
 - 2) The site is capable of accommodating the increased structure size.
 - 3) The potential increased intensity and size of use does not cause an increase in traffic volumes beyond the capacity of the surrounding streets.
 - 4) Public utilities and services are adequate.
 - 5) For each additional story over the district limitation or for each additional ten (10) feet above the maximum allowed per district, front and side yard setback requirements shall be increased by ten (10) percent.

- 6) The construction does not limit solar access to abutting and/or neighboring properties. A shadow study shall be required illustrating shadow encroachment on adjoining properties.
 - 7) The provisions of Section 51.02, Subd. B of this Ordinance are considered and satisfactorily met.
5. **High Water Elevation.** All buildings shall comply with building elevation regulations of the Floodplain and Shoreland Overlay Districts of this Ordinance. In areas beyond the Floodplain and Shoreland Overlay Districts, all buildings shall be placed at an elevation such that the lowest building opening meets the following standards:
- a. A minimum of two (2) feet above 100 year flood elevation of areas with a separate emergency overflow.
 - b. A minimum of three (3) feet above the 100 year flood elevation of areas with no separate emergency overflow.
 - c. The 100 year flood elevation or high water level shall be determined by a registered engineer.
6. **Ground Water Elevation.** The lowest floor, including basement floor, of all structures shall be at a level at least three (3) feet above the highest known ground water table elevation. If requested by the Building Official, the ground water table elevation shall be determined by a licensed soils engineer using soil borings, piezometers, or the observation of mottled soils.
7. **Accessory Building, Uses, and Equipment.**
- a. Agricultural Farm Buildings. Agricultural farm buildings, accessory to an active farm operation on a lot twenty (20) acres or larger, designed, constructed, and used to house farm implements, agricultural activities, or agricultural products shall be exempt from the requirements of this subdivision.
 - b. Residential Accessory Buildings and Uses.
 - 1) An accessory building or attached garage shall be considered an integral part of the principal building if it is connected to the principal building by a covered passageway. Attached accessory buildings shall meet the principal building setbacks of the respective zoning district.

2) No accessory building or use shall be constructed or developed on a lot prior to the time of construction of the principal building to which it is accessory.

3) **Accessory Building Floor Area, Height and Number.** The combination of accessory buildings and garages (attached and detached) shall not exceed the following standards:

a) Area.

<u>Zoning District</u>	<u>Maximum Allowable Floor Area</u>
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R-A	4,000 square feet
R-E	2,000 square feet
R-1	1,500 square feet
R-2	1,500 square feet
R-3	1,200 square feet
R-4	1,200 square feet
R-5	1,200 square feet
R-6	1,200 square feet
R-7, R-8, R-B	30% of the gross floor area of the multiple family structure

(1) An attached garage shall not exceed the maximum allowable floor area as mentioned above, or eighty (80) percent of the size of the single family or two family house foundation not including garage, whichever is less.

b) **Number of Buildings.** Total number of accessory buildings and garages shall be limited to the following:

(1) One (1) attached garage and one (1) detached accessory building; or

(2) Two (2) detached accessory structures.

c) **Height.** Accessory buildings shall not exceed the height of the principal building or twenty (20) feet, whichever is less.

4) **Setbacks.** Detached accessory buildings shall comply with the following setbacks:

a) **Front Setback.** No detached accessory building shall be located in any front yard.

- b) On lots platted prior to 1 July 1987:
 - (1) Side Yard Setback. Not less than five (5) feet on any side yard abutting adjoining lots, nor less than twenty (20) feet on a side yard abutting a street.
 - (2) Rear Yard Alley Setback.
 - (a) Garages with direct alley access not less than fifteen (15) feet from a rear lot line to garage door.
 - (b) Garages that are oriented on a lot so that the direction of the vehicle access to the garage parallels the rear lot line may be located not less than five (5) feet from the lot line. This design is intended to prohibit direct backing from the garage onto an alley.
 - (3) Rear yard setback (non-alley) is five (5) feet.
 - (4) Detached accessory buildings that have one hundred twenty (120) square feet or less floor area and which do not require a building permit may be set back not less than five (5) feet from the rear lot line.
- c) On all lots platted subsequent to 1 July 1987:
 - (1) Accessory buildings and structures shall be constructed within the buildable area of the lot as defined in Section 51.03, Subd. C.8 of this Ordinance, except as provided in Section 51.03, Subd. C.3 of this Ordinance.
 - (2) Accessory buildings that have one hundred twenty (120) square feet or less of floor area and which do not require a building permit may be allowed in the required rear yard not less than five (5) feet from the rear lot line.
- 5) Air Conditioners. Accessory uses or equipment such as air conditioning cooling structures or condensers (ground mounted) which generate noise shall be located in rear yards. Air conditioning cooling structures or condensers may be located within a required side yard provided the following conditions are met:

- a) The cooling structure or condenser shall not produce noise levels contrary to Section 51.03, Subd. D.5 of this Ordinance.
 - b) The cooling structure or condenser shall be screened by landscaping, fencing, or other means rendering it concealed from view from adjacent property.
 - c) The cooling structure or condenser shall not lie within a required drainage and/or utility easement.
- 6) Accessory Antennas. Accessory antennas shall be limited to radio and television receiving antennas, satellite dishes, TVROs, short wave dispatching antennas, and amateur short wave transmitting and receiving antennas. Accessory antennas that are accessory to the principal use of property are permitted accessory uses in all zoning districts provided they meet the following conditions:
- a) Height. A ground mounted accessory antenna shall not exceed twenty (20) feet in height from ground level. The height of an accessory antenna attached to an antenna support structure may not exceed five (5) feet above the peak of the roof of the principal building. An accessory antenna in excess of the aforementioned height standards may be allowed by conditional use permit.
 - b) Yards. Accessory antennas shall not be located within the required front yard setback or side yard setback abutting a street, except for wall mounted antennas less than twenty four (24) inches in dimension, wall mounted to a principal building and the setback encroachment does not exceed two (2) feet.
 - c) Roofs. If vegetation or obstructions interfere with satellite signals at a location in any allowable placement area, the accessory antenna may be placed on the roof of any authorized structure on the premises.
 - d) Setbacks. Accessory antennas shall not be located within five (5) feet of any lot lines of adjoining lots or within a drainage or utility easement.
 - e) Building Permits. A building permit shall be required for the installation of any accessory antenna requiring a conditional use permit. Building permit applications shall be

accompanied by a site plan and structural components data for the accessory antenna, including details of anchoring. The Building Official must approve the plans before installation.

- f) Lightning Protection. Each accessory antenna shall be grounded to protect against natural lightning strikes in conformance with the National Electrical Code as adopted by the City of Delano.
- g) Electrical Code. Accessory antenna electrical equipment and connections shall be designed and installed in conformance with the National Electrical Code as adopted by the City of Delano.
- h) Color/Content. Accessory antennas shall be of a neutral color.
- i) Effective Date. The provisions of this section shall be applicable to all accessory antennas erected after the effective date of this Ordinance. All such structures existing prior to this date shall be addressed as legal non-conforming uses.

c. Commercial or Industrial Accessory Buildings.

- 1) Commercial or industrial buildings shall not exceed thirty (30) percent of the gross floor space of the principal building.
- 2) Accessory buildings shall meet all the required setbacks of the principal building.
- 3) Accessory buildings shall be constructed of building materials to match the principal structure and comply with the building material requirements of Section 51.03, Subd. C.3.d.2).a) of this Ordinance.

d. Sport Courts. In all districts, the following standards shall apply to sport courts:

- 1) A building permit shall be required for all private residential and commercial sport courts.
- 2) A conditional use permit shall be required for all commercial sport courts.

- 3) An application for a building permit or an administrative permit shall include a site plan showing the following along with all required information:
 - a) The size, shape, pavement and sub-pavement materials.
 - b) The location of the court.
 - c) The location of the house, garage, fencing, utilities and any other structural improvements on the lot.
 - d) The location of structures on all adjacent lots.
 - e) A grading plan showing all revised drainage patterns and finished elevations at the four corners of the court.
 - f) Landscaping and turf protection around the court.
 - g) Location of existing and proposed wiring and lighting facilities.
 - h) Details on light fixtures and light standards.
 - 4) Sport courts shall not be located closer than ten (10) feet to any side and rear lot line. Sport courts shall not be located within any required front yard or side yard abutting a street.
 - 5) Sport courts shall not be located over under-ground utility lines of any type, nor shall any court be located within any private or public utility, drainage or other easement.
 - 6) Solid sport court practice walls shall not exceed ten (10) feet in height. A building permit shall be required for said walls. Said walls shall meet the principal building setbacks of the district.
 - 7) Chain link fencing surrounding the sport court may extend up to twelve (12) feet in height above the sport court surface elevation. Any fence in excess of six (6) feet shall require a building permit.
 - 8) Lighting for the sport court shall be designed with a ninety (90) degree cutoff and shall be hooded to direct lighting downward and not toward adjacent properties.
- e. Swimming Pools.

- 1) Single Family and Two Family Dwellings. The following shall apply to all swimming pools which are intended for use accessory to single-family and two-family dwellings:
- a) A building permit shall be required for any swimming pool that is over twenty four (24) inches in height or depth, measured from ground level, and exceeds five thousand (5,000) gallons capacity. This includes in ground swimming pools, above ground pools, on ground swimming pools and fixed in place wading pools.
 - b) An application for the construction of swimming pools shall be on a City application form and accompanied by a fee established by City Council ordinance. The permit application shall include:
 - (1) Site plan illustrating:
 - (a) Type and size of pool.
 - (b) Location of the pool on the lot.
 - (c) Location of other buildings and structures on the lot.
 - (d) Location of structures on adjoining lots.
 - (e) Location of filter and heating units.
 - (f) Location of pumps and wiring.
 - (g) Location of back flush and drain outlets.
 - (h) Location of any overhead or underground utilities or utility easements.
 - (i) Fence locations.
 - (2) Building Plans.
 - (a) Swimming pool design.
 - (b) Fencing and gate details.
 - (c) Deck or surfacing details.

- (3) Setbacks and Location Standards.
- (a) Pools shall not be located in front of the principal building.
 - (b) Pools shall not be located in the required side yard of any zoning district.
 - (c) Pools shall not be located closer than ten (10) feet from the rear property line.
 - (d) The filter unit, pump, heating unit, and any noise generating mechanical equipment shall be located not closer than twenty (20) feet to any lot line.
 - (e) Pools shall not be located beneath overhead utility lines nor over underground utility lines of any type.
 - (f) Pools shall not be located within any private or public utility, walkway, drainage, or other easement.
 - (g) Pools shall be set back at least six (6) feet from the principal building or frost footing.
- (4) Lighting for the pool shall be designed with a ninety (90) degree cut off and shall be hooded to direct lighting toward the pool and not toward adjacent property.
- (5) All swimming pools for which a building permit is required shall be provided with safeguards to prevent children from gaining uncontrolled access. This can be accomplished with fencing, or other enclosure, or any combination thereof, of sufficient density as to be impenetrable.
- (a) Fences shall be at least five (5) feet in height. The bottoms of the fences shall not be more than four (4) inches from the ground. Fences shall be of a non-corrosive material and shall be constructed as to be not easily climbable (chain link fences must be vinyl coated with slats for screening). All fence openings or

points of entry into the pool enclosure shall be equipped with gates or doors. All gates or doors to swimming pools shall be equipped with self-closing and self-latching devices placed at a height not lower than forty-eight (48) inches so as to be inaccessible to all small children. Prior to filling the pool, the approved fence or enclosure must be completely in place and inspected and approved by the City Building Inspector.

- (b) Swimming pool fences shall comply with fence setback standards of Section 51.03, Subd. D.11 of this Ordinance.
- (c) Required structure or safety fencing shall be completely installed within three (3) weeks following the installation of the pool, before any water is allowed in the pool, and prior to final inspection.

(6) Water Quality/Drainage.

- (a) Water in the pool shall be maintained in a suitable manner to avoid health hazard of any type.
- (b) Back flush or pool drainage water shall be directed onto the property on which the swimming pool is located and ultimately to public storm water, if available.
- (c) Drainage of pools directly into public streets or other public drainageways shall require written permission of the Zoning Administrator and/or Public Works Director. Draining the pool into the sanitary sewer is prohibited.

- 2) Multiple Family/Commercial Pools. For private swimming pools which are intended for and used by the occupants of a multiple family dwelling or commercial structure and the guests of the occupants, or for private and public clubs and organizations, the following regulations shall be met in addition to those listed for single and two family dwellings provided in Section 51.03, Subd. C.8.e above.

- a) No part of the water surface of the swimming pool shall be less than fifty (50) feet from any lot line.
- b) No pumps, filter or other apparatus used in connection with or to service a swimming pool shall be located less than fifty (50) feet from any lot line and must be contained within an insulated building.
- c) The pool area shall be adequately fenced to prevent uncontrolled access from the street or adjacent property. Fences shall be at least five (5) feet in height. The bottoms of the fences shall not be more than four (4) inches from the ground. Fences shall be of a non-corrosive material and shall be constructed as to be not easily climbable (chain link fences must be vinyl coated with slats for screening). All fence openings or points of entry into the pool enclosure shall be equipped with gates or doors. All gates or doors to swimming pools shall be equipped with self closing and self latching devices placed at a height not lower than forty-eight (48) inches so as to be inaccessible to small children. Prior to filling the pool, the approved fence or enclosure must be completely in place and inspected and approved by the City Building Inspector. Adequate screening including, but not limited to, landscaping shall be placed between the pool area and adjacent lot lines.
- d) All deck areas, adjacent patios, or other similar areas used in conjunction with the swimming pool shall be located at least thirty (30) feet from any lot line.
- e) To the extent possible, back flush water or water from pool drainage shall be directed onto the owner's property and to the nearest public storm sewer or drainage easement. Draining pools into the sanitary sewer is prohibited.

f. Refuse and Recycling Material and Equipment.

- 1) Refuse Removal. Passenger automobiles and trucks not currently licensed by the state, or which are because of mechanical deficiency incapable of movement under their own power, parked or stored outside for a period in excess of thirty (30) days, and all materials stored outside in violation of City Code provisions are considered refuse or junk and shall be disposed of within ten (10) days of notification by the City.
- 2) Refuse Receptacles Location and Screening.

- a) Residential Structures With Four (4) or Less Units. Garbage cans, waste containers and recycling bins shall be kept in rear or side yards or indoors.
- b) Commercial, Industrial, and Institutional Uses, Residential Structures With More Than Four (4) Units.
 - (1) All refuse, recyclable materials, and necessary handling equipment including but not limited to garbage cans, recycling bins, and dumpsters shall be stored within the principal structure, within an accessory building, or totally screened from eye level view from all neighboring uses and the public right-of-way.
 - (2) Trash Enclosures. Exterior storage of refuse and recyclable material shall require the following:
 - (a) Exterior wall or fence treatment shall be masonry construction or material similar to complement the principal building.
 - (b) The enclosed trash and/or recycling receptacle area shall be located in the rear or side yard and shall observe all applicable setback requirements and easements.
 - (c) The trash and/or recycling enclosure must be in an accessible location for pick up hauling vehicles.
 - (d) The trash and/or recycling receptacles must be fully screened from view of adjacent properties and the public right-of-way by a fence or wall of at least six (6) feet in height and a minimum opaqueness of eighty (80) percent.
 - (e) All dumpsters, recycling bins, handling equipment, and enclosures shall be approved by the Zoning Administrator and be kept in a good state of repair with lids designed to prevent spilling and spread of debris and access by animals. The construction of trash and recycling enclosures shall be per standards established by the City. All designs

and construction of trash enclosures shall be subject to the Building Official's approval.

Subd. D. General Performance Standards.

1. **Purpose.** The purpose of this subdivision is to establish general performance standards to ensure compatibility of uses and to prevent nuisance problems that may detract from the health, safety, and welfare of the residents.

2. Outdoor Lighting.

a. **Purpose.** It is the purpose of this section to encourage the use of lighting systems that will reduce light pollution and promote energy conservation while increasing night time safety, utility, security and productivity.

b. **Exemptions.** The provisions of this section shall not apply to the following:

- 1) The use of temporary outdoor lighting used during customary holiday seasons.
- 2) The use of temporary outdoor lighting used for civic celebrations and promotions.
- 3) Lighting required by a government agency for the safe operation of airplanes, or security lighting required on government buildings or structures.
- 4) Emergency lighting used by police, fire, and rescue authorities.

c. **Non-Conforming Uses.**

1) **Existing Fixtures.** All outdoor lighting fixtures existing and legally installed prior to the effective date of this Ordinance are exempt from regulations of this section but shall comply with the Ordinance requirements for glare as follows:

a) Any lighting used to illuminate an off-street parking area, sign or other structure, shall be arranged as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, where from flood lights or from high temperature processes such as combustion or welding shall not be directed into any adjoining property. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way. Any light or combination of lights which cast light on a public street shall not exceed one (1) foot candle (meter reading) as measured

from the right-of-way line of said street. Any light or combination of lights which cast light on residential property shall not exceed four-tenths (0.4) foot candles (meter reading) as measured from said property.

- 2) New Fixtures. Whenever a light fixture that was existing on the effective date of this Ordinance is replaced by a new outdoor light fixture, the provisions of this section shall be satisfied.

d. Intensity.

- 1) Maximum Foot Candles. No light source or combination thereof which cast light on a public street shall exceed one (1) foot candle (meter reading) as measured from the right-of-way line of said street nor shall any light source or combination thereof which cast light on adjacent residential property exceed four-tenths (0.4) foot candles (meter reading) as measured at the property line per the method outlined in Section 51.03, Subd. D.2.c.1.a) of this Ordinance.
- 2) The foot candle level of a light source shall be taken after dark with the light meter held six (6) inches above the ground with the meter facing the light source. A reading shall be taken with the light source on, then with the light source off. The difference between the two readings will be identified as the light intensity.

e. Performance Standards.

- 1) Residential District Standards. In all residential districts, any lighting used to illuminate a structure, an off-street parking area, or other area shall be arranged as to deflect light away from any adjoining residential property or from any public right-of-way. All lighting shall be installed in accordance with the following provisions:
 - a) The light source shall be hooded or controlled so as not to light adjacent property in excess of the maximum intensity defined by this Ordinance.
 - b) Bare light bulbs shall not be permitted in view of adjacent property or public right-of-way, unless part of a permanent or decorative fixture.
- 2) Business/Industrial District Standards. In all business and industrial districts, any lighting used to illuminate a structure, an off-street parking area, or other area shall be arranged so as to deflect

light away from any adjoining residential property or from any public right-of-way. All lighting shall be installed in accordance with the following provisions:

- a) The luminaire shall contain a cutoff which directs and cuts off the light at an angle of ninety (90) degrees or less.
 - b) Light sources shall not be permitted so as to light adjacent property in excess of the maximum intensity defined in Section 51.03, Subd. D.2.c.1).d) of this Ordinance.
 - c) Architectural/historical light fixtures that feature globes that are not shielded, or lighting of entire facades or architectural features of a building may be approved by the City Council. In no case shall the light affect adjacent property in excess of the maximum intensity defined in Section 51.03, Subd. D.2.c.1).d) of this Ordinance.
 - d) The maximum height of the fixture and pole above the ground grade permitted for light sources is thirty (30) feet. A light source mounted on a building shall not exceed the height of the building. In no case shall the height of a light source mounted on a pole or on a building exceed the height limits of the zoning district in which the use is located, unless allowed by conditional use permit.
 - e) Location.
 - (1) The light source of an outdoor light fixture shall be set back a minimum of ten (10) feet from a street right-of-way or where the lot line abuts a residential property and five (5) feet from an interior side or rear lot line.
 - (2) No light source shall be located on the roof unless said light enhances the architectural features of the building and is approved by administrative permit.
 - f) Direct or reflected glare from high temperature processes such as combustion or welding shall not be visible from any adjoining property.
- 3) Outdoor Recreation. Outdoor commercial or public recreational uses such as, but not limited to, baseball fields, football fields, hockey rinks, and tennis courts have special requirements for night time lighting. Due to these unique circumstances, an administrative permit shall be required for commercial and public outdoor

recreational use lighting systems which do not comply with the regulations of this section.

- a) No outdoor recreation facility whether public or private shall be illuminated after 12:00 AM, except for required security lighting.
 - b) Off-street parking areas for outdoor recreation uses which are illuminated shall meet the requirements stated for business or industrial applications as found in Section 51.03, Subd. D.2.e.2) of this Ordinance.
 - c) The provisions for an administrative use permit, Section 51.02, Subd. C of this Ordinance, are considered and satisfactorily met.
- f. **Submission of Plans.** All applications, except single family residential, that include outdoor lighting shall include evidence the proposed outdoor lighting will comply with this section. The application shall contain the following information, in addition to other required information:
- 1) Site plans indicating the location on the premises of all illuminating devices, fixtures, lamps, supports, reflectors, and other lighting devices.
 - 2) Description of the type of illuminating devices, fixtures, lamps, supports, reflectors, and other lighting devices (angle of cutoff). The description shall include, but is not limited to, catalog cuts by manufacturers and drawings (including sections where required).
 - 3) Photometric plans illustrating the light emissions, and illumination field of the proposed site lighting.
3. **Smoke.** The emission of smoke by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Rules, MPCA Chapter 7009, as amended.
4. **Dust and Other Particulated Matter.** The emission of dust, fly ash or other particulated matter by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Rules MPCA Chapter 7009, as amended.

5. **Noise.** Noises emanating from any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Rules MPCA 7030, as amended and City Code.
6. **Waste Material.** Waste material resulting from or used in industrial or commercial manufacturing, fabricating, servicing, processing or trimming shall not be washed into the public storm sewer system, the sanitary sewer system or any public water body, but shall be disposed of in a manner approved by the Minnesota State Fire Marshal, the Pollution Control Agency, the Department of Natural Resources and the Zoning Administrator.
7. **Bulk Storage (Liquid).** All uses associated with the bulk storage of all gasoline, liquid fertilizer, chemical, flammable and similar liquids shall comply with requirements of the Minnesota State Fire Marshal, Minnesota Department of Agricultural Offices, and have documents from those offices stating the use is in compliance.
8. **Electrical Emission.** All activities which create electrical emissions shall comply with the minimum requirements of the Federal Communications Commission.
9. **Exterior Storage.**
 - a. Residential Zoning Districts.
 - 1) **Exceptions.** All personal property in a residential zoning district shall be stored within a building or fully screened so as not to be visible from adjoining properties and public streets, except for the following items which may be stored in a rear yard or an interior side yard and provided they maintain a five (5) foot setback from the rear and interior side lot line:
 - a) Laundry drying equipment.
 - b) Non-vehicular recreational equipment.
 - c) Home heating fuel tanks.
 - d) Stacked firewood.
 - e) Construction and landscaping materials or equipment currently (within a period of twelve (12) months) being used on the premises.
 - f) Agricultural equipment and materials, if these are used or intended for use on the premises.
 - g) Off-street parking of licensed passenger automobiles and pick up trucks in designated driveway or parking area, surfaced in compliance with Section 51.03, Subd. E of this Ordinance.

- h) Licensed motor vehicles per Section 51.03 Subd. E.3.f of this Ordinance.
- 2) Recreational and Utility Vehicle and Trailer Storage. Recreational vehicles, as defined by Section 51.01, Subd. B.2 of this Ordinance may be parked or stored on a residential site provided that:
- a) The vehicles are registered to or rented by a resident of the dwelling on such site, provided that:
 - (1) The vehicles have affixed thereto current registration or license plates as required by law and are operable.
 - (2) The vehicles are stored no closer than five (5) feet from side and rear lot lines.
 - (3) The vehicles located within front or side yard areas are confined to designated driveways or parking areas surfaced in compliance with Section 51.03, Subd. E.5.d of this Ordinance.
 - b) All front yard storage shall be set back fifteen (15) feet from street curb and/or pavement lines.
 - c) No vehicle shall be parked in a manner that blocks a city or county trail or sidewalk.
 - d) The vehicles are not connected to any electrical, water or sewage disposal system on the residential property where the same is so parked or stored.
 - e) The vehicle shall not be stored or parked on a public street for a period longer than twenty-four (24) hours

b. Commercial and Industrial Zoning Districts.

- 1) Exterior Storage. Exterior storage shall be governed by the respective zoning district in which such use is located.
- 2) Screening. All exterior storage shall be screened so as not to be visible from adjoining properties and public streets except for the following:
 - a) Merchandise being displayed for sale in accordance with zoning district requirements.

- b) Materials and equipment currently being used for construction on the premises.
 - 3) Within an industrial zoning district, the exterior storage of semi-trailers accessory to the principal use may be allowed by conditional use permit according to Section 51.02, Subd. B. Semi-trailers connected to semi-tractors queuing for loading or unloading shall be considered truck parking and be exempt from the outdoor storage conditional use permit.
- c. All Zoning Districts.
- 1) No recreational vehicles may be used as a residence, office, business, industrial manufacturing, testing, or storage of items in conjunction with a residential, business, commercial, or industrial enterprise.
 - 2) Temporary trailers and facilities generated by public service agencies (i.e., bookmobiles, bloodmobile, highway construction trailers, etc.) are a permitted use allowed by administrative permit provided:
 - a) The facilities are located in a manner that does not interfere with traffic on a public street.
 - b) The facility has a specific term for placement and removal approved by the City.
 - 3) Temporary real estate sale/rental trailers or offices may be allowed by interim use permit, regulated by Section 51.02, Subd. 3 of this Ordinance provided:
 - a) The temporary sales trailer/office is located on a site of a City approved project or subdivision.
 - b) The temporary trailer/office meets all the required setbacks of the underlying zoning district.
 - c) The temporary trailer/office provides adequate parking in accordance with Section 51.03, Subd. E of this Ordinance.
 - d) The site is landscaped in a manner that enhances the temporary trailer and allows for reuse of the site after trailer removal.

- e) The applicant provide a schedule for the removal of the trailer and reclamation of the site consistent with the approved site plan or subdivision.
- 4) The City Council may order the owner of any property to cease or modify open storage uses including existing uses, provided it is found that such uses constitute a threat to the public health, safety, convenience or general welfare.

10. Required Screening, Landscaping, and Buffer Yards.

- a. Screening. Where any business or industrial use (i.e., structure, parking or storage) abuts property zoned for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business or industry is across the street from a residential zone, but not on that side of a business or industry considered to be the front (as determined by the Zoning Administrator). All the fencing and screening specifically required by this Ordinance shall be subject to Section 51.03, Subd. D.10 and shall consist of either a fence or a green belt planting strip as provided for below:
 - 1) A green belt planting strip shall consist of vegetation and plants and shall be of sufficient width and density to provide an effective visual screen. This planting strip shall be designed to provide eighty (80) percent opacity to a minimum height of six (6) feet at time of planting. Earth mounding or berms may be used but shall not be used to achieve more than three (3) feet of the required screen. In such cases when planting strips are used in conjunction with berms designed to support plant growth, plant height may be reduced accordingly such that an eighty (80) percent visual screen of not less than six (6) feet in height is maintained. The planting plan and type of plantings shall require the approval of the City Council.
 - 2) A required screening fence shall be constructed of masonry, brick, wood or metal. Such fence shall provide a screening effect to eighty (80) percent opacity to a height of six (6) feet. The design and materials used in constructing a required screening fence shall be subject to the approval of the City Council. Fences in excess of six (6) feet in height shall require approval of the Zoning Administrator. Plantings shall be included in the design of any screening fence except as otherwise approved by the City Council due to grade constraints.
- b. Landscaping - General Residential. The lot area remaining after providing for off-street parking, off-street loading, sidewalks, driveways, building site and/or other requirements shall be landscaped using ornamental grass, shrubs, trees or other acceptable vegetation or treatment generally used in landscaping prior to issuance of a certificate of occupancy. Prior to issuance of certificate of occupancy, the front yard extending from the back of street curb to the front of the home shall be sodded except for areas landscaped with shrubs, trees, or other acceptable vegetation. At least one (1) shade tree of two (2) inches diameter shall be provided in the front yard. Occupancy may be taken in the Winter with a temporary certificate of occupancy provided a security is posted equal to one

hundred fifty (150) percent of the cost of any remaining landscaping to be accomplished and all such remaining landscaping shall be installed by the first of June the following Spring. Fences, trees, or other plantings placed upon utility easements require City approval and are subject to removal at the owner's expense if required for the maintenance or improvement of the utility. The City assumes no liability for replacement. Branches of trees on utility easements containing overhead wires shall not extend within ten (10) feet of such wires at mature plant height.

c. Landscaping - New Residential Subdivisions, Semi-Public and All Income Producing Property Uses. (Excluding residential structures containing less than four (4) dwelling units). Prior to approval of a building permit, all above referenced uses shall be subject to mandatory landscape plan and specification requirements.

- 1) The landscape plan shall address the following:
 - a) The boundary or perimeter of the proposed subdivision or site at points adjoining other properties.
 - b) The immediate perimeter of the structure.
 - c) The perimeter and landscaped islands within parking and loading areas, and light standards.
 - d) Preservation of existing trees in conformance with Section 51.03, Subd. D.10.d of this Ordinance.
 - e) Required screening and/or buffer yards.
 - f) Wetland, ponding, wetland filter strips, landscaping, buffering and restoration.
- 2) All landscaping incorporated in said plan shall conform to the following standards:
 - a) All plants shall be at least equal to the following minimum size:

	<u>Potted/Bare Root</u>	<u>or</u>	<u>Balled & Burlapped</u>
Shade Trees*		2 in. dia	2 in. dia

Half Trees (Flowering Crabapple, Hawthorn, Etc.)	6 - 7 ft.	1-1/2 in. dia
Evergreen Trees	-----	3 - 4 ft.
Tall Shrubs & Hedge Material (Evergreen or Deciduous)	3 - 4 ft.	3 - 4 ft.
Low Shrubs - Deciduous	18-24 in.	24-30 in.
- Evergreen	18-24 in.	24-30 in.
- Spreading Evergreen	18-24 in. potted	18-24 in. potted

* Type and mode are dependent upon time of planting season, availability, and site conditions (soils, climate, ground water, manmade irrigation, grading, etc.).

b) Types of New Plantings. Plantings and suitable trees include but are not limited to:

(1) Deciduous Trees:

<u>Common Name:</u>	<u>Scientific Name:</u>
Oak	<i>Quercus</i> (all climatic Zone 4 varieties)
Maple	<i>Acer</i> (all climatic Zone 4 varieties)
Hackberry (Thornless)	<i>Celtis occidentalis</i>
Birch	<i>Betula</i> (all climatic Zone 4 varieties)
Honeylocust	<i>Gleditsia triacanthos</i>
Linden/Basswood (American and Little Leaf)	<i>Tilia (cordata and americana)</i>
Ash (Green and White)	<i>Fraxinus (pennsylvanica & americana)</i>
Ginkgo (male tree only)	<i>Ginkgo biloba</i>
Kentucky Coffee Tree	<i>Gymnocladus dioicus</i>
Ohio Buckeye	<i>Aesculus glabra</i>
Amur Chokecherry	<i>Prunus maackii</i>
Delaware American Elm	<i>Ulmus americana "Delaware"</i>
Amur Cork	<i>Phellodendron amurense</i>
Robusta Poplar	<i>Populus X robusta</i>
Niobe Weeping Willow	<i>Salix X blanda</i>
Crabapple	<i>Malus spp.</i>

(2) Evergreen Trees:

<u>Common Name:</u>	<u>Scientific Name:</u>
Fir	<i>Abies</i> (all climatic Zone 4 varieties/ <i>Pseudotsuga</i>)
Spruce	<i>Picea</i> (all climatic Zone 4 varieties)
Pine	<i>Pinus</i> (all climatic Zone 4 varieties)
Canadian Hemlock	<i>Tsuga canadensis</i>
European Larch	<i>Larix decidua</i>
Cedar	<i>Cedrus</i> (all climatic Zone 4 varieties)

(3) Shrubs:

<u>Common Name:</u>	<u>Scientific Name:</u>
Dwarf-winged euonymus	<i>Euonymus alatus</i> "compactus"
Winged euonymus	<i>Euonymus alatus</i>
Privet	<i>Ligustrum</i> spp.
Mock orange	<i>Philadelphus</i> spp.
Sumac	<i>Rhus</i> spp.
Common lilac	<i>Syringa vulgaris</i>
Japanese yew	<i>Taxus cuspidata</i>
American arborvitae	<i>Thuja occidentalis</i>

(4) Ground Covers:

<u>Common Name:</u>	<u>Scientific Name:</u>
Ground juniper	<i>Juniperus</i> spp.
Periwinkle, myrtle	<i>Vinca minor</i>

(5) Wetland and Pond Plantings: All wetland and pond plantings shall require City review and approval.

c) Prohibited Trees:

(1) Deciduous Trees:

Norway Maple
Silver Maple
Siberian Elm
Cottonwood

(2) Coniferous Trees:

None

d) Design.

- (1) The landscape plan shall show some form of designed site amenities (i.e., composition of plant materials, and/or creative grading, decorative lighting, exterior sculpture, etc., which are largely intended for aesthetic purposes).
- (2) All areas within the property lines (or beyond, if site grading extends beyond) shall be treated. All exterior areas not paved or designated as roads, parking, or storage shall be planted into ornamental vegetation (lawns, ground covers, or shrubs) unless otherwise approved by the City.
- (3) Turf slopes in excess of three to one (3:1) are prohibited.
- (4) Four (4) inches of black dirt shall be applied to all disturbed landscape situations and be thoroughly tilled into the sub-grade to a minimum depth of seven (7) inches. Existing top soil shall be preserved in place or stockpiled and redistributed on the site as top soil in final grading.
- (5) All ground areas under the building roof overhang must be treated with a decorative mulch and/or foundation planting.
- (6) All sites shall have irrigation or an exterior water spigot to insure that landscape maintenance can be accomplished.
- (7) Trees and shrubs shall not be planted in the right-of-way except for designated parkways and boulevard reforestation as determined by City.
- (8) Plant material centers shall not be located closer than three (3) feet from the fence line or property line and shall not be planted to conflict with public plantings based on the judgment of the City.
- (9) Where planting materials are planted in two (2) or more rows, plantings shall be staggered in rows unless otherwise approved by the City staff.

- (10) Large deciduous shrubs shall be planted so that mature widths shall overlap so as to provide an effective visual screen.
 - (11) All landscaped areas, except those consisting entirely of prairie plantings, shall be mulched to a minimum of two (2) inches with a mulch material deemed acceptable by the City.
 - (12) In areas with naturalistic plantings, plant mix and spacing should approximate native plant communities and/or readily succeed to a naturalistic stand. In addition, naturalist plantings should be bordered with a strip of mowed grass or other more "manicured" edge.
- e) Landscape Guarantee. All new plants shall be guaranteed for twelve (12) months from the time construction has been completed. All plants shall be alive, of good quality, and disease free at the end of the warranty period or be replaced. Any replacements shall be warranted for twelve (12) months from the time of planting or a letter of credit and/or cash escrow in lieu of a warranty.
- f) Landscaping Maintenance.
- (1) General. The property owner, or if applicable, the homeowners association, shall be responsible for maintenance of landscape elements (plants, structures, pavement, etc.) so as to present a neat and aesthetically pleasing appearance free of any unhealthy or potentially unsafe conditions.
 - (2) Disease Control. Plants shall be maintained in a healthful, disease-free condition. Plants that have died or become diseased shall be promptly replaced.
 - (3) Watering. Automatic irrigation systems should be operated between the hours of midnight and 6:00 AM or as otherwise approved by the City. Irrigating during these hours reduces fungus growth and loss of water due to evaporation. Irrigation systems shall be maintained to minimize water waste due to loss of heads, broken pipes, or misadjusted nozzles.

- (4) Pruning. All pruning should be accomplished according to good horticultural practices. Trees shall be pruned only as necessary to promote healthy growth.
- (5) Removal or Replacement. It shall be the responsibility of the property owner, or if applicable, the homeowners association, to remove any trees or shrubs, or parts thereof, that are dead, diseased, or that overhang or interfere with traffic control devices, public sidewalks, rights-of-way, or property owned by someone else.
- (6) Non-Compliance. If the City finds that the property is not in compliance with the approved landscaping/screening plan, it shall inform the applicant regarding the non-compliance and describe, in writing, the steps needed to bring the property into compliance within a reasonable timeframe, not to exceed sixty (60) calendar days.

d. Tree Preservation.

- 1) Tree Preservation for Single Family (Custom Graded Lots in a Tree Preservation Subdivision), Commercial, Industrial, Multiple Family Residential, and Institutional Lots.
 - a) Builders shall furnish the following items for tree preservation at the time the building permit application is submitted for all lots with at least one (1) significant tree:
 - (1) A tree preservation plan with the elements described below. The individual lot tree preservation plan shall be certified by a forester or landscape architect and signed by the homeowner.
 - (2) Financial security in an amount determined by City Council, and adopted by ordinance, shall be required for tree protection requirements for each lot or outlot with at least one (1) significant tree to be saved and each lot that is a custom grading lot.
 - b) Builders shall be liable for their sub-contractors that destroy or damage significant trees that were indicated to be saved on the individual lot tree preservation plan.

- c) Tree protection measures shall remain in place until all grading and construction activity is terminated.
- d) Site grading for individual lots shall comply with the final grading plan of the plat and shall not result in the flooding of tree preservation areas.
- e) No soil disturbance shall occur within the lot until the tree preservation plan is approved and tree protection measures are in place.
- f) Pruning of oak trees shall not take place from April 15 through July 1. If wounding of oak trees occurs, a non-toxic tree wound dressing must be applied immediately. A non-toxic tree wound dressing shall be available on the development site at all times.
- g) Builders, contractors, or others working on site shall not fill, stockpile materials, or store equipment or vehicles against the trunk of the tree, in the critical root zone, or under the drip line of a tree to be saved.
- h) On mass graded lots with at least one (1) significant tree to be saved, home builders are required to follow the tree preservation plan for the plat.
- i) For each custom graded lot with at least one (1) significant tree, the builder shall submit an individual lot tree preservation plan. The plan shall be consistent with the original tree preservation plan for the plat. The property owner and/or builder, applicant's forester, or landscape architect shall meet with City staff prior to the development of the individual lot tree preservation plan to determine the placement of the building where the fewest significant trees would be destroyed or damaged. The builder shall be responsible for ensuring the tree preservation plan is followed during building construction.
- j) The tree preservation plan shall be prepared and incorporated on the certificate of survey required for a building permit and shall include the following:
 - (1) Size, species, and location of all significant trees, specimen trees, and significant tree stands including significant trees with drip lines or critical root zones extending over the lot line of an adjoining lot.

- (2) Identification of all significant trees proposed to be saved and significant trees proposed to be removed, including significant trees with drip lines or critical root zones extending over the lot line of an adjoining lot.
 - (3) Location of snow fencing or polyethylene laminar safety netting placed at the drip line or critical root zones.
 - (4) Installation of signage at all tree protection areas that instructs workers to stay out.
 - (5) Erosion control methods.
 - (6) Measures proposed to protect significant trees including but not limited to:
 - (a) Tree removal procedures including directional felling away from existing trees to be saved and trenching to separate root systems prior to bulldozing trees or stumps.
 - (b) Coordination of utility planning with tree preservation plan to strategically extend utility connections from the street to the building in a manner that protects trees intended to be saved.
 - (c) Measures for preventing changes in soil chemistry due to concrete wash out and leakage or spillage of toxic materials such as fuels or paints.
- k) The Building Official shall monitor the tree protection measures at the time of routine inspections.
- l) If tree replacement is required on the individual lot because a tree which was to be saved was destroyed or damaged, the applicant's forester or landscape architect, in conjunction with the property owner, shall determine where the replacement trees shall be installed. Replacement trees shall not be placed on easements or street rights-of-way.
- m) Prior to the issuance of a certificate of occupancy and release of tree preservation security, the applicant's forester

or landscape architect shall certify to the City in writing the final disposition of saved trees on the lot and that all the tree protection measures identified on the tree preservation plan were installed from the start of construction to the end of construction and tree replacement is completed, if necessary.

e. Buffer Yards.

- 1) Establishment. Space for buffering/screening plantings shall be established along major highways, arterials, and collector streets in accordance with the applicable provisions of the City's subdivision regulations.
- 2) Screening Plan Required. For applicable subdivisions, a comprehensive screening plan shall be submitted. The plan shall identify all proposed buffer screening in both plan and sectional view.
- 3) Timing/Responsibility of Installation. Weather permitting, all buffer yards, berms, and/or plantings shall be constructed or planted prior to the issuance of an occupancy permit.
- 4) Maintenance.
 - a) Maintenance (including mowing) of the buffer yard planting and/or fence shall be the responsibility of the individual property owners or if applicable, the homeowners association.
 - b) Color of the screening wall or fence shall be uniform along its entire length and shall not be modified without City approval.
 - c) All repairs to the screening wall or fence shall be consistent with the original screening wall fence design in regard to location and appearance.
 - d) Replacement of landscape materials or plantings in a screen area shall be consistent with the original screen design.
 - e) All repair or plant replacement shall be done within forty-five (45) days of written notification from the City or if applicable, the homeowners association.
- 5) Design Standards.

- a) Plantings. All plantings within designated buffer yards shall comply with the following:
 - (1) Plant material centers shall not be located closer than three (3) feet from the fence line or property line.
 - (2) Landscape screen plant material shall be planted in two (2) or more rows. Plantings shall be staggered in rows unless otherwise approved by the City.
 - (3) Landscape material sizes shall be consistent with Section 51.03, Subd. D.10.c.2) of this Ordinance.
 - (4) Plantings suitable for buffering/screening purposes include, but are not limited to, types listed in Section 51.03, Subd. D.10.c.2) of this Ordinance:
 - (5) In areas with naturalistic plantings, plant mix and spacing should approximate native plant communities and/or readily succeed to a naturalistic stand. In addition, naturalist plantings should be bordered with a strip of mowed grass or other more "manicured" edge.
- b) Walls and Fences. All walls and fences erected within designated buffer yards shall comply with the following:
 - (1) At least fifty (50) percent of the street side of a screening fence shall be landscaped with plant materials. Plant materials shall be at least equal to the fence height.
 - (2) Exposed fences shall run a maximum length of fifty (50) feet between landscaping areas or clusters.
 - (3) Walls, fences and landscaping shall not be located within the traffic visibility triangle as defined in Section 51.03, Subd. D.5.a.3) of this Ordinance.
- c) Earth Berms. Earth berms designed to support landscape plantings existing within designated buffer yards shall:
 - (1) Be designed to support plantings.

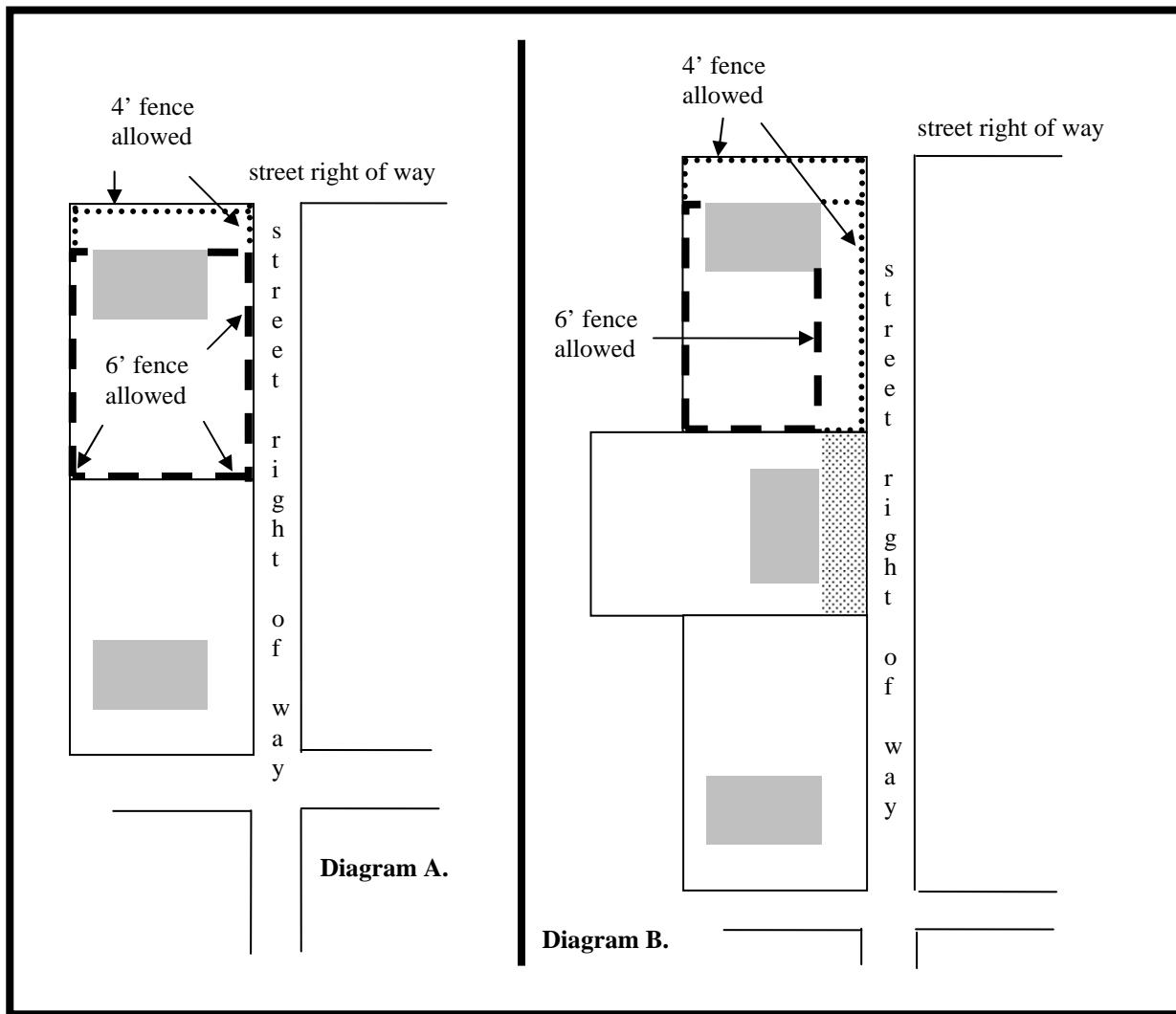
- (2) Not exceed a three to one (3:1) slope unless approved by the City Engineer.
- (3) Contain no less than four (4) inches of topsoil.

11. **Fences.** Fences shall be permitted in all required yards subject to the following:

- a. Permit Required. It is unlawful for any person hereafter to construct or cause to be constructed or erected within the platted areas of the City, any fence without first making an application for and securing a fence permit.
- b. Certificate of Survey. An application for a fence permit shall be accompanied by a current certificate of survey providing exact lot dimensions, the location of existing buildings, structures, and easements on the lot, and the location of the proposed fence. At the discretion of the City, a final plat detail of the lot with the required information shown may suffice if no certificate of survey is available. Applicant shall be required to physically identify the property corners for City inspection.
- c. Location. All fences or walls shall be located entirely within the private property of the person, firm, or corporation constructing or causing the construction of such fence.
 - 1) No fence or wall shall be permitted on public rights-of-way.
 - 2) Traffic visibility requirements set forth in Section 51.03, Subd. B.5.a.3) of this Ordinance shall be satisfactorily met.
 - 3) No fence or wall shall obstruct natural drainage or extend within a wetland, land, drainage ditch, or river.
 - 4) Fences may be constructed within public and private utility and drainage easements provided that:
 - a) No fence or wall shall be located within a drainage or utility easement without written permission of the Zoning Administrator and/or the private utility provider and the filing of an encroachment agreement.
 - b) Removal of a fence or wall or a portion thereof for the purpose of utilizing the easement shall be at the property owner's expense.
 - 5) Shoreland Height. No fence shall exceed three (3) feet in height which abuts any navigable lake, river, or stream within a shoreland impact area.
- d. Construction and Maintenance.

- 1) Every fence shall be constructed in a professional and substantial manner and of substantial material reasonably suitable for the purpose for which the fence is proposed to be used. The materials and design shall also be compatible with other structures in the area in which the fence is located and shall not cause blight or a negative impact. Fences shall be at least five (5) percent open to provide space for the passage of air. No used material shall be used in conjunction of fences.
 - 2) Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a nuisance, public or private. Any such fence which is or has become dangerous to the public safety, health or welfare is a public nuisance, and the City shall commence proper proceedings for the abatement thereof.
 - 3) All posts or similar supporting instruments used in the construction of fences shall be faced inward toward the property being fenced. That side of the fence considered to be the face shall be oriented toward abutting property or rights-of-way.
 - 4) Fences which are ninety (90) percent open (barb wire, chain link, woven wire, and other similar type fences) which are for the sole purpose of containing non-domestic animals within a rural zoning district are not subject to the provisions of this Ordinance and do not require a building permit. Chain link fences shall have round steel parts and braces. Electric fences and barb wire are prohibited in all residential districts, except farming activities within the R-A Zoning District.
 - 5) Solid walls and retaining walls (such as masonry construction) in excess of forty-eight (48) inches in height shall require a building permit. When utilized, tiered retaining walls shall be separated by a horizontal landing not less than three (3) feet in width.
- e. Access. All fences shall be provided with a gate which affords reasonable and convenient access for public safety.
- f. Residential District Fences.
- 1) All residential district fences shall be placed within the property being fenced.
 - 2) Fences may be located in any yard up to a height of four (4) feet.

- 3) Except as prohibited by Section 51.03, Subd. D.11.f.5) below, a fence up to six (6) feet high may be erected from a line extended from the front facade of the principal building to the side lot lines, and then along the side lot lines and the rear lot line (see Diagram A).
- 4) Should the rear lot line of a lot be common with the side lot line of an abutting lot, that portion of the rear or side lot equal to the required front yard setback of the abutting lot shall not be fenced to a height of more than four (4) feet. For the purpose of this section, the front and side yards of the abutting lot shall be as defined in this Ordinance rather than as related to the orientation of the house (see Diagram B).
- 5) Fences in excess of four (4) feet in height shall be located a minimum of ten (10) feet from the right-of-way of any alley.
- 6) Residential Fences Height Exceptions.
 - a) Fences for sport courts may be up to twelve (12) feet in height with ten (10) foot setback.
 - b) Residential boundary line fences may be erected to a height of eight (8) feet along a property line abutting a commercial, industrial, or semi-public use or zoning district.
- 7) Wire fence other than chain link shall not be permitted as boundary line fences within five (5) feet of the property in residential zoning districts.



g. Commercial and Industrial District Fences.

- 1) Fences in all commercial and industrial districts shall not exceed eight (8) feet in height, except that:
 - a) Fences erected within the required front yard shall not be over eight (8) feet in height, shall conform to Section 51.03, Subd. B.5.a.3) of this Ordinance, and shall be of a chain link construction permitting maximum visibility.
 - b) Fences erected within side or rear yards which abut any navigable lake channel or stream shall not exceed four (4) feet in height.

- 2) Within commercial and industrial and public/semi-public zoning districts, barbed wire may be attached to the tops of fences with the following conditions:
 - a) Fences shall be a minimum of eight (8) feet in height exclusive of the security arm.
 - b) The security arm shall be angled in such a manner that it extends only over the property of the permit holder.
 - c) Wire security fencing shall not be permitted within the required front yard or along a property line abutting a residential use.
- 3) Setback from Alleys. Commercial and industrial fences shall be a minimum of ten (10) feet from any alley right-of-way.

Subd. E. Off-Street Parking.

1. **Purpose.** The regulation of off-street parking spaces in these zoning regulations is to alleviate or prevent congestion of the public right-of-way and to promote the safety and general welfare of the public, by establishing minimum requirements for off-street parking of motor vehicles upon various parcels of land or structures.
2. **Application of Off-Street Parking Regulations.** The regulations and requirements set forth herein shall apply to all off-street parking facilities in all of the zoning districts of the City.
 - a. **Site Plan Drawing Necessary.** All applications for a building or an occupancy permit in all zoning districts shall be accompanied by a site plan drawn to scale and dimensioned and indicating the location of off-street parking, loading spaces, driveways, and curb cuts in compliance with the requirements set forth in this subdivision and Section 51.03, Subd. C.8 of this Ordinance. Every detached single family dwelling unit erected after the effective date of this Ordinance shall be so located on the lot so that at least a two (2) car garage, either attached or detached in conformance with this Ordinance, can be located on said lot.
 - b. **Exemptions From Parking Requirements.** All business uses located within the B-4, Central Business District shall be exempt from the following off-street parking requirements of this Ordinance.
3. **General Provisions.**
 - a. **Space Reduction.** Existing off-street parking spaces upon the effective date of this Ordinance shall not be reduced in number unless said number exceeds the requirements set forth herein for a similar new use.
 - b. **Existing Uses.** Should a legal, non-conforming building, structure, or use in existence upon the effective date of this Ordinance be damaged or destroyed by fire or other cause, it may be re-established in accordance with Section 51.03, Subd. A of this Ordinance, except that in so doing, any off-street parking or loading which existed shall be retained.
 - c. **Change of Use or Occupancy of Buildings.** Any change of use or occupancy of any building or buildings including additions thereto requiring more parking area shall not be permitted until there is furnished such additional parking spaces as required by these zoning regulations.
 - d. **Use of Parking Area.** Required off-street parking space in any district shall not be utilized for open storage of goods or for the storage of vehicles which are inoperable or for sale or for rent.

- e. Accessible Parking. All parking associated with any building, structure or use shall be required to conform to the disability accessible parking standards pursuant to Minnesota Statutes 168.021, as may be amended.
- f. Use of Parking Facilities in Residential Districts. Off-street parking facilities accessory to a residential use shall be utilized solely for the parking of passenger automobiles, recreational vehicles, and/or one truck not to exceed eleven thousand seventy-five (11,075) pounds gross weight rating for each dwelling.
- g. Use of Required Parking Facilities in Commercial and Industrial Districts. Required accessory off-street parking spaces in commercial and industrial districts shall not be utilized for open storage, sale or rental of goods, storage of inoperable vehicles and/or storage of snow.
- h. Calculating Space.
 - 1) The term "floor area" for the purpose of calculating the number of off-street parking spaces required shall be determined on the basis of the exterior floor area dimensions of the buildings, structure or use times the number of floors, minus ten (10) percent, except when floor plans are submitted that identify net usable floor area of the building exclusive of ancillary floor areas that do not generate parking demand (e.g., stair wells, hallways, restrooms, closets, utility rooms).
 - 2) When determining the number of off-street parking spaces results in a fraction, each fraction of one-half (1/2) or more shall constitute another space.
 - 3) In gymnasiums, churches and other places of public assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each twenty-two (22) inches of such seating facilities shall be counted as one (1) seat for the purpose of determining requirements.
 - 4) Except as provided for under joint parking and shopping centers, should a structure contain two (2) or more types of use, each use shall be calculated separately for determining the total off-street parking spaces required.

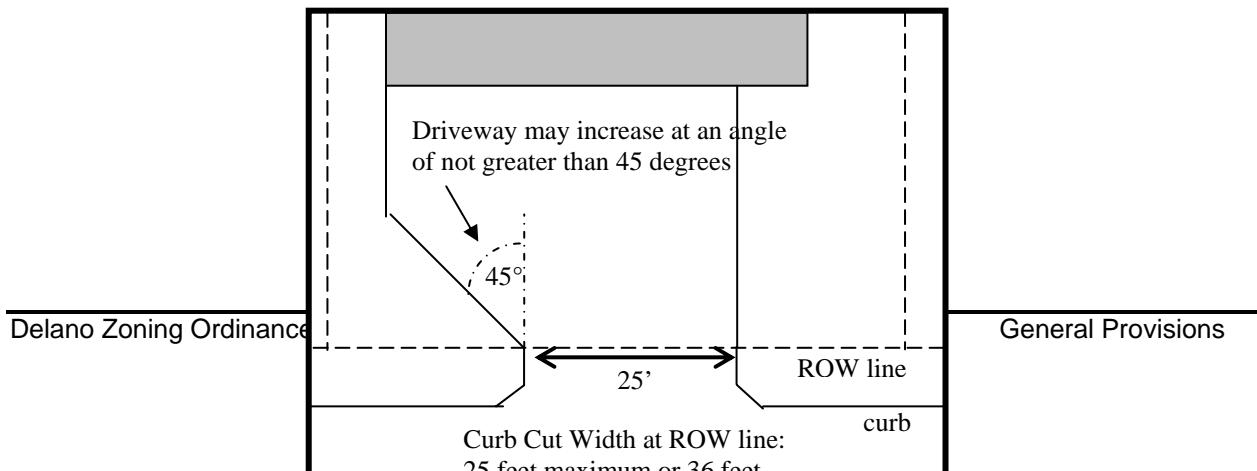
4. **Access and Driveway Design.**

- a. Collector/Minor Arterial Street Access. Access to any street shown as a collector or arterial roadway on the City's Comprehensive Plan shall

require review and comment by the affected agency (Wright County Highway Engineer or MnDOT) and City. This review shall be required prior to the issuance of any building permits. The County or City Engineer shall determine the appropriate location, size and design of each access drive and may limit the number of access drives in the interest of public safety and efficient traffic flow.

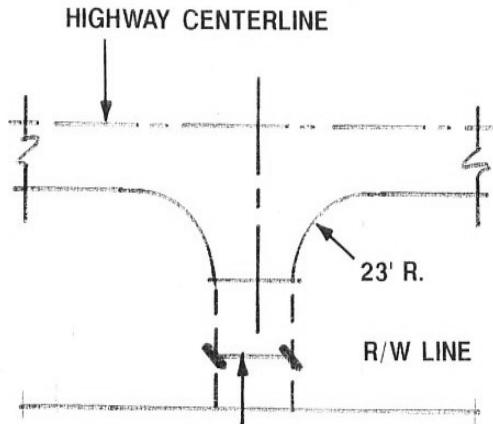
- b. Street/Alley Access. Except in the case of single, two family, townhouse and quadraminium dwellings, parking areas shall be designed so that circulation between parking bays or aisles occurs within the designated parking lot and does not depend upon a public street or alley. Except in the case of single, two family, townhouse, and quadraminium dwellings, parking area design which requires backing into the public street is prohibited. New residential subdivisions shall be designed to limit direct lot access onto any street shown as a collector or arterial roadway on the City's Comprehensive Plan.
- c. Curb Cut/Driveway Access Location.
 - 1) No residential curb cut/driveway access shall be located less than thirty (30) feet from the intersection of two (2) or more local or minor street rights-of-way. Minimum distance from an intersection for commercial uses shall be sixty (60) feet. This distance shall be measured from the intersection of lot lines. Curb cut/driveway access setbacks from the intersection of streets with higher functional classifications shall be consistent with the recommendations of the Comprehensive Plan and require approval by the City Engineer.
 - a) Street functional classification shall be defined by the Delano Comprehensive Plan.
 - b) The setback measurement shall be measured from the edge of the street right-of-way to the nearest edge of the curb cut.
 - c) Driveways onto arterials and major collectors shall be prohibited where alternative street access is available. For existing lots of record, where alternative access is not available, direct access onto arterial and major collectors may be permitted, provided a site plan is submitted for review and approval of the City Engineer. Approval is also subject to the conditions of this Ordinance.
 - 2) Curb cut/driveway access on a public street except for single, two family, and townhouse dwellings shall not be located less than forty (40) feet from one another.

- 3) In all zoning districts except the R-4 and R-5 Zoning Districts, all driveways and parking stalls shall be set back a minimum of five (5) feet from all property lines. Within an R-4 or R-5 Zoning District, driveways and parking stalls shall be set back a minimum of two (2) feet from all property lines. The City may allow an exception to the required setback to accommodate a shared driveway along a common property line, provided the following conditions are met:
- a) Access easements are established and recorded over the shared driveway in favor of each affected property owner.
 - b) A maintenance agreement between the property owners is established and recorded for the shared driveway.
 - c) The shared driveway shall not encroach upon a public utility or interfere with drainage.
- 4) Each property shall be allowed one (1) curb cut access for each one hundred twenty-five (125) feet of street frontage. All property shall be entitled to at least one (1) curb cut. Detached single family dwelling uses shall be limited to one (1) curb cut access per property.
- d. Curb Cut/Driveway Width. No curb cut shall exceed twenty-five (25) feet in width within a residential zoning district, or thirty-two (32) feet in width if the property is in a commercial, industrial, or public/semi-public zoning district, as measured at the street right-of-way line unless approved by the City Engineer. The driveway associated with such curb cut may increase in width at an angle not greater than forty-five (45) degrees into the property.



- e. Driveway Installation – Non-Curb and Gutter. Driveways may be installed within public road rights-of-way in non-curb and gutter areas subject to the following:
- 1) No work under this application is to be started until application is approved and permit issued by the City Council of the City of Delano.
 - 2) Number of accesses allowed per lot shall conform to regulations outlined within this Ordinance.
 - 3) Where work on a traveled roadway is necessary, traffic must be protected, therefore flags, flares and proper barricades must be placed in accordance with the standards of the Minnesota Department of Transportation.
 - 4) No foreign material such as dirt, gravel or bituminous material shall be left or deposited on the road during construction of the driveway or installation of drainage facilities.
 - 5) Driveway shall be so constructed as to slope down and away from the shoulder line of the highway for a distance of at least fifteen (15) feet with a full of at least six (6) inches (see attached).
 - 6) Side slopes shall not be constructed steeper than four (4) feet horizontally to one (1) foot vertically (4:1), unless approved by the City Engineer. These slopes shall be constructed flatter than 4:1 along certain roadways when so indicated. The slopes shall be hand finished and seeded or sodded.
 - 7) Property and adequate drainage facilities shall be provided as required by the City. The owner shall pay all construction costs including such cost of the drainage structures as determined by the City of Delano.

- 8) The area on the roadway right-of-way other than that of the driveway itself will normally be in the form of a ditch. Modifications may be permitted provided proper drainage is furnished and curbs, or other approved safeguards are installed to prevent misuse. Any modifications must receive City approval prior to any work being started.
- 9) Roadside must be cleaned up after work is completed.
- 10) After driveway construction is completed, the permittee shall notify City Hall that work has been completed and is ready for final inspection and approval by the City Street Superintendent.
- 11) No changes or alterations in entrances may be made at any time without an additional permit issued by the City Council.
- 12) An excavator shall contact the State of Minnesota Underground Facility Operators and provide notice at least forty-eight (48) hours prior to any digging.
- 13) Any driveway construction onto a County road shall first obtain permit approval from the Wright County Department of Highways.
- 14) Any driveway construction onto a State highway shall first obtain permit approval from the Minnesota Department of Transportation.
- 15) Owner of said property shall maintain the driveway to meet all performance standards contained herein.

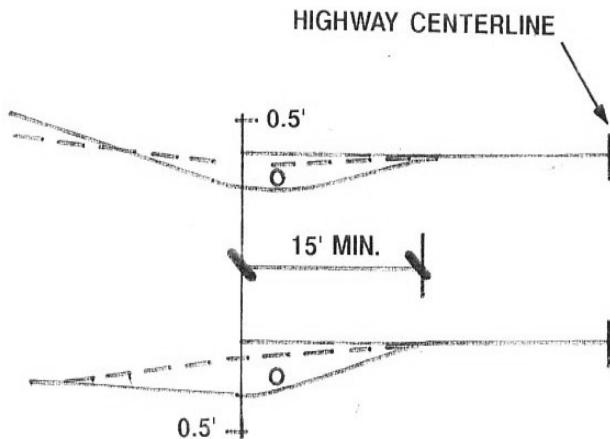


RURAL RESIDENCE ENTRANCE - 16'

FARM ENTRANCE - 20'

FIELD ENTRANCE - 20'

COMMERCIAL ENTRANCE - 30'



CUT & FILL SECTIONS

ENTRANCES



CROSS SECTIONS



5. Parking Lot Design Standards.

- a. Parking Area Standards. Parking areas and the aisles shall be developed in compliance with the following standards:

Angle of Parking	Stall Width (B)	Curb Length Per Car (C)	Stall Length (D)	Stall Depth Wall to Aisle (E)	Stall Depth Interlock to Aisle	Aisle One Way (F)	Aisle Width Two Way (F)
90°	9' 0"	9' 0"	18' 0"	18' 0"	18' 0"	24' 0"	24' 0"
75°	9' 0"	9' 6"	18' 0"	20' 8"	19' 10"	21' 6"	23' 0"
60°	9' 0"	10' 5"	18' 0"	21' 0"	19' 10"	18' 0"	22' 0"
45°	9' 0"	12' 9"	18' 0"	19' 10"	17' 10"	15' 0"	22' 0"
0°	9' 0"	22' 0"	22' 0"	9' 0"	9' 0"	12' 0"	24' 0"

A - Angle of Parking

E - Stall Width

C - Curb Length per Car

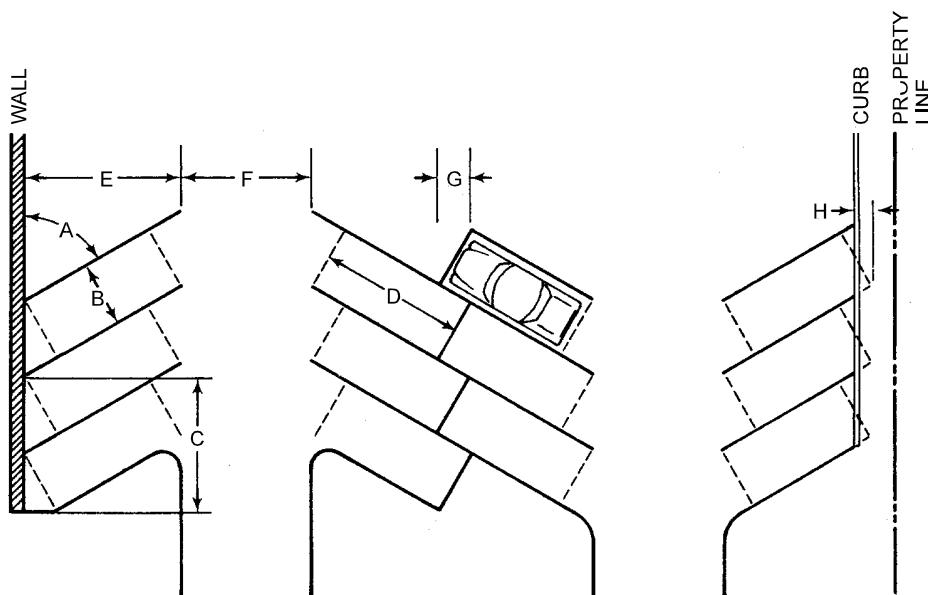
D - Stall Length

E - Stall Depth

F - Aisle Width

G - Overlap

H - Overhang



- b. Within Structures. The off-street parking requirements may be furnished by providing a space so designed within the principal building or one (1) structure attached thereto. No building permit shall be issued to convert said parking structure into a dwelling unit or living area or other activity until other adequate provisions are made to comply with the required off-street parking provisions of this Ordinance.
- c. Grade Elevation. Excepting driveways for single family and two family dwellings, the grade elevation of a parking area shall not exceed five (5) percent.
- d. Surfacing.
- 1) Except in the case of farm dwellings, farm operations in any zoning district, and rural residential properties in the R-A Zoning District, all areas intended to be utilized for parking space and driveways shall be surfaced with asphalt, cobblestone, paving block, or other forms of concrete. Plans for surfacing and drainage of driveways and stalls for five (5) or more vehicles shall be submitted to the City Engineer for review and the final plans shall be subject to the City Engineer's written approval.
 - 2) Plans for surfacing and drainage of driveways shall be submitted prior to issuance of a building permit. Said surfacing shall be completed within one (1) year following the date of building occupancy permit.

- e. Striping. Except for single, two family, townhouse, quadraminiums, and green parking lots, all parking stalls shall be marked with white or yellow painted lines not less than four (4) inches wide.
- f. Lighting. Any lighting used to illuminate an off-street parking area shall be arranged as to reflect the light away from the adjoining property. All exterior lighting shall comply with Section 51.03, Subd. D.2 of this Ordinance.
- g. Curbing and Landscaping. Except for single, two family, townhouse and quadraminiums, all open off-street parking shall have a continuous concrete perimeter curb barrier around the entire parking lot. Said curb barrier shall not be closer than five (5) feet from any lot line unless a greater parking setback is required within the respective zoning district. Grass, plantings or screening shall be provided in all areas bordering the parking area.
- h. Parking Lot Landscaping.
 - 1) All exposed parking areas of six (6) or more required spaces shall be landscaped on all sides in compliance with Section 51.03, Subd. D.10 of this Ordinance.
 - 2) When a parking area of six (6) spaces or more is adjacent to a street or residential area, a berm, wall, or fence not less than four (4) feet in height shall be erected along the parking area to screen headlights. Grass or plantings shall occupy the space between the parking lot curb or fence and the street surface. (The City Council may recommend screening in lieu of fencing.)
 - 3) Within off-street parking facilities for commercial uses of fifty (50) or more stalls, irrigated landscaped islands or peninsulas or rain gardens shall be provided at a rate of one hundred eighty (180) square feet per twenty-five (25) surface stalls or fraction thereof. Such islands or peninsulas shall be contained within raised, curbed beds consistent with other applicable parking lot construction requirements of this Ordinance. It is not the intent of this section to relieve a project of the installation of islands or peninsulas that are necessary to promote the safe and efficient flow of traffic, regardless of parking lot size.
 - 4) No landscaping or screening shall interfere with drive or pedestrian visibility for vehicle entering, circulating or exiting the premises.
- i. Cart Storage. Retail commercial uses that have customer service carts shall be required to provide ample space for the storage of carts within off-

street parking areas, subject to the approval of the Zoning Administrator. The need and specific amount of required cart storage space shall be determined as part of site plan review. When required, cart storage areas shall not occupy required off-street parking space, shall be clearly delineated, and shall include facilities for cart confinement.

6. **Maintenance.** It shall be the joint responsibility of the operator and owner of the principal use, uses and/or buildings to maintain, in a neat and adequate manner, the parking space, access ways, landscaping and required screening.
7. **Location.** All accessory off-street parking facilities required by this Ordinance shall be located and restricted as follows:
 - a. Required accessory off-street parking shall be on the same lot under the same ownership as the principal use being served, except under the provisions of Section 51.03, Subd. E.10 and Subd. E.11.
 - b. No off-street parking space located in a business, industrial or public and semi-public district shall be permitted within a public right-of-way or within fifteen (15) feet of any public street surface.
 - c. Off-street parking and driveways shall be set back five (5) feet from all lot lines or meet the parking setback of the respective zoning district.
 - d. In the case of single family, two family, townhouse and quadraminium dwellings, parking shall be prohibited in any portion of the front yard, except designated driveways leading directly into a garage or one (1) open, surfaced space located on the side of a driveway, away from the principal use. Said extra space shall be surfaced with concrete, bituminous or crushed rock material.
8. **Number of Spaces Required.** The following minimum number of off-street parking spaces shall be provided and maintained by ownership, easement and/or lease for and during the life of the respective uses hereinafter set forth:
 - a. Auto, Boat, Trailer, Farm Equipment Sales Lots. One (1) space per four hundred (400) square feet gross sales and office floor area and of the building plus one (1) space per each two thousand (2,000) square feet of gross outdoor sales lot area.
 - b. Auto Repair. Two (2) spaces per serving bay; the service bay is not a parking space, plus one (1) for each employee on the maximum shift.
 - c. Boarding House/Accessory Apartment. At least one (1) parking space for each person for whom accommodations are provided for sleeping.

- d. Bowling Alleys. Five (5) spaces for each alley plus additional spaces for related uses.
- e. Car Washes (Drive Through and Self Service). One space per employee plus: Drive through: Six (6) stacking spaces. Self-service: One (1) stacking space per wash bay.
- f. Churches, Theaters, Auditoriums. At least one (1) parking space for each four (4) seats based on the design capacity of the main assembly hall. Facilities as may be provided in conjunction with such buildings or uses shall be subject to additional requirements which are imposed by this Ordinance.
- g. Community Centers, Libraries, Private Clubs, Lodges, Museums, Art Galleries. One (1) space for each three hundred (300) square feet of floor area in the principal structure.
- h. Contractors' Offices, Shops and Yards. One (1) per one thousand (1,000) square feet of shop area or warehousing, plus one (1) per three hundred (300) square feet of office space.
- i. Day Care Facilities.
 - 1) Day care facilities serving fourteen (14) or fewer persons: In addition to residential parking requirements, one (1) space per seven (7) children capacity.
 - 2) All other day care facilities: One (1) space per teacher on the largest shift, plus one (1) space per ten (10) students/children based on maximum capacity of the facility.
- j. Elderly (Senior Citizen) Housing. Reservation of area equal to one (1) parking space per unit. Initial development is, however, required of only one-half (1/2) space per unit and said number of spaces can continue until such time as the City Council considers a need for additional parking spaces has been demonstrated.
- k. Financial Institutions, Banks, Savings and Loan. Four (4) spaces for every one thousand (1,000) square feet.
- l. Funeral Undertaking Establishments. At least twenty (20) parking spaces for each chapel or parlor, plus one (1) parking space for each funeral home vehicle. Aisle space shall also be provided off the street for making up a funeral procession.

- m. Furniture Store/Household Appliances. One (1) space per four hundred (400) square feet of gross sales floor area. One (1) space per one thousand (1,000) square feet of warehousing.
- n. Garden Supply Stores, Building Material Sales in Structures. Eight (8) off-street parking spaces, plus one (1) additional space for eight hundred (800) square feet of floor area over one thousand (1,000) square feet.
- o. Golf Courses. Four (4) spaces per hole, plus fifty (50) percent of the requirements for any other associated use.
- p. Golf Driving Ranges, Miniature Golf Courses, Archery Ranges. Ten (10) off-street parking spaces plus one (1) for each one hundred (100) square feet of floor space of building.
- q. Health Clubs. One (1) space per two (2) exercise stations (e.g., strength machine or cardio vascular) plus one (1) space per employee on the largest shift plus additional parking for ancillary uses (e.g., gymnasiums, auditoriums, offices, restaurants).
- r. Manufacturing Facilities. One (1) space for each four hundred (400) square feet of gross floor area, plus one (1) space for every company owned vehicle.
- s. Motels, Motor Hotels, Hotels. One (1) space per each rental unit plus one (1) space for each eight (8) units, and one (1) space for each employee on any shift.
- t. Motor Fuel Stations. At least four (4) off-street parking spaces plus one (1) space for each employee on duty. Those facilities designed for sale of other items than strictly automotive products, parts or service shall be required to provide additional parking in compliance with other applicable sections of this Ordinance.
- u. Office Buildings, Animal Hospitals and Clinics, Professional Offices and Medical Clinics. Three (3) spaces plus at least one (1) space for each two hundred (200) square feet of floor area.
- v. Open Sales Lots. Ten (10) spaces or one (1) per two thousand (2,000) square feet gross land area devoted to sales lot, whichever is larger.
- w. Racquetball, Handball and Tennis Courts, Commercial. Not less than six (6) spaces per each court.

- x. Rest Home, Nursing Home, Convalescent Center, or Institution. One (1) space for each six (6) beds based upon maximum design capacity, plus one (1) space for each two (2) employees.
- y. Restaurants, Cafes, Private Clubs Serving Food and/or Drinks, Bars, On-Sale Nightclubs. One (1) space for each forty (40) square feet of dining or bar area and one (1) space for each eighty (80) square feet of kitchen area.
- z. Restaurants, Fast Food. Fifteen (15) spaces per one thousand (1,000) square feet of gross floor area.
- aa. Retail Sales and Service Business with Fifty (50) Percent or More of Gross Floor area Devoted to Storage, Warehouses and/or Industry. At least eight (8) spaces or one (1) space for each two hundred (200) square feet devoted to public sales or service, plus one (1) space for each five hundred (500) square feet of storage area.
- bb. Retail Stores and Service Establishments. At least one (1) off-street parking space for each two hundred (200) square feet of floor area.
- cc. Schools, Elementary and Junior High. One (1) space for each classroom plus one (1) additional space for each three hundred (300) student capacity, plus one (1) space for each employee, plus one (1) space for each four (4) seats in auditorium.
- dd. Schools, High Schools and Colleges. One (1) space for each classroom plus one (1) additional space for each seven (7) students based upon maximum design capacity.
- ee. Shopping Centers. Five (5) spaces per each one thousand (1,000) square feet of gross leasable floor area (exclusive of common areas).
- ff. Single Family and Two Family Dwellings. Two (2) spaces per unit.
- gg. Townhome, Quadraminium, Manor Home, Multiple Family Dwellings, and Manufactured Homes within Manufactured Home Parks. At least two and one-fourth (2-1/4) rent-free spaces per unit. In projects involving eight (8) or more units, the City may require additional clustered guest parking spaces based upon calculation of required demand.
- hh. Warehousing, Storage or Handling of Bulk Goods. That space which is solely used as office shall comply with the office use requirements and one (1) space for each one thousand five hundred (1,500) square feet of floor area, and one (1) space for each company owned truck (if not stored inside principal building).

- ii. **Other Uses.** Other uses not specifically mentioned herein shall be determined on an individual basis by the City Council. Factors to be considered in such determination shall include (without limitation) the national parking standards for size of building, type of use, number of employees, expected volume and turnover of customer traffic and expected frequency and number of delivery or service vehicles.
9. **Parking Deferment.** The City may allow a reduction in the number of required parking stalls for commercial, industrial, and institutional uses by administrative permit provided that:
- a. The applicant demonstrate that the proposed use will have a peak parking demand less than the required parking under Section 51.03, Subd. E.8 of this Ordinance. Factors to be considered when reviewing the proposed parking demand shall include, but not be limited to:
 - 1) Size of building.
 - 2) Type and use.
 - 3) Number of employees.
 - 4) Projected volume and turnover of customer traffic.
 - 5) Projected frequency and volume of delivery or service vehicles.
 - 6) Number of company-owned vehicles.
 - 7) Storage of vehicles on site.
 - b. In no case shall the amount of parking provided be less than one-half (1/2) of the amount of parking required by ordinance.
 - c. The site has sufficient property under the same ownership to accommodate the expansion of the parking facilities to meet the minimum requirements of this Ordinance if the parking demand exceeds on site supply. A proof of parking plan is submitted for City approval that meets the following conditions:
 - 1) A parking plan drawn to scale for the property is submitted with the site plan and indicates that the site complies with the total parking requirements stated above and with the parking lot design to the standards required by this Ordinance.

- 2) The proof of parking area is defined as that portion of the site which is not paved, but is suitably landscaped and is capable of containing the amount of parking equal to the difference between the total amount of required parking and the amount of parking required to be paved to meet the requirements of this Ordinance. A concrete curb shall be provided between the proof of parking area and the initially constructed parking lot. For purposes of calculating impervious surface, such area will be considered impervious.
 - 3) The proof of parking area shall be clearly delineated on the parking plan for the site.
 - 4) The paved portion of the parking area shall comply with the pertinent sections of this Ordinance.
 - 5) The proof of parking area is not used to satisfy any other landscaping, setback, or other requirement of this Ordinance and is not located in an area occupied by a building.
- d. The property owner is responsible for informing any subsequent owner of the proof of parking area and parking status of the property and shall record said provision with the County Recorder.
 - e. On-site parking shall only occur in areas designed and constructed for parking in accordance with this Ordinance.
 - f. The applicant and City enter into a development agreement, to be recorded against the subject property, which includes a clause requiring the owner to install the additional parking stalls, upon a finding of the Zoning Administrator that such additional parking stalls are necessary to accommodate the use.
 - g. A change of use will necessitate compliance with the applicable Zoning Ordinance standard for parking.

10. Joint Facilities.

- a. The City Council may approve a conditional use permit for one (1) or more businesses to provide the required off-street parking facilities by joint use of one (1) or more sites where the total number of spaces provided are less than the sum of the total required for each business should they provide them separately. When considering a request for such a permit, the Council shall not approve such a permit except when the following conditions are found to exist:

- 1) Up to fifty (50) percent of the parking facilities required for a theatre, bowling alley, dance hall, bar or restaurant may be supplied by the off-street parking facilities provided by types of uses specified as primarily daytime uses in Section 51.03, Subd. E.10.a.4) below.
- 2) Up to fifty (50) percent of the off-street parking facilities required for any use specified under Section 51.03, Subd. E.10.a.4) below, as primarily daytime uses may be supplied by the parking facilities provided by the following night time or Sunday uses; churches, bowling alleys, dance halls, theatres, bars, or restaurants.
- 3) Up to eighty (80) percent of the parking facilities required by this Ordinance for a church may be supplied by the off-street parking facilities provided by uses specified under Section 51.03, Subd. E.10.a.4) below, as primarily daytime uses.
- 4) For the purposes of this section, the following uses are considered a primarily daytime use: banks, business offices, retail stores, personnel service shops, and similar uses.
- 5) Conditions Required For Joint Use:
 - a) The building or use for which application is being made to utilize the off-street parking facilities provided by another building or use shall be located within three hundred (300) feet of such parking facilities.
 - b) The applicant shall show that there is no substantial conflict in the principal operating hours of the two (2) buildings or uses for which joint use of off-street parking facilities is proposed.
 - c) A properly drawn legal instrument, executed by the parties concerned for joint use of off-street parking facilities, duly approved as to form and manner of execution by the City Attorney shall be filed with the City Clerk and recorded with the Wright County Recorders Office.

11. Off-Site Parking.

- a. Any off-site parking which is used to meet the requirements of this Ordinance shall be a conditional use as regulated by Section 51.02, Subd. B of this Ordinance and shall be subject to the conditions listed below.
- b. Off-site parking shall be developed and maintained in compliance with all requirements and standards of this Ordinance.

- c. Reasonable public access from off-site parking facilities to the use being served shall be provided.
- d. The site used for meeting the off-site parking requirements of this Ordinance shall be under the same ownership as to the principal use being served or under public ownership.
- e. Off-site parking for multiple family dwellings shall not be located more than one hundred (100) feet from any normally used entrance of the principal use served.
- f. Off-site parking for non-residential uses shall not be located more than three hundred (300) feet from the main entrance of the principal use being served. No more than one (1) main entrance shall be recognized for each principal building.
- g. Any use which depends upon off-site parking to meet the requirements of this Ordinance shall maintain ownership and parking utilization of the off-site location until such time as on-site parking is provided or a site in closer proximity to the principal use is acquired and developed for parking.

Subd. F. Off-Street Loading.

1. **Purpose.** The purpose of regulating loading areas or berths is to alleviate or prevent congestion of the public right-of-way and to promote the safety and general welfare of the public, by establishing minimum requirements for off-street loading and unloading from motor vehicles in accordance with the utilization of various parcels of land or structures.
2. **Location.**
 - a. All required loading areas/berths shall be off-street and shall be located on the same lot as the building or use to be served.
 - b. All loading areas/berths shall be located at minimum fifty (50) feet from the intersection of two (2) or more street rights-of-way. This distance shall be measured from the property line.
 - c. Except for loading areas/berths required for multiple family, no loading berth shall be located closer than fifty (50) feet from a residential district unless within a structure.
 - d. Loading areas/berths located at the front or at the side of buildings on a corner shall meet the following conditions:
 - 1) Loading areas/berths shall not conflict with pedestrian movement.
 - 2) Loading areas/berths shall not obstruct the view of the public right-of-way from off-street parking access.
 - 3) Loading areas/berths shall comply with all other requirements of this section.
 - 4) Loading areas/berths shall maintain a setback of thirty (30) feet from any public street right-of-way.
 - e. Each loading area/berth shall be located with appropriate means of vehicular access to street or public alley in a manner which will cause the least interference with traffic.
3. **Loading Berth Number and Size Required.** In connection with any structure which is to be erected or substantially altered, any which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles, there shall be provided off-street loading space. The number of required off-street loading berths shall be as follows:

- a. Commercial or Industrial Uses.
 - 1) One (1) loading berth and one (1) additional berth for each additional one hundred thousand (100,000) square feet or fraction thereof. The first loading berth shall be not less than seventy (70) feet in length and additional berths required shall be not less than thirty (30) feet in length, and all loading berths shall be not less than ten (10) feet in width and fourteen (14) feet in height, exclusive of aisle and maneuvering space.
 - 2) Reduction in Size of Space. For commercial or industrial buildings seven thousand (7,000) square feet or less or buildings within the B-4 Zoning District, the size of the loading area may be reduced or the requirement may be waived upon administrative approval. To qualify for such exception, the following provisions must be met:
 - a) It must be demonstrated that the site cannot physically accommodate a loading berth to the size required.
 - b) It must be demonstrated that semi-trailer truck deliveries will not occur at the site or all deliveries will occur at such time as to not conflict with customer or employee access to the building and parking demand.
 - b. Multiple Residential Type Uses. One (1) loading area shall be provided for each multiple family structure containing five (5) or more units and shall be exclusively reserved for loading and unloading. The space shall be at minimum thirty (30) feet in length and ten (10) feet in width. Said area may be parallel to a driveway aisle, but shall not serve to block the flow of traffic or parking spaces.
 - c. Reuse of the building shall be held to the aforementioned condition if site is approved for loading area waiver.
4. **Size.** Loading areas/berths shall be of a size determined by the City as necessary to accommodate anticipated truck and service vehicles. Truck maneuvering radius shall be demonstrated on the site plan.
 5. **Surfacing.** All loading berths and access ways shall be surfaced with a bituminous or concrete or other material approved by the City Engineer.
 6. **Accessory Use.** Any space allocated as a loading berth or maneuvering areas so as to comply with the terms of this Ordinance shall not be used for the storage of goods, inoperable vehicles or to be included as a part of the space requirements necessary to meet the off-street parking requirements.

7. **Screening.** Except in the case of multiple dwellings, all loading areas shall be screened and landscaped from abutting and surrounding residential uses in compliance with Section 51.03, Subd. D.10 of this Ordinance.

Subd. G. Relocated Structures.

1. **Review Process.** Before any house or other structure is moved into or out of the City, a conditional use permit must be obtained in accordance with Section 51.02, Subd. B of this Ordinance. The City shall conduct a site plan review and determine whether the structure will be compatible with other development in the area, and conform to all City codes and ordinances.
2. **Conditional Use Permit Exceptions.** The following uses do not need a conditional use permit:
 - a. Relocated sheds, farm buildings, cribs and other farm structures within one property.
 - b. Relocation of construction sheds to be located on a lot for less than eighteen (18) months.
 - c. Residential sheds less than one hundred twenty (120) square feet in area.
3. **Submission Requirements.** In addition to the submission requirements of Section 51.02, Subd. B of this Ordinance, the following information shall be required for a building relocation conditional use permit:
 - a. Photographs showing all sides of the structure to be moved and a proposed site plan of the lot on which the structure is to be located.
 - b. A map and photographs indicating location of surrounding lots and structures where the building is proposed to be relocated.
 - c. A map showing the route of travel of the structure to be relocated.
 - d. State license of the building mover.
 - e. Insurance information from the building mover.
 - f. Dates and time of building moving.
4. **Performance Standards.**
 - a. The use is allowed within the respective zoning district that overlays the lot to which the structure is being relocated.
 - b. The structure can be located on the lot in full compliance with the performance standards of this Ordinance without variance.

- c. The proposed structure shall comply with the applicable requirements of the State Building Code.
 - d. The proposed structure shall maintain the aesthetic and architectural compatibility with surrounding neighborhoods based upon but not limited to the following factors:
 - 1) Building massing, height, and floor area.
 - 2) The type, grade, and quality of the exterior building finishes.
 - 3) The building's relationship to surrounding properties related to building orientation, setbacks, and floor elevations compared to adjacent properties and the public street.
 - e. The relocated structure shall be similar to the market valuation of adjacent principal structures as determined by the City or County Assessor.
 - f. The relocated structure shall be ready for occupancy within six (6) months from the date of location on the site.
 - g. The travel route of the building move must reflect proper capacity of the street with regard to load bearing capacity, will not interfere with utilities, will not create congestion or traffic safety issues on the public street.
5. **Performance Security.** A performance security shall be provided to the City as specified in Section 51.02, Subd. B.8 of this Ordinance.

Subd. H. Home Occupations.

1. **Purpose.** The Delano Zoning Ordinance establishes a variety of zoning districts that attempt to segregate incompatible land use patterns and established homogenous land uses within neighborhoods. In establishing residential districts, the intent is to provide attractive living environments that allow property owners and tenants the quiet enjoyment of their property and neighborhood. The purpose of this subdivision is to provide a means through the establishment of specific standards and procedures by which home occupations can be conducted in residential neighborhoods without jeopardizing the health, safety and general welfare of the surrounding neighborhood.
2. **Application.** Subject to the non-conforming use provision of this section, all occupations conducted in the home shall comply with the provisions of this subdivision. This subdivision shall not be construed, however, to apply to home occupations accessory to farming.
3. **Procedures and Permits.**
 - a. **Permitted Home Occupation.** Home offices, as defined in section 51.02, are permitted accessory uses in each residential district of this Zoning Ordinance and are exempt from home occupation regulations. Any other home occupation, as defined in this Ordinance, shall require a "home occupation permit." Such permits shall be issued subject to the conditions of this subdivision, other applicable City ordinances and State law. Application for the home occupation permit shall be accompanied by a fee as established by City ordinance. Upon review of the home occupation permit application, the Planning Commission shall make a recommendation to the City Council, which shall make the final decision. No public hearing shall be required for home occupation permit applications. Any permit issued shall remain in force and effect until such time as there has been a change in conditions or until the permit expires, as established in subdivision d. Applicants may seek renewal of permits as provided in subdivision h of this section. The City Council shall make a final decision on whether or not the permit holder is entitled to an initial permit and subsequent renewals of the home occupation permit.
 - c. **Declaration of Conditions.** The Planning Commission and City Council may impose such conditions on the granting of a home occupation permit as may be necessary of this subdivision.
 - d. **Effect of Permit.** A home occupation permit may be issued for a period of one (1) year after which the permit may be reissued for periods of up to three (3) years each. Each application for permit renewal shall, however, be processed in accordance with the procedural requirements of the initial home occupation permit.

- e. Transferability. Permits shall not run with the land and shall not be transferable.
 - f. Lapse of Home Occupation Permit by Non-Use. Whenever within one (1) year after granting a permit the use as permitted by the permit shall not have been initiated, then such permit shall become null and void unless a petition for extension of time in which to complete the work has been granted by the City Council. Such extension shall be required in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of the original 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 initiate the use. Such petition shall be presented to the Planning Commission for a recommendation and to the City Council for a decision.
 - g. Reconsideration. Whenever an application for a permit has been considered and denied by the City Council, a similar application for a permit affecting substantially the same property shall not be considered again by the Planning Commission and 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.
 - h. Renewal of Permits. An applicant shall not have a vested right to a permit renewal by reason of having obtained a previous permit. In applying for and accepting a permit, the permit holder agrees that his monetary investment in the home occupation will be fully amortized over the life of the permit and that a permit renewal will not be needed to amortize the investment. Each application for the renewal of a permit will be considered as a new permit without taking into consideration that a previous permit has been granted. The previous granting or renewal of a permit shall not constitute a precedent or basis for the renewal of a permit.
4. **Requirements-General Provisions.** All home occupations shall comply with the following general provisions and according to definition, the applicable requirement provisions.
- a. General Provisions.
 - 1) All permitted home occupations shall be conducted entirely within the principal dwelling and may not be conducted in detached accessory buildings or attached garages.
 - 2) The floor area utilized in a home occupation shall not exceed 20 percent of the gross floor area of a principal dwelling or 400 square feet, whichever is less.

- 3) Any home occupation shall be clearly incidental and secondary to the residential use of the premises, should not change the residential character thereof, and shall result in no incompatibility or disturbance to the surrounding residential uses.
- 4) No home occupation shall require internal or external alterations or involve construction features not customarily found in dwellings or that alter the use of the home for residential purposes, except where required to comply with local and state fire and police recommendations.
- 5) The home occupation shall meet all applicable fire and building codes.
- 6) No home occupation shall produce light, glare, noise, odor or vibration that will in any way have an objectionable effect upon adjacent or nearby property.
- 7) No equipment shall be used in the home occupation which will create electrical interference to surrounding properties.
- 8) There shall be no exterior storage of equipment or materials used in the home occupation, nor production assembly nor outdoor sales and service, except personal automobiles used in the home occupation may be parked on the site.
- 9) There shall be no exterior display or exterior signs or interior display or interior signs which are visible from outside the dwelling.
- 10) No home occupation shall be conducted between the hours of 10:00 PM and 7:00 AM unless said occupation is contained entirely within the principal building and will not require any on-street parking facilities.
- 11) Home occupation businesses are limited to no more than one full time or regular employee on premises other than those who constantly reside on the premises.
- 12) Customer service conducted on the premises of the home occupation must be arranged by appointment only. No drive-up business is allowed. No sale of products or merchandise shall occur on the lot or within any structures or buildings on the lot, except as may be conducted through the use of the U.S. mail, commercial delivery services by a vehicle no larger than a step van, or by

- taking and ordering delivery of orders by telephone or Internet sales.
- 13) Permitted home occupations shall not create a parking demand in excess of that which can be accommodated in an existing driveway, where no vehicle is parked closer than fifteen (15) feet from the curb line or edge of paved surface.
 - 14) Delivery services may serve a home occupation provided any delivery vehicle is no larger than a step van. Shipping and delivery by semi truck or similar vehicle is prohibited.
- b. Permitted home occupations include, but are not limited to, art studio, dressmaking, secretarial services, photographic studio, professional offices, teaching with musical, dancing and other instruction, and similar uses.
- c. Prohibited Home Occupations shall include:
- 1) Auto repair, except of vehicles which are registered to a resident of the dwelling, or to a son, daughter, parent, sibling, grandparent, or grandchild of a property resident.
 - 2) Pet care facilities, except for pet grooming.
5. **Non-Conforming Use.** Existing home occupations lawfully existing on the date of this Ordinance may continue as non-conforming uses. They shall, however, be required to obtain permits for their continued operation. Any existing home occupation that is discontinued for a period of more than thirty (30) days, or is in violation of the Ordinance provisions under which it was initially established, shall be brought into conformity with the provisions of this subdivision.
6. **Inspection.** The City of Delano hereby reserves the right upon issuing any home occupation permit to inspect the premises in which the occupation is being conducted to insure compliance with the provisions of this subdivision or any conditions additionally imposed.

Subd. I. Specialized Housing.

1. **Purpose.** The purpose of this subdivision is to establish performance standards for residential uses that operate beyond the scope of traditional residential uses by providing accommodations on an ongoing basis within certain residential areas.

2. Bed and Breakfast Establishments.

- a. District Application. Bed and breakfast establishments are subject to the approval of a conditional use permit within the respective zoning district where bed and breakfasts shall be allowed.
- b. Conditions of Approval. In addition to general standards and criteria provided in this Ordinance, a bed and breakfast establishment may be allowed provided that:
 - 1) A maximum of four (4) bed and breakfast units may be established in a structure.
 - 2) The facility shall have a State license (hotel and food), and comply with building and fire codes as may be required or applicable.
 - 3) The facility shall be owner or manager occupied.
 - 4) The principal structure shall have a minimum size of one thousand five hundred (1,500) gross square feet and shall be located on a lot which meets the minimum lot size of the district in which it is located.
 - 5) All bed and breakfast units shall be established within the principal structure.
 - 6) Not more than the equivalent of one (1) full time person shall be employed by the bed and breakfast facility who is not a resident of the structure.
 - 7) Dining and other facilities shall not be open to the general public but shall be used exclusively by the registered guests and residents.
 - 8) Two (2) off-street parking spaces shall be provided for the home plus one (1) off-street parking space for each bed and breakfast unit. Parking areas shall be screened and landscaped pursuant to Section 51.03, Subd. D.10 of this Ordinance.

- 9) Not more than one (1) identification sign not exceeding four (4) square feet in area may be attached to each wall which faces a street. The sign shall be reflective of the architectural features of the structure and may not be internally illuminated or lighted between ten o'clock (10:00) PM and six o'clock (6:00) AM.
 - 10) Adequate lighting shall be provided between the principal structure and the parking area for safety purposes. Any additional external lighting is prohibited.
3. **Accessory Apartments.** The purpose of this section is to provide standards for the establishment and use of home accessory apartments in owner occupied single family homes.
- a. Application. Subject to the non-conforming use provisions of this Ordinance, all home accessory apartments as defined in Section 51.01, Subd. B.2, Definitions established after the effective date of this Ordinance shall comply with the provisions of this section.
 - b. Procedures and Permits. All home accessory apartments shall require an accessory apartment conditional use permit. Applicants for such a permit shall be made on forms provided by the City which shall include the following:
 - 1) Legal description of the property location and proof of ownership.
 - 2) Plans, drawn to scale, indicating existing and proposed floor plans and access to both the principal unit and the accessory unit.
 - 3) Site plan depicting parking availability.
 - c. Requirements. All home accessory apartments shall comply with the following requirements:
 - 1) The accessory apartment shall be clearly a subordinate part of the single family dwelling. In no case shall the accessory apartment be more than forty (40) percent of the building's total floor area, not to exceed eight hundred (800) square feet nor have more than one (1) bedroom. Common area shared by the principal dwelling and accessory apartment shall be considered part of the principal dwelling and shall not be included in the calculation of accessory apartment floor area.
 - 2) The principal unit shall have at least nine hundred sixty (960) square feet of living space remaining after creation of the accessory apartment exclusive of garage area. Accessory apartments shall

have at least five hundred (500) square feet of living space. Living space for the accessory apartment shall include a kitchen or cooking facilities, a bathroom and a living room.

- 3) A separate exterior entrance may be permitted. Any exterior alterations or expansion shall be constructed of similar size, color, and type of materials as the principal single family unit. Only one (1) exterior stairway may be located on the side or rear of the dwelling.
 - 4) The principal unit and accessory apartment shall share an internal doorway connection between the units.
 - 5) Both the principal unit and accessory apartment shall share a single utility hookup.
 - 6) All parking standards of Section 51.03, Subd. E shall be met.
 - 7) The accessory apartment and principal unit shall meet the applicable standards and requirements of the Delano Zoning Ordinance, Building Code, Wright County Health Codes and Fire Codes.
 - 8) The house shall be owner-occupied at the time of application and the building and property shall remain in single ownership and title and shall only have one mailing address.
 - 9) A maximum of one (1) accessory apartment permit shall be issued per detached single family home.
 - 10) No separate driveway or curb cut shall be permitted for the accessory apartment unit.
4. **Revocation.** The City Council may revoke an accessory apartment permit if the permittee fails to comply with the conditions attached to the issuance of the permit or otherwise fails to comply with the provisions of this section. Prior to revocation, the City Council shall conduct a hearing preceded by ten (10) days mail notice to the permittee.

Subd. J. Grading, Drainage, Land Filling, Excavation.

1. Grading and Drainage.

- a. In the case of all new residential subdivisions, multiple family, business, and industrial developments, a grading and drainage plan shall be submitted to the City for its review and approval. The final grading and drainage plan shall be consistent with the City's Stormwater Management Plan, as may be amended. Where grading involves wetlands, a wetland management plan, consistent with the Minnesota Wetland Conservation Act, shall be submitted and approved by the City. Lots subdivided and recorded after March 2003 shall also be subject to the performance standards of Section 10 of the Delano Subdivision Ordinance.
- b. As part of a building permit application in which new structures or building footprint expansion of existing structures are proposed, excluding permit applications listed in Section 51.03, Subd. B.2.a, a site survey showing proposed grading, drainage and building pad elevations(s) shall be submitted to the City along with a certificate by the permit applicant that it is consistent with the approved final plat grading and drainage plan, if any.
- c. Prior to issuance of an occupancy permit, the person or entity who developed, graded and constructed improvements upon the property for which the occupancy permit is requested, shall submit an as-built survey that the grading, drainage and building pad elevations are consistent with the approved final grading and drainage plan for the subdivision, or if no such City approved drainage and grading plan for the entire subdivision exists, that such person or entity represents that the grading, drainage and building pad elevations are consistent with the site survey referred to in Section 51.03, Subd. D.12.b above.
- d. Prior to issuance of an occupancy permit, the person or entity who developed, graded and constructed improvements upon the property for which the occupancy permit is requested shall execute an indemnification and release of the City of Delano, its elected officials, and other representatives from and against claims relating to grading, drainage, and building pad elevation errors and variances between the grading, drainage and building pad elevation work and approved plans.
- e. For all construction, erosion control measures must be in place prior to beginning of site work (i.e., grading, striping, or construction).

- 1) The City may withhold inspections or suspend work on a site that does not have an approved grading plan or in place erosion control measures.
- 2) The City may require a financial security to ensure placement and maintenance of erosion control measures.

2. **Land Filling.**

a. Permit Required.

- 1) Land filling on any property within the City limits in the following manner shall require an administrative land fill permit:
 - a) Any deposit of fill within a drainage or utility easement.
 - b) Any deposit of fill within a natural drainage way.
 - c) Any deposit of fill within ten (10) feet of a property line.
 - d) Adding land fill in excess of twenty (20) cubic yards.
 - 2) Land filling in excess of four hundred (400) cubic yards shall require a conditional use permit in accordance with Section 51.02, Subd. B of this Ordinance.
- b. Exclusions. This article shall not apply to projects outlined in Section 51.03, Subd. J.1 that have an approved grading or drainage plan.
- c. Application and Required Information.

- 1) Any person desiring a permit hereunder shall present an application on such forms as shall be provided by the Zoning Administrator requiring the following information:
 - a) The name and address of the applicant.
 - b) The name and address of the owner of the land.
 - c) The address and legal description of the land involved.
 - d) The purpose of the land fill.
 - e) A description of the source, type, and amount of fill material to be placed upon the premises.
 - f) The highway, street or streets, or other public ways in the City upon and along which any material is to be hauled or carried.

- g) An estimate of the time required to complete the land fill.
- h) A site plan showing present topography and also including boundary lines for all properties, water courses, wetlands and other significant features within three hundred fifty (350) feet.
- i) A site plan showing the proposed finished grade and landscape plan. Erosion control measures shall be provided on such plan. Final grade shall not adversely affect the surrounding land or the development of the site on which the land fill is being conducted. Top soil shall be of a quality capable of establishing normal vegetative growth.
- j) A dust control plan.
- k) A plan and/or statement demonstrating the proposed activity will in no way jeopardize the public health, safety and welfare or is appropriately fenced to provide adequate protection.
- l) A statement that the applicant will comply with all conditions prescribed by the City or its officers or agents.
- m) The application shall be considered as being officially submitted when all the information requirements are complied with. A fee for such application is submitted based upon the schedule as established by City Council ordinance.
- n) A schedule for completion of the land filing.
- o) Wetland management plan consistent with the Minnesota Wetland Conservation Act, where applicable.
- p) In addition to the aforementioned submission requirements, the submission of information of Section 51.03, Subd. B shall also be required when a conditional use permit is required.

d. Technical Reports.

- 1) The Zoning Administrator shall process all land fill permit applications. Such applications, when determined to be necessary by the Zoning Administrator and all those for more than fifty (50) cubic yards shall be forwarded to the City Engineer and Building

Official. Where watersheds, floodplains and/or wetlands are in question, the Minnesota Department of Natural Resources shall also be contacted. These technical advisors shall be instructed by the Zoning Administrator to prepare reports for the Council.

- 2) Filing fees in excess of the actual incurred expenses shall be refunded to the applicant. When the expenses incurred in the review of the application exceed the fee, such excess expenses shall be billed to the applicant.

e. Issuance of Permit.

- 1) The City Engineer and/or the Building Official shall determine as to whether, and when, and under what conditions a land fill permit for less than fifty (50) cubic yards shall be issued.
- 2) Upon receiving information and reports from the Zoning Administrator and the City Engineer, the Council shall make its determination as to whether, and when, and under what conditions such permit for a land fill greater than fifty (50) cubic yards is to be issued to the applicant by the Zoning Administrator.
- 3) Conditional use permits shall be processed and issued in accordance with Section 51.02, Subd. B of this Ordinance.

f. Conditions of Operation.

- 1) Under no circumstances shall any such land fill operation be conducted or permitted if the contents of the land fill or any part thereof shall consist of garbage, animal or vegetable refuse, poisons, contaminants, chemicals, decayed material, filth, sewage or similar septic or biologically dangerous material, or any other material deemed to be unsuitable by the City.
- 2) Unless expressly extended by permit, the hours of operation shall be limited to 7:00 AM to 6:00 PM, Monday through Saturday.

g. Security. The Council may require either the applicant or the owner or user of the property on which the land fill is occurring to post a security in such form and sum as the Building Official and/or City Engineer shall determine, with sufficient surety provided to the City, conditioned to pay to the City the extraordinary cost and expense of repairing, from time to time, any highways, streets or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel in transporting fill material, the amount of such cost and expense to be determined by the City Engineer; and conditioned further to comply with all

requirements of this Chapter, and the particular permit, and to pay any expense the City may incur by reason of doing anything required to be done by any applicant to whom a permit is issued.

- h. Failure to Comply. The Council may, for failure of any person to comply with any requirement made of such person in writing under the provisions of such permit, as promptly as same can reasonably be done, proceed to cause said requirement to be complied with. The cost of such work shall be assessed against the property whereon the land fill is located, or the City may at its option proceed to collect such costs by an action against the person to whom such permit has been issued, and such person's superiors if a bond exists. In the event that land filling operations requiring a permit are commenced prior to City review and approval, the City may require work stopped and all necessary applications filed and processed. Application fees shall be double the normal charge.

3. **Excavation/Mining.**

a. Permit Required.

- 1) The excavation of sand, gravel, black dirt, or other natural material from the land or the grading of land by a person in the following manner shall require an administrative permit:
 - a) Removing sand, gravel, black dirt or other natural materials or grading land within a drainage or utility easement.
 - b) Removing sand, gravel, black dirt or other natural materials or grading land within a natural drainage way.
 - c) Removing sand, gravel, black dirt or other natural materials or grading land within ten (10) feet of a property line.
 - d) Removing sand, gravel, black dirt or other natural materials or grading land in excess of twenty (20) cubic yards.
- 2) The excavation of sand, gravel, black dirt, or other natural material or grading of land by a person in the amount of four hundred (400) cubic yards or more shall require a conditional use permit in accordance with Section 51.02, Subd. B of this Ordinance.

b. Exclusions. This article shall not apply to:

- 1) The excavation, removal, storage, or placement of rock, sand, dirt, gravel, clay, or other like material for any construction for which a

building permit has been issued, site plan approval or a development contract signed.

- 2) Such excavation, removal, storage, or placement of rock, sand, dirt, gravel, clay, or other like material as may be required by the state, county, or city authorities within their acquired rights-of-way and easements in connection with the construction or maintenance of roads and highways and utilities. "Rights-of-way" as used herein shall not include isolated parcels used exclusively for borrow pits.

c. Application for Permit.

- 1) Any person desiring a permit hereunder shall present an application on such form as shall be provided by the Zoning Administrator requiring the following information:
 - a) The name and address of the applicant.
 - b) The name and address of the owner of the land.
 - c) The address and legal description of the land involved.
 - d) The purpose of the excavation or grading.
 - e) A description of the type and amount of material to be excavated from or graded on the premises.
 - f) The highway, street or streets, or other public ways in the City upon and along which any material is to be hauled or carried.
 - g) An estimate of the time required to complete the excavation or grading.
 - h) A site plan showing present topography and also including boundary lines for all properties, water courses, wetlands and other significant features within three hundred fifty (350) feet.
 - i) A site plan showing the proposed finished grade and landscape plan. Erosion control measures shall be provided on such plan. Final grade shall not adversely affect the surrounding land or the development of the site on which the excavation is being conducted. Top soil shall be of a quality capable of establishing normal vegetative growth.

- j) A security statement demonstrating the proposed activity will in no way jeopardize the public health, safety and welfare or is appropriately fenced to provide adequate protection.
 - k) A statement that the applicant will comply with all conditions prescribed by the City or its officers or agents.
 - l) A schedule for the completion of the excavation or mining.
 - m) A wetland management plan consistent with the Minnesota Wetlands Conservation Act, where applicable.
- d. Technical Reports. The Zoning Administrator shall immediately upon receipt of such applications forward a copy thereof to the City Engineer and Building Official. Where watersheds and/or wetlands are in question, the Minnesota Department of Natural Resources shall also be contacted. These technical advisors shall be instructed by the Zoning Administrator to prepare reports for the Council.
- e. Conditions. The City, as a prerequisite to the granting of a permit, may require the applicant or the owner of the premises to incorporate and attach any conditions or restrictions that it deems necessary for the preservation of health, welfare, and safety of the citizens:
- 1) Properly fence any pit or excavation, and barricade entrances to prevent the general public from depositing garbage or refuse.
 - 2) Slope the banks, and otherwise guard and keep any pit or excavation in such condition as not to be dangerous because of sliding or caving banks.
 - 3) Properly drain, fill, or level off any pit or excavation so as to make the same safe and healthful as the permitting authority may determine.
 - 4) Limit the depth of such excavation to an elevation no lower than the minimum floor elevation for building construction as established by the City Engineer, so as not to diminish development potential of the parcel.
 - 5) Limit any fill material to clean fill, defined as rock, sand, gravel, clay, or other like and similar non-decomposable material. Concrete, asphalt, metal, wood, and other debris shall be prohibited.

- 6) Require that all decomposable material, or other unsuitable foundation material, be removed from an area before deposition of fill begins.
- 7) Prepare a site plan showing existing and proposed grade elevations and effect of storm water drainage on adjacent areas.
- 8) Specify a time when the excavation or land reclamation project shall be completed.
- 9) Place a minimum of four (4) inches of top soil over the completed project and establish appropriate ground cover within sixty (60) days of completion, or in a time period consistent with the City's storm water management and pollution prevention plan.
- 10) Reimburse the City for the cost of periodic inspections by the City for the purpose of determining that the terms under which the permit has been issued are being complied with.
- 11) Implement the tree preservation plan.
- 12) Rodent control plan.
- 13) Dust control plan/street clean up.
- 14) Transport route plan for mining operation.
- 15) Site restoration plan including final grading plan/utility plan and master land use concept.
- 16) Post a form of security and sum as the permitted authority may require, running to the City, conditioned to pay the City the cost and expense of repairing or cleaning any highways, streets, or other public ways within the City made necessary by the special burden resulting from transporting thereon by the applicant material to or from the site, the amount of such cost to be determined by the Council; and conditioned further to comply with all the requirements of this Ordinance and the particular permit, and to save the City free and harmless from all suits or claims for damages resulting from the negligent excavation, removal, storage, or filling of rock, sand, dirt, gravel, clay or other like material within the City.
- 17) Other conditions deemed appropriate to the application by the permitted authority.

- f. Security. The City may require either the applicant or the owner or user of the property on which the excavation or grading is occurring to post a security in such form and sum as the Council shall determine, with sufficient surety provided to the City, conditioned to pay to the City the extraordinary cost and expense of repairing, from time to time, and highways, streets or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel in transporting excavated material, the amount of such cost and expense to be determined by the City Engineer; and conditioned further to comply with all requirements of this Chapter, and the particular permit, and to pay any expense the City may incur by reason of doing anything required to be done by any applicant to whom a permit is based.
- g. Failure to Comply. The City may, for failure of any person to comply with any requirement made of such person in writing under the provisions of such permit, as promptly as same can reasonably be done, proceed to cause said requirement to be complied with, and the cost of such work shall be taxed against the property whereon the land fill is located, or the City may, at its option, proceed to collect such costs by an action against the person to whom such permit has been issued, and his superiors if a security exists.

Subd. K. Essential Services.

1. **Purpose.** The purpose of this subdivision is to provide for the installation of essential services such as telephone lines, pipelines, electric transmission lines and substations in such a manner that the healthy, safety, and welfare of the city will not be adversely affected. Essential services should also be installed in cognizance of existing and projected demands for such services.
2. **Administrative Permit.** All underground telephone lines, pipelines for local distribution, underground electric transmission lines, and overhead electric transmission lines less than 33 KV, which are intended to serve more than one (1) parcel and are proposed to be installed at locations other than in public right-of-way, shall require an administrative permit issued by the City after approval by the City Engineer. Approval by the City Engineer shall be based upon the information furnished in the following procedural requirements:
 - a. Prior to the installation of any of the previous essential services, the owner of such service shall file with the Zoning Administrator all maps and other pertinent information as deemed necessary for the City Engineer to review the proposed project.
 - b. The Zoning Administrator shall transmit the map and accompanying information to the City Engineer for his review and approval regarding the project's relationship to the Comprehensive Plan and/or ordinances and parts thereof.
 - c. The City Engineer shall report in writing to the Zoning Administrator its findings as to the compliance of the proposed project with the Comprehensive Plan and ordinances of the City.
 - d. In considering applications for the placement of essential services, as regulated in this section, the aforesaid City staff shall consider the effect of the proposed project upon the health, safety, and general welfare of the City, as existing and as anticipated; and the effect of the proposed project upon the Comprehensive Plan.
 - e. Upon receiving the approval of the City Engineer, the Zoning Administrator shall issue a special permit for the installation and operation of the applicant's essential services. If the Engineer's report recommends the denial of said permit causing the Zoning Administrator to deny its issuance, the applicant may appeal said decision to the Board of Appeals and Adjustments under the rules and procedure set forth in Section 51.02, Subd. D.2 of this Ordinance.
3. **Conditional Use Permit.** All transmission pipelines (i.e., pipelines not required for local distributing network) and overhead transmission and substation lines in

excess of 33 KV shall be a conditional use in all districts subject to the following procedure requirements:

- a. Prior to the installation of any of the previous essential services, the owner of such services shall file with the Zoning Administrator all maps and other pertinent information as deemed necessary for the City Council to review the proposed project.
- b. The Zoning Administrator shall transmit the map and accompanying information to the City Council for its review regarding the project's relationship to the Comprehensive Plan and parts thereof. A part of this review shall be a written report from the City Engineer.
- c. The City shall hold the necessary public hearings as prescribed by this Ordinance for conditional use.
- d. In considering the applications for the placement of essential services, as regulated by this subdivision, the City Council shall consider the advice and recommendations of the City staff and the effect of the proposed project upon the health, safety, and general welfare of the City, existing and anticipated, and the effect of the proposed project upon the Comprehensive Plan.

Subd. L. Sexually Oriented Uses.

1. **General.** Sexually oriented uses as defined in this Ordinance shall be subject to the following provisions:
 - a. Activities classified as obscene as defined by Minnesota Statute 617.241 are not permitted and are prohibited.
 - b. Sexually oriented uses, either principal or accessory, shall be prohibited from locating in any building which is also utilized for residential purposes.
 - c. Sexually oriented uses, either principal or accessory, shall be prohibited from locating in any building which is also used to dispense or consume alcoholic beverages.
 - d. A sexually oriented use which does not qualify as an accessory use shall be classified as a sexually oriented use-principal.
2. **Sexually Oriented Uses - Principal.**
 - a. Sexually oriented use-principal shall be located at least three hundred (300) radial feet, as measured in a straight line from the closest point of the property line of the building upon which the sexually oriented use-principal is located to the property line of:
 - 1) Residentially zoned property
 - 2) A licensed day care center
 - 3) A public or private educational facility classified as a pre-school, elementary, junior high or senior high
 - 4) A public library
 - 5) A public park
 - 6) Another sexually oriented use-principal
 - 7) An on-sale liquor establishment
 - 8) Churches.
 - b. Sexually oriented use-principal activities, as defined by this Ordinance, shall be classified as one use. No two sexually oriented uses-principal shall be located in the same building or upon the same property and each use shall be subject to Section 51.03, Subd. L.1.b and Subd. L.1.c.
 - c. Sexually oriented use-principal shall, in addition to other sign requirements established by City Code, adhere to the following signing regulations:
 - 1) Sign messages shall be generic in nature and shall only identify the type of business which is being conducted.

- 2) Shall not contain material classified as advertising.
 - 3) Shall comply with the requirements of size and number for the district in which they are located.
3. **Sexually Oriented Uses - Accessory.**
- a. Sexually oriented use-accessory shall:
 - 1) Comprise no more than five (5) percent of the floor area of the establishment in which it is located.
 - 2) Comprise no more than ten (10) percent of the gross receipts of the entire business operation.
 - 3) Not involve or include any activity except the sale or rental of merchandise.
 - b. Sexually oriented use-accessory shall be restricted from and prohibit access to minors by the physical separation of such items from areas of general public access:
 - 1) Movie Rentals. Display areas shall be restricted from general view and shall be located within a separate room, the access of which is in clear view and under the control of the persons responsible for the operation or shall be in catalogs under the direct control and distribution of the operator.
 - 2) Magazines. Publications classified or qualifying as sexually oriented uses shall not be physically accessible to minors and shall be covered with a wrapper or other means to prevent display of any material other than the publication title.
 - 3) Other Use. Sexually oriented uses-accessory not specifically cited shall comply with the intent of this section subject to the approval of the Zoning Administrator.
 - c. Sexually oriented use-accessory shall be prohibited from both internal and external advertising and signing of adult materials and products.
 - d. Sexually oriented use-accessory activities shall be prohibited at any public show, movie, caravan, circus, carnival, theatrical or other performance or exhibition presented to the general public where minors are admitted.

Subd. M. Antennas.

1. **Purpose and Intent.** The purpose of this section is to establish predictable and balanced regulations for the siting and screening of wireless communications equipment in order to accommodate the growth of wireless communication systems within the City of Delano while protecting the public against any adverse impacts on the City's aesthetic resources and the public welfare. The provisions of the section are intended to maximize the use of existing towers, structures, and buildings to accommodate new wireless telecommunication antennas in order to minimize the number of towers needed to serve the community.
2. **General Standards.** The following standards shall apply to all personal wireless service telephone, public utility, microwave, radio and television broadcast transmitting, radio and television receiving, satellite dish and short-wave radio transmitting and receiving antenna.
 - a. All obsolete and unused antennas and towers shall be removed within twelve (12) months of cessation of operation at the site by the antenna or tower owner, unless an exemption is granted by the Zoning Administrator. A copy of the relevant portions of a signed lease which requires the applicant to remove the tower and associate facilities when they are abandoned, unused or become hazardous shall be submitted to the City.
 - b. All antennas and towers shall be in compliance with all State Building and Electrical Code requirements and as applicable shall require related permits. Applications to erect new antennas and/or towers shall be accompanied by any required federal, state, or local agency licenses.
 - c. Structural design, mounting and installation of the antenna shall be in compliance with manufacturer's specifications and as may be necessary, as determined by the City Engineer, shall be verified and approved by a professional engineer.
 - d. When applicable, written authorization for antenna and/or tower erection shall be provided by the property owner.
 - e. No advertising message shall be affixed to the antenna and/or tower structure.
 - f. Antennas and/or towers shall not be artificially illuminated unless required by law or by a governmental agency to protect the public's health and safety.
 - g. If a new tower of seventy-five (75) feet or greater in height is to be constructed, it shall be designed structurally, electrically, and in all respects, to accommodate both the applicant's antennas and antennas for

- at least one (1) additional use, including but not limited to other personal wireless service communication companies, local police, fire and ambulance companies. Towers shall be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.
- h. Towers shall be painted a non-contrasting color consistent with the surrounding area such as blue, gray, brown, or silver or have a galvanized finish to reduce visual impact, unless otherwise required by a governmental agency.
 - i. All antennas and towers shall be reasonably posted and secured to protect against trespass, including appropriate measures to prevent unauthorized persons from climbing any tower.
 - j. Towers shall comply with all applicable Federal Aviation Administration (FAA) regulations.
 - k. Amateur radio towers shall be installed in accordance with the instructions furnished by the manufacturer of that tower model. Because of the experimental nature of the amateur radio service, antennas mounted on such a tower may be modified or changed at any time so long as the published allowable load on the tower is not exceeded and the structure of the tower remains in accordance with the manufacturer's specifications.
 - l. Except as may be applicable in case where a conditional use permit is required, antennas and support structures for federally licensed amateur radio stations and used in the amateur radio service shall be exempt from the following: Section 51.03, Subd. M.2.h; Section 51.03, Subd. M.4; and Section 51.03, Subd. M.5.

3. Certification, Inspection and Maintenance.

- a. All towers, antenna support structures, and related equipment or structures shall be kept and maintained in good condition, order, and repair so as not to menace or endanger the life or property of any person.
- b. All towers shall be certified by an engineer to be structurally sound and in conformance with the requirements of the State Building Code and federal and state law.
- c. The City shall have authority to enter onto the property upon which a tower is located to inspect the tower for the purpose of determining whether it complies with the State Building Code and all other construction standards provided by the City's Code, federal and state law. The City reserves the right to conduct such inspections at any time, upon

reasonable notice to the owner. All expenses related to such inspecting by the City shall be borne by the owner.

4. **Tower Design.** Where allowed, wireless communication towers shall be of a monopole design unless the City Council determines that an alternative design requested by the applicant would better blend into the surrounding environment.
5. **Co-Location Requirement.** An application for a new tower shall not be approved unless the applicant demonstrates that the antennas cannot be accompanied on an existing or approved tower, building, or structure within a two (2) mile search radius of the proposed tower due to one or more of the following reasons:
 - a. The planned equipment would exceed the structural capacity of the existing or approved tower, building, or structure as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
 - b. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified engineer and interference cannot be prevented at a reasonable cost.
 - c. Other unforeseen reasons that make it unfeasible to locate the antennas upon an existing or approved tower or structure.
 - d. Existing or approved towers, buildings, or other structures do not exist in the search area, or do not meet the needs of the user. Documentation shall be provided at the time of application clearly demonstrating why existing structures do not meet the needs to the users.
 - e. The applicant shall demonstrate that a good faith effort to co-locate on existing towers or structures was made, but an agreement could not be reached.
6. **Accessory Antennas.** The following standards shall apply to all accessory antennas including radio and television receiving antennas, satellite dishes, TVROs three (3) meters or less in diameter, short-wave radio dispatching antennas, or those necessary for the operation of electronic equipment including radio receivers, ham radio transmitters and television receivers.
 - a. Accessory antennas shall not be erected in any required yard (except a rear yard) or within public or private utility and drainage easements, and shall be set back a minimum of five (5) feet from all lot lines.

- b. Guy wires or guy wire anchors shall not be erected within public or private utility and drainage easements, and shall be set back a minimum of one (1) foot from all lot lines.
- c. Accessory antennas and necessary support structures, monopoles or towers may extend a maximum of fifteen (15) feet above the normal height restriction for the affected zoning district, except support structures and antennas used in the amateur radio service may extend a maximum of two (2) times the normal height restriction for the affected zoning district.
- d. The installation of more than one (1) accessory structure and support structure per property shall require the approval of a conditional use permit.

7. **Personal Wireless Service Antennas.**

- a. Residential and Business District Standards.
 - 1) Antennas Located Upon an Existing Tower or Structure. Personal wireless service antennas as a permitted secondary use may be located upon existing towers or structures shall require the processing of an administrative permit and shall comply with the following standards:
 - a) Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building or cabinet is necessary for transmitting, receiving and switching equipment, it shall be situated in the side or rear yard of the principal use, meet all applicable accessory building setback requirements, and shall be screened from view by landscaping where appropriate.
 - b) An administrative permit is issued by the Zoning Administrator, subject to the following conditions:
 - (1) Antennas mounted on buildings or structures shall not extend more than fifteen (15) feet above the structural height of the building or structure to which they are attached.
 - (2) Wall or facade mounted antennas may not extend more than five (5) feet above the cornice line and shall be constructed of a material or color which matches the exterior of the building.

- c) In no case shall a personal wireless service antenna be located upon or affixed to a detached single family residential dwelling.
- 2) New Towers. The erection of new personal wireless service antenna towers within Residential and Business Zoning Districts of the City is prohibited.
- b. Industrial District Standards.
- 1) Antennas Located Upon an Existing Structure or Existing Tower. Personal wireless service telephone antennas as a permitted secondary use may be located upon an existing structure or co-located on an existing tower shall require the processing of an administrative permit and shall comply with the following standards:
- a) An administrative permit is issued by the Zoning Administrator.
 - b) Antennas mounted on buildings or structures shall not extend more than fifteen (15) feet above the structural height of the building or structure to which they are attached.
 - c) Wall or facade mounted antennas may not extend more than five (5) feet above the cornice line and must be constructed of a material or color which matches the exterior of the building.
- 2) New Towers. New towers as a permitted secondary use shall require approval of an administrative permit and shall comply with the following standards:
- a) The applicant shall demonstrate to the satisfaction of the City that location of the antennas as proposed is necessary to provide adequate portable personal wireless service telephone coverage and capacity to areas which cannot be adequately served by locating the antennas on an existing tower or support structure.
 - b) If no existing structure which meets the height requirements for the antennas is available for mounting purposes, the antennas may be mounted on a monopole tower provided that:
 - (1) Towers with a maximum capacity to support two (2) antennas shall not exceed one hundred forty (140)

feet in height. Towers with a minimum capacity to support three (3) antennas shall not exceed one hundred sixty (160) feet in height.

- (2) The setback of the tower from the nearest property line is not less than the height of the antenna. Exceptions to such setback may be granted in such cases when a qualified structural engineer specifies in writing that any failure of the pole will occur within a lesser distance under all foreseeable circumstances. The setback shall not be reduced in cases where the subject site abuts a residential zoning district. The setback requirements shall not be reduced below the minimum accessory building setback requirements of the base zoning district or the failure area of the tower, whichever is greater.
 - c) Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building or cabinet is necessary for transmitting, receiving and switching equipment, it shall be situated in the side or rear yard of the principal use, meet all applicable necessary building setback requirements, and shall be screened from view by landscaping where appropriate.
 - d) At the discretion of the City, a security fence not greater than eight (8) feet in height with a maximum opacity of fifty (50) percent shall be provided around the support structure, as well as no climb security measures shall be provided on the tower or support structure.
- 3) Temporary Mobile Towers. Personal wireless service antennas located upon a temporary mobile tower as a permitted secondary use may be used on an interim basis until a permanent site is constructed shall require the approval of an administrative permit and shall comply with the following standards:
 - a) Temporary mobile towers are exempt from co-location and permanent tower structure design standards provided for in the following sections: Section 51.03, Subd. M.2.h; Section 51.03, Subd. M.2.i; Section 51.03, Subd. M.4; and Section 51.03, Subd. M.5.
 - b) The termination date of the permit shall not exceed one hundred twenty (120) days. Temporary mobile towers

located on a site longer than one hundred twenty (120) days shall require the processing of an interim use permit subject to the standards contained in Section 51.02, Subd. C of this Ordinance.

- c) Guyed towers are prohibited.
- d) Mobile units shall have a minimum tower design wind load of eighty (80) miles per hour, or be set back from all structures a distance equal to the height of the tower.
- e) All towers shall be protected against unauthorized climbing.
- f) The height of the tower shall not exceed one hundred (100) feet.

8. **Commercial and Public Radio and Television Transmitting Antennas, and Public Utility Microwave Antennas.** Commercial and public radio and television transmitting and public utility microwave antennas shall comply with the following standards:

- a. Such antenna shall be considered an allowed conditional use within all industrial districts of the City and shall be subject to the regulations and requirements of Section 51.02, Subd. B of this Ordinance.
- b. The antennas, transmitting towers, or array of towers shall be located on a continuous parcel having a dimension equal to the height of the antenna, transmitting tower, or array of towers measured between the base of the antenna or tower located nearest a property line and said property line, unless a qualified structural engineer specifies in writing that the collapse of any antenna or tower will occur within a lesser distance under all foreseeable circumstances.
- c. Unless the antenna is mounted on an existing structure, at the discretion of the City, a fence not greater than eight (8) feet in height with a maximum opacity of fifty (50) percent shall be provided around the support structure and other equipment, as well as no climb security measures shall be provided on the tower or structure.

Subd. N. Signs.

1. Purpose and Intent.

- a. Purpose. This section is established to protect and promote health, safety, general welfare and order within the City of Delano through the establishment of a comprehensive and impartial series of standards, regulations and procedures governing the type, number, size, structure, location, height, lighting, erection, use and/or display of devices, signs or symbols serving as a visual communication media to persons situated within or upon public rights-of-way or properties. The provisions of this Section are intended to encourage opportunity for effective, orderly communication by reducing annoyances, confusion and hazards resulting from unnecessary and/or indiscriminate use of communication facilities.
- b. Objectives.
 - 1) To establish standards which permit businesses a reasonable and equitable opportunity to advertise.
 - 2) To preserve and promote civic beauty and prohibit signs which would detract from this objective because of number, size, shape, height, location, condition, cluttering or illumination.
 - 3) To insure that signs do not create safety hazards.
 - 4) To preserve and protect property values.

2. General Provisions.

- a. A sign may not be constructed, erected, remodeled, relocated, expanded or painted, except in cases of routine maintenance, without a sign permit. A permit shall not be issued unless the sign and all other signs on the premises of the applicant are in compliance with the regulations of Section 51.03, Subd. N of this Ordinance.
- b. All signs shall be constructed and maintained in conformance with the Minnesota State Building Code, as may be amended.
- c. The installation of electrical signs shall be subject to the National Electrical Code. Electrical service to such signs shall be underground.
- d. All signs shall display, in a conspicuous manner, the owner's name, permit number, and date of erection.

- e. Any sign now or hereafter existing which no longer advertises or identifies a bona fide business conducted, or a service rendered, or a product sold, shall be removed by the owner, agent, or person having the beneficial use and/or control of the building or structure upon which the sign may be found within ten (10) days after written notice from the City Official.
- f. No sign shall be artificially illuminated in such a way that produces a significant broadcast of glare or light beyond the sign. Artificially illuminated signs shall also be shielded to prevent lights from being directed at oncoming traffic or adjacent residential properties in such brilliance that it impairs the vision of the driver. Nor shall such signs interfere with or obscure an official traffic sign or signal. This includes indoor signs which are visible from public streets.
- g. Signs shall not create a hazard to the safe, efficient movement of vehicular or pedestrian traffic. No private sign shall contain words or colors which might be construed as traffic controls, such as "stop", "caution", "warning", unless the sign is intended to direct traffic on the premises.
- h. Signs and sign structures shall be properly maintained and kept in a safe condition. Sign or sign structures which are rotted, unsafe, deteriorated or defaced shall be repainted, repaired, replaced, or removed by the licensee, owner or agent of the property and/or building upon which the sign standards.
- i. Sign Location/Setbacks.
 - 1) No signs other than governmental signs shall be erected or placed within a street right-of-way, upon public lands or rights-of-way.
 - 2) No sign or sign structure shall protrude over public right-of-way, except wall signs (maximum protrusion is eighteen (18) inches). Projecting signs or marquees allowed in the B-4 District. All signs located over public right-of-way or over any public or private access route (sidewalks, etc.) shall be located a minimum of eight (8) feet above surface grade.
 - 3) No freestanding sign structure shall be closer than five (5) feet from any property line. When the bottom of the sign face of a freestanding sign is fifteen (15) feet or higher above grade, the sign face may extend into the setback no closer than one (1) foot from the property line. No sign shall be placed within any drainage or public easement.

- 4) Except for off-premise signs allowed in other sections of this Ordinance, all signs must be located on the same lot as the person, firm, business, product, or building being identified.
- 5) On all corner lots, signs shall not be permitted within twenty (20) feet of any corner formed by the intersection of two (2) streets. The twenty (20) feet shall be in the form of a triangle with two (2) sides formed by the property lines and the third side formed by a straight line connecting the two (2) twenty (20) foot points on each side of the corner. A sign may be extended into the triangular area provided that:
 - a) The clearance above the street grade is more than eight (8) feet.
 - b) No part of the sign structure encroaches in the triangular area at an elevation less than eight (8) feet above street grade.

j. Sign Height.

- 1) All height restrictions on signs shall include height of sign structure and be measured from the lot grade or in the case of inflatable device from its mounting surface to its highest point.
- 2) The top edge of any wall or building mounted sign or object intended as an attention attracting device shall not extend above the roof line, parapet, mansard or façade of a building adjacent to the sign or object.
- k. A freestanding sign or sign structure constructed so that the faces are not back to back shall not have an angle separating the faces exceeding twenty (20) degrees unless the total area of both sides added together does not exceed the maximum allowable sign area for that district.

3. **Permitted and Prohibited Signs.**

- a. Permitted Signs. The following signs are allowed without a permit:
 - 1) Government Signs. Signs of a public, non-commercial nature, including safety signs, directional signs to public facilities, trespassing signs, traffic signs, signs indicating scenic or historic points of interest, memorial plaques and the like, when erected by or on behalf of a public official or employee in the performance of official duty.

- 2) Address Identification Signs.
 - a) Residential Building. Every principal building shall be identified with its legal street address in numerical form. The numerals shall be at least three (3) inches in height, and either contrasting in color from the principal building, made of reflective material or illuminated. The numerals shall be readable from the nearest adjacent roadway serving the premises. Should the building numerals not be visible from the roadway, an address post displaying the identification numerals of the same minimum height shall be placed adjacent to the driveway in such a manner as to be readable from the roadway.
 - b) Commercial, Industrial, and Multiple Family Buildings. Numerals identifying street addresses for commercial and industrial buildings, including multiple family dwellings shall be a minimum of six (6) inches in height and shall comply with the other requirements of subsection a) above. All such buildings having multiple street addresses shall be required to identify rear door entrances in the same manner as main entrances.
- 3) Political Campaign Signs. Signs, not exceeding thirty-two (32) square feet in area, displayed on private property, containing matter which is intended or tends to influence directly or indirectly any voting at any primary, general, municipal, special or school election, including pictures for announcements relative to candidates or campaign advertising. One (1) sign per candidate and issue per lot is permitted in addition to other signs on private property in any zoning district. In State general elections, no person shall permit or allow any such sign to be publicly displayed or posted before August 1 or ten (10) days after the State general election to which the sign relates. In special elections, the durational limit shall be ninety (90) days before and ten (10) days after the special election to which the sign relates. Any sign permitted by this section may be used as a non-commercial opinion sign.
- 4) Non-Commercial Opinion Signs. Signs, not exceeding thirty-two (32) square feet in area, displayed on private property, containing information which expresses an opinion or point of view, but does not advertise products, goods, businesses or services. One (1) sign per lot is permitted in any zoning district, however, an illuminated or motion sign may not be used in residential zoning districts as a non-commercial opinion sign.

- 5) Holiday Signs. Signs or displays which contain or depict a message pertaining to a religious, national, state or local holiday.
- 6) Construction Signs. Such signs shall be confined to the site of the construction, alteration, or repair, and shall be removed within two (2) years of the date of issuance of the first building permit or when the particular project is completed, whichever is sooner as determined by the City Building Official or his agent. One (1) sign shall be permitted for each major street the project abuts. No sign may exceed fifty (50) square feet.
- 7) Real Estate Sale or Rental Signs. Signs must be removed within fourteen (14) days after sale or rental of property. Signs may not measure more than four (4) square feet in residential districts, nor more than twenty (20) square feet in all other districts. There shall be only one (1) sign per premises. Corner properties, however, may contain two (2) signs, one (1) per frontage.
- 8) Flags and Memorial Signs. Flags or emblems of a national, federal or state government, or memorial signs thereof, displayed on private property.
- 9) Directional Signs.
 - a) On-Premise Signs. Shall not be larger than ten (10) square feet. The number of signs shall not exceed four (4) unless approved by the Council.
 - b) Off-Premise Signs. Shall be limited to situations where access is confusing and traffic safety could be jeopardized or traffic could be inappropriately routed through residential streets. The locations, sizes and number of such signs shall be approved by the Council and shall contain no advertising.
- 10) Roof Signs. Roof signs may be permitted with City Council approval, provided the following conditions are met:
 - a) The sign plans include plan and specifications certified by a registered engineer that the sign structure can be supported by the building and is designed for dead load and wind load pressure from any direction.
 - b) The roof sign location will not obstruct the visibility of surrounding properties.

- c) The roof is inspected by the City Building Official and determined to be sufficiently sound to support the proposed sign.
- b. Prohibited Signs. The following signs are prohibited:
- 1) Any sign which obstructs the vision of vehicle drivers or pedestrians, or detracts from the visibility of any official traffic control device.
 - 2) Any sign not erected by an official governmental agency which contains or imitates an official traffic sign or signal, except for private, on-premise directional signs.
 - 3) Motion signs and flashing signs, except time and temperature signs, computerized message boards and barber poles. All displays shall be shielded to prevent any light from being directed at oncoming traffic in such brilliance as to impair the vision of any vehicle drive. No device shall be illuminated in such a manner as to interfere with or obscure an official traffic sign or signal.
 - 4) Portable signs except as permitted in Section 51.03, Subd. N.7.d.3 of this Ordinance.
 - 5) Signs which are attached to trees, fences or utility poles, or other permanent supports, except for those signs found on fences (inside) of public parks, on-site directional signs, warning or public safety signs, civic event signs or City holiday or special event signs.
 - 6) Advertising signs with the following exceptions:
 - a) Signs advertising non-profit organizations are permitted subject to the restrictions imposed within the zoning district in which the sign is located.
 - b) Temporary window signs used for the purpose of advertising goods and/or services may utilize up to one hundred (100) percent of the internal window area.
 - 7) Advertising or business signs on or attached to equipment such as semi-truck trailers where signing is a principal use of the equipment on either a temporary or permanent basis.

4. **Non-Conforming Signs.**

- a. The following are non-conforming signs:

- 1) Prohibited signs.
 - 2) All other signs not prohibited that do not conform to the provisions of this Ordinance.
- b. General Provisions Governing Non-Conforming Signs.
- 1) A non-conforming sign lawfully existing upon the effective date of this Ordinance may be continued at the size and in the manner existing upon such date.
 - 2) A non-conforming sign may not be:
 - a) Structurally altered except to bring it into compliance with the provisions of this Ordinance.
 - b) Enlarged.
 - c) Re-established after its removal or discontinuance.
 - d) Repaired or otherwise restored, unless the damage is to less than fifty (50) percent of sign structure.
 - e) Replaced.
 - 3) Non-Conforming Sign Maintenance and Repair. Nothing in this Ordinance shall be construed as relieving the owner or user of a legal non-conforming sign or other of the property on which the legal non-conforming sign is located from the provisions of this Ordinance regarding safety, maintenance, and repair of signs, provided, however, that any repainting, cleaning, and other normal maintenance or repair of the sign or sign structure shall not modify the sign structure or copy in any way which makes it more non-conforming or the sign shall lose its legal non-conforming status.
- c. Non-Conforming Uses. When the principal use of land is legally non-conforming under the Delano Zoning Ordinance, all existing or proposed signs in conjunction with that land, shall be considered conforming if they are in compliance with the sign provisions for the most restrictive zoning district in which the principal use is allowed.

5. General District Regulations.

- a. General District Regulations. The following sections concern signs which require application and permit.

- 1) R-A Through R-3 Residential Districts:
 - a) Institutional or area identification signs (monument type only), provided that the gross square footage of sign area does not exceed thirty-two (32) square feet and if the sign is freestanding, the height does not exceed eight (8) feet.
- 2) R-4 and R-5 Residential Districts:
 - a) Institutional/Residential Area Identification. Except as provided for in Section 51.03, Subd. N.7.d of this Ordinance, only one (1) sign per principal use. Sign area may not exceed fifty (50) square feet with a maximum height of ten (10) feet for freestanding signs.
- 3) R-B, Residential Business District:
 - a) Institutional/Residential Area Identification. Except as provided for in Section 51.03, Subd. N.7.d of this Ordinance, only one (1) sign per principal use. Sign area may not exceed fifty (50) square feet with a maximum height of ten (10) feet for freestanding signs.
 - b) Business Sign. Except for home occupations, only one (1) sign as accessory to a permitted or conditional use. Sign area may not exceed thirty-two (32) square feet with a maximum height of six (6) feet for freestanding signs.
- 4) B-1, Business District:
 - a) Area Identification. Only one (1) sign. Sign area may not exceed seventy-five (75) square feet with a maximum height of twenty (20) feet for freestanding signs.
 - b) Single or Double Occupancy Business Signs. The total sign area for the subject property may not exceed fifteen (15) percent of the total front building façade except both front and side facades may be counted on a corner lot. Signs chosen to comprise the total sign area shall be consistent with the following provisions:
 - (1) Each lot will be allowed one (1) pylon, freestanding or monument sign and two (2) wall signs total.

- (2) Pylon/Freestanding. Sign area may not exceed fifty (50) square feet with a maximum height of twenty (20) feet.
 - (3) Wall, Canopy, or Marquee. Individual sign area may not exceed fifteen (15) percent of the total front building façade.
- 5) B-2 Through B-W Business Districts, I-1, and I-2 Industrial Districts:
- a) Area Identification. Only one (1) sign. Sign area may not exceed one hundred (100) square feet with a maximum height of thirty (30) feet for freestanding signs.
 - b) Single or Double Occupancy Business Sign. The total sign area may not exceed fifteen (15) percent of the total front building façade. In calculating building façade, both front and side facades may be counted on a corner lot. Signs chosen to comprise the total sign area shall be consistent with the following provisions:
 - (1) Each lot will be allowed one (1) freestanding sign and two (2) wall signs total. An additional wall sign may be approved by the City Council in the B-4 District if a freestanding sign is not used.
 - (2) Freestanding. Sign structure may not exceed a maximum height of thirty (30) feet and maximum area of one hundred (100) square feet.
 - (3) Wall or Marquee. Individual sign area may not exceed fifteen (15) percent of the total front building façade.
 - c) Motor Fuel Station Canopy Sign. Lettering or logos shall not exceed thirty (30) percent of each canopy face. Letters or logos may be painted or otherwise affixed to any permissible canopy as follows:
 - (1) Location. Lettering or logos shall not project above, below, or beyond the physical dimensions of the canopy.
 - (2) Use. Lettering or letters shall not denote other than the name and address of the business conducted

therein and/or a product or products produced or sold or service rendered therein.

- d) B-4 District projecting sign may be permitted provided the following standards are met:
 - (1) The projecting sign shall count as one of the permitted wall signs.
 - (2) Only one (1) projecting sign is allowed per store front.
 - (3) The projecting sign is hung at a right angle from the building face.
 - (4) The Building Inspector shall approve the sign frame and supports.
 - (5) The sign shall not project from the building face more than five (5) feet and must be setback a minimum of two (2) feet from the face of curb or street surface.
 - (6) The bottom on the projecting sign shall provide a minimum of eight (8) feet of clearance from the sidewalk surface.
 - (7) The projecting sign shall not extend over the top of the building roof line or highest parapet.
 - (8) The project sign shall comply with area standards of the B-4 District.

6. **Billboards.**

- a. Billboards. Billboards existing on the date this Ordinance is enacted may not be enlarged or altered. Billboards constructed after the enactment of this Ordinance are subject to the following regulations:
 - 1) The sign area may not exceed three hundred (300) total square feet.
 - 2) The maximum sign height shall be thirty (30) feet.
 - 3) They shall be located a minimum of a one thousand three hundred twenty (1,320) feet from all existing or approved billboards on the same side of the street or road.

- 4) All back-to-back billboards shall be enclosed in a framed case and shall be erected on a pylon.
- 5) They shall not be located within fifty (50) feet of any front or rear property lines.
- 6) They shall not be located within three hundred (300) feet of any residentially zoned or used property and shall be landscaped and screened in accordance with minimum City standards. All permit applications for billboards shall be accompanied by a landscaping plan.
- 7) A billboard shall be the principal use on the lot on which it is located. Such lot shall meet minimum lot, lot area and setback requirements within the Zoning Ordinance for the district proposed for the billboard location.
- 8) A billboard shall be located on only major arterial streets.

7. **Special Sign Regulations.**

- a. Motor Fuel Stations. Signs for motor fuel stations shall be regulated by the single occupancy business structure sign provisions for the zoning district in which the station is located. In addition, motor fuel stations may also display signs which identify current fuel prices and car wash facilities. Such signs shall be limited to a maximum size of sixteen (16) square feet and a minimum height of ten (10) feet each.
- b. Automobile Dealerships and Automobile Sales Lots. Signs for automobile sales lots shall be regulated by the zoning district standards. In addition, four every two hundred (200) feet of street frontage, the business may have one (1) additional pylon/freestanding sign not to exceed the zoning district area and height standards.
- c. Multiple Occupancy Business and Industrial Buildings. When a single principal building is devoted to three (3) or more businesses, or industrial uses, a comprehensive sign plan for the entire structure shall be submitted and shall be of sufficient scope and detail to permit a determination as to whether or not the plan is consistent with the following regulations. The plan shall be subject to the approval of the Council. No permit shall be issued for an individual use except upon a determination that it is consistent with the approved comprehensive sign plan.
 - 1) The maximum individual sign sizes for multiple occupancy structures and individual uses which may display signs shall not

exceed the maximum provisions for single or double occupancy structures in the same zoning district.

- 2) Multiple occupancy structures may display an area identification sign consistent with the applicable district provisions of Section 51.03, Subd. N.4.a.4) or N.4.a.5) of this Ordinance. Individual freestanding signs identifying the tenants business shall not be displayed, except the freestanding area identification sign may identify up to four (4) major tenants.
- 3) Individual tenants may have an exterior wall sign provided the total building signage does not exceed fifteen (15) percent of the building façade and individual signs do not exceed the district standard.
- 4) In any multiple occupancy structure or shopping center, directory signs shall be permitted for each common public entrance. Each directory sign area shall not exceed a total of fifty (50) square feet and shall be located within fifty (50) feet of the common public entrance being served. The size of individual business identification signing within the directory shall be established during the site plan review process. Attention shall be given to the possible number of tenant or occupancy bays which may be served by the common public entrance for which the directory size is intended.

d. Special Event Signage.

- 1) Banners, posters, pennants, ribbons, streamers or spinners and any similar devices which are designed and utilized primarily to draw attention to an object, product, place, activity, person, institution, organization or business are allowed, provided that:
 - a) The use of such devices shall require a permit. The permit shall be valid for no more than fifteen (15) consecutive days and no more than four (4) such permits per business shall be granted during any twelve (12) month period.
 - b) Such devices are kept in good condition and repair so as to not create a public nuisance or hazard.
 - c) All setback requirements as prescribed by this and all other applicable regulations, rules or ordinances are met. Except for civic and city holiday decorations or devices, all such devices are not permitted in the public right-of-way.

- d) Such devices do not create any hazards in regards to visibility or obstruction of safe pedestrian or traffic movement on the site.
 - e) The additional gross sign area of such devices when added to the existing sign area shall not exceed one hundred ten (110) percent of the total allowable sign area.
- 2) Search lights and lighter than air inflatable devices and/or balloons and any similar devices which are designed and utilized primarily to draw attention to an object, product, place, activity, person, institution, organization or business are allowed, provided that:
- a) The use of such devices shall require a permit. The permit shall be valid for no more than fifteen (15) consecutive days and no more than four (4) such permits per business shall be granted during any twelve (12) month period. There shall be a thirty (30) day waiting period between consecutive permits.
 - b) Such devices are kept in good condition and repair so as to not create a public nuisance or hazard.
 - c) All setback requirements as prescribed by this and all other applicable regulations, rules or ordinances are met. All such devices are not permitted in the public right-of-way.
 - d) Such devices do not create any hazards in regards to visibility or obstruction of safe pedestrian or traffic movement on the site.
 - e) The additional gross sign area of such devices when added to the existing sign area shall not exceed one hundred twenty-five (125) percent of the total allowable sign area.
 - f) Such devices shall not be taller than fifteen (15) feet in height.
 - g) Such devices may only be internally lit or illuminated. No external lighting of such devices is permitted.
 - h) For shopping centers, these provisions shall apply to each tenant on an individual basis.
- 3) Portable Signs. The following provisions shall apply to portable signs in the City:

- a) Portable signs are prohibited in residential rezoning districts except in conjunction with church or school sites.
 - b) Except for legally established, non-conforming portable signs existing prior to the effective date of this Ordinance, portable signs shall not exceed thirty-two (32) square feet per side.
 - c) All portable signs illegally established prior to the effective date of this Ordinance shall be brought into conformance with the applicable provisions of this and all other ordinances or regulations within thirty (30) days of the effective date of this Ordinance.
 - d) Wherever possible, property owners are encouraged to include reader board signs as part of freestanding signs to minimize the need for and use of temporary or portable signs. Such reader board signs will be included in sign calculations when determining how much signage is allowed or used for a building or property.
 - e) Signs may not be illuminated with any flashing device.
 - f) The use of portable signs required a City permit and is restricted to information only. The permit shall be valid for no more than fifteen (15) consecutive days and no more than four (4) such permits per business shall be granted during any twelve (12) month period.
 - g) All electrical connections shall be made in a National Electrical Code and State Building Code approved manner and shall use a GFI receptacle outlet.
 - h) All temporary and portable signs shall be braced and secured in such a manner to prevent motion or movement.
 - i) For shopping centers, Subd. 3.1.f of this Ordinance shall apply to tenants on an individual basis.
8. **Inspection.** All signs for which a permit is required shall be subject to inspection by the Building Official and/or the Zoning Administrator. The Building Official or Zoning Administrator may order the removal of any sign that is not maintained in accordance with the maintenance provisions of this Ordinance.
9. **Permits, Applications, Licenses, Variances and Council Approval.**

- a. Except as provided in Section 51.03, Subd. N.4.a of this Ordinance, it is unlawful for any person to erect, construct, alter, rebuild or relocate any sign or structure until a permit has first been issued by the City.
- b. Sign Application. The following information for a sign license shall be supplied by an applicant if requested by the City:
 - 1) Name, address and telephone number of person making application.
 - 2) A site plan to scale showing the location of lot lines, building structures, parking areas, existing and proposed signs and any other physical features.
 - 3) Plans, location and specifications and method of construction and attachment to the buildings or placement method in the ground.
 - 4) Copy of stress sheets and calculations showing that the structure is designed for dead load and wind pressure in any direction in the amount required by this and all other laws and City Code provisions.
 - 5) Written consent of the owner or lessee of any site on which the sign it is to erected.
 - 6) Any electrical permit required and issued for the sign.
 - 7) Such other information as the City shall require to show full compliance with this and all other laws and City Code provisions.
- c. License Issues if Application is in Order. The Building Official or Zoning Administrator, upon the filing of an application for a license, shall examine such plans, specifications and other data and the premises upon which it is proposed to erect the sign. If it appears that the requirements of this Ordinance and all other laws and City Code provisions, the license shall be issued. If the work authorized under a license has not been completed within sixty (60) days after the date of issuance, the license shall be null and void.
- d. Council Approval. When this Ordinance requires Council approval for a sign, the application shall be processed in accordance with the procedural and substantive requirements of the Zoning Ordinance for a site plan review.
- e. Variances. The Council may, upon application, grant a variance from the terms of this Ordinance. The request for a variance shall be processed in

accordance with the procedural and substantive requirements of Section 51.02, Subd. D of the Delano Zoning Ordinance.

- f. **Fees.** Fees for the review and processing of a sign license applications and variance requests shall be imposed in accordance with the fee schedule established by Council ordinance set forth in this Ordinance.
 - 1) **Payment of Fees.** Fees shall be collected by the City before the issuance of any permits by the City Clerk, Building Official, or other persons duly authorized to issue such permits for which the payment of a fee is required. Under the provisions of this Ordinance, authorized personnel may not issue a permit until such fee has been paid.
 - 2) **Double Fees.** If a person begins work of any kind for which a permit from the City is required, without having secured the necessary permits therefore, either previous to or on the date of commencement of such work, they shall, when subsequently securing such permit, pay double the fee provided for such permit, or is subject to the penalty provisions of this Ordinance.
 - 3) **Fees Required.** Sign applications and subsequent fees will be required for all signs which do not appear in Section 51.03, Subd. N.3 (Permitted and Prohibited Signs) of this Ordinance. Fees shall not be required for incidental repairs and/or maintenance of signs and sign structures.
 - 4) **Special Permit Fees.** Special permit fees shall be assessed for all attention seeking devices as described in Section 51.03, Subd. N.6.d of this Ordinance. The fee shall be determined by resolution of the City Council.
10. **Enforcement.** This Ordinance shall be administered and enforced by the Building Official and/or the Zoning Administrator. The Building Official, Zoning Administrator, or other persons duly authorized may institute in the name of the City appropriate actions or proceedings against a violator.
11. **Violation a Misdemeanor.** Every person violates a section, subdivision, paragraph or provision of this Ordinance when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor.
12. **Severability.** Should any section, subdivision, clause or other provisions of this Ordinance be held invalid by any court of competent jurisdiction, such decision

shall not affect the validity of the Ordinance as a whole, or any part thereof except the part held to be invalid.