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## **SECTION 1: TITLE AND APPLICATION**

### **1-1 TITLE**

This Ordinance shall be known as the Delano Subdivision Ordinance, and will be referred to herein as the Ordinance.

### **1-2 PURPOSE**

The Council being aware of the responsibility which they have for the adoption of ordinances, rules and regulations designed for the protection of health, safety and general welfare of this community, deem it necessary to provide regulations for platting and subdividing of property within the City which will prevent, as far as possible:

- A. The uses of land which are not feasible.
- B. The location of streets where such location does not fit the overall pattern of the City.
- C. The general design of the proposed building lots in any platted area which might prevent compliance with the Building Code, Zoning Ordinance, or other regulations of the City in the future.
- D. To make all subdivisions of property conform as nearly as possible with a future overall plan.

Does hereby order that all subdivisions hereafter planned within the limits of the City shall, in all respects, fully comply with the regulations hereinafter set forth.

### **1-3 JURISDICTION**

The provisions of this Ordinance shall apply to all lands within the incorporated boundaries of Delano.

### **1-4 PLATTING AUTHORITY**

The Delano City Council shall serve as the platting authority of the incorporated areas of the City in accordance with Minnesota Statute Chapters 462.358, as may be amended. No plat or replat shall be filed or accepted for filing by the Office of the Wright County Recorder unless adopted

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by the affirmative vote of the majority of the members of the City Council approving such plat or replat.

## **1-5 ADMINISTRATION**

This Ordinance shall be administered by the Zoning Administrator who is appointed by the City Council.

## **1-6 AMENDMENTS**

The provisions of this Ordinance shall be amended by the City following a legally advertised public hearing before the Planning Commission and in accordance with the law, including the rules and regulations of any applicable state or federal agency.

## **1-7 CONDITIONS FOR RECORDING**

No plat or subdivision shall be entitled to record in the Wright County Recorder's Office or have any validity until the plat thereof has been prepared, approved and acknowledged in the manner prescribed by this Ordinance.

## **1-8 BUILDING PERMITS**

Except for Model Homes or other special circumstances approved by the City Council, no building permits shall be considered for issuance by the City for the construction of any building, structure or improvement to the land or to any lot in a subdivision as defined herein, until all requirements of this Ordinance have been fully complied with.

## **1-9 SEPARABILITY**

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason found to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

## **1-10 POLICY**

- A. It is hereby declared to be the policy of the City to consider the subdivision of land and the subsequent development of the plat as subject to the control of the City pursuant to

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the Delano Comprehensive Plan for the orderly, planned, efficient and economical development of the City.

- B. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health from fire, flood, or other menace. Land shall not be subdivided unless proper provisions have been made for drainage, stormwater management, wetland protection, potable water, domestic waste water, streets, and capital improvements such as parks, trails, sidewalks, recreation facilities, transportation facilities, stormwater improvements, and any other necessary improvements.
- C. The existing and proposed public improvements shall conform to and be properly related to the Comprehensive Plan, Comprehensive Sanitary Sewer Plan, Master Water Study, Storm Water Management Plan, Comprehensive Trail Plan, and the Capital Improvement Plan of the City.
- D. The provisions of this Chapter are in addition to and not in replacement of provisions of all Building Codes and the zoning regulations. Any provision of the Building Code and zoning regulations shall remain in full force and effect except as may be contradictory to the provisions hereof. Where any provision conflicts with other provision, the most restrictive provision shall be applied.

## **1-11 APPLICATION OF RULES**

The language contained in this Ordinance shall be interpreted in accordance with the following rules of construction as applicable:

- A. The singular includes the plural and the plural the singular.
- B. The present includes the past and future tenses, and the future tense includes the present tense.
- C. The masculine gender includes the feminine and neuter genders.
- D. Whenever a word or term defined hereinafter appears in this Ordinance, its meaning shall be construed as set forth in such definition.
- E. In the event of conflicting provisions, the more restrictive shall apply.
- F. In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirement for the promotion of health, safety, and welfare.

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## 1-12 DEFINITIONS

For the purpose of this Ordinance the following definitions have the meaning given them solely for the purposes of implementation of this Ordinance:

Alley - A public right-of-way which affords a secondary means of access to abutting property.

Applicant – The owner, their agent or person having legal control in land for which the provisions of this Ordinance are being considered or reviewed.

Attorney – The City Attorney.

Best Management Practices (BMPs) – Best management practices as described in current Minnesota Pollution Control Agency's manual and other sources for Stormwater Management as approved by the City.

Block – That property abutting on one side of a street and lying between the two nearest intersecting or intercepting streets or railroad right-of-way or unsubdivided acreage.

Boulevard - That portion of the street right-of-way between the curb line or edge of pavement and the property line.

Boundary Lines – Lines indicating the bounds or limits of any tract or parcel of land.

Buffer Yard – A strip of land utilized to screen or partially screen a use or property from another use or property or to shield or mitigate noise, lights, or other impacts.

Buffer Strip – A linear strip of land along a lake, wetland, river, creek, or stormwater ponding area where vegetation is established and maintained as a means to slow the velocity of stormwater drainage and to filter sediment and pollutants from the stormwater.

Build Out Plan (Ghost Plat) – A subdivision or resubdivision concept plan illustrating possible future lot layout, street networks, and utility systems for oversized lots, outlots, or undeveloped land within or adjoining a preliminary plat.

Buildable Land – Contiguous land area occurring within the property lines of a parcel of lot excluding drainageways, wetlands, water courses, park land, road rights-of-way, and slopes in excess of eighteen (18) percent.

**Building** – Any structure used or intended for supporting or sheltering any use or occupancy.

**Building Line** – Also referred to as a setback line, the line beyond which property owners or others have no legal or vested right to extend a building or any part thereof without special permission and approval of the proper authorities.

**Capital Improvement Plan** - An itemized program setting forth the schedule and details of specific contemplated public improvements by fiscal year, together with their estimated cost, the justification for each improvement, the impact that such improvements will have on the current operating expense of the government, and such other information on capital improvements as may be pertinent.

**Certificate of Survey** – A land survey prepared by a land surveyor registered in the State of Minnesota with a certification that the information on the land survey is accurate.

**Common Interest Community or CIC**. Contiguous or non-contiguous real estate within Minnesota that is subject to an instrument which obligates persons owning a separately described parcel of the real estate, or occupying a part of the real estate pursuant to a proprietary lease, by reason of their ownership or occupancy, to pay for (1) real estate taxes levied against; (2) insurance premiums payable with respect to; (3) maintenance of; or (4) construction, maintenance, repair or replacement of improvements located on one or more parcels or parts of the real estate other than the parcel or part that the person owns or occupies. Real estate subject to a master association, regardless of when the master association was formed, shall not collectively constitute a separate common interest community unless so stated in the master declaration recorded against the real estate pursuant to Minnesota Statutes Section 515B.2-121 (f)(1), as amended from time to time.

**Common Open Space** - Any open space including private parks, nature areas, playgrounds, trails and recreational buildings and structures owned in common by a group of property owners.

**Comprehensive Plan** - The Delano Comprehensive Plan.

**Condominium** - A form of individual ownership within a multi-unit building with joint responsibility for maintenance and repairs. In a condominium, each unit is under separate ownership, along with an undivided share of common buildings and land.

**Conservation Development** - The development pattern and technique whereby lots are arranged in closely related groups to preserve the natural amenities of the land through the creation of common open space.

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Contour Map – A map on which irregularities of land surface are shown by lines connecting points of equal elevations. Contour interval is the vertical height between contour lines.

Critical Root Zone (CRZ) – An imaginary circle surrounding the tree trunk with a radius distance of one (1) foot per one (1) inch of tree diameter, e.g., a twenty (20) inch diameter tree has a CRZ with a radius of twenty (20) feet.

Cul-de-sac - (See Street)

Design Standards – The specifications for the preparation of sketch plans, preliminary plats, and final plats indicating, among other things, the optimum minimum or maximum dimensions of such features as rights-of-way and blocks, as set forth in this Chapter.

Developer - A person who submits an application for the purpose of land subdivision as defined herein. The developer may be the owner or authorized agent of the owner of the land to be subdivided.

Diameter – The diameter of a tree measured at diameter breast height (four and one-half (4.5) feet from the uphill side of the existing ground level).

Drainageway -

1. Any natural, altered or artificial water course which has definable beds and banks capable of conducting confined runoff from adjacent lands. Water course beds not clearly defined shall be delineated to include that area which would be inundated by runoff resulting from a twenty-four (24) hour rainfall having a recurrence interval of once in five (5) years.
2. An altered water course is that which has been affected by man-made changes in straightening, deepening, narrowing, or widening the original channel.
3. An artificial water course is that which has been artificially constructed by man where there was no previous natural water course. The limits of the water course bed are confined to that area, which would be inundated by runoff resulting from a twenty-four (24) hour rainfall having a recurrence interval of once in five (5) years.

Drip Line – The farthest distance away from the trunk that rain or dew will fall directly to the ground from the leaves or branches of the tree.

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Easement – A grant by a property owner for the use of a strip of land by the general public, a corporation, or a certain person or person, for a specific purpose or purposes.

Engineer - An engineer employed by the City.

Escrow - The deposition of funds in an account maintained by the governmental unit specifically for the purpose of ensuring fulfillment of certain obligations pursuant to this Ordinance.

Financial Guarantee – A financial security consistent with Section 10 of this Ordinance, posted with the City with the approval of a final plat, guaranteeing compliance with the approved final plat, construction plans, and conditions of approval set forth by the City.

Floodplain – The areas adjoining a watercourse which have been or hereafter may be covered by the regional flood.

Frontage – The width of a lot or building site measured on the line separating it from a public street right-of-way.

Grade, Percentage of – The rise or fall of a street in feet and tenths of a foot for each one hundred (100) feet of horizontal distance measured at the center line of the street.

High Water Level – The water level in a watercourse which could be predicted to occur as a result of the critical 100-year runoff event using U.S. Department of Agriculture Soil Conservation Service methodology, as approved by the City.

Improvement, Public - Any drainage facility, street, parkway, park, lot improvement or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which City responsibility is established.

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

Lot – A portion of a subdivision or other parcel of land intended for building development or for transfer of ownership under a single legal description and single tax parcel identification number.

Lot, Base – Lots meeting all the specifications in the zoning district prior to being subdivided into a two family dwelling, quadraminium, or townhome subdivision.

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**Lot, Corner** – A lot or lots within a plat and situated at the corners thereof so that they are bounded on two sides by streets. This term applies to any lot within the plat at street intersections and bounded on two sides by streets.

**Lot, Double Frontage** - A lot which has a pair of opposite lot lines abutting two (2) substantially parallel streets, and which is not a corner lot.

**Lot, Flag** – A lot whose public right-of-way does not meet the minimum required width. Access is provided by a narrow strip of land or private right-of-way.

**Lot, Unit** – Lots created from the subdivisions of a two family dwelling, quadraminium, or townhome having different minimum lot size requirements than the conventional base lots within the zoning district.

**Lot Depth** - The mean horizontal distance between the front lot line and the rear lot line of a lot.

**Lot Line** - A property line bounding a lot except that where any portion of a lot extends into the public right-of-way, the lot line shall be deemed to be the boundary of said public right-of-way.

**Lot Width** - The horizontal distance between the side lot lines of a lot measured at the front building setback line, and, if applicable, at the setback line from the ordinary high water level of a lake or tributary.

**Metes and Bounds** - A method of property description by means of their direction and distance from an identifiable point of beginning.

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Outlot - A parcel of land shown on a subdivision plat as an outlot, and designated alphanumerically, (for example - Outlot A.) Outlots are used to designate one of the following: land that is part of the subdivision but is to be subdivided into lots and blocks at a later date; land that is to be used for a specific purpose as designated in a developer's agreement or other agreement between the City and the developer.

Owner - Any individual, firm, association, partnership, corporation, trust or any other legal entity having proprietary interest in the land.

Pedestrian and/or Bicycle Trail – An easement or land dedication given to the City for the purpose of providing public walking and/or bicycling trails to City residents. The trails shall provide recreational opportunity and also access to parks, natural areas, and public land in accordance with the City's adopted trail plan.

Plat - The drawing or map of a subdivision prepared for filing of record pursuant to Minnesota Statute 505, as may be amended.

Plat, Final - The final map or drawing, consistent with the standards of Section 5 of this Ordinance, on which the developer's plan or subdivision is presented to the City Council for approval and which, if approved, will be submitted to the Office of the County Recorder or Registrar of Titles.

Plat, Preliminary - The preliminary map or drawing, consistent with the standards of Section 4 of this Ordinance, indicating the proposed layout of the subdivision to be submitted to the City for their consideration for compliance with the Comprehensive Plan, the Zoning Ordinance, and these regulations along with required supporting data.

Protective Covenant - A restriction of the use placed upon the property by a present or former owner and recorded in the Office of the County Recorder or the Registrar of Titles. The City will not be responsible to enforce private protective covenants.

Registered Land Survey - A survey map of registered land designed to simplify a complicated metes and bounds description, designating the same into a tract or tracts of Registered Land Survey Number.

Registered Land Surveyor - A land surveyor licensed and registered in the State of Minnesota.

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Resubdivision - A change in an approved or recorded subdivision plat if such change affects any street layout on such map or area reserved for public use, or any lot line or if it affects any map, or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

Right-of-Way - A strip of land occupied or intended to be occupied by a street, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for another special use. The usage of the term right-of-way for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Right-of-way intended for streets, water main, sanitary sewers, storm drains, or any other use involving maintenance by a public agency shall be dedicated to public use by the recording of the plat on which such right-of-way is established.

Road Right-of-Way Width - The horizontal distance between the outside edges of a road right-of-way.

Setback - The minimum horizontal distance between a structure, individual sewage treatment system, or other facility, and an ordinary high water level, sewage treatment system, top of bluff, road, highway, property line, or other facility.

Shoreland - Land located within the following distances from public waters: one thousand (1000) feet from the ordinary high water level of a lake, pond or flowage and three hundred (300) feet from a river or stream or the landward extent of a floodplain designated in Chapter 51.21 of the City Code on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner of Natural Resources.

Significant Tree – See definition of Tree.

Significant Tree Stand – See definition of Tree.

Specimen Tree – See definition of Tree.

Street - A right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, court, way, trail or however otherwise designated. Private, ingress and egress easements shall not be

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considered streets. City streets shall be categorized by functional classification, as defined by the Delano Comprehensive Plan.

Street, Cul-de-sac – A local street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

Street, Private – A private street is one which is not maintained by the City and for which the City is not under obligation to carry out repairs, even though it may be a named street and serve a number of properties.

Street Width – The width of the improved surface of the street as measured at right angles or radially to the centerline of the street from curb face to curb face, or on a street without curbs from the outside edge of the improved shoulder to outside edge of improved shoulder.

Subdivision - The separation of an area, parcel, or tract of land under single ownership into two (2) or more parcels, tracts, lots, or long term leasehold interests where the creation of the leasehold interest necessitates the creation of streets, roads, or alleys for residential, commercial, industrial or other use or any combination thereof, except those separations:

1. Where all the resulting parcels, tracts, lots or interests will be twenty (20) acres or larger in size and five hundred (500) feet in width for residential uses and five (5) acres or larger in size for commercial and industrial uses;
2. Creating cemetery lots;
3. Resulting from court orders, or the adjustment of a lot line by the relocation of a common boundary.

Subdivision, Administrative – A subdivision which results in two (2) or fewer parcels, tracts, or lots from one (1) or two (2) existing parcels, tracts, or lots.

Tree – Any of the following type of trees, as each is defined herein:

1. Coniferous Tree. A woody plant which, at maturity, is at least twelve (12) feet or more in height, having foliage on the outermost portion of the branches year round.
2. Deciduous Tree. A woody plant which, at maturity, is at least fifteen (15) feet or more in height, having a defined crown, and which sheds leaves annually.

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3. Significant Tree. A healthy tree measuring a minimum of six (6) inches in diameter for deciduous trees, or a minimum of twelve (12) feet in height for coniferous trees.
4. Significant Tree Stand. A grouping or cluster of coniferous and/or deciduous trees with contiguous crown cover, occupying five hundred (500) or more square feet of property, which are comprised of deciduous trees between four (4) inches and twelve (12) inches or larger in diameter or coniferous trees between four (4) feet and twelve (12) feet or higher in height.
5. Specimen Tree. A healthy hardwood tree measuring equal to or greater than thirty (30) inches in diameter and/or a coniferous tree measuring fifty (50) feet or greater in height.

Vegetation, Native – The pre-settlement group of plant species native to the local region, that were not introduced as a result of settlement or subsequent human activity.

Watercourses – Any natural or man-made passageway on the surface of the earth so situated and having such a topographical nature that surface water stands or flows through it from other areas. The term includes ponding areas, drainage channels, swales, waterways, creeks, rivers, lakes, streams, wetland areas, and any other open surface water flow which is the result of storm water or ground water discharge. This term does not include man-made piping systems commonly referred to as storm sewers.

Wetland – Lands transitional between terrestrial and aquatic ecosystems, where the water table is usually at or near the surface or the land is covered by shallow water. Consistent with the WCA, wetlands are to be identified and delineated using the methodology set forth in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (Interagency Task Force on Wetland Delineation, 1987). For purposes of this definition, wetlands must have three (3) of the following attributes:

1. A predominance of hydric soils;
2. Inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions;
3. Under normal circumstances support a prevalence of such vegetation.

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This definition does not include wetlands created from uplands either for stormwater storage and management purposes, or by actions not intended to create the wetland and approved, permitted, funded or overseen by a public entity.

**Wetland Alteration** – Human-induced actions that adversely impact the existing condition of a wetland or wetland buffer area, including grading, filling, dredging, dumping, cutting, pruning, topping, clearing native vegetation, and discharging pollutants (except stormwater). Alteration does not include walking, passive recreation, fishing, farming, planting that enhances native vegetation, or other similar activities allowed under the Minnesota Wetland Conservation Act.

**Wetland Buffer Strip** – An unknown, undisturbed, or re-established vegetated area in the upland area around the perimeter of a wetland. It is an integral part of protecting the wetland ecosystem through filtering pollutants and providing adjacent habitat.

**Wetland Buffer Strip Width Average** – The average width of a buffer strip around an individual wetland.

**Wetland Community** – In reference to plants, an interacting assemblage of plant populations sharing a given habitat.

**Wetland Edge** – The line delineating the outer edge of a wetland. This line shall be established by using the 1987 Corps of Engineers (COE) Wetland Delineation Manual (Environmental Laboratory, 1987).

**Wetland Enhance** – To improve the value of wetlands or wetland buffers with respect to the purposes of this Ordinance.

**Wetland Functions** – The natural processes performed by wetlands, including functions that are important in providing wildlife and fisheries habitat, facilitating food chain production, providing habitat for nesting, rearing, and resting for aquatic, terrestrial or avian species, maintaining the availability and quality of water, such as purifying water, acting as a recharge and discharge area for ground water aquifers and moderating surface water and storm water flows, improving stormwater quality, providing aesthetic benefits, as well as performing other functions, including but not limited to those set out in U.S. Army Corps of Engineers regulations at 33 C.F.R. Section 320.4(b)(2)(1988).

**Wetland Manage** – To control the use of wetland resources consistent with the purposes of this section. Management of wetlands includes conservation, maintenance, and enhancement.

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Wetlands, Manage 1 – These wetlands exist in a largely unaltered state and have special and unusual qualities that call for a high level of protection. These wetlands may provide habitat for rare, threatened and/or endangered plant and animal species present; and/or have moderate to exceptional floral diversity/integrity.

Wetlands, Manage 2 – These wetlands have plant communities that are in a largely unaltered state. The vegetative communities of these wetlands are characterized by moderate floral diversity.

Wetlands, Manage 3 – These wetlands have usually been altered by human activities. These wetlands have low to medium floral diversity and wildlife habitat components.

Zoning Administrator – The person duly appointed by the City Council as the individual charged with the responsibility of administering and enforcing this Ordinance.

Zoning Ordinance - The Delano Zoning Ordinance, Chapter 51 of the City Code, as may be amended, regulating the use of land within the incorporated boundaries of Delano.