

CHAPTER 152: ZONING CODE

Section

General Provisions

| | |
|---------|-------------------------------------|
| 152.001 | Title |
| 152.002 | Purpose |
| 152.003 | Definitions |
| 152.004 | Compliance required |
| 152.005 | Zoning districts |
| 152.006 | Zoning map |
| 152.007 | District boundaries |
| 152.008 | Validity |
| 152.009 | Relief from personal responsibility |
| 152.010 | Interpretation of standards |
| 152.011 | Property not included; annexations |

Use Categories and District Uses

| | |
|---------|---|
| 152.025 | Purpose |
| 152.026 | Agricultural uses |
| 152.027 | Residential uses |
| 152.028 | Service, merchandising, leisure uses, office uses |
| 152.029 | Industrial uses |
| 152.030 | Other uses |
| 152.031 | District regulations |

Use Districts

| | |
|---------|--|
| 152.045 | Agricultural District (AG) |
| 152.046 | Low Density Residential District (R-1) |
| 152.047 | Mixed Low Density Residential District (R-2) |
| 152.048 | High Density Residential District (R-3) |
| 152.049 | Commercial District (C) |
| 152.050 | Industrial District (I) |

Alternative Residential Development Methods

- 152.065 Intent
- 152.066 Planned Unit Development (PUD)

General Requirements

- 152.080 Conformance
- 152.081 Accessory buildings
- 152.082 Structures not included in height of building
- 152.083 Architectural projections
- 152.084 Nonconforming uses, lot and structure
- 152.085 Home occupations
- 152.086 Clear vision areas
- 152.087 Off-street loading
- 152.088 Parking requirements
- 152.089 Recreational vehicle parking
- 152.090 Dumping and disposal of solid or liquid waste material
- 152.091 Signs
- 152.092 Environmental performance standards
- 152.093 Temporary storage
- 152.094 Lot limitations
- 152.095 Manufactured home park regulations
- 152.096 Manufactured home subdivision
- 152.097 Travel trailer parks and campgrounds
- 152.098 Common open space ownership
- 152.099 Ownership and maintenance of common improvements
- 152.100 Buffering and screening
- 152.101 Earth-sheltered building requirements
- 152.102 Hazardous material storage
- 152.103 Fences, walls and hedges
- 152.104 Flood prone area requirements
- 152.105 Soil erosion and sedimentation control
- 152.106 Wind energy conversion systems (WECS)
- 152.107 Solar energy systems
- 152.108 Sanitary sewer provisions
- 152.109 Private swimming pools, hot tubs and spas
- 152.110 Wireless communications and antennas
- 152.111 Substitutes for buildings
- 152.112 Easement encroachments and vacations

Amendments

- 152.120 Procedure for amending
- 152.121 Vote required for amendments
- 152.122 Petitions previously denied
- 152.123 Map adjustments

Board of Adjustment

- 152.135 Powers and duties
- 152.136 Variances, conditions governing applications
- 152.137 Procedure
- 152.138 Required exhibits

Administration and Enforcement

- 152.150 Enforcement
- 152.151 Administrative compliance
- 152.152 Administrative action for violations
- 152.153 Complaints regarding violations
- 152.154 Zoning certificate
- 152.155 Expiration of zoning certificate
- 152.156 Construction and use to be as provided in applications, plans, permits and zoning certificates
- 152.157 Conditional uses; conditions governing applications, procedures

- 152.998 Violations
- 152.999 Penalty

GENERAL PROVISIONS

§ 152.001 TITLE.

The city ordains this chapter, which shall be known and cited as the “Zoning Code of the City of Byron” and is a chapter setting the minimum and maximum standards for the height and size of buildings and other structures, type of foundation, the size of yards, courts and other open spaces, the density of population, the location and use of buildings or land for trade, industry, residence, recreation, public activities, agriculture and other purposes; creating districts for said purposes and establishing the

Byron - Land Usage

boundaries thereof; providing for changes in regulations, restrictions and boundaries of such districts; defining certain terms used herein; providing for enforcement and administration and imposing penalties for the violation of this chapter.

(Ord. passed 11-93)

§ 152.002 PURPOSE.

(A) Pursuant to the authority conferred by the State of Minnesota in § 462.357, Laws of 1965, as amended, and for the following purposes:

(1) Promote and protect the public health, safety and general welfare of the inhabitants of the city;

(2) Protect and conserve the character and social and economic stability of residential, commercial, industrial, agricultural and other use areas;

(3) Secure the most appropriate use of land and orderly development throughout Byron;

(4) Prevent the overcrowding of the land and undue congestion of population;

(5) Provide adequate light and air and reasonable access;

(6) Facilitate the provision of public services and facilities;

(7) Secure equity among individuals in the use of their property;

(8) Conserve the unique and other natural environmental features and natural processes;

(9) Allow for the provisions of a safe, adequate supply of housing in suitable residential environments;

(10) Promote the safe, rapid and efficient movement of people and goods;

(11) Encourage energy conservation and the use of solar energy;

(12) Carry out the spirit and intent of the land use policies of the city.

(B) The city will only accept complaints from complainants who are directly affected by an alleged violation of this chapter. The term "directly affected" refers to complainants who own real property within 350 feet of the allegedly offending property. Nothing contained herein shall prevent the City Council from acting on its own motion to enforce the provisions of this chapter.

(Ord. passed 11-93; Am. Ord. passed - -)

§ 152.003 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY STRUCTURE. Any structure which is not attached to the main or principal building.

ACCESSORY USE. A use naturally and normally incidental to, subordinate to and auxiliary to the principal permitted use of the premises.

AGRICULTURE. The use of land for agricultural commercial or agricultural purposes, including the cultivation of land, dairying, pasturage, horticulture, floriculture and animal and poultry husbandry and the necessary accessory uses for packing, treating or storing the produce; provided, however, that the operation of any such accessory use shall be secondary to that of normal agricultural activities.

ALLEY. Any dedicated public way providing a secondary means of ingress and/or egress to land or structures thereon.

BASEMENT. That portion of a floor of a building which is wholly or one-half or more below the average grade of the ground level adjoining the building.

BOARDING OR ROOMING HOUSE, BED AND BREAKFAST. Any dwelling occupied in any such manner that certain rooms in excess of those used by members of the immediate family and occupied as a home or family unit are leased or rented to persons outside of the family, without any provision therein for cooking or kitchen accommodations within individual rooms, but centrally located.

BUILDABLE AREA. That part of the lot not included within the required setback and open space required by this chapter.

BUILDING. Any structure having a roof supported by columns or walls and used or built for the shelter or enclosure of any person, animal or property of any kind. When any portion thereof is completely separated from every other part thereof by party walls from the ground up and without openings, each portion of such building shall be deemed as a separate building.

BUILDING, EARTH SHELTERED. A building constructed such that more than 50% of the exterior surface area of the building, excluding garages or other accessory buildings, is covered with earth and the State Building Code standards are satisfied. Partially completed buildings shall not be considered earth sheltered.

BUILDING, HEIGHT. The vertical distance measured from the average ground level adjoining the building to the highest allowable point.

(1) Principal building: refer to §§ 152.046 (R-1), 152.047 (R-2), 152.048 (R-3), 152.049 (C), and 152.050 (I).

(2) Accessory building: refer to §§ 152.046 (R-1), 152.047 (R-2), 152.048 (R-3), 152.049 (C), and 152.050 (I).

BUILDING, PRINCIPAL. A building or structure in which is conducted the principal use of the lot on which said building or structure is situated.

CHILD CARE FACILITY. A state and county licensed private establishment which for gain regularly provides one or more children with care, training, supervision, habilitation, rehabilitation or developmental guidance for periods of less than 24 hours a day in a dwelling. (All child care facilities shall be licensed under the State of Minnesota Public Welfare Licensing Act.)

CLINIC. A public or proprietary institution providing diagnostic, therapeutic or preventive treatment of ambulatory patients by one or more doctors, dentists, doctors of chiropractic or other providers of medical care licensed by the state and acting in concert and in the same building for the purposes aforesaid.

CONVALESCENT HOME. A home designed and licensed by the State of Minnesota to provide care for aged or infirm persons requiring or receiving personal care or custodial care.

DAY CARE CENTER. A state licensed private or public establishment which for gain or otherwise regularly provides one or more persons (children, adolescents or adults) with care, training, supervision, habilitation, rehabilitation or developmental guidance for periods of less than 24 hours a day in a building other than a dwelling. (All day care facilities shall be licensed under the State of Minnesota Public Welfare Licensing Act.)

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

DISTRICT, ZONING. Any section of the incorporated area of the city within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this chapter.

DWELLING. Any building or portion thereof which is occupied wholly as a permanent residence with living, sleeping, kitchen and sanitary facilities. A tent or travel trailer is not considered a dwelling.

DWELLING, MULTIPLE FAMILY. A building used or intended to be used as a dwelling for three or more families or as an apartment house with each dwelling designed and arranged to provide separate cooking, living, sleeping and sanitary facilities for each family.

DWELLING, ONE FAMILY. A dwelling wherein only one family resides.

DWELLING, ONE FAMILY, ATTACHED. A one family dwelling which is attached at one side to only one other one family dwelling.

DWELLING, ONE FAMILY, DETACHED. A detached dwelling occupied by only one family.

DWELLING, SINGLE FAMILY TERRACE (TOWNHOUSE/ROWHOUSE). Three or more attached dwellings where each dwelling unit is divided by a separation wall extending the full height of the building. Each unit is capable of individual access, use and maintenance without trespassing upon adjoining properties, and utilities and service facilities are independent for each dwelling.

DWELLING, TWO FAMILY, DETACHED. A detached building on a single lot enclosing two dwellings and used exclusively for two families.

ELDERLY. Characterizing any individual, married or single, 55 years of age or more.

ENTERTAINMENT, ADULT. Adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels or motels, adult body painting studios and other adult establishments. Such development to be developed at standards that will not impair the traffic carrying capabilities of abutting roads and highways, will not result in strip commercial development and to separate from residential areas and in certain cases from each other certain commercial uses.

(1) **ADULT BODY PAINTING STUDIO.** An establishment or business which provides the service of applying paint or other substance whether transparent or nontransparent to or on the body of a patron when such body is wholly or partially nude in terms of specified anatomical areas.

(2) **ADULT BOOKSTORE.** A business engaging in the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audio tapes, compact discs (CD), DVD's, videotapes or motion picture film, if such shop is not open to the public generally but only to one or more classes of the public, excluding any minor by reason of age or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

(3) **ADULT CABARET.** An establishment which provides dancing or other live entertainment, if such establishment excludes minors by virtue of age or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the performance, depiction or description of specified sexual activities or specified anatomical areas.

(4) **ADULT COMPANIONSHIP ESTABLISHMENTS.** A companionship establishment which excludes minors by reason of age or which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer via telephone or computer lines, if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(5) **ADULT ESTABLISHMENT.**

(a) A business engaged in any of the following activities or which utilizes any of the following business procedures or practices either:

1. Any business which is conducted exclusively for the patronage of adults and as to which minors are specifically excluded from patronage there at either by law or by the operators of such business;

2. Any other business which offers its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to specified sexual activities or specified anatomical areas.

(b) Specifically included in the term, but without limitation, are adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotel or motels and adult body painting studios.

(6) **ADULT HOTEL OR MOTEL.** A hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

(7) **ADULT MASSAGE PARLOR, HEALTH CLUB.** A massage parlor as required to be licensed or a health club which restricts minors by reason of age and which provides the services of massage, if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(8) **ADULT MINI-MOTION PICTURE THEATER.** A business premises within an enclosed building with a capacity for less than 50 persons used for presenting visual media material if such business as a prevailing practice excludes minors by virtue of age or if said material is distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons therein.

(9) **ADULT MODELING STUDIO.** An establishment whose major business is the provision to customers of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted by such customers.

(10) **ADULT MOTION PICTURE ARCADE.** Any place to which the public is permitted or invited wherein coin or slug-operated or electronically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

(11) **ADULT MOTION PICTURE THEATERS.** A business premises within an enclosed building with a capacity of 50 or more persons used for presenting visual media material if said business as a prevailing practice excludes minors by virtue of age or if said material is distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons therein.

(12) **ADULT NOVELTY BUSINESS.** A business which has as a principal activity the sale of devices which simulate human genitals or devices which are designed for sexual stimulation.

(13) **ADULT SAUNA.** A sauna which excludes minors by reason of age or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation or reducing utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(14) **SPECIFIED ANATOMICAL AREAS.** Anatomical areas consisting of:

- (a) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breast(s) below a point immediately above the top of the areola; and
- (b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(15) ***SPECIFIED SEXUAL ACTIVITIES.*** Activities consisting of the following:

(a) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship or the use of excretory functions in the context of a sexual relationship and any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoerasty;

(b) Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence;

(c) Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation;

(d) Fondling or touching of nude human genitals, pubic region, buttocks or female breasts;

(e) Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint or any such persons;

(f) Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being; or

(g) Human excretion, urination, menstruation, vaginal or anal irrigation.

ERECTED. Built, constructed, reconstructed, moved upon or any physical operation on the premises related to the establishment of a structure. This includes: excavation, fill, drainage and the like.

ESSENTIAL SERVICES. The construction, alteration or maintenance by public utilities or municipal departments or commissions of underground or overhead gas, electrical, communication, stream or water transmissions or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or governmental departments or commissions for the public health, safety and general welfare, but excluding all buildings, except water well pump houses.

FAMILY. Any number of persons living together and related by blood, marriage, adoption or any unrelated person who resides therein as though a member of the family, including the domestic employees thereof. Any group of persons not so related, but inhabiting a single dwelling shall, for the

purpose of this chapter, be considered to constitute one family for each five persons, exclusive of domestic employees, contained in each such group.

FARM. A parcel or parcels of land used for agriculture. A farmyard shall be considered a part of a farm.

FARMYARD. That area of a farm including and immediately around a farm residence (one family, detached or manufactured home) where accessory buildings are located and are being used in conjunction with general agricultural operations of a farm.

FEEDLOT. Land or buildings or both intended for confined feeding, breeding, raising or holding of animals, including poultry, and where manure may accumulate or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure and where ten or more animal units are raised and/or held, fed or bred.

FLOOR AREA. The area within the exterior walls of the main building or structure as measured from the outside walls at the ground floor level, not including detached garages or unenclosed porches.

FOOT CANDLE. A unit of illumination produced on a surface, all points of which are one foot from a uniform point source of one candle.

GARAGE. An accessory building designed or used for the storage of motor vehicles or self-propelled recreational vehicles owned and used by the occupants of the building to which it is accessory.

GARAGE, PUBLIC. Any structure used for the storage or care of motor driven vehicles or a place where any such vehicles are stored, equipped for operation, repaired or kept for remuneration.

GASOLINE, SERVICE STATION. A building or structure designed or used for the retail sale or supply of fuels, lubricants, air, water and other operating commodities for motor vehicles and including

the customary space and facilities for the installation of such commodities on or in such vehicles, but not including special facilities for the painting, major repair or similar servicing thereof.

GLARE. The brightness of a light source which causes eye discomfort.

GOVERNMENTAL AGENCIES AND OFFICIALS.

(1) **BOARD OF ADJUSTMENT.** City of Byron Board of Adjustment appointed by the Byron City Council.

(2) **BUILDING INSPECTOR.** The City of Byron Building Inspector or an authorized representative.

(3) **PLANNING COMMISSION.** The Planning Commission of Byron, appointed by the City Council and established under M.S. § 462.354, subd. 1, as amended.

(4) **ZONING ADMINISTRATOR.** The Byron City Administrator or an authorized representative.

GROUND LEVEL, AVERAGE. The average elevation of the finished grade at the outside building wall that is adjacent to the front yard.

HAZARDOUS MATERIAL. A solid, liquid or gaseous material that may cause or contribute to serious illness or death or that poses a substantial threat to human health or to the environment when improperly managed. **HAZARDOUS MATERIAL** may be identified by any of four characteristics. The four characteristics are as follows:

(1) **Ignitable.** These materials may pose a fire hazard. Fires may present immediate dangers of heat and smoke and may also spread harmful particles over a wide area.

(2) **Corrosive.** These materials require special containers because of their characteristic of corroding standard materials. They have an additional characteristic of being able to dissolve toxic compounds.

(3) **Reactive.** These materials, when handled in a routine manner, may react spontaneously and vigorously with air and/or water. They also may be unstable to shock or heat. They may generate toxic gases or explode.

(4) **Toxic.** These materials, when improperly managed, may release toxicants (poisonous material) in sufficient quantities to pose a hazard to human health or to the environment.

HOME OCCUPATION. An accessory use of a dwelling, conducted entirely within the dwelling. The use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof or adversely affect the uses permitted in the residential district of which it is a part.

HOTEL or MOTEL. A commercial establishment comprised of a series of attached or detached rental units, with or without eating facilities, used primarily as temporary residences for motorists, tourists or travelers.

JUNKYARD. A place maintained for keeping, storing or piling, whether temporarily, irregularly or continually; buying or selling at retail or wholesale any old, used or second-hand material of any kind, including used motor vehicles, machinery and/or parts thereof; bottles, rubber, iron or other metals or articles which from its worn condition renders it practically useless for the purpose for which it was made and stored outdoors not in buildings. This shall include a lot or yard for the keeping of unlicensed motor vehicles, construction and farm machinery or equipment or the remains thereof for the purpose of dismantling, sale of parts, sale as scrap for storage or abandonment. This definition includes establishments that recycle any of the above mentioned materials.

KENNEL. Any lot or premises on which five or more domestic animals six months of age or older are kept, whether owned or permanently or temporarily boarded.

LAND USE PLAN. The long-range plan for the desirable use of land in the city as officially adopted and as amended from time to time by the City Council.

LOADING SPACE. An off-street space on the same lot with a building or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials and which abuts upon a street, alley or other appropriate means of access.

LOT. A designated parcel, tract or piece of land established by plat, subdivision or as otherwise permitted by law to be used, developed or built upon as a unit.

- (1) **LOT AREA.** The total square footage or area on a lot.
- (2) **LOT, CORNER.** A lot of which at least two adjacent sides abut for their full length upon a street. The streets or part of the same street will have an interior angle of less than 135 degrees.
- (3) **LOT, COVERAGE.** The part or percentage of the lot occupied by buildings or structures, including accessory buildings or structures.
- (4) **LOT, DOUBLE FRONTAGE.** A lot which extends from one street to another street and has frontage on two parallel or approximately parallel streets. Also referred to as a through lot.

Byron - Land Usage

(5) **LOT, FRONTAGE.** That part of a lot abutting on and having access to a public street right-of-way and ordinarily regarded as the front of the lot where the front lot line is located, but it shall not be considered as the ordinary side of a corner lot. Any corner lot shall have only one front yard and all other sides shall be side street side yards.

(6) **LOT, INTERIOR.** A lot other than a corner lot.

LOT LINE, FRONT. The line separating the lot from the street right-of-way.

LOT LINE, REAR. The rear lot line is that boundary which is opposite and most distant from the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be that assumed line parallel to the front lot line not less than ten feet long, lying parallel and most distantly from the front lot line and wholly within the lot.

LOT LINE, SIDE. Any lot line not a front or a rear lot line. A side lot line separating a lot from a street is called a side street lot line. A side lot line separating a lot from another lot or lots is called an interior side lot line.

LOT OF RECORD. A lot which is part of a subdivision plat, the map of which has been legally recorded in the office of the Register of Deeds of Olmsted County or a lot described by metes and bounds, the deed to which has been legally recorded in the office of the Register of Deeds of Olmsted County. Lots not approved by the city through the subdivision code shall be considered illegal and not lots of record.

LOT WIDTH. The distance between the side lot lines measured along a line parallel to and at the minimum required front yard line.

MANUFACTURED HOME. A building transportable in one or more sections, which in the traveling mode is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein. It shall comply with M.S. §§ 327.31 to 327.35, as amended from time to time.

MANUFACTURED HOME PARK. Any lot or tract of land upon which three or more occupied manufactured homes are harbored either with or without charge and including any building or enclosure intended for use as a part of the equipment of each park.

MANUFACTURED HOME SUBDIVISION. Any area of land that is subdivided into lots to be used for the placement of manufactured homes that do not comply with §§ 152.046 and 152.047.

NONCONFORMING LOT. A lot that does not comply with the minimum lot area or frontage requirements of the district in which it is located.

NONCONFORMING STRUCTURE. A structure that does not comply with the bulk, height or setback regulations of the district in which it is located.

NONCONFORMING USE OF LAND. Any use of a lot or parcel of land that does not conform to the applicable use regulations of the district in which it is located.

NONCONFORMING USE OF STRUCTURES. A use of a structure that does not conform to the applicable use regulations of the district in which it is located.

PARKING SPACE. An area either public or private to be used for the temporary storage or parking of motor vehicles by customers, residents and guests. (Not to include vehicle or implement sales or storage lots.)

PERSON. Any individual, corporation, firm, partnership, association, organization or other group acting as a unit. It also includes any executor, administrator, trustee, receiver or other appointed representative.

PORCH, UNENCLOSED. An entrance to a building which may include steps, a landing, railings and a roof, but not enclosed either partially or completely above the landing by windows, screens or siding.

PUBLIC UTILITY. Any person, firm, corporation, municipal department or board, duly authorized to furnish under governmental regulation to the public, electricity, gas, steam, water, sewage disposal and communication facilities.

RECREATIONAL CAMPING AREA. Any area used on a daily, nightly, weekly or longer basis for the accommodation of three or more units, consisting of tents, travel trailers, pickup coaches, motor homes or camping trailers and whether use of such accommodation is granted free of charge or for compensation.

RECREATIONAL CAMPING AREA. Any of the following:

(1) **TRAVEL TRAILER** means a vehicular, portable structure built on a chassis designed to be used as a temporary dwelling for travel, recreational or vacation use;

(2) **PICKUP COACH** means a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation;

Byron - Land Usage

(3) **MOTOR HOME** means a portable, temporary dwelling to be used for travel, recreation and vacation and constructed as an integral part of a self-propelled vehicle;

(4) **CAMPING TRAILER** means a folding structure mounted on wheels and designed to be towed and used for travel, recreation and vacation use.

SCHOOL. A public school as defined in M.S. § 120.05, as amended from time to time, or a nonpublic school as defined in M.S. § 123.932, as amended from time to time.

SHOPPING CENTER. A development in which one or more principal buildings are located on one or more lots of record that abut one another and the principal building(s) contain two or more servicing, merchandising, leisure uses or office uses and where each such use abuts the adjacent use located within the principal building(s) and the development is under one ownership or management. **SHOPPING CENTERS** have common on-site parking and have a building composition that functions as an architectural unit.

SIGN. Any object, device, display or structure, or part thereof, situated outdoors, which is used to advertise, identify, display, direct or attract attention of persons outside the building to an object, person, institution, organization, business, product, service, event or location by any means, including but not limited to words, letters, figures, design, symbols, fixtures, colors, illumination or projected image.

SIGN, ADVERTISING. A sign located outdoors that directs attention to a business, commodity, service or entertainment not related to the premises where such a sign is located or to which it is affixed.

SIGN, ADVERTISING (BILLBOARD). A sign located outdoors that directs attention to a business, commodity, service or entertainment not related to the premises where such a sign is located or to which it is affixed.

SIGN, BUSINESS. A sign that is limited to identification purposes announcing the proprietor's name, the nature of the business and identifying the principal use of the premises on which the sign is located.

SIGN, CONSTRUCTION. A temporary sign erected on the premises on which construction is taking place, during the period of such construction, indicating the names of the architects, engineers, landscape architects, contractors or similar artisans and the owners, financial supporters, sponsors and similar individuals or firms having a role or interest with respect to the structure or project.

SOLAR COLLECTOR. Any device relying upon direct solar energy that is employed in the collection of solar energy for heating and/or cooling of a structure, building or water.

SOLAR ENERGY. Radiant energy (direct, diffused or reflected) received from the sun.

SOLAR ENERGY SYSTEM. A set of devices whose primary purpose is to collect solar energy and convert and store it for useful purposes, including heating and cooling buildings or other energy-using processes or to produce generated power by means of any combination of collecting, transferring or converting solar generated energy.

STATE BUILDING CODE. The Minnesota State Building Code, setting forth standards for the construction, addition, modification and repair of buildings and other structures for the purpose of protecting the health, safety and general welfare of the public.

STREET. Any public or private thoroughfare or way other than a public alley, dedicated to the use of the public and open to public travel, whether designated as a road, avenue, highway, boulevard, drive, lane, circle, place, court or any other similar designation.

STRUCTURE. A combination of materials to form a construction for use, occupancy or ornamentation, whether installed on, above or below the surface of land or water.

STRUCTURE ALTERATION. Any changes in the supporting members of a building such as bearing walls, columns, beams or girders or any substantial change in the roof and exterior walls.

STRUCTURE, TEMPORARY. A building or structure without foundation or footings which is designed to be transportable and which is not designed for attachment to the ground, to another structure or to any utility system on the same premises for an undetermined length of time.

SUPERVISED LIVING FACILITY. A facility providing lodging plus supervision, counseling or rehabilitative services to persons and licensed as such under the Minnesota State Health Code.

USE. The purpose for which land or buildings thereon are designed, arranged or intended to be occupied or used or for which they are occupied or maintained.

USE, CONDITIONAL. A use that would not be appropriate generally, but may be allowed upon finding that specific conditions and criteria are met and appropriate restrictions are placed on the lot structure or use such that the use is compatible with the neighborhood and consistent with the land use plan.

USE, PERMITTED. Any use allowed in a zoning district and subject to the restriction applicable to that zoning district.

USE, PRINCIPAL. The primarily or predominant use of any lot.

WIND ENERGY CONVERSION SYSTEM. Any device that converts wind power to a usable form of energy, such as electricity or mechanical energy (also referred to by such common names as wind charger, wind turbine and windmill).

YARD. A required open space on the same lot as the principal building not occupied by buildings or structures and unobstructed and open to the sky, except as specifically provided for in this chapter.

YARD, FRONT. A required yard extending across the full width of the lot and lying between the front lot line and principal building. For through lots, the determination of a front yard shall be determined by the prevailing front yard patterns of adjoining lots. For corner lots, the prevailing front yard pattern of adjoining lots shall determine the location of the front yard.

YARD, REAR. A required yard extending across the full width of the lot and lying between the rear lot line and the principal building.

YARD, SIDE. A required yard extending between the front and rear lot lines or rear lot boundary and located between the side lot line and principal building and attached buildings.

YOUTH FACILITY. A public playground, public swimming pool, public library or licensed day care facility.

ZONING CERTIFICATE. Document issued by the Zoning Administrator authorizing buildings, structures or uses consistent with the terms of the zoning code and for the purpose of carrying out and enforcing its provisions.

ZONING CODE. The zoning code of the City of Byron.

ZONING MAP. A map or maps which are a part of this chapter which delineates the boundaries of zoning districts and which is on display in the City Clerk-Treasurer's office, being designated as a Zoning Map of the City of Byron with all proper notations, references and other information shown thereon.

(Ord. passed 11-93)

§ 152.004 COMPLIANCE REQUIRED.

It shall be the duty of all property owners, architects, contractors, builders and other persons having charge of the erecting, altering, changing or remodeling of any building or structure, including tents and manufactured homes, before beginning or undertaking any such work to see that such work does not conflict with and is not a violation of the terms of this chapter, and any such property owner, architect, builder, contractor or other person doing or performing any such work of erecting, repairing, altering,

changing or remodeling and in violation of or in conflict with the terms of this chapter shall be deemed guilty of a violation hereof in the manner and to the same extent as the owner of the premises or the persons for whom such buildings are erected, repaired, altered, changed or remodeled in violation hereof and shall be held accountable for such violation.

(Ord. passed 11-93)

§ 152.005 ZONING DISTRICTS.

(A) The following zoning districts are provided in order to promote and encourage the efficient economic development of land, buildings and all usable structures.

(B) The incorporated area of the City of Byron, Minnesota is divided into the following districts which shall be known by the following respective symbols and names:

- (1) R-1 Low Density Residential District;
- (2) R-2 Mixed Low Density Residential District;
- (3) R-3 High Density Residential District;
- (4) C Commercial District;
- (5) I Industrial District;
- (6) AG Agricultural District.

(Ord. passed 11-93)

§ 152.006 ZONING MAP.

The areas comprising these zoning districts and the boundaries of said districts as shown upon the map attached hereto and made a part of this chapter, being designated as the "Official Zoning Map for the City of Byron," with all proper notations, references and other information shown thereon.

(Ord. passed 11-93)

§ 152.007 DISTRICT BOUNDARIES.

(A) Except where referenced on said map to a street or alley line or other designated line by dimensions shown on said map, the district boundary lines of all districts shall follow the corporate

limits of Byron, lot lines or the centerline of streets, alleys, lakes or rivers as they existed at the time of the adoption of this chapter.

(B) Where interpretation is needed as to the exact location of the boundaries of any district, the Zoning Administrator shall make the necessary interpretation.
(Ord. passed 11-93)

§ 152.008 VALIDITY.

This chapter and the various parts, sentences, paragraphs, sections and clauses thereof are declared to be severable. If any part, sentence, paragraph, section or clause is adjudged to be unconstitutional or invalid for any reason by a court of competent jurisdiction, such holding shall not affect the remaining portions of this chapter.
(Ord. passed 11-93)

§ 152.009 RELIEF FROM PERSONAL RESPONSIBILITY.

Any claim based upon an act or omission of an officer or employee exercising due care in the execution of any valid or invalid portions of this chapter, any claim based upon the performance or the failure to exercise or perform a discretionary function or duty, whether or not the discretion is abused, are enumerated as exceptions to M.S. § 466.02, as it may be amended from time to time, and said section does not apply. The city shall defend, save harmless and indemnify any of its officers or employees, whether elective or appointed, against any tort claim or demand, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of duty in the enforcement and administration of the zoning code, except as provided in M.S. § 466.07, as it may be amended from time to time.
(Ord. passed 11-93)

§ 152.010 INTERPRETATION OF STANDARDS.

(A) In their interpretation and application, the provisions of the zoning code shall be held to be minimum requirements.

(B) Wherever the zoning code imposes a greater restriction than is imposed or required by other provisions of law or rules or regulations or ordinances, the provisions of the zoning code shall govern.
(Ord. passed 11-93)

§ 152.011 PROPERTY NOT INCLUDED; ANNEXATIONS.

Territory annexed to the city subsequent to the effective date of such annexation shall become a part of the Low Density Residential (R-1) District. The District shall be temporary and the Planning Commission shall recommend to the City Council within a period of one year from the date of annexation on a final zoning map for the annexed territory. The Commission may recommend such final zoning map at the time of annexation.

(Ord. passed 11-93)

USE CATEGORIES AND DISTRICT USES**§ 152.025 PURPOSE.**

The purpose of this section is to identify and categorize land use types. This listing shall not be considered a complete listing of land uses. These use categories shall be used in the table set forth in § 152.031 in the determination of uses permitted, conditionally permitted or not permitted within the specific zoning districts.

(Ord. passed 11-93)

§ 152.026 AGRICULTURAL USES.

(A) *General agricultural.* The production of crops, plants or trees or the production, keeping, grazing or feeding of livestock for the sale of livestock, livestock products or other animals and animal products. This use includes incidental processing and retail sales of products grown or raised on a farm. A farmyard shall be considered a part of this use category.

(B) *Animal services.* Activities or establishments that consist of veterinary and related services for livestock, domestic pets and equines, including kennels, housing or boarding of pets and other domestic animals such as stables and breeding services.

(C) *Agricultural services.* Activities or establishments that perform services that support or assist the agricultural community, such as soil preparation services, crop services or farm management services. This category is intended to apply where land is used for the building and other structures that provide offices, warehouses and storage areas for these establishments.

(D) *Retail agriculture.* Establishments that are primarily engaged in providing services related to or conducting the sale at retail of horticulture and floriculture products, including nurseries, greenhouses, lawn and garden services. These enterprises typically produce their own stock, unlike a garden center which imports from other establishments the products it sells at retail.
(Ord. passed 11-93)

§ 152.027 RESIDENTIAL USES.

(A) *Single family, conventional.* One family attached or detached dwellings, single family terrace dwelling or two family detached dwellings and supervised living facilities that house six people or fewer.

(B) *Multi family, limited.* Multi family dwellings of 3 to 12 units developed singly or as part of a larger development and supervised living facilities that house up to 16 people or fewer.

(C) *Multi family.* Multiple family dwellings of six or more units, singly or as part of a larger development, boarding/rooming houses, bed and breakfasts, convalescent homes and supervised living facilities that house up to 25 persons as regulated by the specific zoning district.

(D) *Manufactured dwelling.* Manufactured housing as defined in § 152.003 and located within a subdivision, park or singly on a separate lot.

(E) *Child care facility.* Consists of only child care facilities as defined in § 152.003.

(F) *Elderly housing.* A building or buildings of multiple, individual dwelling units, owned or rented by the residents, all of whom are elderly by definition or the spouse of an elderly person. Accessory common facilities such as indoor or outdoor recreation areas or meeting rooms shall be considered a part of this use.
(Ord. passed 11-93)

§ 152.028 SERVICE, MERCHANDISING, LEISURE USES, OFFICE USES.

(A) *Commercial recreation.* Facilities and activities which primarily provide a recreational service, including but not limited to indoor/outdoor private and public for profit sports/recreation clubs and facilities and camping facilities, but excluding target ranges, shooting or gun clubs.

(B) *Public recreation.* Facilities and activities providing for recreational opportunities for the general public by a governmental body, including but not limited to public parks, playgrounds, buildings and grounds and golf courses.

(C) *Amusement and entertainment.* Facilities and activities that consist of the retail sale of alcoholic beverages for consumption on the premises, theaters, dance halls and other facilities with live entertainment, bowling alleys, billiard parlors and coin operated amusement arcades.

(D) *Transient amusement facilities.* Facilities and activities consisting of temporary outdoor amusement enterprises, including circuses, carnivals and fairs.

(E) *Racing and track enterprises.* Facilities and activities that consist of outdoor racing with, but not limited to, horses, cars, motorcycles and dogs, or track facilities for vehicles and animals, including moto-cross courses.

(F) *Transient accommodations.* Establishments engaged in providing lodging or lodging and meals for the traveling public, including hotels, motels and tourist courts.

(G) *Services, low impact.* Activities involving personal, financial, real estate, insurance, health, legal or social services and business services that are located solely within a building. Such activities include, but are not limited to, household product repair services, coin operated laundries, beauty and barber shops, funeral homes, advertising services, collection agencies, banks, doctors offices, clinics, law offices and counseling services.

(H) *Services, high impact.* Activities involving personal or business services, repair services and automotive repair services. Such activities include, but are not limited to, commercial laundries, linen supply, industrial laundries, outdoor advertising services with outdoor storage, blueprints/photocopying, cleaning, disinfecting, extermination services, specialized repair shops needing outside storage, equipment and vehicle rental/leasing, parking lots, car washes, bus/taxi depots and public garages.

(I) *Essential services.* Facilities for telephone lines and minor switching stations and local service for natural gas lines, electric supply lines, sanitary sewer lines, storm sewer lines and water supply systems.

(J) *Membership organizations.* Facilities and activities operated on a membership basis for the promotion of the interests of the members, including trade organizations, political or labor organizations and civic, social and fraternal associations, with the primary activities related to membership organization functions, amusement/entertainment or services to the general public.

(K) *Restaurants.* Retail establishments selling, primarily, prepared foods and secondarily, alcoholic beverages for consumption on the premises and also lunch counters, refreshment stands and fast food establishments.

(L) *Retail and convenience retail trade.* Establishments engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of the goods. Such uses

Byron - Land Usage

include, but are not limited to, food, drug, clothing, sporting goods, hardware, paint, glass and wallpaper stores, home improvement establishments, furniture stores, home furnishing stores, florists, garden centers, retail butcher shops, variety or specialty stores or establishments of a similar character and intensity.

(M) *Vehicle/implement dealers and gasoline service stations.* Retail dealers selling new and used automobiles, trucks and other self-propelled vehicles, boats, recreational and utility trailers, motor homes, motorcycles, farm implements (including showroom and service facilities) and gasoline service stations and convenience stores that sell gasoline.

(N) *Wholesaling, limited impact.* Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, farm or professional business users; or to other wholesalers. Such primary activities or incidental activities shall not be conducted outside of the primary buildings related to the activity. Uses in this category include, but are not limited to, vehicle parts and supplies, furniture, electrical goods, hardware, plumbing and heating supplies, drugs, apparel, grocery products, alcoholic beverages, meat locker plants, trade shops related to these establishments and other specialty wholesaling of a similar character and intensity.

(O) *Wholesaling, high impact.* Establishments or places of business primarily engaged in selling merchandise to retailers to industrial, commercial, institutional, farm or professional business users; or to other wholesalers and where outdoor storage may be a necessary part of the business. Uses in this category include, but are not limited to, wholesaling of vehicles, lumber and other construction materials (lumberyards), construction machinery, farm machinery, industrial machinery, transportation equipment and related repair and reconditioning activities or related shops, farm product raw materials and product storage (such as grain elevators) and other wholesaling of a similar character and intensity. This category will include also all facilities for freight transportation and motor freight warehousing of any types.

(P) *Institutional buildings.* Government offices of legislative, judicial, administrative and regulatory activities of federal, state or local governments, local schools, day care centers, churches and hospitals, excluding structures used for essential services and all activities requiring related outdoor storage areas.

(Q) *Entertainment, adult.*

(1) Adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels or motels and adult body painting studios and other adult establishments may locate not less than 700 feet from:

(a) Any existing residential zoning district;

- (b) Any areas designated for future residential development on any Urban Service Area Land Use Plan;
- (c) Any church, school or youth facility;
- (d) Any licensed daycare home or center;
- (e) Any other adult establishment.

(2) For the purposes of this section, this distance shall be a horizontal measurement from the nearest existing residential district boundary, church, school, youth facility or another adult establishment to the nearest boundary of the proposed adult establishment.

(3) For the purposes of this section, this use shall be considered a conditional use under the Commercial District conditional use permit process with conformance required to all provisions of this chapter.

(Ord. passed 11-93)

§ 152.029 INDUSTRIAL USES.

(A) *Construction.* Activities and facilities consisting of general building construction or building/road or related maintenance, heavy construction and special trade contractors. Such uses include the fixed place of business, including office space, indoor storage space and space or yards for storage of vehicles, equipment and supplies.

(B) *Research and testing.* Primary activities consisting of research and development laboratories. Such facilities carry on investigations in the natural or physical sciences or engineering and development as an extension of investigation with the objective of creating end products. Such primary uses may include soils testing and engineering, medical research, agricultural research and activities and facilities of a similar character and intensity.

(C) *Heavy industry.* Establishments engaged in the mechanical or chemical transformation of materials or substances into new products or establishments that blend materials. Such uses include, but are not limited to, food and kindred products preparation such as grain milling; lumber and wood products such as sawmills, planing mills or hardwood veneer production and storage; leather tanning and finishing; clay, glass and concrete products production; fabricated metal products such as metal coating or engraving; manufacturing of machinery or equipment; chemical manufacturing; related waste/refuse treatment by such uses, excluding land fills or dumps; and uses of a similar character and intensity.

Byron - Land Usage

(D) *Light industry.* Establishments engaged in the mechanical or chemical transformation of materials or substances into new products or includes establishments engaged in assembling component parts of manufactured products. Such uses include, but are not limited to, recycling establishments located completely inside a building, printing, publishing and allied industries; bottling works; manufacturing of leather products from finished leather; apparel products made from fabrics; furniture and fixtures, millwork, cabinet and similar wood products production; sheet metal and welding shops; cut stone and stone products production excluding quarries; manufacture of engineering, laboratory, scientific or research instruments/equipment, measuring and controlling instruments; and uses of similar character and intensity.

(E) *Transmission and distribution.* Establishments providing to the general public or to other business enterprises: electricity, gas and other utility system elements, including, but not limited to, electric, gas and other utility substations, transformer stations, pumping stations, regulator stations and broadcasting towers.

(F) *Junkyard.* See the definition in § 152.003. This definition includes establishments that collect and sell scrap/waste materials, especially different types of metals.

(G) *Extraction.* Extraction of soil, stone, rock, gravel, sand or similar natural products from the ground for commercial purposes.
(Ord. passed 11-93)

§ 152.030 OTHER USES.

(A) *Cemeteries.* The permanent interment of people or domestic pet animals either above or below ground level.

(B) *Signs.* Signs that are permanently attached to buildings or having a faced location on the ground.

(C) *Home occupations.* Any occupation or profession carried on by a member of the immediate family residing on the premises and where it is incidental to the principal use of the building.

(D) *Hazardous or toxic material storage.* See § 152.102.
(Ord. passed 11-93)

§ 152.031 DISTRICT REGULATIONS.

This table shall indicate what categories of uses as listed in §§ 152.025 through 152.030 are permitted outright, permitted under a conditional use permit or not permitted within each zoning district. The table shall be used in combination with the use categories in §§ 152.025 through 152.030 by the Zoning Administrator, Planning Commission and City Council.

*Development Regulations
District and Uses*

- O Outright use
- C Conditional use
- Blank Not permitted

| <i>DEVELOPMENT USES</i> | <i>ZONING DISTRICT</i> | | | | | |
|-----------------------------|------------------------|------------|------------|------------|----------|----------|
| | <i>AG</i> | <i>R-1</i> | <i>R-2</i> | <i>R-3</i> | <i>C</i> | <i>I</i> |
| <i>Agricultural Uses</i> | | | | | | |
| General agricultural | O | | | | | |
| Animal services | O | | | | C | C |
| Agricultural services | | | | | C | O |
| Retail agricultural | C | | | | | |
| <i>Residential Uses</i> | | | | | | |
| Single family, conventional | | O | O | | | |
| Multi family, limited | | | O | | | |
| Multi family | | | | O | | |
| Manufactured dwelling | | | | | | |
| Single dwelling | O | O | O | | | |
| Park | | | | C | | |
| Subdivision | | | | O | | |
| Elderly housing | | | C | | | |

Byron - Land Usage

| <i>DEVELOPMENT USES</i> | <i>ZONING DISTRICT</i> | | | | | |
|--|------------------------|------------|------------|------------|----------|----------|
| | <i>AG</i> | <i>R-1</i> | <i>R-2</i> | <i>R-3</i> | <i>C</i> | <i>I</i> |
| <i>Service, Merchandising, Leisure Uses, Office Uses</i> | | | | | | |
| Commercial recreation | C | | | | C | |
| Public recreation | O | O | O | O | C | |
| Amusement/entertainment | | | | | C | |
| Transient amusement enterprise | C | | | | | O |
| Racing/track enterprise | C | | | | | |
| Transient accommodations | | | | | C | |
| Services, low impact | | | | | O | |
| Services, high impact | | | | | C | O |
| Essential services | O | O | O | O | O | |
| Membership organizations | | | | | O | |
| Restaurants | | | | | C | |
| Retail/convenience retail trade | | | | | O | |
| Vehicle dealers and gasoline service stations | | | | | C | C |
| Wholesaling, limited impact | | | | | C | O |
| Institutional buildings | | O | O | O | C | |
| Adult entertainment | | | | | C | |
| <i>Industrial Uses</i> | | | | | | |
| Construction | | | | | | C |
| Research/testing | | | | | | O |
| Heavy industry | | | | | | C |
| Light industry | | | | | | O |

| DEVELOPMENT USES | ZONING DISTRICT | | | | | |
|--------------------------------|-----------------|-----|-----|-----|---|---|
| | AG | R-1 | R-2 | R-3 | C | I |
| <i>Industrial Uses</i> | | | | | | |
| Transmission/distribution | C | | | | | C |
| Junkyards | | | | | | C |
| Extraction | C | | | | | |
| <i>Other</i> | | | | | | |
| Cemeteries | C | C | | | | |
| Signs | C | C | C | C | O | O |
| Home occupations | See § 152.085 | | | | | |
| Wind energy conversion systems | O | C | C | C | C | O |
| Solar energy system | O | O | O | O | O | O |
| Hazardous material storage | C | | | | C | C |

(Ord. passed 11-93)

USE DISTRICTS

§ 152.045 AGRICULTURAL DISTRICT (AG).

The intent of this district is to provide for the continuation of certain lands along the peripheral areas of the city used historically for agricultural purposes and activities and that will be used for urban land use in the future.

(A) *Permitted and conditional uses.* See the table set forth in § 152.031.

(B) *Maximum building height.*

(1) No height restrictions shall be placed on farm or other nonresidential buildings or structures. Where farm or other nonresidential buildings or structures are located within 200 feet of a residential zoning district, no building or structure shall have a maximum height of more than 55 feet.

Byron - Land Usage

(2) Thirty-five feet for residential principal buildings measured to the bottom of the eaves and 15 feet for residential accessory buildings measured to the peak.

(C) Use limitations.

(1) No feedlot shall be permitted on a temporary or permanent basis within this district.

(2) The new commercial feeding of garbage or offal to swine or other animals, soil surface application of sewage sludge or open uncontained storage shall not be permitted or conditionally permitted in the agricultural district.

(3) A second farm dwelling, only in the form of a manufactured home, shall be permitted to be located on the same lot as the farm dwelling of a farm, but shall house only family members or person or persons employed on the farm. All minimum Olmsted County Health Department regulations pertaining to the sewage system shall be adhered to or the manufactured home shall meet all city requirements for connecting with the city sewer system and shall be consistent with all other requirements of this chapter. A conditional use permit shall be required for manufactured homes as a second farm dwelling.

(4) Animal services are permitted provided no cage or pen housing such animals is located nearer than 100 feet to any lot line.

(5) One temporary building for the incidental sale of agricultural produce shall be located not less than 20 feet from the front lot line and not less than 25 feet from a residential district and provided that the required number and space for patron parking 20 feet from said front lot line is provided.

(D) Lot area, frontage and yard regulations. The following minimum requirements shall apply to principal and accessory buildings and structures in this district.

| AGRICULTURAL DISTRICT | | | | | |
|---|-----------------|--------------------|------------|-------------------|------------------|
| Lot Area | Frontage | Side Yard | | Front Yard | Rear Yard |
| | | Least Width | Sum | | |
| 2 acres (1) | 150 feet | 30 feet | 75 feet | 45 feet | 50 feet |
| 15 acres (2) | 200 feet | 30 feet | 75 feet | 45 feet | 50 feet |
| (1) For animal services, agricultural services, retail agriculture uses and cemeteries. | | | | | |
| (2) For general agriculture uses. | | | | | |

(E) *Accessory uses and structures.* Accessory structures and uses customarily incidental to any of the permitted uses when located on the same property are permitted. Accessory structures shall not be located in the front yard and shall not be closer than 25 feet to any side or rear lot line.

(Ord. passed 11-93)

§ 152.046 LOW DENSITY RESIDENTIAL DISTRICT (R-1).

(A) The intent of this district is to provide land area for residential uses on larger urban lots that include and are compatible with single family residential buildings.

(B) Furthermore, the intent is to apply this district to those areas designated as Low Density Residential in the Land Use Plan.

(1) *Permitted and conditional uses.* See the table set forth in § 152.031.

(2) *Development requirements.*

(a) *Maximum building height.*

1. Thirty feet for principal buildings measured to the bottom of the eaves.

2. Fifteen feet for accessory buildings measured to the peak. (Refer to § 152.081 for additional requirements.)

3. Permitted nonresidential buildings may be erected to a height of 55 feet where the building is set back from all lot lines 1 foot for each foot the building exceeds 30 feet in height, in addition to the required yard dimensions.

(b) *Maximum lot coverage.* Lot coverage, including all buildings, shall not exceed 35% of the total lot or development site.

(c) *Minimum lot frontage; frontage modifications.* Where curvilinear streets and cul-de-sacs are used in a subdivision or where other unconventional lot shapes are used, a reduction in the lot frontage shall be permitted, provided that:

1. The lot width measured at the required front yard setback shall equal the frontage required in this district; and

2. The lot width measured at the front lot line shall not be less than 40 feet.

Byron - Land Usage

(d) *Accessory structures and uses.* Accessory structures and uses customarily incidental to any of the permitted uses when located on the same property are permitted. Such accessory buildings shall be located in the buildable area or in the required rear yard and shall be placed such that the eaves of the building are at least 3 feet from a lot line. Accessory buildings to the principal building shall be placed at least 20 feet from a side street lot line. All detached accessory buildings in residential districts shall not exceed one story or 15 feet in height and shall not occupy more than 625 square feet and shall meet the maximum lot coverage requirements also. Any lot that is 14,400 square feet or larger may construct, with a conditional use permit, one 825 square foot detached accessory building to be used only for noncommercial use. Only one other structure not larger than 125 square feet will be permitted.

(e) *Lot area, frontage and yard requirements.* The following minimum requirements shall apply.

LOW DENSITY RESIDENTIAL DISTRICT

| Use | Lot Area (Sq. Ft.) | Lot Frontage Front Lot Line (2) | Side Yards (1) | | Front Yard (3) | Rear Yard |
|----------------------------|--|---------------------------------------|----------------|---------|-------------------|--------------|
| | | | Least Width | Sum | | |
| Dwellings | | | | | | |
| One family attached | 7,200(4) | 60 feet | — | 15 feet | 25 feet | 20 feet |
| One family detached | 7,200 | 60 feet | 5 feet | 15 feet | 25 feet | 20 feet |
| Two family detached | 8,400 | 70 feet | 7 feet | 20 feet | 25 feet | 20 feet |
| Manufactured home | 7,200 | 60 feet | 5 feet | 15 feet | 25 feet | 20 feet |
| Supervised living facility | 7,200 | 60 feet | 5 feet | 15 feet | 25 feet | 20 feet |
| Single family terrace | See division (B)(3)(b) of this section | | | | | |
| Institutional buildings | 8,400(5) | 80 feet | 20 feet | 45 feet | 25 feet | 30 feet |

| Use | Lot Area (Sq. Ft.) | Lot Frontage Front Lot Line (2) | Side Yards (1) | | Front Yard (3) | Rear Yard |
|--|-----------------------|---------------------------------------|----------------|---------|-------------------|--------------|
| | | | Least Width | Sum | | |
| <i>Other Uses</i> | | | | | | |
| Cemeteries | ½ acre | 70 feet | 5 feet | 15 feet | 25 feet | 20 feet |
| <p>(1) For corner lots, the minimum required side yard abutting a side street shall be 25 feet.</p> <p>(2) See also § 152.046. Corner lots shall be required to have a minimum lot frontage of 70 feet.</p> <p>(3) This is the minimum required for a lot abutting a local street. Where a front or side yard of a lot abuts a major thoroughfare or frontage road to a major thoroughfare, based on the Thoroughfare Plan, an additional 10 feet shall be required for the adjacent front and side yard. This requirement does not apply to nonresidential land uses. Where existing dwellings have a front yard of more than 20 feet, all new development shall be required to have a minimum front yard that is equal to or greater than the front yards of abutting lots that have front yards abutting the same street.</p> <p>(4) The minimum lot area specified in this section shall be read as the minimum lot area per one family dwelling.</p> <p>(5) A minimum size of 8,400 square feet shall be required, but larger lots may be necessary to accommodate the building and meet yard requirements, parking and loading/unloading area requirements, buffer and screening requirements and maximum lot coverage requirements.</p> | | | | | | |

(3) *Exceptions and additions to standards of subsection (2)(e).*

(a) *Zero lot line development.* A one family detached or one family attached dwelling may reduce one side yard to zero at any location within this district where all of the following conditions are met:

1. The applicant records a covenant and deed restrictions on all properties which will abut the common or zero lot line. Said covenants and deed restrictions shall:

a. Provide access to the abutting property for the adjacent property owner and/or his or her representative for the purpose of construction, reconstruction, repair and maintenance of either side on the total property;

Byron - Land Usage

b. Shall provide for necessary encroachments for footings, eaves and special structures; and

c. Provide for restrictions to limit color, material and design of the principal building as to be compatible with the attached building.

2. The zero side yard of a zero lot line dwelling shall not abut the side yard of a dwelling built to meet the side yard standards of subsection (2)(e) unless said dwelling is on a corner lot and the dwelling and garage where this applies are a minimum of 15 feet from the side lot line and all other requirements of this district are met or exceeded. The zero side yard of a zero lot line dwelling shall not abut the rear yard of any dwelling located on a corner lot.

3. Windows shall be prohibited in the wall that is on the same side as the zero yard.

4. The side yard opposite the zero side yard shall have a minimum width equal to the minimum side yard total normally required for that dwelling type in this district.

5. No building side wall shall be closer than 15 feet to the adjacent property building side wall with the exception of accessory structures. Accessory structures shall be no closer than 10 feet to the principal building on or abutting lots.

6. The wall of the dwelling shall be placed upon said property in a manner not to encroach upon another lot.

7. Water runoff from building roofs shall not drain onto abutting property but shall be required to drain onto only the lot on which the building is located.

8. The side street side yard, where this applies, shall be opposite the zero side yard.

9. A site plan shall be required and submitted along with the permit application for zero lot line development under this section and reviewed as specified under § 152.157.

(b) *Single family terrace residential.* Single family terrace residential building development shall be required to be developed under the Planned Unit Development (§ 152.066) provisions of this chapter.

(c) *Design criteria for dwellings.* All dwellings permitted or conditionally permitted in this district shall meet the following established design criteria:

1. All such dwellings shall be constructed upon a permanent foundation which is located along the entire length of all exterior walls of the dwelling and is approved according to the Uniform Building Code (State Building Code);

2. The minimum width of the dwelling shall be 20 feet, measured between nonintersecting exterior walls along a straight line perpendicular to both walls. The requirement shall not apply to any additions made subsequent to the original construction of the dwelling;

3. All manufactured homes shall be equipped with an anchoring system approved by the Minnesota Department of Administration (Building Code Division).

(d) *Child care facilities.*

1. Child care facilities that care for ten or fewer children shall be a permitted use within the R-1 District.

2. Child care facilities that care for between 11 and 20 children shall be reviewed under the conditional use provisions of this chapter.

(Ord. passed 11-93)

§ 152.047 MIXED LOW DENSITY RESIDENTIAL DISTRICT (R-2).

(A) The intent of this district is to provide land area for residential uses of an overall higher density than the R-1 District and permitting a mixture of housing types that will provide additional flexibility in development of housing and housing choice in the city.

(B) The intent is to apply this district to those areas designated as Low Density Residential in the Land Use Plan; and in addition to be located in areas with immediate access to collector or higher level streets and not located in the interior of neighborhoods zoned only as R-1 according to the provisions of this chapter.

(1) *Permitted and conditional uses.* See § 152.031.

(2) *Development requirements.*

(a) *Maximum building height.*

1. Thirty-five feet for principal buildings measured to the bottom of the eaves.

2. Fifteen feet for accessory structures measured to the peak. (Refer to § 152.081 for additional requirements.

3. Permitted nonresidential buildings shall be permitted to be erected to a height of 55 feet where the building is set back from all lot lines 1 foot for each foot the building exceeds 35 feet in height, in addition to the required yard dimensions.

Byron - Land Usage

(b) *Maximum lot coverage.* Lot coverage, including all structures, shall not exceed 40% of the total lot or development site.

(c) *Minimum lot frontage; frontage modifications.* Where curvilinear streets and culs-de-sac are used in a subdivision or where other unconventional lot shapes are used, a reduction in the lot frontage shall be permitted, provided that:

1. The lot width measured at the required front yard setback shall equal the frontage required in this district; and
2. The lot width measured at the front lot line shall not be less than 35 feet.

(d) *Maximum density.*

1. A supervised living facility shall be permitted to house a maximum of ten persons per dwelling.
2. The maximum density shall be 12 dwelling units per one acre. Net acreage shall be gross acreage minus the area of the public right-of-way within the area proposed for development under this district.

(e) *Accessory structures and uses.* Accessory structures and uses customarily incidental to any of the permitted uses when located on the same property are permitted. Such accessory buildings shall be located in the buildable area or in the required rear yard and shall be placed such that the eaves of the building are at least 3 feet from a lot line. Accessory buildings to the principal building shall be placed at least 20 feet from a side street lot line.

(f) *Lot area, frontage and yard requirements.* The following minimum requirements shall apply.

[Table begins on following page.]

MIXED LOW DENSITY RESIDENTIAL DISTRICT

| Use | Lot Area (Sq. Ft.) | Lot Frontage Front Lot Line (2) | Side Yards | | Front Yard (3) | Rear Yard |
|---|---------------------------------------|---------------------------------------|----------------|---------|-------------------|--------------|
| | | | Least Width | Sum | | |
| Dwellings | | | | | | |
| One family attached | 6,000(4) | 50 feet | — | 10 feet | 20 feet | 20 feet |
| OK One family attached ^{detached} | 6,000 | 50 feet | 5 feet | 15 feet | 20 feet | 20 feet |
| Two family detached | 7,500 | 60 feet | 5 feet | 15 feet | 20 feet | 20 feet |
| Manufactured home | 6,000 | 50 feet | 5 feet | 15 feet | 20 feet | 20 feet |
| Supervised living facility and elderly housing | 7,500 | 60 feet | 5 feet | 15 feet | 20 feet | 20 feet |
| Single family terrace | See subsection (3)(b) of this section | | | | | |
| Multiple family, limited | (5) | 60 feet | 10 feet | 20 feet | 20 feet | 20 feet |
| Other Uses | | | | | | |
| Institutional buildings | 7,500(6) | 80 feet | 20 feet | 45 feet | 25 feet | 30 feet |

(1) For corner lots, the minimum required side yard abutting the side street shall be 20 feet. Where all dwellings located along the side street have a front yard less than the required 20 feet, the side street side yard shall be permitted to be reduced to the front yard but in no case shall the side street side yard be less than 10 feet.

(2) See also subsection (2)(c).

(3) This is the minimum required for a lot abutting a local street. Where a lot with the front or side yard abuts a major thoroughfare or frontage road to a major thoroughfare, based on the Land Use Plan, an additional 10 feet shall be required for the adjacent front or side yard. This requirement does not apply to nonresidential land uses. Where existing dwellings have a front yard of more than 20 feet, all new development shall be required to have a minimum front yard that is equal to or greater than the front yards of abutting lots that have front yards abutting the same street.

Byron - Land Usage

| Use | Lot Area (Sq. Ft.) | Lot Frontage Front Lot Line (2) | Side Yards | | Front Yard (3) | Rear Yard |
|---|-----------------------|---------------------------------------|----------------|-----|-------------------|--------------|
| | | | Least Width | Sum | | |
| (4) The minimum lot area specified in this table shall be read as the minimum lot area per one family dwelling. | | | | | | |
| (5) Refer to subsection (2)(d). | | | | | | |
| (6) Larger lots may be necessary for institutional buildings. The lot size shall be at least the minimum necessary to accommodate the building and meet yard requirements, parking and loading/unloading area requirements, buffering and screening requirements and maximum lot coverage requirements. | | | | | | |

(3) *Exceptions and additions to standards of subsection (2)(f).*

(a) *Zero lot line development.* A single family detached or single family attached dwelling may reduce one side yard to zero when the following conditions are met:

1. The applicant records a covenant and deed restriction on all properties which will abut the common lot line (zero lot line). Said covenants and deed restrictions shall:

a. Provide access to the abutting property for the adjacent property owner and/or his or her representative for the purpose of construction, reconstruction, repair and maintenance of either side on the total property;

b. Shall provide for necessary encroachments for footings, eaves and special structures; and

c. Provide for restrictions to limit color, material and design of the principal building to be compatible with the attached building.

2. The zero side yard on the zero lot line dwelling shall not abut the side yard of a dwelling built to meet the side yard standards of subsections (2)(f) unless said dwelling is on a corner lot and the dwelling and garage where this applies are a minimum of 15 feet from the side lot line and all other requirements of this district are met or exceeded. The zero side yard of a zero lot line dwelling shall not abut the rear yard of any dwelling located on a corner lot.

3. Windows shall be prohibited in the wall that is on the same side as the zero side yard.

4. The side yard opposite the zero side yard shall have a minimum width equal to the minimum side yard total normally required for that dwelling type in this district.

5. Accessory structures shall be no closer than seven feet to the principal building on adjacent or abutting lots.

6. The wall of the dwelling shall be placed upon said property in a manner not to encroach upon another person's property.

7. Water runoff from building roofs shall not drain onto adjacent or abutting property but shall be required to drain onto only the lot on which the building is located.

8. The side street side yard, where this applies, shall not be encroached upon by the zero lot line building; it shall be opposite the zero side yard.

9. A site plan shall be required and submitted along with the permit application for zero lot line development under this section and reviewed as specified under § 152.157.

(b) *Single family terrace residential.* Single family terrace residential building development shall be required to be developed under the Planned Unit Development (§ 152.066) provisions of this chapter.

(c) *Design criteria for dwellings.* All dwellings permitted or conditionally permitted in this district shall meet the following established design criteria:

1. All such dwellings shall be constructed upon a permanent foundation which is located along the entire length of all exterior walls of the dwelling and is approved according to the Uniform Building Code (State Building Code);

2. The minimum width of the dwelling shall be 20 feet, measured between nonintersecting exterior walls along a straight line perpendicular to both walls. The requirement shall not apply to any additions made subsequent to the original construction of the dwelling;

3. All manufactured homes shall be equipped with an anchoring system approved by the Minnesota Department of Administration (Building Code Division).

(d) *Child care facilities.*

1. Child care facilities that care for ten or fewer children shall be a permitted use within the R-2 District.

Byron - Land Usage

2. Child care facilities of any size located in multi family limited residential buildings or those facilities that propose to care for 11 to 20 children shall be reviewed under the conditional use provisions of this chapter.

(e) *Housing for the elderly.* Housing used exclusively as residential dwellings for the elderly as defined in this chapter shall meet all of the following conditions.

1. The density shall not exceed one dwelling unit per 1,500 square feet of lot area, excluding any right-of-way that may be a part of the lot.

2. Location of any building used specifically for elderly housing shall be within one-quarter mile of the commercial district boundary known as the Downtown Commercial District.

3. Private covenants shall be required which comply with all provisions of this chapter.

4. All dwelling units shall accommodate handicapped residents. All common rooms shall be handicapped accessible. The handicapped-ready units and common areas shall meet all requirements of the Minnesota State Building Code. Each dwelling unit on the main floor shall be made handicapped-accessible, meeting the requirements for accessibility of the Minnesota State Building Code.

5. A detailed site plan shall be required which addresses all the setback and bulk provisions of the zoning code, parking requirements, on-site open space provisions and landscaping.

a. Landscaping shall be consistent with § 152.100. All elderly housing shall be required to meet the specifications of buffering and screening Class B as indicated in the table set forth in § 152.100, with the exception of buffering and screening in the minimum side yards (five feet). Where the side yard is less than ten feet as indicated on a proposed site plan, the requirement for shrubs shall be one per three feet.

b. A permanent common open space area for passive group outdoor recreation activities shall be provided with a size of not less than 5% of the lot area. The area shall be landscaped with shade trees and shrubbery for the purpose of protection from the sun, screening and visual interest. Such an outdoor living area shall be properly drained, located for convenience and optimum use and shall be walled, fenced or planted to provide reasonable privacy. This area may be surfaced to provide an area for garden furniture. It may also be roofed in whole or in part, provided that it is open on all sides and meets the requirements for location of accessory buildings in a residential district.

6. All buildings shall have a common room open for use by all of the residents of the building. The common area shall meet the occupancy and space requirements for common rooms as outlined in the Uniform Building Code.

7. All buildings approved as a conditional use under the provisions of this section shall meet the requirements of the district in which the building is located, including density and off-street parking, where the occupants of the building will not meet the age requirements of elderly housing under this chapter.

(Ord. passed 11-93)

§ 152.048 HIGH DENSITY RESIDENTIAL DISTRICT (R-3).

(A) The intent of this district is to provide areas primarily for residential uses of a high relative density for the city that includes multiple family dwellings and manufactured housing in subdivisions and parks or developments compatible with multiple family dwellings.

(B) This district applies to the High Density Residential land use designation of the Land Use Plan.

(1) *Permitted and conditional uses.* See the table set forth in § 152.031.

(2) *Development requirements.*

(a) *Maximum building height.*

1. Thirty-five feet for principal buildings measured to the bottom of the eaves.

2. Fifteen feet for accessory structures measured to the peak. (Refer to § 152.081 for additional requirements).

3. Permitted nonresidential buildings may be erected to a height of 55 feet where the building is setback from all lot lines 1 foot for each foot the building exceeds 35 feet in height, in addition to the required yard dimensions.

(b) *Maximum lot coverage.* Lot coverage, including all structures, shall not exceed 40% of the total lot or development site.

(c) *Minimum lot frontage; frontage modifications.* Where curvilinear streets and cul-de-sacs are used in a subdivision or where other unconventional lot shapes are used, a reduction in the lot frontage shall be permitted, provided that:

1. The lot width measured at the required front yard setback shall equal the frontage required in this district; and

2. The lot width measured at the front lot line shall not be less than 35 feet.

Byron - Land Usage

(d) *Maximum density.*

1. Multiple family shall have a minimum of 2,178 square feet of land area per dwelling unit or a maximum density of 20 dwelling units per acre. Net acreage shall be gross acreage minus the area of public right-of-way within the area proposed for development under this district.

2. The supervised living facility shall be permitted to house a maximum of 25 persons per dwelling and shall provide 875 square feet of lot area per person.

3. The convalescent home shall be permitted to house a maximum of 50 persons within the convalescent home on at least one acre lot area. Smaller convalescent homes are permitted and shall provide the same ratio of persons to lot area or one person per 871.2 square feet of lot area.

4. Boarding/rooming houses, bed and breakfasts shall provide 1,500 square feet of lot area per boarding/rooming, bed and breakfast unit in addition to a minimum of 2,000 square feet of land area for the resident family.

(e) *Accessory structures and uses.* Accessory structures and uses customarily incidental to any of the permitted uses when located on the same property are permitted. Such accessory buildings shall be located in the buildable area or in the required rear yard and shall be placed such that the eaves of the building area at least 3 feet from a lot line. Accessory buildings to the principal building shall be placed at least 20 feet from a side street lot line.

(f) *Lot area, frontage and yard requirements.* The following minimum requirements shall apply.

HIGH DENSITY RESIDENTIAL DISTRICT

| <i>Use</i> | <i>Lot Area (Sq. Ft.)</i> | <i>Lot Frontage Front Lot Line (2)</i> | <i>Side Yards (1)</i> | | <i>Front Yard (3)</i> | <i>Rear Yard</i> |
|--|-------------------------------|--|------------------------|------------|---------------------------|----------------------|
| | | | <i>Least Width</i> | <i>Sum</i> | | |
| <i>Dwellings</i> | | | | | | |
| Boarding/rooming house/bed and breakfast | 5,000(4) | 50 feet | 4 feet | 12 feet | 20 feet | 20 feet |
| Convalescent home | 5,000 | 60 feet | 5 feet | 15 feet | 20 feet | 20 feet |

| Use | Lot Area (Sq. Ft.) | Lot Frontage Front Lot Line (2) | Side Yards (1) | | Front Yard (3) | Rear Yard |
|--|-----------------------|---------------------------------------|----------------|---------|-------------------|--------------|
| | | | Least Width | Sum | | |
| Dwellings | | | | | | |
| Multiple family | (4) | 60 feet | 5 feet | 15 feet | 20 feet | 20 feet |
| Supervised living facility | 5,000 | 60 feet | 5 feet | 15 feet | 20 feet | 20 feet |
| Other Uses | | | | | | |
| Institutional buildings | 5,000 (5) | 70 feet | 15 feet | 35 feet | 25 feet | 30 feet |
| <p>(1) For corner lots the minimum required side yard abutting a side street shall be 20 feet. Where all residential buildings located along the side street have a front yard less than the required 20 feet, the side street side yard shall be permitted to be reduced to that front yard, but in no case shall the side street side yard be less than 10 feet.</p> | | | | | | |
| <p>(2) See also subsection (2)(c).</p> | | | | | | |
| <p>(3) This is the minimum required for a lot abutting a local street. Where a front or side yard of a lot abuts a major thoroughfare or frontage road to a major thoroughfare, based on the Land Use Plan, an additional ten feet shall be required for the adjacent front and side yard. This requirement does not apply to nonresidential land uses.</p> | | | | | | |
| <p>(4) Refer to subsection (2)(d).</p> | | | | | | |
| <p>(5) The lot size shall be at least the minimum necessary to accommodate all buildings and meeting yard requirements, parking and loading/unloading area requirements, buffer and screening requirements and maximum lot coverage.</p> | | | | | | |

(Ord. passed 11-93)

§ 152.049 COMMERCIAL DISTRICT (C).

(A) The intent of this district is to provide land area for land uses of a service or retail nature and other commercial uses of a similar character and intensity.

(B) This district is intended to reflect the commercial designation of the Land Use Plan.

(1) *Permitted and conditional uses.* See § 152.031.

Byron - Land Usage

(2) *Development requirements.*

(a) *Maximum building height.*

1. Thirty-five feet for all principal buildings or structures measured to the bottom of the eaves.
2. Twenty feet for all accessory buildings or structures measured to the peak.

(b) *Buffering and screening.* Buffering and screening shall be required as specified in § 152.100.

(c) *Lot area, frontage and yard requirements.* The following minimum requirements shall apply.

COMMERCIAL DISTRICT

| Use | Lot Area (Sq. Ft.) | Lot Frontage Front Lot Line (2) | Side Yards (1) | | Front Yard (3) | Rear Yard |
|--|-----------------------|---------------------------------------|----------------|---------|-------------------|-------------|
| | | | Least Width | Sum | | |
| Dwellings | | | | | | |
| Downtown commercial area (3) | 2,000 | 35 feet | 0 | 0 | 0 | 15 feet (4) |
| Other commercial areas | 5,000 | 50 feet | 10 feet | 20 feet | 45 feet | 25 feet |
| (1) All buffering and screening requirements as referred to in subsection (2)(b) shall be complied with under these provisions of this chapter. | | | | | | |
| (2) All buffering and screening requirements as referred to in subsection (2)(b) shall be complied with under these provisions of this chapter. Where alleys exist, the rear yard measurement may include one-half the width of the alley. All loading/unloading areas and storage area requirements shall be complied with. | | | | | | |
| (3) The Downtown Commercial Area as identified on the Future Land Use Plan. | | | | | | |
| (4) The minimum rear yard may be reduced to zero where a commercial establishment has a part of its business located on an abutting lot which is located only within the commercial or industrial districts. | | | | | | |

(d) *Use limitations.*

1. All commercial activities shall be conducted within a building. Exceptions to this requirement include activities using designated loading spaces and temporary waste storage. Outdoor display of retail items shall not be permitted on the public right-of-way. An establishment that requires outside storage of materials may locate offices or retail operations within this district, but not storage areas.

2. No building customarily used for night operation shall be located closer than 100 feet to any residential district.

3. Public streets, alleys or parking areas shall not be used for commercial vehicle storage or parking on a temporary or permanent basis.

4. Storage of all materials or machinery related to the use shall be stored in buildings. There shall be no outside storage, with the exception of vehicles used as part of the on-site commercial use. Storage of junk, wrecked vehicles or other waste products shall be enclosed within a building or structure. Waste materials incidental to the principal operation shall be kept in neatly stored containers screened from public view. The waste materials shall be removed and disposed of in a manner adequate to meet all federal, State of Minnesota and Olmsted County Health Department regulations and other requirements of this chapter. No wastes shall be piled on open ground.

5. Dwelling units (apartments) located above the street level, first floor, in buildings in the downtown commercial area shall be permitted where adequate on-site parking is available. A maximum of one dwelling unit per lot of record that meets all lot area, frontage and yard requirements shall be permitted.

6. Applicants petitioning for approval of a shopping center shall be required to obtain a conditional use permit. The proposal shall meet all other requirements of specific commercial uses as specified under this or any other section of this chapter.

7. All commercial uses that have as part of their establishment and structures drive-in, drive-up or drive-through facilities shall be required to be reviewed under the conditional use provisions of this chapter.

8. Gasoline service stations and convenience stores that sell gasoline may be conditionally permitted in this district where the site is adjacent to an arterial or higher level street or to the frontage road adjacent to a higher level street and where all other requirements of this chapter are met or exceeded.

Byron - Land Usage

9. A conditional use permit shall be required for any outdoor display of retail items, other than for vehicles and farm implements.

(e) *Parking requirements.* See § 152.088. Where commercial uses are located in the downtown commercial area, where the commercial building has over 3,500 square feet of floor area and where the commercial use cannot meet the minimum parking requirements as set in § 152.088, a conditional use permit shall be required. Recommendations by the Planning Commission and decisions by the City Council shall be based on the type of commercial use under consideration.

(f) *Sign requirements.* See § 152.091.

(g) *Accessory uses and structures.* Accessory structures customarily incidental to any of the permitted uses when located on the same property are permitted.
(Ord. passed 11-93)

§ 152.050 INDUSTRIAL DISTRICT (I).

(A) *Purpose.* The intent of this district is to provide land area for land uses of an industrial nature including but not limited to manufacturing, major transportation and communication facilities, utilities, warehousing, wholesaling and uses of a similar character and intensity. Furthermore, the industrial district will consist of a downtown industrial area that recognizes existing industrial establishments and similar uses and other industrial development. The intent is to apply this district to those areas designated as "industrial" (downtown area and other) in the Land Use Plan.

(B) *Permitted and conditional uses.*

INDUSTRIAL DISTRICT

| Use | Lot Area (Sq. Ft.) | Lot Frontage Front Lot Line (2) | Side Yards (1) | | Front Yards (3) | Rear Yards |
|-------------------|-----------------------|---------------------------------------|----------------|-------------|--------------------|---------------|
| | | | Least Width | Sum | | |
| Other industrial | 6,000 | 60 feet | 10 feet | 20 feet | 15 feet (2) | 15 feet (3) |
| Downtown area (4) | 5,000 | 50 feet | 7 feet | 14 feet (5) | 15 feet | 15 feet (5) |

(C) *Development requirements.*

(1) *Maximum building height.*

(a) Any principal building within 200 feet of a residential zoning district, shall have a maximum height of 55 feet or less measured to the bottom of the eaves and all accessory structures shall have a maximum height of 25 feet or less measured to the peak. (Refer to § 152.084 for additional requirements.)

(b) Any building that is more than 100 feet from a residential zoning district shall have a maximum height of no more than 200 feet.

(2) *Maximum lot coverage.* Sixty-five percent of the area available for building. The area available for building is that area remaining after providing minimum area or more for yard requirements, buffer and screen requirements, parking area and loading/unloading requirements where required.

(3) *Buffering and screening.* Buffering and screening shall be required as specified in § 152.100.

(4) *Lot area, frontage and yard requirements.* The following minimum requirements shall apply in this district:

| <i>Use</i> | <i>Lot Area (Sq. ft.)</i> | <i>Lot Frontage Front Lot Line(2)</i> | <i>Side Yards(1)</i> | | <i>Front Yard (3)</i> | <i>Rear Yard</i> |
|------------------|-------------------------------|---|----------------------|-------------|---------------------------|------------------|
| | | | <i>Least Width</i> | <i>Sum</i> | | |
| Other Industrial | 6,000 | 60 feet | 10 feet | 20 feet | 15 feet (2) | 15 feet (3) |
| Downtown area | 5,000 | 50 feet | 7 feet | 14 feet (5) | 15 feet | 15 feet (5) |

(1) Where a lot or parcel of land is a corner lot, and therefore has a side street side yard, the minimum side yard on a side street shall be 15 feet.

Byron - Land Usage

| <i>Use</i> | <i>Lot Area (Sq. ft.)</i> | <i>Lot Frontage Front Lot Line(2)</i> | <i>Side Yards(1)</i> | | <i>Front Yard (3)</i> | <i>Rear Yard</i> |
|---|-------------------------------|---|----------------------|------------|---------------------------|------------------|
| | | | <i>Least Width</i> | <i>Sum</i> | | |
| (2) Where the industrial zoning district or use abuts at the front or side yard boundaries of a residential zoning district, or abuts a federal, state or county highway, a minimum front yard of 45 feet shall be required. | | | | | | |
| (3) A minimum rear yard of 50 feet shall be required where an industrial use and industrial zoning district abuts at the side or rear yard boundaries of a residential zoning district or a federal, state or county highway. | | | | | | |
| (4) The downtown industrial area shall be determined as identified on the Future Land Use Plan Map. | | | | | | |
| (5) Where an industrial establishment is abutting a railroad siding on a railroad right-of-way, the abutting side or rear yard may be reduced to zero. The minimum side or rear yard may be reduced to zero where an industrial establishment has a part of its business located on an abutting lot which is located only within the Commercial or Industrial District. | | | | | | |

(D) *Site plan review.* A site plan shall be submitted along with the zoning certificate application for all proposed industrial uses and reviewed as specified under § 152.157. Industrial and other uses permitted outright in this district shall be required to submit to the Zoning Administrator a site plan as specified in § 152.154. Furthermore, for all uses permitted outright the site plan submitted to the Zoning Administrator shall be reviewed by the Planning Commission within 30 days after submission of the application. The Planning Commission shall review the site plan with consideration given to all requirements of this chapter and using the lists of standards and conditions of § 152.157 as a guide in the review procedure. The Planning Commission shall review a site plan and make a recommendation to the City Council which shall file written approval, approval with changes or disapproval of the site plan with the Zoning Administrator and applicant within 30 days from the date of Planning Commission review.

(1) Once a use is established and the site plan has been approved as herein provided, accessory structures or uses meeting all other requirements of this chapter may be permitted without Planning Commission review, whether or not such proposals are consistent with the approved site plan. However, where further construction occurs on the property that increases the total amount of floor area of the use, including accessory structures, by 20% or more and where such proposals are not consistent with the approved site plan, the property owner shall be required to submit for review by the Planning Commission an amended site plan.

(2) All other requirements of this chapter shall apply to all industrial uses whether or not such requirements were specifically identified as part of the site plan and review procedure by the Planning Commission.

(E) *Use limitations; storage of materials.*

(1) The open storage of lumber, coal or other combustible material shall be not less than 25 feet from an interior lot line.

(2) Open storage of junk, wrecked vehicles to be dismantled or other salvage materials shall be enclosed by an eight foot permanent fence or combination of fence and other structures that entirely blocks the view of the storage area from the public and adjacent property owners located in other than the Industrial District.

(3) Waste materials incidental to the principal operation shall be kept in neatly stored containers screened from public view and at least 25 feet from all interior lot lines. The waste materials shall be removed and disposed of in a manner adequate to meet Olmsted County Health Department regulations and applicable Minnesota state or federal regulations.

(4) No material shall be piled on open ground.

(5) All industrial uses shall comply with the requirements of § 152.102.

(F) *Parking.* Parking is not allowed on setback requirements in any industrial area. Additional parking requirements, see § 152.088.

(G) *Signs.* Sign requirements, see § 152.091.

(H) *Accessory buildings.* Accessory buildings and uses customarily incidental to any of the permitted uses when located on the same property are permitted.
(Ord. passed 11-93)

ALTERNATIVE RESIDENTIAL DEVELOPMENT METHODS

§ 152.065 INTENT.

This subchapter will permit residential development under site design requirements different from the residential districts requirements of §§ 152.045 *et seq.* Cluster development requirements and

planned residential development requirements are listed within this subchapter. Development under provisions of this subchapter shall consist exclusively of residential uses and permitted accessory uses to the principal residential uses.

(Ord. passed 11-93)

§ 152.066 PLANNED UNIT DEVELOPMENT (PUD).

(A) *Intent*. This section is intended to encourage residential, commercial, and industrial planned unit developments offering greater creativity, alternative development styles and flexibility in site plan design than is provided under the strict application of zoning regulations, while at the same time preserving the health, safety, order, convenience, prosperity, and general welfare of the City of Byron. The provisions of this section provide design flexibility and amenities in order to obtain a higher quality of development and create more green space than would be allowed in traditional development. Planned unit developments may include one or a variety of land uses. Mixed uses may include combination of residential or commercial uses planned and developed in an orderly and compatible relationship to one another.

(B) *Permitted uses*. Uses permitted in a planned unit development may consist of one or a mixture of land uses clearly designated by type on the approved final development plan. Mixed uses may occur among or within buildings as long as the uses are compatible with each other and with planned and existing uses surrounding the planned unit development. The planned unit development may take any of the following forms:

(1) *Residential Planned Unit Development*. The purpose of the Residential Planned Unit Development is to provide for the harmonious development of residential areas in such a manner:

(a) That aesthetic qualities of the landscape may be preserved or created which would otherwise be impossible under traditional one lot-one building concept;

(b) That provisions may be made for natural non-geometric location of buildings within a site which will provide for economy of development through the use of good street and utility design; and

(c) That land uses consistent with or complementary to existing developments and the community's needs will be encouraged.

(2) *Commercial Planned Unit Development*. The purpose of the Commercial Planned Unit Development is to allow alternatives to the restrictions made mandatory in the commercial districts in such a manner that allows for more efficient means of providing off-street parking, thoroughfare access, separation of pedestrian and vehicular traffic, stabilization of contiguous property values, buffering of adjacent noncommercial areas, and other general and pertinent planning considerations may be developed and utilized.

(3) *Industrial Planned Unit Development.* The purpose of the Industrial Planned Unit Development is to promote the creation of integrated industrial areas providing design features and control standards for superior industrial developments. In particular, attention shall be given to improving aesthetics, architectural form and scale, traffic circulation, and buffers between industrial and non-industrial areas. And, as in all other planned unit developments, exceptions from the specific regulations found in the zoning districts shall be made for developments, which propose innovative or original schemes for the creation of a better community environment.

(4) *Central Business District (C.B.D.) Planned Unit Development.* The purpose of the Central Business District Planned Unit Development is to encourage the construction of areas in the Commercial Districts in accordance with guidelines and general development plans adopted by the City of Byron. In all cases, whether or not mixed usage is a goal, the development shall ensure standards which will provide safe, healthful, aesthetic, and uncongested use of the area. In addition, this section recognizes that in the commercial districts the dimension of height is an important factor so that in this Planned Unit Development mixed uses are permissible in single buildings. Developments with mixed uses may take this space into account, and the city shall judge the use of this space on the merits of the plan and on the general needs of the residents of the city. Maximum height of buildings in a mixed Central Business District Planned Unit Development is 55 feet.

(C) *Conditional uses.* Any land use not clearly designated by type on the approved final development plan shall be permitted in a planned unit development only upon issuance of a conditional use permit.

(D) *District standards.* The district standards shall be as follows:

(1) *Access.* All land uses shall abut on a public street or have adequate access to a public street by means of a private drive. All streets and drives must tie in effectively with the city's existing street system and with those arterial and collector streets proposed in its Future Land Use Plan.

(2) *Architectural style.* The architectural style of individual structures shall be compatible with other structures in the planned unit development, with the overall site design, and with surrounding land uses.

(3) *Common open space.* Whenever possible, common open space shall be linked to the open space areas of surrounding developments. Common open space shall be of a size, shape, location, and usability for its proposed purpose. A minimum of 25% of the total site acreage shall be preserved as common recreation and meaningful open space. Meaningful open space shall include, without limitation, parks, pastures, meadows, green belts, buffers, forests, lakes, golf courses, walking/bike trails and such other areas as are approved by the city in the PUD approval process. Water bodies and land located within the 100-year floodplain may be used to partially fulfill open space requirements; calculations for such may not exceed 50% of the required open space. Any and all open space shall be held in common ownership by the dwelling unit owners or in other manner as the city provides in its ordinance approving the PUD so as to insure that it continues to be maintained for its intended use as specified in the

Byron - Land Usage

Final Development Plan. To insure that all common open space in the PUD will be used as intended, the necessary restrictions or covenants will be put in each deed unless otherwise specified in the PUD approval. Such deed or covenants shall run with the land in order to protect both present and future property owners. The covenants and restrictions shall prohibit the reduction or sale of any common open space.

(4) *Density*. For all residential zoning districts (R-1, R-2 and R-3), a density bonus of up to 25% may be permitted where all other requirements of this section are complied with. (For example, in the R-1 District, using the density of 6.0 units per acre for a one-family detached unit, 1.5 additional housing units per acre may be permitted; and in the R-3 District, using the density of 20 units per acre for multiple family units a maximum of five additional housing units may be permitted. Where the density figure is not a whole number, it shall be rounded to the nearest whole number; for example, .0 to .5 = 0, or .6-.9 = 1.0.) Where the Planning Commission and the City Council find that the proposed planned residential development is compatible with the surrounding uses and density, the City Council may require that the maximum project density bonus be modified to less than 25%.

(5) *Determining standards*. Standards for lot area, coverage, setbacks, parking, and screening shall be governed by the standards of the zoning district most similar in function (Residential, Industrial, Commercial) to the proposed planned unit development use, as determined by the Planning Commission and City Council. Deviation from those standards may be permitted only if such deviation is consistent with the total design of the development, encourages a desirable living environment, and is not detrimental to the welfare of the city.

(6) *Homeowners Association*. Membership in a homeowners association shall be mandatory for all residents of the planned unit development. The homeowners association shall own and maintain all common open space and private interior drives.

(7) *Minimum Planned Unit Development Area*. Ten acres of land--acres must be contiguous to each other--in single ownership or control. A land use of less than ten acres may qualify if one or more of the following conditions exist:

- (a) The planned unit development is to include two or more principal land uses;
- (b) Natural features of the land are such that development under standard zoning regulations would not be appropriate in order to conserve such features;
- (c) The land is adjacent to or across the street from property which has been developed as a planned unit development and is to be developed in relationship to such prior development; or
- (d) The planned unit development process is desirable to ensure compatibility and careful consideration of the effect of a development on surrounding land uses.

(8) *Minimum Usable Open Space.*

(a) Required total open space shall comprise at least 50% of the total gross area of the proposed development site. Where a planned residential development abuts a city park for 100 feet or more, the required open space may be reduced to 45% of the total gross area of the proposed development site.

(b) An adequate amount of open space shall be provided as private open space for each unit based on housing type and style and number of units having immediate access to the development grounds.

(c) A minimum of 50% of the required open space shall be designated and identified as common open space to be used for passive or active recreational activities by the development residents.

(E) *Pre-application conference.* Before submitting the Preliminary Development Plan application for approval as a PUD, the developer shall meet with the City Administrator, Building Official, Planning Coordinator, City Engineer and any other such personnel as may be deemed necessary to determine the feasibility and suitability of the application. This step is required so that the developer may obtain information and guidance from city officials before entering into any binding commitments or incurring substantial expenses of the site and plan preparation.

(F) *Application for preliminary development plan approval.* Before the Planning Commission may review a preliminary development plan, the plan and an application shall be submitted to the City Administrator/Planning Coordinator at least three weeks prior to the Planning Commission meeting. The application shall be signed by the property owner and the developer. The preliminary development plan shall include the following items:

(1) Building elevation drawings, except that the City Administrator/Planning Coordinator may waive this requirement for detached single-family dwellings.

(2) Existing trees over six inches in trunk diameter measured at two feet above grade, streams, marshes, and other predominant natural features.

(3) Phasing schedule stating the geographical phasing and approximate construction timing of the planned unit development or portions thereof.

(4) Preliminary grading and drainage plan at two-foot contour intervals.

(5) Preliminary landscape plan.

(6) Preliminary plat in accordance with the subdivision regulations. The city Administrator/Planning Coordinator may defer submission of the preliminary plat until the final development plan is submitted.

Byron - Land Usage

(7) Preliminary utility plan for all public utilities.

(8) Site plan showing the lot lines, building locations, street system, parking spaces, drives, common open space areas, recreational improvements, structures, and proposed park or school sites.

(9) Summary sheet indicating the area of land in each land use, number of units proposed, density of development, percentage of land in usable open space, number of acres of common open space, and number of parking spaces provided.

(10) Typical floor plans of each type of building, except that the City Administrator/Planning Coordinator may waive this requirement for detached single-family dwellings.

(11) Vicinity map showing sufficient area surrounding the proposed planned unit development to demonstrate the development's relationship to the adjacent land uses and street system.

(G) *Development standards.*

(1) All roads, sidewalks, sewer facilities, utilities and drainage shall be constructed according to the requirements of the City of Byron Subdivision Regulations and any other city ordinances or policy pertaining thereto. In the event of a conflict between this section and the City of Byron Subdivision Regulations or any other city ordinances, the more stringent regulations shall apply, unless otherwise specified in the PUD approval.

(2) All community facilities (for example, water and sewerage systems) proposed for dedication to the city must be acceptable by the city, as to the size, shape, construction, location, and shown by the applicant to be of benefit to the general public. Acceptance by the city is entirely dependent on the discretion of the city.

(3) All utilities, for example electrical, telephone, and the like, shall be underground and in a common trench, unless the City Council determines that these requirements are not feasible. These utilities shall be provided in accordance with the rules, resolutions and/or regulations established by the appropriate governmental agency.

(4) Each building or structure for business, trade or industry shall provide space for the loading and unloading of vehicles off the right-of-way of the street or public alley. Refer to § 152.087, Off-Street Loading, for complete details.

(5) Off-street parking – refer to § 152.088, Parking Requirements, for minimum standards.

(H) *Preliminary development plan approval.* Within 25 business days after the application for preliminary development plan approval is submitted, the Planning Commission shall conduct a public hearing, in accordance with the city code, to consider the preliminary development plan. The findings necessary for approval shall include, but not be limited, to the following:

- (1) The planned unit development is consistent with the intent of this section.
- (2) The planned unit development meets the standards required for a conditional use in the district.
- (3) Each stage of the planned unit development can exist as an independent unit.
- (4) The area surrounding the planned unit development can be planned and developed in coordination and substantial compatibility with the proposed development.
- (5) All items specified in division (F) are to be included.

(I) *Review by the Council.* The recommendation of the Planning Commission shall be forwarded within 40 business days to the City Council for review.

(J) *Application for final development plan approval.*

(1) The developer shall submit an application for final development plan approval within 12 months after the preliminary development plan has been approved or the preliminary approval shall be null and void. The City Council, upon written request by the developer, may extend the period permitted for final approval application for periods of not more than 12 months each upon a finding that:

(a) The proposed use, or uses, is consistent with the city's Comprehensive Land Use Plan current at the time the request for an extension is considered; and

(b) The project design meets the applicable City Code standards in effect at the time the request for an extension is considered, or the design is modified to satisfy those standards.

(2) The final plan shall be in substantial compliance with the approved preliminary plan. Substantial compliance shall mean that the development's residential density has not altered over 5%, the floor area of nonresidential uses has not been altered by over 5%, open space has not been decreased or been altered to change its original design or use, all special conditions prescribed in the preliminary development plan approval have been incorporated into the final plan, and the original development concept has not been altered.

(K) *Application content.* Application for final development plan approval shall include the following items:

(1) Building elevation drawings, except that the City Administrator/Planning Coordinator may waive this requirement for detached single-family dwellings;

(2) Existing trees over six inches in trunk diameter measured at two feet above grade, streams, marshes, and other predominant natural features;

Byron - Land Usage

- (3) Final phasing (staging) schedule stating the geographical phasing and approximate construction timing of the planned unit development or portions thereof;
- (4) Final grading and drainage plan at two-foot contour intervals;
- (5) Final landscape plan;
- (6) Final plat in accordance with the subdivision regulations;
- (7) Final utility plan for all public utilities;
- (8) Site plan showing the lot lines, building locations, street system, parking spaces, drives, common open space areas, recreational improvements, structures, and proposed park or school sites;
- (9) Summary sheet indicating the area of land in each land use, number of units proposed, density of development, percentage of land in usable open space, number of acres of common open space, and number of parking spaces provided;
- (10) Typical floor plans of each type of building, except that the City Administrator/Planning Coordinator may waive this requirement for detached single-family dwellings;
- (11) Vicinity map showing sufficient area surrounding the proposed planned unit development to demonstrate the development's relationship to the adjacent land uses and street system;
- (12) Deed restrictions and instruments dedicating all rights-of-way, easements, and public lands drafted to the satisfaction of the City Attorney, ensuring the preservation and maintenance of the common open space areas;
- (13) By-laws of the proposed homeowner's association;
- (14) Building elevation drawings, including specifications, except for detached single-family dwellings meeting required R-1 or R-2 Single-family Residential district standards. This requirement may be waived by the Director of Planning; and
- (15) Such other information that may be requested to fully represent the intent of the development plan or to determine if the plan meets the conditions for approval in division (L).

(L) *Final development plan approval.* Within 40 business days after the final development plan is submitted, the Planning Commission shall make a recommendation to the City Council on such plan as to its conformity with the preliminary development plan, fulfillment of all required items and continued compliance with findings required for preliminary development plan approval. Upon receiving the

Planning Commission's recommendation, the City Council shall either grant, grant subject to conditions, or deny the final development plan. If approval is granted, a planned unit development permit shall be issued to the developer by the City Administrator, which permit shall contain any conditions attached by the Council.

(M) *Filing of final development plan.* Upon approval, the City Clerk/Treasurer shall certify two copies of such plan and have them filed in the Planning Department. Such plans shall be drawn to a scale of 40 feet to one inch or larger. The dimensions of such plan shall not exceed three feet by six feet. In case of a large plan, two or more sheets may be required. If so, the sheets shall be numbered.

(N) *Official map designation.* After approval, the planned unit development shall be designated on the City's Official Zoning Map.

(O) *Final development plan changes.* Any significant changes in the approved final development plan may be made only after a public hearing by the Planning Commission and approval by the City Council. No changes in the final development plan may be made unless they are shown by the developer to be required by changes in conditions or circumstances not foreseen at the time of the final plan approval. Any significant changes shall be recorded as amendments to the approved final development plan. Minor changes must be approved by the City Administrator/Planning Director. (Significant changes shall mean that the development's residential density has been altered over 5%, the floor area of nonresidential uses has been altered by over 5%, open space has been decreased or been altered to change its original design or use, all special conditions prescribed in the preliminary development plan approval have not been incorporated into the final plan, and/or the original development concept has been altered.)

(P) *Termination of final development plan approval.* If final development plan approval is given to a developer and thereafter he or she wishes to abandon the plan, the developer shall notify the city in writing. Upon a finding by the Planning Commission that there has not been substantial development (as indicated by installation of utilities or completion of 5% of the proposed floor area) within the site area within 24 months after final development plan approval was granted, such final development plan approval may be terminated after public hearing by the Planning Commission and upon approval by the Council.

(Q) *Extended staged planned unit development.* It is recognized that certain planned unit developments may involve construction over an extended period of time. If it is proposed to develop a project during a period exceeding two years, the developer may request concept approval from the Planning Commission and City Council for the entire project and permission to submit application for preliminary development plan approval on the first stage of the project. A public hearing shall be required by the Planning Commission for consideration of concept approval, as well as for each stage of development in the extended staged planned unit development. Each stage of the planned unit development shall require both preliminary and final development plan approval.

(R) *Building permit approval.* No building permit shall be issued for a building in a planned unit development until the plans have been reviewed and approved by the City Administrator, Planning Coordinator and the Building Official.

(S) *Application fee.* A non-refundable application fee, to be set by ordinance, shall accompany an application. Additional fees shall be paid by the developer/applicant for expenses which the city incurs in regards to the review process. Such expenses may include, but are not limited to overhead costs, fees paid to consultants/professionals, printing and mailing expenses. Such fees shall be due immediately upon notification by the city. The city may withhold any final action and/or rescind prior actions until fees are paid in full. The city may request additional deposits if deemed necessary.
(Ord. - -, passed 4-26-06)

GENERAL REQUIREMENTS

§ 152.080 CONFORMANCE.

The following requirements shall apply equally to all districts except where otherwise stated or where special provisions provide otherwise.
(Ord. passed 11-93)

§ 152.081 ACCESSORY BUILDINGS.

(A) In any zoning district, no accessory building or structure shall be erected or constructed prior to the erection or construction of the principal or main building, but may be erected simultaneously.

(B) An accessory building, including carports attached to the principal building, on a lot, shall be made structurally a part thereof and shall comply in all respects with the requirements of this chapter applicable to the principal building. A breezeway, for the purpose of this chapter, is an attachment between the garage or carport and the principal building and shall be considered a part of the principal building.

(C) All detached accessory buildings or structures shall have a minimum of six feet of separation between building eaves and walls of accessory buildings or the accessory buildings and the principal building located on the same lot as the accessory building or structure. Unenclosed porches and decks shall be considered as part of the principal or accessory building(s) and shall be required to meet the minimum requirements of this section. The accessory buildings or structures shall be located in the buildable area or in the required rear yard and shall be placed so that the eaves of the building or nearest part of the structure are at least three feet from a lot line.

(D) Accessory buildings for one family attached dwellings may be attached to buildings on an abutting lot in the buildable area and/or in the rear yard of a lot, providing the applicant records a covenant and deed restriction on the property which will abut the common lot line (zero lot line). Said covenants and deed restrictions shall:

(1) Provide access to the abutting property for the adjacent property owner and/or his or her representative for the purpose of construction, reconstruction, repair and maintenance of either side on the total property;

(2) Provide for necessary encroachments for footings and eaves for said building;

[Text continues on page 109]

(2) All other requirements of this chapter shall apply to all industrial uses whether or not such requirements were specifically identified as part of the site plan and review procedure by the Planning Commission.

(E) *Use limitations; storage of materials.*

(1) The open storage of lumber, coal or other combustible material shall be not less than 25 feet from an interior lot line.

(2) Open storage of junk, wrecked vehicles to be dismantled or other salvage materials shall be enclosed by an eight foot permanent fence or combination of fence and other structures that entirely blocks the view of the storage area from the public and adjacent property owners located in other than the Industrial District.

(3) Waste materials incidental to the principal operation shall be kept in neatly stored containers screened from public view and at least 25 feet from all interior lot lines. The waste materials shall be removed and disposed of in a manner adequate to meet Olmsted County Health Department regulations and applicable Minnesota state or federal regulations.

(4) No material shall be piled on open ground.

(5) All industrial uses shall comply with the requirements of § 152.102.

(F) *Parking.* Parking is not allowed on setback requirements in any industrial area. Additional parking requirements, see § 152.088.

(G) *Signs.* Sign requirements, see § 152.091.

(H) *Accessory buildings.* Accessory buildings and uses customarily incidental to any of the permitted uses when located on the same property are permitted.
(Ord. passed 11-93)

ALTERNATIVE RESIDENTIAL DEVELOPMENT METHODS

§ 152.065 INTENT.

This subchapter will permit residential development under site design requirements different from the residential districts requirements of §§ 152.045 *et seq.* Cluster development requirements and

planned residential development requirements are listed within this subchapter. Development under provisions of this subchapter shall consist exclusively of residential uses and permitted accessory uses to the principal residential uses.

(Ord. passed 11-93)

§ 152.066 CLUSTER DEVELOPMENT.

(A) *Purpose.*

(1) Development under this provision is optional. The intent of this provision is to promote imaginative, diverse, well designed residential subdivisions which preserve open space, recognize and design for the physical qualities and constraints of the land such as natural drainage systems and soils limitations, reduce overall development and maintenance costs and encourage energy conservation and the use of solar energy. Diversity and originality in individual building design in concert with lot size and shape shall be encouraged.

(2) Cluster development is intended, in particular, for sites that are difficult to develop under conventional lot area and site design characteristics. Also, cluster development shall be a more effective use of a site than under conventional subdivision design. Such development also will not increase the overall density of development. The lands not part of lots will be used as open space.

(B) *Development uses.* The residential zoning district in which land proposed for a cluster development is located shall dictate the permitted, conditionally permitted and accessory uses for the individual cluster development zoned for such uses.

(C) *Minimum requirements.* The following minimum requirements shall be met by all cluster development proposals; however, where site characteristics and area land uses and densities indicate a need, additional requirements may be required by the City Council.

(1) *Land area.* The minimum size of the development shall be two acres.

(2) *Density.* Overall density of the development shall not exceed the density permitted within the underlying residential zoning district. The density shall be a net density (gross density of the development site minus all road right-of-way or private access road area).

(a) *Low Density Residential District (R-1).* The overall density shall not exceed:

1. 6.0 dwelling units per acre for one family detached dwellings, many homes and supervised living facilities, one family attached and single family;

2. 10.4 dwelling units per acre for two family detached dwellings or 5.2 two family detached buildings.

(b) *Mixed Low Density Residential District (R-2)*. The overall density shall not exceed:

1. 7.3 dwelling units per acre for one family detached dwellings and manufactured homes, one family attached and single family terrace dwellings;

2. 5.8 two family detached buildings or 11.6 dwelling units per acre;

3. 5.8 dwelling units per acre for supervised living facilities;

4. 12 dwelling units per acre for multiple family dwellings.

(c) *High Density Residential District (R-3)*. The overall density shall not exceed:

1. 20 dwelling units per acre for multiple family dwellings;

2. 8.7 dwelling units per acre for manufactured homes, boarding/rooming houses and supervised living facilities meeting all other density requirements of § 152.048;

3. A convalescent home shall be permitted to house a maximum of 50 persons within the convalescent home on at least a one acre lot area or for smaller convalescent homes there shall be permitted one person per 871.2 square feet of lot area.

(3) *Modification of yard and frontage requirements*. Rear and side yard regulations for the appropriate district shall apply to the boundaries of the cluster development subdivision. Front yard requirements for the appropriate district shall apply to cluster developments unless the individual dwellings front on a private drive, private street, driveway or parking area which is located within the subdivision, in which case no dwelling shall be less than ten feet from any private street which is not a through street. The applicant shall provide adequate reasons for reducing the minimum front yard required in the appropriate district. There shall be a minimum separation between all buildings (individual detached dwellings or groups of attached dwellings) on adjacent or abutting lots of ten feet unless the City Council determines that there is practical difficulty or adequate design reasons provided by the applicant for reducing the minimum requirement. In no case shall the minimum building separation be less than six feet. Minimum lot frontage as required under §§ 152.046 through 152.048 may be reduced and the requirement of lot frontage on a public street may be waived by the City Council; but only where all other provisions of §§ 152.046 through 152.048 are complied with.

(4) *Minimum common open space.*

(a) Each cluster development shall provide accessible, adequate, useable areas for open space and recreation. Where applicable, open space shall include natural features located on the site, including but not limited to, stream beds and banks, natural drainage ways, stands of trees, individual large specimen trees and rock outcroppings.

(b) The minimum amount of common open space within the cluster development shall be no less than the total amount of reduction in lot area within the proposed cluster development.

(c) Individual lots, buildings, streets and parking areas shall be designed and situated to minimize alteration of the natural features of the site. Land designated as common open space shall be maintained as common open space and may not be separately sold, subdivided or otherwise developed for other than open space uses.

(5) *Design and landscaping of common open space.*

(a) The common open space areas shall be laid out in accordance with the best principles of site design. It is intended that the open space areas be as close to all residences as possible, with greenways leading to other major common open space areas or public open space areas. Common open space areas shall be accessible to all residents of the development. Such access may be provided either through adjoining of the private lots or buildings to the common open spaces, the use of walkways (minimum total width 10 feet and pavement width of 6 feet) leading to the common or public areas or public right-of-way which have frontage on the common or public open spaces for a distance of at least 40 feet.

(b) All common open space shall be required to have, as a minimum, one deciduous shade tree per 1,600 square feet. Each tree shall be not less than 1 1/2 inches in diameter at ground level and six feet in height. Only Linden, Norway or Sugar Maple, Thornless Locust, Seedless Ash, Hackberry, Pin Oak or Gingko shall be planted. Additional landscaping may be required by the City Council along the site boundary to serve as a buffer, in the common open space and around the housing units based on surrounding land use, site characteristics and site design, including common open space design and dwelling unit design.

(6) *Private space.* Private open space shall be provided for all single family terrace and one family attached units. This space shall be at least 300 square feet in size and made private by fencing or a combination of fencing and appropriate landscaping. All fences shall be between six and eight feet in height and be made of wood, cement block, brick, stone or cement in such a way that the fence is visually solid. Where landscaping is used, no plant material shall be less than four feet in height at the time of planting and shall be a perennial, woody plant material. The location of the fencing or fencing

and landscaping shall be between adjacent private space for separate dwellings or where the private space is adjacent to parking areas, streets, storage areas, sidewalks, common open space areas or activity areas creating similar impacts. The person developing the cluster development shall be responsible for constructing the private space as specified herein.

(7) *Access.* Adequate pedestrian and vehicular access shall be provided for each dwelling unit in a cluster development. Minimum parking requirements as provided in § 152.088 shall be complied with. In no case shall the designation of easements for pedestrian or vehicular access be acceptable. Access shall be provided by lot frontage or by private streets, drives or parking areas and across common open space.

(D) *Design criteria.* All cluster development design shall be reviewed with particular consideration to the following criteria:

(1) Individual lots, buildings, streets and parking areas shall be designed and situated to minimize alteration of the natural site features to be preserved;

(2) The usability of common open space intended for recreation shall be determined by the size, shape, topographic and location requirements of the particular purpose proposed for the site;

(3) Diversity and originality in lot layout and individual building design shall be encouraged to achieve the best possible relationship between development and the land;

(4) Individual lots, buildings and units shall be arranged and situated to relate to surrounding properties, to improve the view from and the view of buildings and to lessen area devoted to motor vehicle access;

(5) Individual lots, buildings, units and parking areas shall be situated to avoid the adverse effects of shadows, noise and traffic on the residents of the site.

(E) *Site plan review.*

(1) A site plan shall be submitted along with the permit application for cluster development under this section and reviewed as specified under § 152.157. Proposed cluster developments shall also be processed simultaneously under the subdivision platting procedures as required by the subdivision ordinance.

(2) For cluster development, the application shall include all required information established in the subdivision ordinance for subdivision plat approval for residential development. Also required shall be a statement by a registered engineer/surveyor setting forth the gross land area, the net land area (gross area minus all right-of-way and flood plain area), the maximum number of lots and dwellings or

building size allowable, the total number of lots and dwellings in the proposed development, the minimum lot area, the total area of common open space and the location, dimension and numbers of parking spaces and area, loading area and on-site roads (public and private). The common open space shall be located and boundaries drawn on a map of the site to indicate the size and access thereto. (Ord. passed 11-93)

§ 152.067 PLANNED RESIDENTIAL DEVELOPMENT.

(A) *Purposes.* The provisions of this section are intended to provide opportunities for alternative development styles and methods that are in accordance with the provisions and regulations contained herein, the intent of the Land Use Plan and the general intent of the districts in which the development is proposed. The provisions of this section provide design flexibility and amenities in order to obtain a higher quality of development. In return for a potential increase in density and reduced street design requirements, the expected attributes from development under these provisions are:

(1) Variety in the organization of site elements, housing types and pedestrian/vehicular circulation systems;

(2) Higher standards of site and building design through use of trained and experienced professionals in land planning, architecture and landscaping to prepare plans for residential planned residential developments;

(3) Preservation and enhancement of desirable natural site characteristics and open space;

(4) More efficient and effective use of streets, utilities and public facilities;

(5) More usable and suitably located recreation facilities;

(6) Provide a variety of quality housing;

(7) Increase the opportunities for energy conservation and the use of solar energy.

(B) *Permitted uses.* This section shall be applicable and used only for residential development located within the residential zoning districts as described within this chapter. Residential building types, as specified in §§ 152.025 *et seq.*, shall be permitted in a planned residential development under the applicable residential zoning district regulations. Where a proposed planned residential development is located in two residential zoning districts, residential building types shall be permitted only in the district in which they are permitted under §§ 152.046 through 152.048. Proposed uses conditionally permitted under this chapter shall be reviewed within the planned residential development review process and conditionally permitted or not permitted based on proper review.

(C) *Administrative requirements.*

(1) *Coordination with subdivision ordinance.* It is the intent of this chapter that subdivision review under the subdivision ordinance be carried out simultaneously with review under this subchapter of the zoning code. The review procedure shall be as specified in the subdivision ordinance.

(2) *Preparation of plans.* The applicant is required to have the necessary documents and supporting evidence prepared and endorsed by a qualified professional team consisting of a registered architect and if the planned residential development requires the subdivision of land and the installation of public site improvements, a registered land surveyor and registered engineer.

(3) *Effect of approval.* The final plan as approved, together with the conditions and restrictions imposed, if any, shall govern and control the use and development of the land involved. The general zoning regulations which were applicable to the land prior to approval of the plan and which are not inconsistent with the plan continue to be applicable. No building permit shall be issued for any structure within the planned residential development unless and until the Zoning Administrator certifies that the planned structure conforms to the provisions of the plan and other applicable zoning requirements.

(4) *Plan changes.* The Zoning Administrator shall refer all plan changes in use, density and bulk standards, open space and other standards of development to the Planning Commission and City Council following the zone change procedure. Any such changes shall be recorded as amendments to the final plan.

(5) *Annual review.* The Zoning Administrator shall review each implemented planned residential development at least once each year and shall make a report, through the Planning Commission, to the City Council on the current construction and site improvement status of the development. If development is not progressing reasonably well, according to the staging plan or approved schedule, the owner shall be required to submit a statement to the Zoning Administrator setting forth the reasons for the lack of progress. If the City Council finds that the development has not occurred according to the established development schedule or is not otherwise reasonable in the view of the City Council, the Council may initiate rezoning to remove the planned residential development. Where the Zoning Administrator finds that construction of a planned residential development has not been started after one year from the date of adoption, the City Council shall act to initiate rezoning to remove the planned residential development district, unless the owner or owners provide in writing the reasons for lack of progress. If the Council finds such reasons acceptable, they may extend this time limit to start construction for up to one additional year only.

(D) *General requirements.*

(1) *Ownership.* A tract of land to be developed as a planned residential development shall be under the control of a single person (acting through a corporation), where the person agrees in advance

to be bound by the conditions and regulations which will be effective within the district and to record such covenants, easements and other provisions with the County Recorder.

(2) *Staging plan.*

(a) A staging plan shall be required to be submitted as part of the application at the preliminary plat stage as set forth in the subdivision ordinance where the planned residential development is proposed to be developed in stages over a period of more than one year. The staging plan shall be part of the final plan submitted for review by the City Council and shall indicate the areas to be developed and the times of the development. The schedule may be modified by the City Council on the showing of good cause by the developer.

(b) If the sequence of construction of various portions of the development is to occur in stages, then the open space recreational facilities, landscaping and other amenities shall be developed, or committed thereto, in proportion to the number of dwelling units intended to be developed during any given stage of construction as approved by the City Council. Furthermore, at no time during the construction of the project shall the number of constructed dwelling units per acre of developed land exceed the overall density per acre established by the approved final plan.

(E) *Standards of development.*

(1) *Minimum parcel size.* The minimum total amount of land required for development under this subchapter shall be three acres. The parcel or parcels proposed for a planned residential development shall not be divided by major roads; the area shall be one contiguous piece.

(2) *Maximum lot coverage.* The maximum lot coverage of all structures shall not exceed 40% in the R-1 Zoning District, 45% in the R-2 and R-3 Zoning Districts for the total lot or development site.

(3) *Project density.*

(a) For all three residential zoning districts (R-1, R-2 and R-3), a density bonus of up to 25% may be permitted where all other requirements of this section are complied with. (For example, in the R-1 District, using the density of 6.0 units per acre for a one family detached unit, 1.5 additional housing units per acre may be permitted; and in the R-3 District, using the density of 20 units per acre for multiple family units a maximum of five additional housing units may be permitted. Where the density figure is not a whole number, it shall be rounded to the nearest whole number; for example, .0 to .5 = .0 or .6 to .9 = 1.0.

(b) Where the Planning Commission and City Council find that the proposed planned residential development is incompatible with the surrounding uses and density, the City Council may require that the maximum project density bonus be modified to less than 25%.

(4) *Open space requirements.*

(a) *Definition.* Open space shall consist of all land within a planned residential development that is not covered by residential structures or accessory structures, with the exception of structures used for recreational purposes and not covered by auto areas (roads, parking, loading/unloading areas) and is under private or common (homeowner's association) control.

(b) *Purpose.* Open space shall provide for private outdoor space for each dwelling unit; and common open space shall provide for the preservation of natural features, increase site and building design flexibility, improve the overall aesthetics of the site and provide for common recreational space for all residents of the planned residential development.

(c) *Design.* The common open space areas shall be laid out in accordance with the best principles of site design. The open space areas should be as close to all residents as possible, with greenways leading to major recreation spaces, other common open space areas or public open space areas.

(d) *Minimum area.*

1. Required total open space shall comprise at least 50% of the total gross area of the proposed development site. Where a planned residential development abuts a city park for 100 feet or more, the required open space may be reduced to 45% of the total gross area of the proposed development site.

2. An adequate amount of open space shall be provided as private open space for each unit based on housing type and style and number of units having immediate access to the development grounds.

3. A minimum of 50% of the required open space shall be designated and identified as common open space to be used for passive or active recreational activities by the development residents.

(e) *Dimension.* No common open space area shall be less than 625 square feet in area, nor less than 20 feet in its smallest dimension. All common open space areas shall be contiguous to one another or be connected by walkways.

(f) *Physical characteristics.* Common open space shall be equitably distributed within the development in relation to the number of dwelling units which will be served. The common open space shall be useable. This determination shall be made based on slope, wetness and related soils limitations, amount of common open space used for natural drainageways and access. The remaining portion of the required open space not designated as private or common open space may be improved or may be left in its natural state. Areas devoted to natural or improved flood plain or natural drainageways and swales and those areas encumbered by flowage or drainage easements may be applied toward satisfying the total open space requirement.

(g) *Physical improvements.* Landscaping of the common open space and other non-private open space shall be required and shall include shade trees, evergreen trees and deciduous and evergreen shrubbery, all of which are capable of surviving in the southern Minnesota climate. The landscaping shall provide buffering where appropriate, shading of buildings and private and common open space, visual diversity, enhance existing natural features and improve overall on-site aesthetics. A landscaping plan shall be submitted with other plans at the preliminary and final plat stages. The plan shall indicate plant varieties and numbers of each variety, location and spacing. Landscaping shall be completed in stages along with the construction of dwellings, where the sequence of construction is to occur in stages. The buildings, structures and improvements which are permitted in the common open space must be appropriate to the uses which are authorized for common open space and must conserve and enhance the amenities of the common open space having regard to its topography and unimproved condition.

(h) *Private space.* Private open space shall be provided for all single family terrace dwellings and ground level dwellings with main floor levels within five feet of ground level for the following dwelling types: multi family; multi family limited; single family attached; and two family dwellings. This space shall be at least 300 square feet in size and made private by fencing or a combination of fencing and appropriate landscaping. All fences shall be between six and eight feet in height and be made of wood, cement block, brick, stone or cement in such a way that the fence is visually solid. Where landscaping is used, no plant material shall be less than four feet in height at the time of planting and shall be a perennial, woody plant material. The location of the fencing or fencing and landscaping shall be along the entire perimeter of the private space, except along the exterior walls of the dwellings.

(i) *Access.* All common open space areas shall be accessible to all residents of the development. Such access may be provided either by adjacency of the private lots or buildings to the common open space the use of walkways (minimum width - 10 feet) leading to the common or public areas or public right-of-way which have frontage on the common or public open space for a distance of at least 40 feet.

(5) *Traffic circulation and road improvements.*

(a) Principal vehicular access points shall be located and designed to permit safe and efficient traffic flow. Local streets within the development shall not be connected to streets outside the development in such a way as to encourage their use by through traffic.

(b) All streets within the planned residential development shall be designed to standards adequate to accommodate their anticipated uses. Public streets shall be developed to city standards, with the exception of right-of-way and surface width requirements and minimum radius for cul-de-sacs which may be modified by the City Council where the applicant is able to prove that there will be adequate ingress and egress, adequate off-street parking, safe pedestrian circulation facilities and that emergency vehicles have adequate access to all structures within the development and where such modifications are deemed by the City Council as consistent with the public interest.

(6) *Parking requirements.* Parking requirements, as specified in § 152.088, shall apply to planned residential developments. Parking areas shall:

(a) Be screened from adjacent buildings and roads with hedges, dense plantings, trees, earth berms, walls or fences;

(b) Be limited in size and shall be landscaped in a manner so as to interrupt the expanse of parking where large parking lots are proposed;

(c) Be arranged so as to prevent through traffic to other parking areas; and

(d) Be graded and drained so as to dispose of all surface water without erosion, flooding and other negative effects.

(e) Within the planned residential development there shall be provided a separate area to be used for the storage, indoors or outdoors, of the occupants recreational vehicles. Parking spaces shall be marked and suitably landscaped so as to be harmonious with the rest of the development.

(7) *Compatible development.* The planned residential development shall be designed to harmonize the scale, setback and overall mass with existing adjacent residential development. Landscaped buffers, earth berms and fencing may be required where the City Council finds that the proposed building, scale, mass or setback are not compatible with existing adjacent residential development.

(Ord. passed 11-93)

GENERAL REQUIREMENTS**§ 152.080 CONFORMANCE.**

The following requirements shall apply equally to all districts except where otherwise stated or where special provisions provide otherwise.

(Ord. passed 11-93)

§ 152.081 ACCESSORY BUILDINGS.

(A) In any zoning district, no accessory building or structure shall be erected or constructed prior to the erection or construction of the principal or main building, but may be erected simultaneously.

(B) An accessory building, including carports attached to the principal building, on a lot, shall be made structurally a part thereof and shall comply in all respects with the requirements of this chapter applicable to the principal building. A breezeway, for the purpose of this chapter, is an attachment between the garage or carport and the principal building and shall be considered a part of the principal building.

(C) All detached accessory buildings or structures shall have a minimum of six feet of separation between building eaves and walls of accessory buildings or the accessory buildings and the principal building located on the same lot as the accessory building or structure. Unenclosed porches and decks shall be considered as part of the principal or accessory building(s) and shall be required to meet the minimum requirements of this section. The accessory buildings or structures shall be located in the buildable area or in the required rear yard and shall be placed so that the eaves of the building or nearest part of the structure are at least three feet from a lot line.

(D) Accessory buildings for one family attached dwellings may be attached to buildings on an abutting lot in the buildable area and/or in the rear yard of a lot, providing the applicant records a covenant and deed restriction on the property which will abut the common lot line (zero lot line). Said covenants and deed restrictions shall:

(1) Provide access to the abutting property for the adjacent property owner and/or his or her representative for the purpose of construction, reconstruction, repair and maintenance of either side on the total property;

(2) Provide for necessary encroachments for footings and eaves for said building;

(3) Provide for restrictions to limit changes of color, material and design of the accessory building as to be compatible with the attached building.
(Ord. passed 11-93)

§ 152.082 STRUCTURES NOT INCLUDED IN HEIGHT OF BUILDING.

Chimneys, elevator bulk heads, stacks, watertowers, pumping towers, monuments, cupolas, steeples, radio or television towers, solar collectors, wind energy conversion systems and mechanical appurtenances pertaining to and necessary to the permitted use of the district in which they are located shall not be included in calculating the height of the principal structure. Satellite receiving dish shall not be excluded from zoning height limitations.

(Ord. passed 11-93)

§ 152.083 ARCHITECTURAL PROJECTIONS.

Outside stairways, fire escapes, fire towers, porches, platforms, balconies, boiler flues and other similar projections shall be considered as part of the building and not allowed as part of the required space for yards, courts or unoccupied space; provided, however, that this provision shall not apply to one fireplace or one chimney, not more than eight feet in horizontal length and projecting not more than 24 inches into the side yard; nor cornices not exceeding 16 inches in width; nor to bay windows, shade control devices, any part of a solar energy system or to platforms, terraces or steps below the first floor level; nor to unenclosed porches not over one story in height or other ground level unenclosed projections which may extend into a front or rear yard not more than eight feet or into a side yard not more than one third of the distance between the principal building and side lot line.

(Ord. passed 11-93)

§ 152.084 NONCONFORMING USES, LOT AND STRUCTURE.

(A) Where the districts established by the zoning ordinance contain structures, lots and uses of land and structures which were lawful or nonconforming before this zoning code was passed or amended, but which are prohibited under this chapter, it is the intent of this chapter to permit these nonconformities to continue under specified conditions as outlined in the standards contained in division (B) of this section.

(B) All nonconformities shall be encouraged to convert to conformity whenever possible.

(1) *Continuation of nonconforming structure or use.*

Byron - Land Usage

(a) Subject to the provisions of this chapter, a nonconforming structure or use may be continued and maintained in reasonable repair, but shall not be altered, extended, enlarged or moved in such a way as to increase its nonconformity under this chapter. Alterations or modifications to nonconforming structures which have the effect of not increasing their nonconformity are permitted subject to zoning certificate approval and compliance with all other applicable ordinance provisions. Additional encroachment of existing structures or buildings into a required yard when a portion of the existing structures already encroaches into that yard and the proposed addition or alteration will not exceed the existing encroachment may be permitted subject to zoning certificate approval where all other provisions of this chapter are met or exceeded.

(b) Grain elevators and other buildings in which operations are conducted that are directly related to grain elevators, located in the downtown industrial area and that do not meet the maximum building height limitations of § 152.050(C)(1)(a) shall be permitted to replace or rebuild existing structures to their original height; furthermore, all new structures shall be permitted to be constructed to the same height as other structures already part of the industrial use. However, in no case, and at no time, shall a building or structure exceed 90 feet in height in the downtown industrial area.

(2) *Continuation of nonconforming lots.* Any conforming use or conforming structure on a nonconforming lot of record may be enlarged, extended, constructed or moved so long as all other requirements of this chapter are met.

(3) *Discontinuance of nonconforming use.* If a nonconforming use is discontinued for a period of 12 consecutive months, further use of the property shall conform to this chapter. If a nonconforming use is replaced by another use, the new use shall conform to this chapter.

(4) *Destruction of nonconforming structure or use.* If a nonconforming structure or a conforming structure with a nonconforming use located therein is destroyed by any means to an extent of more than 50% of its market value at the time of destruction, it shall not be reconstructed or used except in conformity with the provisions of this chapter. If the structure is destroyed to less than 50% of its market value it must be restored to its original condition if said restoration begins within 12 months from the date the damage occurred; otherwise the structure shall be made conforming.
(Ord. passed 11-93)

§ 152.085 HOME OCCUPATIONS.

In general, a home occupation shall be conducted such that the average neighbor under normal circumstances would not be aware of its existence other than for a name plate or sign as permitted in this section.

(A) *Permitted home occupations include the following.*

- (1) Artists and sculptors.
- (2) Authors and composers.
- (3) Dressmakers, seamstresses and tailors.
- (4) Home crafts, such as model making, rug weaving, lapidary work and carpentry work or furniture repair.
- (5) Office facility of a minister, rabbi or priest.
- (6) Office facility of a salesman, sales representative or manufacturers representative, provided that no retail or wholesale transactions are made on the premises.
- (7) Office facility of an architect, artist, broker, dentist, physician, engineer, instructor in music, arts and crafts, insurance agent, tax preparer, lawyer, musician or real estate agent.
- (8) Office facility of a typist or stenographer.
- (9) Lessons given by tutors; for example: english, math or sciences.
- (10) Computer programmers.
- (11) Child care providers, in R-1 and R-2 Districts only, see also § 152.046(B)(3)(d) and § 152.047(B)(3)(d).
- (12) All other home occupations not listed shall be required to obtain a conditional use permit before establishing a home occupation.

(B) *Standards.* All standards of the zoning district shall apply. The following specific standards shall apply to all home occupations:

- (1) Said use shall occupy not more than one-quarter of the area of one floor of the principal building. Home occupations shall not occupy any part of an accessory building attached or detached from the principal building.
- (2) The use shall not require substantial interior alteration of the dwelling.
- (3) The use shall not require any exterior alteration of the dwelling.

Byron - Land Usage

(4) Additional employees who live outside of the dwelling may be permitted. The number of employees shall be stated in the application. If additional employees are necessary for the home occupation, the property owner shall be required to request a new conditional use permit.

(5) The use shall not create odor, dust, noise, electrical disturbances, glare, vibrations or other hazards or nuisances noticeable outside of the dwelling.

(6) There shall be no outside storage of material or equipment or display of merchandise.

(7) Uses shall not involve the use of commercial vehicles for delivery of materials to or from the premises.

(8) No sign shall be allowed other than one unilluminated sign measuring not more than one and one-half square feet in area attached to the principal building or near the dwelling entrance.

(9) Commodities may be sold as part of the home occupation, but shall be only a minor and insubstantial part of the total home occupation.

(10) Parking shall be controlled such that no on-street parking will occur and all off-street parking shall require no more than two additional parking spaces located on the current driveway or adjacent side yard and not in front of any part of the principal building, except the garage or an attached porch.

(Ord. passed 11-93)

§ 152.086 CLEAR VISION AREAS.

A clear vision area shall be maintained on the corners of all property at the intersection of two streets or a street and a railroad. A clear vision area shall be a triangular shaped area with two sides following lot lines; the clear vision area shall extend along both curb lines for a distance of not less than 25 feet. The clear vision area shall contain no planting, fence, wall, structure or temporary or permanent obstruction exceeding 36 inches above the adjacent street grade, except for trees with branches and foliage removed to a height of eight feet above the ground and open wire fencing that does not obscure sight.

(Ord. passed 11-93)

§ 152.087 OFF-STREET LOADING.

Off-street loading requirements as specified below shall be provided.

(A) *Dimensions and locations.* Each loading space shall be not less than 10 feet in width, 25 feet in length and 14 feet in height and shall be on the same lot as the principal use it serves. Such space may occupy all or any part of any required side or rear yard, except the side yard along the side street in the case of a corner lot. In no event shall any part of a required front yard be occupied by such loading space. Each loading space shall have adequate space for standing, loading and unloading services in order to avoid any interference with public use of the roads or alleys or sidewalks.

(B) *Requirements.*

| <i>Use</i> | <i>Loading Spaces</i> |
|--|---|
| Multiple family (buildings with 20 or more dwelling units) | One loading space |
| Motels and hotels | Under 20,000 square feet in floor area shall require one loading space; over 20,000 square feet, one additional loading space |
| Schools | One loading space. |
| Convalescent or nursing homes | One loading space for each 20 beds. |
| Servicing, merchandising, leisure uses and office uses | For any building of over 5,000 square feet in gross floor area, one loading space. |
| Industrial or warehousing | Under 10,000 square feet of gross floor area shall require one loading space; over 10,000 square feet shall require one additional loading space per each 20,000 square feet of gross floor area. |

(Ord. passed 11-93)

§ 152.088 PARKING REQUIREMENTS.

The following off-street parking requirements shall be provided for each use listed in this section, unless otherwise specified:

(A) *Location and improvements of parking facilities.*

(1) Single family, conventional and multi-family limited uses shall have provided parking stalls on the same lot as the dwelling and may occupy all or part of any required rear yard and shall not be located in the front yard unless on an established driveway that is not located between the principal

Byron - Land Usage

building and the front lot line. An established driveway and garage may be used to meet the minimum parking requirements for single family conventional uses where the driveway and garage meets the minimum parking space dimensions of subsection (6) of this division.

(2) Multi-family uses shall have off-street parking which may include a community garage on lands owned by the same owner of the building and land and located within 200 feet of the building they are intended to serve. Tandem parking (one vehicle behind another), including or not including a garage, shall not be permitted in order to meet the minimum parking requirements of this section.

(3) In any nonresidential district, off-street parking may occupy that part of a front yard to within seven feet of the front lot line and in the case of a corner lot that part of a side street side yard to within seven feet of the side street side lot line. This said seven feet of front or side street side yard shall be suitably landscaped with canopy trees, deciduous and evergreen bushes or hedges and grasses or other materials and graded to control surface water runoff from the paved and landscaped area. A site design plan shall be submitted as part of the application for a zoning permit. In no case shall off-street parking be permitted within clear vision areas.

(4) There shall be adequate provisions for ingress and egress to all parking areas. Said access drive shall not be less than eight feet in width in the case of single family conventional and multi-family limited uses and not less than 18 feet in width for multi-family residential uses, commercial and industrial uses; provided, however, that a one-way access drive for nonresidential uses may be reduced to not less than ten feet in width. All parking areas for more than four vehicles shall be designed so that no vehicle must back out onto any highway, street or road. Aisles between parking spaces within parking lots shall not be less than 20 feet in width.

(5) Necessary curbs or other protection against damage to abutting properties, roads and sidewalks shall be provided and maintained. Necessary curbs and other structures shall be provided at all ingress and egress areas to clearly delineate such areas.

(6) All parking spaces shall be 9 ½ feet in width and 18 feet in length and shall be clearly marked. Small car spaces shall be a minimum of eight feet in width and 16 feet in length. The length of small car spaces shall be increased by 15% when parallel parking is utilized.

(7) It shall be the responsibility of the owner of the principal use or of the property to insure that the parking area is maintained in a dust free and safe condition.

(8) When calculations for required parking spaces result in a requirement of a fractional space, any fraction of less than ½ shall be disregarded and fractions of ½ or more shall require one parking space.

(9) Shopping centers shall have off-street parking on the same lot or lots on which the principal building(s) are located and shall meet the minimum requirements listed in division (B) below.

(10) Artificial lighting which may be provided shall be deflected so as not to shine directly onto adjoining dwellings or other types of living units and so as not to create a hazard to public use of a street.

(11) Parking areas, aisles and turnaround areas shall be paved with concrete, asphaltic or comparable surfacing on all commercial and residential uses requiring six or more parking spaces within one year of the date of initiation of construction on any portion of the lot or any approved structure.

(B) *Required parking spaces.*

| <i>Use</i> | <i>Parking Spaces</i> |
|---|--|
| Single family conventional and multi-family, limited | Two parking spaces per dwelling unit. |
| Multi-family | Two parking spaces per dwelling unit. |
| Board/rooming house | One parking space for each living unit. |
| Hotels and motels | One parking space per guest room and one parking space for each employee during the largest work shift. |
| Retail commercial and shopping centers | One parking space per 200 square feet of gross floor area. |
| Restaurants | One parking space for every four seats and one parking space for every two employees. |
| Bar or lounge (eating and drinking establishments) | One parking space for every four persons based on the maximum building capacity as specified within the State Building Code and one parking space for every two employees. |
| Medical/dental office | Five parking stalls per principal medical professional. |
| Offices, banks and public administration | One parking space for every 400 square feet of gross floor area. |
| Furniture store, plumbing, supply, wholesale store, laundry, motor vehicle sales showroom or similar large uses | One parking space for every 800 square feet of gross floor area. |
| Bowling alley | Two parking stalls for each bowling lane. |

Byron - Land Usage

| | |
|---|--|
| Service station, car repair and car washes | Five parking spaces per stall or repair bay. |
| Funeral homes | One parking space for every five seats or 50 square feet of floor area in public portions of the building. |
| Elderly housing | 1 1/4 parking spaces per dwelling unit. |
| All other commercial uses | One parking space for every 300 square feet of gross floor area. |
| Schools, nurseries and day care centers | One parking space for every employee; and for high schools, one additional parking space for each three students. One additional parking stall for each classroom. |
| Nursing or convalescent homes | One parking space for every four beds. |
| Library | One parking space for every 500 square feet of gross floor area. |
| Lodges and meeting halls (no fixed seating) | One parking space for every five persons, based on the maximum capacity of the building. |
| Churches and auditoriums (with fixed seating) | One parking space for every five seats or ten feet of bench seat or pew space. |
| Industrial/warehousing | One parking space for every employee of the largest work shift. |
| Self-service storage | One parking space per employee of the largest work shift; and plus parking space for each 200 storage units, one per 3,000 square feet of exterior storage. |
| Outdoor recreation facility | One parking stall per three patrons expected at capacity/Golf course: 1 1/2 spaces per hole. |
| Indoor recreation | One parking stall per three patrons based on maximum capacity or building capacity. |
| Indoor athletic facility | One parking stall per 100 square feet of floor area. |

(C) Additional standards.

(1) For all existing and new permitted commercial uses located in the downtown commercial area, as identified by the Land Use Plan, no off-street parking shall be required.

(2) Residential uses located on the same lot as the principal commercial use in a commercial district shall be required to have one off-street parking space for each dwelling unit.

(3) A proportion of the total spaces in a parking lot may be designed and marked for small car use according to the following table:

| <i>Total Spaces Required</i> | <i>Maximum percentage of spaces for small cars</i> |
|------------------------------|--|
| 5-99 | 30% |
| 100 or more | 40% |

(4) Buffers or screening shall be required for all parking areas used by commercial or industrial uses that are adjacent to or abutting a residential district.
(Ord. passed 11-93; Am. Ord. passed 4-28-15)

§ 152.089 RECREATIONAL VEHICLE PARKING.

(A) *General.* All recreational camping vehicles and including, but not limited to, boats and other vehicles that are stored on trailers and of a size that prohibits storage in a garage, when parked, shall meet the minimum requirements of this section.

(B) *Residential districts.*

(1) All recreational vehicles shall be required to be parked off of any public right-of-way, and no part of the recreational camping vehicle shall extend into the public right-of-way.

(2) Side yard parking may be permitted where only one side yard is used for recreational vehicle parking, and where a vehicle is parked between the side lot line and the principal building, the vehicle shall be no closer than three feet to the side lot line.

(3) Front yard parking may be permitted where the vehicle is not parked between the principal building and the front lot line.

(4) In cluster developments and planned residential developments, there shall be provided a separate area to be used for parking, indoors or outdoors, of the occupant's recreational vehicles. Such storage shall have the parking spaces marked and be suitably landscaped so as to be harmonious with the rest of the development.

(5) In zero lot line developments, parking in the side yard shall be permitted only in an area that is a minimum of 15 feet from the side lot line and meets the requirements of subsection (B)(3), and the parking area shall be suitably landscaped so as to be harmonious with the rest of the development. (Ord. passed 11-93)

§ 152.090 DUMPING AND DISPOSAL OF SOLID OR LIQUID WASTE MATERIAL.

(A) The use of land for the dumping or disposal of scrap iron, junk, garbage, rubbish, sludge or other refuse or of ashes, slag or other industrial wastes or by-products is not permitted in any district. The dumping of dirt, sand, rock or other material excavated from the earth is permitted in any district, provided the surface of such material is graded within four months of the initiation of dumping activities in a manner preventing the collection of stagnant water which leaves the ground surface in a stable condition suitable for growing of turf that will not be subject to erosion and is useable for other land uses permitted in the district.

(B) No discharge at any point into any public sewer or stream or into the ground except in accord with federal or state pollution control standards of any materials of such nature or temperature as can contaminate any water supply or otherwise cause the emission of dangerous or offensive elements shall occur.

(C) Where hazardous wastes covered by the State of Minnesota and federal regulations are produced, stored or otherwise located on a site, the hazardous wastes shall be stored and disposed of in a manner that meets all state and federal hazardous waste disposal regulations.

(D) No open burning of liquid waste material shall be permitted within city limits. Furthermore, no open burning of solid waste material or refuse shall be permitted within the city limits unless the location for such action is at least 600 feet from any residential building and a Minnesota Pollution Control Agency permit is obtained. (Ord. passed 11-93)

§ 152.091 SIGNS.

(A) *Purpose.* Signs have an impact on the character and quality of the environment as a prominent part of the scenery; they attract or repel the viewing public and affect the safety of vehicular traffic. Their suitability or appropriateness helps to set the tone of the neighborhood. The purpose of this section shall

be to regulate the placement, erection and maintenance of signs in the city so as to promote the health, safety, aesthetics, economic welfare and general welfare of the community. The following standards in this section are, therefore, adopted to regulate signs.

(B) *Definitions.* For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADDRESS SIGN. A sign communicating street address only, whether script or in numerical form.

ALTER. Refers to any major change to a sign, but shall not include routine maintenance or painting.

ANIMATED SIGN. Any sign that uses movement or change of lighting to depict action or create a special effect or scene, including devices with or without a commercial message, such as spinners and windsocks, but not including barber poles and time and temperature signs.

AREA IDENTIFICATION SIGN. A freestanding sign which identifies the name of a residential subdivision consisting of 50 or more lots; a multiple residential complex consisting of 20 or more units or three or more structures; an office, business or industrial structure containing three or more independent businesses or organizations; a single business and/or industrial complex consisting of three or more separate structures existing on individual platted lots or as a planned unit development or as a planned residential development; a mobile home court; or any integrated combination of the above.

AWNING. A temporary hood or cover that projects from the wall of a building, and which can be retracted, folded or collapsed against the face of the supporting building.

BALLOON. A flexible, non ferrous inflated bag in various shapes, sizes and colors.

BANNER. A temporary sign made of flexible material affixed to a building, vehicle, poles, or other supporting structure by any or all corners. No banner may be constructed in whole or in part of paper.

BANNERETTE. Flexible material that resembles a flag, and has the minimum dimensions of two feet by two feet and no larger than three feet by five feet. A smaller-sized **BANNERETTE** is defined as a **PENNANT**.

BEACON. Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source; also, any light with one or more beams that rotate or move.

BILLBOARD. See definition of **OFF-PREMISES ADVERTISING SIGN**.

BUILDING FACADE. That portion of any exterior elevation of a building extending from grade to the top of the parapet wall or eaves and the entire width of the building elevation.

BUSINESS SIGN. Any sign which identifies a business.

CABINET SIGN. A sign that has framing around the entire sign message with a removable face.

CAMPAIGN SIGN. A temporary sign promoting the candidacy of a person running for an elected office, or promoting an issue to be voted on at a governmental election.

CANOPY SIGN. The area of copy, graphic or identification which is affixed to a projection or extension of a building or structure, including a marquee, erected in such a manner as to provide a shelter or cover over the approach to any entrance of a store, building or place of assembly. The portion of the canopy, projection, or other architectural feature which contains no copy or graphic identification, shall not be defined as signage, but if illustrated shall be included in the total sign area pursuant to division (C), *General provisions* of this section.

CHANGEABLE COPY SIGN. A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an ***ANIMATED SIGN*** and not a ***CHANGEABLE COPY SIGN*** for purposes of this section. A sign on which the only copy that changes is an electronic and mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a ***CHANGEABLE COPY SIGN*** for purposes of this section.

COMMERCIAL MESSAGE. Any sign wording, logo or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service or other commercial activity.

CONSTRUCTION SIGN. A nonilluminated temporary sign placed at a construction site identifying the project or the name of the architect, engineer, contractor, financier and other involved parties, or announcing the character of the building enterprise or the purpose for which the building is intended.

DEVELOPMENT PROJECT SIGN. A sign placed at a development site for the purpose of selling or promoting the project.

DIRECTIONAL SIGN. See ***INFORMATION SIGN.***

DIRECTORY SIGN. An exterior information sign which identifies the names and/or addresses of businesses or tenants within a multi-tenant building.

EMPLOYMENT SIGN. A temporary sign to announce employment opportunities in commercial and industrial zoning districts as well as each public and institutional conditional use in residential districts.

FLAG. A piece of cloth or bunting varying in color and design, used as a symbol, standard, emblem, or insignia identifying a governmental agency or any civic, charitable, religious, institutional, patriotic, corporate, fraternal or similar organization.

FREESTANDING SIGN. Any sign supported by structures or supports that are permanently anchored in the ground and that are independent from any building or structure.

GOVERNMENTAL SIGN. A sign which is erected by a governmental unit for identification or traffic.

GROUND SIGN. A freestanding sign under eight feet in height erected on one or more freestanding shafts, posts, or piers which are solidly affixed to the ground and not attached to a building. A **GROUND SIGN** shall be considered one sign even though it may have two faces.

HOLIDAY SIGN. A sign or display that contains or depicts a message pertaining to a national, state, local, or religious holiday.

ILLUMINATED SIGN. Any sign which is lighted by an artificial light source either external (light source not within sign) or internal (light source within sign), or by means of reflective materials. Illuminated architectural features or portions thereof which contain no copy or graphics shall not be defined as an **ILLUMINATED SIGN**, but shall be included in the total sign area pursuant to division (C), *General provisions* of this section. Illuminated architectural features shall include, but not be limited to, wall-roof and window-mounted neon, the wall surface between multiple rows of neon, illuminated sign bands, backlit canopies, awnings or wall banding features, and the like.

INFORMATION SIGN. Any sign, including on-premises directional signs, menu boards, and public information service signs, giving information to employees, visitors or delivery vehicles, but containing no advertising or identification.

INTEGRAL SIGN. A sign carrying the name of a building, its date of erection, incidental information about its construction, monumental citations, commemorative tablets and the like when carved into stone, concrete or similar material or made of bronze, aluminum or other permanent type of construction and made an integral part of the structure.

LOGO SIGNS. Any brand name, trademark, logo, distinctive symbol, or other similar device or thing used to identify a business, institution or activity.

MAXIMUM HEIGHT. The vertical distance measured from the highest adjacent grade, within one foot of the base of the sign, to the top of the sign.

MINIMUM HEIGHT. The vertical distance measured from the highest adjacent grade, within one foot of the base of the sign, to the bottom of such sign.

MONUMENT SIGN. A freestanding sign that is intended to be incorporated into some form of landscaping design scheme or planter box, is attached to the ground by means of a freestanding support structure, is solid from grade to the top of the structure, constructed with materials that are the same as the primary building materials of the principal structure, and is placed directly on the ground or on an interior planter base which is incorporated into a design arrangement. A **MONUMENT SIGN** shall be considered as one sign though it may have two faces.

MULTI-FACED SIGN. Any sign with sign faces oriented to more than two directions.

NAMEPLATE SIGN. Any sign in a residential district which states the name and/or address of a business or occupant of the lot where the sign is placed.

OFF-PREMISES ADVERTISING SIGN. A billboard, poster panel, painted bulletin board or other communicative device which is used to advertise products, goods, services, ideas or noncommercial speech which is not exclusively related to the premises or owner of the property on which the sign is located.

OFF-PREMISES DIRECTIONAL SIGN. A directional sign located upon property other than the lot of a development or use for which off-site direction is intended.

ON-PREMISES DIRECTIONAL SIGN. A sign erected on private property which contains no advertising, and is specifically intended to facilitate the safe movement of pedestrians and vehicles into, out of and circulating upon the site on which signs are located.

OPAQUE. Impervious to the passage of light.

PARAPET. A low protective wall which is located along the edge of a roof on a building.

PENNANTS. Flexible material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually triangular-shaped and in a series, designed to move in the wind.

PORTABLE SIGN. Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A- or T-frames; menu and sandwich board signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operation of the business.

PRINCIPAL BUILDING. A building or buildings in which is conducted the principal use of the lot, not including storage buildings, garages, and buildings for other clearly accessory uses.

PROJECTING SIGN. A sign other than a wall sign which is perpendicular to and projects from a building, is supported by a wall of a building or structure, where the leading edge extends more than 12 inches beyond the surface of such wall.

PUBLIC INFORMATION SERVICE SIGN. A sign designating the current time and/or temperature and/or stock market data on the exterior of a building or pylon so as to be viewed by the passing public from a public right-of-way.

PYLON SIGN. A freestanding sign erected on one or more freestanding shafts, posts or piers which are solidly affixed to the ground and not attached to a building. A **PYLON SIGN** shall be considered as one sign even though it may have two faces.

REAL ESTATE SIGN. A sign placed upon a property advertising that particular property for sale, for rent or for lease. A real estate sign shall be considered as one sign though it may have two faces.

RIBBONS OR STREAMERS. Long or varied lengths of flexible material used to decorate.

ROOF SIGN. Any sign which is erected, constructed or an attached wholly or in part upon any roof or over the highest roofline of a building.

ROOFLINE. The top of the coping; or, when the building has a pitched roof, as the intersection of the outside wall with the roof.

RUMMAGE SALE SIGN. Signs advertising infrequent temporary display and sale by an occupant on his or her premises of personal property, including general household rummage, used clothing and appliances.

SECURITY SIGN. A sign identifying presence of a security system.

SERVICE ENTRANCE. Secondary passages opening to a structure which is intended for delivery and removal of merchandise or goods, and which is not intended as a public entrance.

SIGN. Any written announcement, declaration, demonstration, display illustration insignia or illumination used to advertise or promote the interest of any person or persons when the same is displayed or placed out of doors in view of the general public. A **SIGN** shall be considered as a structure or a part of a structure for the purpose of applying yard and height regulations except as herein provided.

SIGN AREA. The area that includes the smallest rectangle around each line of copy for individual mounted-letter signs and the entire face of a sign, including the advertising surface and any framing, trim or molding, but not including the supporting structure for all other signs. The maximum **SIGN AREA** is the maximum allowable gross surface area in square feet of a sign or signs. The maximum number of signs cannot be arranged and integrated so as to create a cumulative gross **SIGN AREA** in excess of such requirements as may be applicable.

SIGN SETBACK. The distance from the property line and curb to the nearest part of the sign, measured perpendicularly to the property line or curb.

Byron - Land Usage

SIGN STRUCTURE. The supports, uprights, bracing and framework for a sign.

SPECIAL EVENTS. A temporary indoor or outdoor promotional or sales event.

STREET FRONTAGE. The side of a lot abutting one or more streets. An interior lot has one street frontage and a corner lot has two or more frontages.

TEMPORARY OUTDOOR PROMOTIONAL OR SALES EVENT. A temporary outdoor promotional or special event/sale directed toward the general public, including grand opening sales, registration for day care, warehouse sales, tent sales, sidewalk sales, craft shows, flea markets, inventory reductions, liquidation sales and mechanical or animal rides.

TEMPORARY SIGN. Any sign which is erected or displayed for a specific period of time, and not of a permanent nature.

VEHICLE SALES SIGN. A sign painted or applied to the window of a vehicle.

WALL GRAPHICS. A sign which is painted directly on an exterior wall surface.

WALL SIGN. A sign which is affixed to the exterior wall of a building and which is parallel to the building wall. A **WALL SIGN** does not project more than 12 inches from the surface to which it is attached, nor extend beyond the top of the parapet wall. Banners do not qualify as a wall sign.

WINDOW SIGN. A sign affixed to the outside or inside of a window. This does not include merchandise on display. Window signage shall not include business and logo signs.

(C) *General provisions.*

(1) No sign permitted by this section shall, by reason of its location, color or intensity, create a hazard to the safe, efficient movement of vehicular or pedestrian traffic. No private sign shall contain words which might be construed as traffic controls, such as "Stop," "Caution," "Warning," and the like, unless such sign is needed to direct traffic on the premises.

(2) All signs and sign structures shall be properly maintained in a safe, orderly condition at all times, including the replacement of defective parts, cleaning and other items required for maintenance of the sign. Vegetation around, in front of, behind and underneath the base of ground signs for a distance of ten feet shall be neatly trimmed and free of weeds, and no rubbish or debris that would constitute a fire or health hazard shall be permitted under or near the sign.

(3) All signs shall be constructed in accordance with the Minnesota State Building Code and the National Electrical Code. The maximum brightness shall not exceed 100 foot-lampert.

(4) No sign shall be erected, placed or maintained on, fences, trees, power and light poles or the supports thereof, except as allowed for special events. Signs on rocks shall be allowed if they use metal letters and numbers or the commercial message is etched into the surface of the rock.

(5) All signs utilizing electricity shall be subject to the state's electrical code and electrical service shall be buried or concealed.

(6) No signs other than governmental signs (including signs and banners for Good Neighbor Day) shall be erected or temporarily placed within any street right-of-ways or upon any public lands or easements or right-of-ways, except by conditional use permit.

(7) No sign or sign structure shall be erected or maintained if it prevents free ingress or egress from any door, window, or fire escape. No sign or sign structure shall be attached to a standpipe or fire escape.

(8) Window signs shall not cover more than 25% of the window area on each elevation of a building. All window signs shall be placed on the inside surface of the glass, except for temporary painting applied directly to the glass surface.

(9) A minimum of one address sign identifying the correct property number as assigned by the city shall be required on each principal building in all districts. Such sign shall be of sufficient size to be legible from the nearest street yet shall not exceed nine square feet in area. The numbers shall be metal, glass, plastic or durable material and the numbers shall not be less than three and one-half inches in height, in a contrasting color to the base or made of some reflective material and so placed to be easily seen from the street.

(10) Commercial message of the sign shall be neat and orderly and not obscene. The signs shall be professionally prepared.

(11) Signs with external lighting shall have no exposed light sources or fixtures unless decorative fixtures are utilized and the light source is fully concealed and diffused. If a wall sign is mounted above the first floor of a building, the illumination, if any, shall be internal.

(12) No more than three flags may be displayed outside of a building. This number may, however, be increased to a total of six flags provided a permit is issued and the following standards are met:

(a) No two pairs of flags may be the same.

(b) Where multiple flagpoles are used, there shall be a maximum spacing of 20 feet allowed between the poles.

(13) The maximum angle permitted between faces of a double-face freestanding sign is 60 degrees or less is one sign; anything more is two signs.

Byron - Land Usage

(14) Illuminated architectural features or portions thereof, not defined as signage or a canopy sign, shall be applied the rate of one-third the architectural feature area toward the maximum allowable sign area permitted under Table A in division (O), *Sign tables*. Illuminated architectural features shall include, but not be limited to, wall-, roof- and window-mounted neon, the wall surface between multiple rows of neon, illuminated-sign bands, backlit canopies, awning or wall banding features, and the like.

(15) Lighted signs shall be lighted only to the extent that the message on the sign is illuminated and shall not cast glare onto public streets or adjacent property.

(16) Signs that are utilized and displayed at athletic fields or in parades will not count toward a business' sign totals or square footages.

(D) *Allowable and prohibited signs in any district.*

(1) Allowable signs. The following signs are allowed without a permit unless otherwise specified. These signs, if placed in accordance with the following standards, will not apply toward the maximum allowable sign area, but shall comply with all other applicable provisions of this section:

(a) Governmental signs. Signs of a public, noncommercial nature including safety signs, danger signs, trespassing signs, traffic signs, signs indicating scenic or historical points of interest, memorial plaques and the like, when these signs are erected by or on order of a public officer or employee in the performance of official duty. (This includes Good Neighbor Day signs and banners.)

(b) On-premises directional signs. Shall not exceed four square feet in area, nor exceed six per lot.

(c) Integral signs. Shall not exceed four square feet in area.

(d) Campaign sign. Shall not be placed upon public right-of-way or property. Campaign signs erected on private property should be erected with permission of the property owner or lessee. Those installing campaign signs shall comply with the Fair Campaign Practices Act contained in M.S. Ch. 211B.

(e) Security signs: Shall not exceed one square foot with one sign per driveway connection to a public right-of-way.

(f) Real estate signs. Property that is placed for sale by the owner shall be exempt from the following restrictions.

1. Property for sale signs shall be wall or freestanding signs and shall be removed within ten days after the closing on the property.

A. Such signs shall be professionally designed and painted on all sides, including support posts. Freestanding signs shall be properly anchored into the ground using posts with minimum dimensions of four inches square or three inches diameter.

B. Such signs shall be limited to one per street frontage of the property.

C. The content of the commercial message on these signs shall include an offer of the property for sale, the realty company name, the phone number, and other information related to the sale.

D. Such signs shall not measure more than 12 square feet in R-1, R-2, R-3 districts, and shall not measure more than 40 square feet in all other districts. The 40-square foot limitation may be increased to 64 square feet, provided a permit is issued and the following standards are met:

i. The sign shall be a maximum height of 12 feet.

ii. The sign shall be set back from the front property line no less than one foot per one foot of sign height.

iii. The sign shall be nonilluminated.

2. Temporary property for lease signs shall be wall or freestanding signs.

A. The gross area and total height of a temporary property for lease sign shall be limited to the maximums prescribed in Table C of division (O), *Sign tables*, except that the real estate sign area for a building that contains a minimum of 50,000 square feet of aboveground leasable area maybe increased to 32 square feet provided that the building is located in a Commercial or Industrial district.

B. Temporary property for lease signs shall be set back from the front property line no less than one foot per one foot of sign height, except that if the sign cannot be located to comply with the minimum setback requirement from the front property line without locating the sign in a parking lot or other paved surface, the sign may be located up to the front property line, provided that the sign does not exceed 16 square feet in area and four feet in width, and further provided that the sign will not disrupt any public utility service and/or interfere with the sight line visibility of motorists on the adjoining roadway.

C. The content of the commercial message on such signs shall include an offer of the property for lease, the management company or owner's name, the phone number, and other information related to the lease.

Byron - Land Usage

D. Such signs shall be limited to one per street frontage of the property, and if ground-mounted, shall at a minimum meet the following requirements:

i. Signs shall be constructed of painted, smooth-finish plywood, and if ground-mounted, shall have either flush or side-mounted, four-inch by four-inch painted wood post(s).

ii. Sign faces up to 32 square feet in area shall be constructed of one sheet of material.

iii. Flush-mounted signs shall include a four-inch-wide painted border on the sign faces in a color to match the signposts and contrast with the background of the sign face. The sign face area shall include the border.

iv. Side-mounted signs shall include decorative post tops and four-inch-wide painted top and bottom supports in a color to match the signposts and contrast with the background of the sign faces. The sign face area shall not include the posts and supports.

v. Skirting and landscaping in addition to sod shall be optional for ground-mounted signs, and all such landscaping shall be maintained to the standard prescribed in division (C)(2), *General provisions*.

3. New building property for lease signs. For a new building in Commercial, Industrial or R-3 zoning districts, a wall-mounted leasing banner may be installed during construction and the first six months following the issuance of a certificate of occupancy. The banner may be displayed up to an additional six months if the building is less than 50% occupied at six months past the date of occupancy for a maximum of one year, including any time the banner is displayed during construction. (Exceptions will be considered on a case-by-case basis.) Such banners shall be constructed with top and bottom ropes seamed into the banner and securely attached to the building, and shall comply with the following requirements:

A. Minimum 12-ounce weight vinyl material.

B. Minimum 240 pounds per square yard of tensile strength.

C. Minimum 110 pounds per square yard of tear strength.

D. Such banners may be illuminated. The maximum size of such banners shall not exceed two times the area limits of Table C, division (O), *Sign tables*.

4. All nonconforming real estate signs shall be brought into conformance with these requirements by December 31, 2005.

(g) Construction signs shall be confined to the site of the construction, alterations or repair, and single-tenant building signs shall be removed within 30 days, and multi-tenant buildings shall be removed within 60 days after the particular project or building under continuous construction is issued the first certificate of occupancy. Signs shall be allowed on each major street frontage the project abuts. Signs shall be professionally designed and painted on all sides, including support posts. No sign may exceed 32 square feet.

(h) Development Project signs shall be allowed in all zoning districts by permit. For the purpose of selling or promoting a development project of three to 25 acres, one sign not to exceed 100 square feet of advertising surface may be erected on the project site. For projects of 26 through 50 acres, one or two signs not to exceed 200 aggregate square feet of advertising surface may be erected. For projects over 50 acres, one, two or three signs not to exceed 300 aggregate square feet of advertising surface may be erected. No dimension shall exceed 25 feet exclusive of supporting structures. Such sign shall not remain after 95% of the project is developed. If such signs are lighted, they shall be illuminated only during those hours when business is in operation or when the model homes or other development are open for conducting business. The sign shall be set back from all property lines no less than one foot per one foot of sign height. Signs shall be professionally designed and painted on all sides, including support posts.

(i) Barber pole signs.

(j) Time and temperature signs.

(k) Banners:

1. Banners may be displayed only in a manner commensurate with the regulations set forth in this title. Only two banners may be displayed by each business at any time; each banner shall be no greater than 32 square feet in area.

2. No banner may be displayed unless the commercial message contained therein relates to a specific, special promotion of limited duration. Product/service must be beyond scope of regular business operations.

3. No banner may be displayed or used as a general or ongoing advertisement of the business or its customary activities. Product/service must be beyond the scope of regular business operations.

4. No banner may be displayed or used as a replacement for permanent signage.

5. City Staff shall have the authority to order the removal of any banner which appears to be deteriorated, in disrepair or on property that appears to be abandoned.

Byron - Land Usage

6. All banners shall be maintained such that they do not become ripped, torn, defaced, damaged, loose or unsecured.

(2) *Prohibited signs.* The following signs are prohibited in all zoning districts:

(a) Any sign which obstructs or impairs the vision of drivers or pedestrians or detracts from the visibility of any official traffic-control device.

(b) Any sign which contains or imitates an official traffic sign or signal, except for private, on-premises directional signs.

(c) Off-premises advertising and directional signs except as permitted in divisions (I), *Billboards*, and (J), *Off-premises directional signs*.

(d) Business signs on or attached to equipment, such as semi-truck trailers, being used in such a manner that advertising is a principal use of the equipment.

(e) Projecting signs.

(f) Roof signs.

(g) Any sign which contains or consists of bannerettes, pennants, ribbons, streamers, strings of light bulbs, balloons and hot or cold air inflatable devices, spinners or similar outdoor advertising devices, except as may be approved by a special event permit in accordance with the provisions as set forth in divisions (E), *Special events* and (G), *Wall signs allowed by permit*.

(h) Portable signs.

(i) Wall graphics.

(j) Beacons.

(k) Multifaced signs.

(l) Signs supported by guy wires.

(m) Cabinet signs on buildings, except for logo signs.

(E) *Special events--outdoor signage.*

(1) Permit required. No special event shall be held without first obtaining a permit.

(2) Types of special events. The following events shall be the only allowed special events: Temporary outdoor promotional or sales events.

(3) Number of events: The businesses in all Commercial and Industrial zoning districts as well as each public and institutional conditional use in residential districts shall be allowed outdoor promotional signage six temporary outdoor promotional or sales event special events per calendar year. Each special event shall not exceed ten days and shall not be extended for more than three consecutive time periods for each business. Once the time period has expired for the special event, the business shall wait the same number of days that the permit was issued to start a new special event.

(4) Permitted advertising devices for outdoor events: Advertising devices for special events must be directly related to the activity being conducted as a special event. The advertising devices described below are permitted for special events in addition to the maximum allowable sign area, provided they are professionally done and the following standards are met and complied with.

(a) Small balloons:

1. The size of small balloons or a group of connected balloons shall not exceed two feet as the largest dimension, except that balloon arches not exceeding eight inches in height shall be allowed.

2. Small balloons may be multicolored and incorporate logos and messages.

3. Helium balloons shall be regularly maintained and refilled.

(b) Tents: Tents, including all ties, ropes, stakes, and the like shall be located entirely upon the permittee's property and shall comply with the city's setback requirements for accessory buildings.

(c) Bannerettes:

1. Bannerettes may be used on light standards or flagpoles.

2. No more than one bannerette shall be allowed per standard or pole.

3. Bannerettes shall be smaller than any U.S. flag on the property, and shall not be flown at a height greater than any U.S. flag allowed on the property.

(d) Banners:

1. Banners may be attached to poles, tents and buildings, provided they are well secured and are prevented from being blown around uncontrollably by the wind.

Byron - Land Usage

2. Banners shall not be larger than 100 square feet nor higher than the wall of the principal building on the lot.

3. All banners shall be maintained such that they do not become ripped, torn, defaced, damaged, loose or unsecured.

(5) Prohibited advertising devices for special events unless otherwise permitted in this section: The advertising devices or activities described below are prohibited for special events:

(a) Additional lighting that does not meet this code.

(b) Any advertising device in the public right-of-way.

(6) *Permit requirements for special event lot decorations.* Before any special event signs or decorations shall be permitted to be used for an event, the responsible lot owner or organization shall submit a completed application for a permit with the city. In addition to other requirements, the applicant shall show that when the event is held, adequate parking area will continue to exist, even though a portion of required parking spaces may be used to celebrate the event. Only after the city issues the permit, may a business display the special event signs and decorations. Permit fee is to be set annually by City Council resolution.

(7) *Violations.*

(a) It is a violation for any person, company, or organization to provide, erect, fail to remove or display any beacons, balloons or other advertising device which is not in conformity with the provisions of this section.

(b) It is a violation for any person, company or organization to display special event signs and decorations not removed by the last day of the special event.

(F) *Signs allowed by permit.* Signs will be allowed by permit in R-1, R-2, R-3, Planned Residential District and Planned Unit Development.

(1) **Ground or monument signs:** Ground or monument signs shall be allowed for the purpose of permanent identification of residential areas. Signs shall be set back a minimum of five feet from all property lines. At each principal entrance to such an area, a maximum of two signs, not to exceed 20 square feet per sign (of actual sign area exclusive of walls or supports), shall be allowed. Larger signs may be allowed as part of a planned unit development, planned residential development or a conditional use permit.

(2) Identification signs for farms, institutional uses and membership organization uses are permitted.

(3) Signs shall be no more than ten square feet in area per side, and there shall be no more than one sign for each lot or structure.

(G) *Wall signs allowed by permit.* Wall signs will be allowed by permit in Commercial and Industrial zoned areas.

(1) The maximum number of wall signs on any principal building shall be two, and in all cases, each sign shall be placed on a separate building facade, with or without street frontage except as allowed in division (G)(7) of this section.

(2) The maximum number of wall signs allowed may be increased two by conditional use permit for single-occupancy buildings provided following minimum standards are met:

(a) There shall be no freestanding sign exceeding six feet in height upon the lot.

(b) The wall signs shall be identical in style, wording, color and size.

(3) The cumulative total wall sign area, when added to gross sign area of all freestanding signs on the site, except for wall and freestanding signs that do not count toward the maximum allowable sign area pursuant to division (D)(1), *Allowable and prohibited signs in any district* of this section, shall not exceed the maximum allowable sign area under Table B in division (O), *Sign tables*.

(4) Wall signs shall be constructed with a maintenance-free/permanent finish material. Wall signs shall not be painted.

(5) When a building faces two or more streets, calculation of the maximum allowable sign area shall be based upon the front building facade and the smallest building facade facing a street frontage. Signs may also be placed on the side of a building not facing the street. No building side may have signage in excess of the signage allowed for that side of the building based upon the maximum allowable sign area of that building facade.

(6) For multiple-occupancy buildings, each occupant shall have no more than one business sign, except that the end tenants may have a maximum of two signs each to be located on the front and side elevations of the tenant space.

(7) Temporary business signs made of cloth or clothlike material are allowed as a wall sign in lieu of a permanent wall sign, which would otherwise be allowed for a building or tenants, subject to the following requirements:

(a) Permits shall be limited in duration to no more than three months.

(b) Temporary wall signs shall be securely attached to the building in such a manner that no portion of the sign will be allowed to blow around freely in the wind.

(c) Where a sign criteria has been prescribed for multiple-occupancy buildings, the temporary wall sign shall be sized to fit within the specified sign band area.

(d) There shall be no additional sign lighting allowed in addition to that which has been approved for the building.

(8) A sign that is above the highest roofline of a building but on a parapet wall that does not extend all the way around the building shall be architecturally integrated into the building design. This type of sign shall not be considered a roof sign.

(H) *Freestanding signs allowed by permit.* Freestanding signs will be allowed by permit in Commercial and Industrial districts.

(1) Monument signs must comply with § 152.086, Clear Vision Areas.

(2) Freestanding signs over six feet in height shall be located on the property for which the sign is intended. No signage within public right-of-ways is allowed.

(3) Freestanding signs except for an on-premises directional sign, shall be located no closer than five feet from any driveway or parking space.

(4) The minimum pylon sign height clearance to the bottom of the sign, including the cross-bracing, framing or sign enclosure, shall be eight feet.

(5) A maximum of one freestanding sign is allowed upon any single lot. Additional freestanding signs may be allowed, provided they are in compliance with:

(a) The signs are constructed as a monument sign and shall not exceed a height of six feet.

(b) Decorative shrubbery and flowers must be incorporated as a part of the monument design and are maintained on a regular basis.

(c) The signs, if illuminated, may be either internally or externally lighted in accordance with these regulations.

(d) The gross area of the signs, when added together with all other freestanding and wall sign areas, does not exceed the maximum allowable sign area established for the lot.

(e) Monument signs may incorporate additional berming on a slope of three-to-one where the berming is incorporated into an overall landscaping design plan. Landscaping shall be provided on the slopes of the berm in an interesting and varied appearance. Where a planter box is incorporated, the landscaping shall occur in and around the planter with a similar attractive design. In both cases, the height of the sign, including the planter box, shall not exceed six feet.

(f) Signs allowed pursuant to division (D)(1), *Allowable and prohibited signs in any district*, of this section.

(6) The gross area and total height of a freestanding sign shall be limited to the maximums prescribed in Table B of division (O), *Sign tables*.

(7) In the case of a multiple-occupancy building, which is center for industrial, commercial or retail purposes on properties over ten acres, a freestanding sign larger than that provided for in Table B in division (O), *Sign tables* may be approved by conditional use permit.

(8) For monument signs, the copy and graphic area shall not exceed the maximum square feet permitted under Table B in division (O), *Sign tables*.

(9) The cumulative gross sign area of all freestanding signs, except as provided for in division (D), *Allowable and prohibited signs in any district*, when added to the total wall sign area, shall not exceed the maximum allowable sign area under Table A in division (O), *Sign tables*.

(10) In all commercial districts and approved retail businesses in industrial districts, changeable copy signs may be permitted. Changeable copy sign approvals will be granted only upon the elimination of all existing illegal temporary signage. The following criteria will be applied when reviewing changeable copy sign applications:

(a) The signs shall be attached to the pylon sign beneath business name or incorporated into an alternative freestanding sign proposal. The design of the sign shall complement other existing signage on the site.

(b) The background color shall complement other existing signage on the site.

(c) The size of the sign shall not exceed 25% of the gross sign area when added to an existing pylon sign. This percentage limitation does not apply to totally new signage.

(d) The gross area of a freestanding sign under Table B in division (O), *Sign tables* and the maximum allowable sign areas specified in columns a and c under Table A in division (O), *Sign tables* of this section may be increased by 24 square feet to accommodate a changeable copy sign.

(e) The lower portion of the changeable copy sign shall meet the eight-foot minimum height clearance requirement. If the bottom of a changeable copy sign is proposed at a height below eight feet, the message board shall be enclosed with a vandal-proof encasement and shall be designed as a ground sign.

(f) Changeable copy signs shall not be allowed as a wall sign, except as may be approved by a conditional use permit.

Byron - Land Usage

(11) Where there is a grade difference of more than four feet between the proposed location of a freestanding sign and the higher grade of the street frontage towards which the sign is oriented, the sign height base elevation may be established at the center line of the street, provided that the property on which the sign is to be located either fronts on the street or is part of a planned unit development that fronts on the street.

(I) *Billboards.*

(1) Billboards are permitted only in Commercial and Industrial districts, and only where the adjacent streets are contiguous to the Highway 14 corridor.

(2) A conditional use permit shall be required for approval of a billboard.

(3) Upon obtaining a conditional use permit for a billboard, the company or person obtaining the permit shall file with the city a performance bond in the minimum amount of \$10,000 or a letter of credit or cash bond in like amount to guarantee compliance with the terms and conditions of the permit. The \$10,000 shall cover one through five years.

(4) The maximum sign size shall be 250 square feet. Billboards may incorporate cutouts protruding beyond the framed perimeter of the sign face, provided the total sign area not exceed 250 square feet.

(5) The maximum sign height to the uppermost portion shall be 45 feet. The building setback limitation for the zoning district in which the sign is located shall apply to principal structure setbacks for billboards.

(6) The minimum radius distance between billboards shall be a minimum of 1,000 feet.

(7) No billboard shall be constructed within 150 feet of the point of tangency of the entrance or exit ramp on any intermediate arterial or interstate freeway or within 150 feet of the intersection of the nearest right-of-way lines of any other class of street. The point of tangency shall be measured from the point where the off-ramp meets the adjacent traffic lane. No billboard shall be constructed between ramps on an interchange.

(8) Billboards shall be a single support, metal structure free of any supports or guy wires. The metal shall be either painted or treated in such a manner as to prevent deterioration.

(9) Billboards shall have a maximum of two faces.

(10) All electrical wiring shall be underground and concealed.

(11) The lot on which a billboard is located shall be improved by landscaping and must be maintained in an acceptable manner.

(12) Billboards are a principal use of property. A billboard shall not be erected on the same lot with a building, and billboards shall be removed from a lot before any other building or structure is erected on the lot.

(13) All signs shall be located a maximum distance of 5,280 feet (one mile) from the principal use which is described on the sign.

(14) All signs shall be located a minimum distance of 300 feet from any public right-of-way boundary.

(15) In Commercial districts, a billboard or off premises advertising sign may be proposed as a second principal use of a lot only pursuant to a planned unit development plan or planned residential development plan which is consistent with the Land Use Plan, meets the requirements of this title, and is approved by the City Council in compliance with the following additional standards:

(a) The billboard or sign must be a preexisting, nonconforming use.

(b) The owner of the billboard or sign must hold an ownership interest or easement in the underlying real estate where the billboard or sign is located.

(c) The billboard or sign must be located adjacent to the Highway 14 corridor.

(d) The Council must approve an amortization schedule and removal plan limiting the duration of the billboard or sign use and incorporate that amortization schedule and removal plan into the findings, decision and agreement for the planned unit development.

(J) *Off-premises directional signs.* No person shall install or cause to be installed an off-premises directional sign, except as follows:

(1) The sign shall be installed solely for the purpose of traffic direction and control and not as an advertising medium.

(2) The sign may include a street name and a street classification, such as frontage road designation, but shall not include the name, logo, or trademark of a business, development, or institution.

(3) The sign shall direct traffic to a particular street or to the collective businesses on said street when access to the businesses is unreasonably indirect or circuitous.

(4) The sign shall be approved by the Planning Commission and the City Council. Factors to be considered in determining approved sign shall include the signs location, purpose, amount of lettering, and proximity to other existing signs, and the posted speed limit of the street along which the sign is to be installed.

Byron - Land Usage

(5) The Planning Commission and the City Council may authorize temporary directional signs for any business areas that have access to any public street that is under construction or reconstruction, or is being repaired. The signs shall redirect traffic to alternate access streets, shall comply with the provisions of this section except that the signs shall be orange with black lettering and may include the names of the affected businesses and shall be removed upon completion of the street construction, reconstruction or repairs.

(6) In order to direct tourism traffic to Byron hotels and motels, the Planning Commission and City Council may authorize the city to install off-premises directional lodging signs in the public right of way. The signs shall be blue with white lettering, shall include only the word "Lodging" and a directional arrow, and shall be placed to direct traffic from a principal arterial level street to a hotel or motel. Wherever practical, such signs shall be located on existing sign poles.

(7) The Planning Commission and the City Council may authorize the installation of off-premises directional signs, either in the public right-of-way or on public property, for government buildings, public parks, hospitals, schools and emergency care facilities. Such signs shall not exceed ten square feet in area and, if located on public property, shall comply with the setback requirements of division (H), *Freestanding signs allowed by permit*. Such signs may include only the name, logo, and address of the building, park, hospital, or facility and other directional information necessary to direct traffic to the building, park, hospital or facility.

(8) The Planning Commission and the City Council may authorize the installation of off-premises directional signs on private property for religious facilities located on streets that are not classified in the Thoroughfare Plan as collectors, thoroughfares, or arteries. Such signs shall not exceed ten square feet in area and shall comply with the setback requirements of division (H), *Freestanding signs allowed by permit*. Such signs may include only the name, logo, and address of the facility and other directional information necessary to direct traffic to the facility.

(9) In a multiple-lot planned unit development (PUD) or planned residential development (PRD) that includes shared driveways and parking areas among the lots, a sign directing traffic from one lot of the PUD or PRD to a business on another lot in the same PUD or PRD shall not be considered to be an off-premises directional sign. Each such sign shall not exceed ten square feet in area, shall be included in the total allowable sign area for the building to which the traffic is being directed, and shall be compatible with the other signs in the PUD or PRD.

(10) For the purpose of providing off-premises direction to a new residential development, the developer may obtain sign permits to erect nonilluminated off-premises directional signs as follows:

(a) Each developer shall be allowed two such signs per entrance to the development up to a maximum of four such signs.

(b) Each sign shall not exceed 32 square feet in area and six feet in height.

(c) Each sign shall be erected on private property and shall be set back at least five feet from all lot lines.

(d) Signs shall be professionally designed and painted on all sides, including support posts. The signs shall be uniform in design and size.

(e) Such signs may remain in place until occupancy permits have been issued by the city for 90% of the lots in single-family subdivisions and 80% of the units in all other residential developments, at which time the signs shall be removed. The city shall issue no additional building permits for new construction within the development until all off-premises signs have been removed.

(11) Temporary off-premises directional signs for residential open house events, including model homes and rental units, may be installed by any person as follows:

(a) Sign size: No sign shall exceed 28 inches by 28 inches in size.

(b) Sign content: Each sign shall include either the words "open house," "rental unit available," or "model home," and the name and telephone number of the person responsible for the sign.

(c) Sign placement: The signs shall be directional in nature and shall be placed solely to facilitate the direction of traffic to open house events. Placement of the signs shall be as follows:

1. The signs shall not be located more than one mile from the site of the open house event.

2. The signs shall not be placed closer than five feet to any curb.

3. The signs shall not be placed on a sidewalk.

4. The signs shall not interfere with traffic visibility.

5. The signs shall not be placed on private property without the written consent of the property owner.

(d) Sign quantity: In order to maintain the directional nature of the signs, they shall be limited to a maximum of 12 signs per open-house site, with a maximum of two signs per intersection.

(e) Sign duration:

1. The signs may be in place from one hour before to one hour after a weekday open house event.

2. The signs may be in place from 10:00 p.m. on Fridays through 6:00 a.m. on Mondays for a weekend open house event.

3. Signs for annual, special real estate events, such as the Parade of Homes, may be in place for the duration of the event.

(12) Rummage sale signs shall be exempt from this section.

(K) *Permit and fee required.* Except as otherwise provided in this section, no sign or structure shall be erected, constructed, altered, rebuilt or relocated until the required fee as determined by city policy has been paid and a permit has been issued by the city.

(L) *Removal of unsafe and illegal signs.* If the city finds that any sign or sign structure is unsafe or in violation of the provisions of this chapter, the Building Official, or his or her designee, shall give written notice to the owner and/or party responsible for the sign to comply with the standards required by this section in a prescribed time frame and manner. The removal of the signs shall be done in the following manner:

(1) Permanent illegal signs. The Building Official, or his or her designee, shall order the removal of any permanent sign erected or maintained in violation of this section. Thirty days' notice in writing shall be given to the owner of such sign, or of the building, structure or premises on which such sign is located, to either comply with this section or remove the sign. The owner of the sign, building, structure, or premises shall also, upon removal of any sign, be fully responsible for repairing, replacing and returning the ground, building walls or other mounting surface to its original condition or to a proper condition consistent with the present appearance of the area building wall or surface.

(2) Temporary or illegal signs. The city may impound signs which have been illegally installed upon public property or within public right-of-way or easement. The sign owner may retrieve the signs according to the following:

(a) Fee payment. For impounded signs, there shall be an impoundment and storage fee as shall be revised annually in the City Council Fee Schedule.

(b) Retrieval of sign. The sign shall be retrieved from a designated impound area during routine business hours and within fifteen days from the date of impounding. After 15 days, the city will dispose of the sign.

(c) Liability. The city is not held liable for any damage to impounded signs.

(3) Closed business signs. Signs not used for signing when a business closes or leaves the tenant space for 12 consecutive months shall be addressed in the following manner:

(a) Wall signs (individual letters) - shall be removed.

(b) Wall signs (cabinet) - a blank face shall be inserted in the cabinet.

(c) Freestanding signs - the sign area shall be totally covered.

(M) *Nonconforming signs.*

(1) Any lawfully constructed nonconforming or any legal sign existing upon the effective date of this section may be maintained and continued at the size existing upon such date except as hereinafter specified.

(2) Upon adoption of this section, a nonconforming sign must not be:

(a) Structurally altered or moved except to bring such nonconforming sign into conformance with this chapter.

(b) Expanded or enlarged.

(c) Repaired or otherwise rehabilitated after damage or deterioration of more than 50%, except to bring into conformance with this section.

(3) Notwithstanding the foregoing divisions of this section, all signs which are made nonconforming by this section, must be brought into conformance, on a sign-by-sign basis, at the time that a sign is altered, except for routine maintenance as required by this section.

(4) Temporary signs are not entitled to non-conforming status. Such signs must be brought into compliance as directed by the Sign Enforcement Office.

(N) *Banners on light poles.*

(1) In order to provide unity and identity for multiple-building planned unit developments or planned residential developments, decorative banners may be installed for year-round or seasonal display on privately owned light poles in any zoning district by conditional use permit, provided that the banners comply with the following standards and requirements:

(a) Banners may be approved only for developments with multiple principal buildings and multiple businesses, such as a multi-building retail or service center, a mixed-use campus, or an office/industrial park. In no case shall banners be approved for a single principal building development, a single business development, or a residential development that is not part of a mixed-use commercial development.

(b) All banners shall be constructed of high-quality, durable, fade-resistant cloth.

(c) The banners may be of various colors and designs, provided that the banners are consistent with an approved comprehensive design plan. The banners may contain the name and logo of the development and seasonal or special event greetings. In no case shall a banner advertise a business name, a product name or service.

Byron - Land Usage

(d) The top and bottom of each banner shall be mounted to the light pole by appropriate brackets. Banners may be mounted only on light poles owned by the applicant, and shall be mounted to provide a minimum of 15 feet of clearance between the bottom of the banner and the grounds adjacent to the light pole. No more than one banner may be mounted to each light pole and banners shall not be attached to more than 50% of the light poles on the site.

(e) Each banner shall not exceed a maximum size of two and one-half feet in width and five feet in length.

(f) The banners shall be included in the total allowable sign area for the buildings in the development, consistent with Table A of this chapter.

(g) The city reserves the ability to place banners on light poles that are owned by the city to promote city festivals or celebrations.

(2) The applicant for a conditional use permit shall provide to the city a color drawing of the proposed banner design or designs, fabric samples, a site plan showing all light poles and noting the proposed banner locations, and mounting details.

(3) A banner that has become torn, faded, loose or otherwise in disrepair shall be promptly replaced or removed. Failure to comply with this requirement may result in the revocation of the conditional use permit.

(O) *Sign tables.*

TABLE A: MAXIMUM ALLOWABLE SIGN AREA - Freestanding sign

| a. Zoning area | b. Max. allowable freestanding sign area per lot ¹ | c |
|-------------------------|---|-------------------|
| Commercial | 100 sq. ft. | Up to 150 sq. ft. |
| Highway 14 Commercial | 100 sq. ft. | |
| Industrial | 100 sq. ft. | |
| Highway 14 Industrial | 100 sq. ft. | |
| CUP in residential area | 10 sq. ft. | |

¹ Freestanding sign areas exceeding maximum shown in column (b), but less than or equal to area allowed in column (c) of this table, may be allowed by conditional use permit or as part of an approved planned unit development.

Signs attached to buildings shall project no more than five feet from the wall on which they are attached, or in the case of wall signs that do not project, they shall not cover more than 15% of the wall upon which they are attached or extend above the maximum height of the wall upon which they are attached.

TABLE B: FREESTANDING SIGN STANDARDS (Measured to top of sign)

| a. Zoning for property | b. Sign height ¹ | c. Max. allowable sign height per lot |
|------------------------|-----------------------------|---------------------------------------|
| Commercial | 15 feet | |
| Highway 14 Commercial | 35 feet | or up to 50 feet |
| Industrial | 15 feet | |
| Highway 14 Industrial | 35 feet | |

¹Sign height exceeding maximum shown in column (b), but less than or equal to area allowed in column (c) of this table, may be allowed by conditional use permit or as part of an approved planned unit development.

TABLE C: PROPERTY FOR LEASE SIGN SIZE LIMITS

| Allowable sign area | Sign height | Allowable sq. ft. |
|---------------------|-------------|-------------------|
| Residential | 10 feet | 8.0 |
| Commercial | 16 feet | 8.0 |
| Industrial | 16 feet | 8.0 |

(P) *Employment signs.* These regulations do not apply to establishments that place employment signs on or inside their property. The following requirements must be followed if employment signs are to be placed anywhere other than on property owned/leased by the business or individual. Employment signs allowed by permits:

(1) Sign permit. The businesses in all Commercial and Industrial zoning districts, as well as each public and institutional conditional use in Residential districts, shall be allowed one employment sign permit per month.

(2) Permitted devices. One of the devices described below is permitted for employment signs, in addition to the maximum allowable sign area. Employment signs shall be professionally designed and shall meet the following standards:

Byron - Land Usage

(a) Banners:

1. Banners may be attached to poles and buildings, provided, they are well secured and resecured if they come loose. Banners attached to buildings shall not be placed above the roofline of the building.
2. No more than one banner shall be allowed for each business, except that end tenants may have a maximum of two banners to be located on the front and side elevations of the tenant space.
3. Banners shall not be larger than 100 square feet.
4. Ground-mounted employment signs shall have either flush or side-mounted, four-inch by four-inch, painted wood posts and shall not exceed eight feet in height. Banners mounted to posts on the ground shall be well secured and resecured if they come loose. A banner shall be set back from the front property line no less than one foot per one foot of sign height, except that if the sign cannot be located to comply with the minimum setback requirement from the front property line without locating the sign in a parking lot or other paved surface, the sign may be located up to the front property line provided that the sign does not exceed 16 square feet in area and four feet in width, and further provided that the sign will not disrupt any public utility service.
5. Banners shall not be installed on fences.

(b) Metal:

1. Metal signs shall be painted on each side, and mounted in the ground with the posts painted to match the background color of the sign.
2. No more than one metal sign shall be allowed.
3. Metal signs shall not be larger than six square feet nor higher than four feet off the ground.

(3) Permit required. Before any employment sign shall be displayed, the responsible lot owner or business shall submit a complete application for a permit. No employment sign shall be displayed without first obtaining a permit.

(Q) *Penalty.* Any person, occupant, property owner or owners, firm, partnership or corporation violating any provision of this section shall be guilty of a misdemeanor and punished as provided in § 10.99. Each date that a violation is permitted to exist shall constitute a separate offense.
(Ord. passed 11-93; Am. Ord. - -, passed 2-28-07)

§ 152.092 ENVIRONMENTAL PERFORMANCE STANDARDS.

(A) *Compliance required.* No land or building in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosion or other hazard; noise; vibration; smoke, dust, fumes, odors or other forms of air pollution; heat; glare; liquid or solid wastes or other substance, condition or element in such a manner, or in such amount, as to adversely affect the surrounding area or adjoining premises; provided that any use permitted or not expressly prohibited by the zoning code may be undertaken and maintained if it conforms to the regulations of this section.

(B) *Use restrictions.* All commercial and industrial uses shall be subject to the performance standards.

(C) *Enforcement.* The Zoning Administrator shall investigate any purported violation of performance standards and, if there are reasonable grounds for the same, shall serve the owner with a written notice of violation thereof. Where the State of Minnesota environmental regulations address a purported violation, the Zoning Administrator may report the same to the Minnesota Pollution Control Agency or any other responsible state agency. If it should become necessary for the city to employ the services of any qualified expert to advise in establishing a violation, the fee shall be paid by the violator if said violation is established, otherwise it shall be paid by the city.

(D) *Performance standards.*

(1) *Fire and explosive hazards.* All activities involving and all storage of flammable and explosive materials shall be provided at any point with adequate safety devices against the hazard of fire and explosion and adequate firefighting and fire suppression equipment and devices standard in the industry or commercial uses and that meet or surpass all minimum building code requirements. Burning of waste materials in open fires shall be prohibited at any time. The relevant provisions of state and county laws and regulations shall also apply.

(2) *Noise.* All sound sources, including nonconforming uses, shall comply with the state noise regulations, as administered by the Minnesota Pollution Control Agency.

(3) *Vibration.* No vibration shall be permitted which is discernible without instruments at the property line of said use.

(4) *Smoke.* No emission shall be permitted at any point from any chimney or any other emission point of visible smoke greater than 20% opacity for any measured time or a 40% opacity for any four minutes per one hour time period for existing uses and not greater than 20% opacity for any measured time for new uses. Opacity should be measured using U.S. E.P.A. Method 9. All Minnesota Pollution Control Agency regulations shall be met or exceeded.

Byron - Land Usage

(5) *Dust, fumes, vapors and gases.* The emission of dust, dirt, fly ash, fumes, vapors or gases which can cause any damage to human health, to animals, to vegetation or to property or which can cause any soiling or staining of persons or property at any point beyond the lot line of the use creating the emission is herewith prohibited. All Minnesota Pollution Control Agency regulations shall be met or exceeded.

(6) *Odor.* No use other than agriculture-related activities shall emit odorous gases or other odorous matter in such quantities as to be offensive at any point on or beyond its lot lines. All applicable Minnesota Pollution Control Agency regulations shall be met or exceeded.

(7) *Glare.* In the Industrial District (I), no direct or sky reflected glare, whether from flood lights or from high temperature processes such as combustion or welding or other activities shall cause illumination in excess of 0.5 footcandles at the property line. In all other districts no operation or activity producing glare shall be conducted so that any glare, whether direct or reflected, is visible at the property line.

(8) *Heat.* No use shall produce heat perceptible with instruments beyond its lot lines.

(9) *Liquid or solid wastes.* Refer to § 152.090.
(Ord. passed 11-93)

§ 152.093 TEMPORARY STORAGE.

In residential districts, all lots shall be maintained and kept in a reasonably clean and neat condition. Vehicles which are partially dismantled or do not have a valid state license shall not be stored more than 10 days in a front yard or side yard on an established driveway or more than 30 days in a rear yard in all residential districts.

(Ord. passed 11-93)

§ 152.094 LOT LIMITATIONS.

Any platted parcel, lot or area of land recorded in the County Recorder's office shall have no more than one principal use located thereon.

(Ord. passed 11-93)

§ 152.095 MANUFACTURED HOME PARK REGULATIONS.

(A) Manufactured homes in all manufactured home parks shall comply with the applicable State of Minnesota laws and regulations on manufactured housing and manufactured home parks.

(B) These parks shall be designed and developed to create a desirable residential environment.

(1) *Park size.* A manufactured home park shall contain not less than 20 lots for manufactured homes.

(2) *Building height.* Building height within a mobile home park shall be limited by the regulations of the appropriate residential district.

(3) *Permitted uses.* Uses permitted within the park shall include only manufactured homes, storm shelters, recreational facilities and accessory uses to the manufactured homes, including common laundering facilities and activities necessary for the operation and maintenance of the park.

(4) *Yard requirements.*

(a) An open area shall be provided on each manufactured home lot to insure privacy, adequate natural light and ventilation to the home and to provide sufficient area for outdoor uses essential to the manufactured home. The minimum lot area shall be 4,000 square feet. The maximum lot coverage for the manufactured home, carport or accessory structures and driveway shall be 50%.

(b) Manufactured homes shall be no closer than 25 feet to adjacent manufactured homes in the side yard area and not less than 25 feet in the rear yard area. A front yard area of 20 feet shall be required between the paved roadway and manufactured home. Each lot shall be clearly defined by permanent markers located in the ground.

(c) No manufactured home shall be located closer than 50 feet to the right-of-way line of T.H. 14 and C.S.A.H. 5 and 25 feet from the right-of-way line of all other public highways, roads or streets. A manufactured home shall be located no closer to the park boundary than 20 feet.

(5) *Site improvements.*

(a) Off-street parking spaces shall be provided to minimize the disruption of traffic movement. Driveway area shall not be located on the lot such that the remaining open space area of each lot is substantially reduced in size. Each lot shall be required to have two off-street parking spaces. These spaces may be provided on the individual lot or in parking bays within 100 feet of the lot they

Byron - Land Usage

are intended to serve. Parking bays shall not be permitted to be located on any public street within the park. On-lot spaces may be provided in tandem.

(b) Streets shall be provided within the park. The internal street system shall provide convenient and safe circulation and access to each lot. These streets shall be private streets.

(c) The minimum street width (pavement surface) shall be as follows:

| <i>Local Street*</i> | | | |
|--|--------------------------|-------------------|-------------------|
| | <i>Parking on Street</i> | | |
| <i>Traffic Direction</i> | <i>One Side</i> | <i>Both Sides</i> | <i>No Parking</i> |
| One-way | 18 feet | 26 feet | 10 feet |
| Two-way | 28 feet | 36 feet | 20 feet |
| * Travel lanes shall be ten feet in width and parking lanes eight feet in width. | | | |
| ** Where no parking on-street is permitted, proper signing shall be required to indicate that no parking is permitted. Where no parking is permitted on-street, additional off-street parking shall be required at one additional parking space per lot. | | | |

(d) Streets shall be paved to city construction standards for surface and subsurface materials and construction methods. Streets shall be maintained in good condition.

(e) The ground surface of all parts of every manufactured home park shall be graded and equipped to drain all surface water in a safe and efficient manner without risk or erosion or flooding of lots within the park or to lands adjoining or in the vicinity of the manufactured home park.

(f) No manufactured home shall be erected on a lot except upon a manufactured home pad that shall meet all applicable Uniform Building Code (city building code) standards. Each pad shall have a minimum dimension equal to the dimensions of the manufactured home to be placed on the lot.

(g) A buffer shall be provided and located along all exterior boundary lot lines not bordering local streets. A buffer shall be required along exterior boundary lot lines that are abutting a county, state or federal highway.

(h) All manufactured homes shall be equipped with an anchoring system approved by the Minnesota Department of Administration (Building Code division) and consistent with the City Building Code. Skirting is required and shall be compatible with the decor of the individual manufactured homes

and properly maintained. Skirting means a rigid waterproof material designed and installed so as to provide a solid or visual barrier between the underside of a manufactured home and its stand.

(i) There shall be provided within each manufactured home park suitable storm shelter facilities constructed completely below ground level and outside all flood prone areas and shall provide a minimum of ten square feet of shelter floor area for each lot in the park.

(j) A municipal sanitary sewer and municipal water system shall be installed in accordance with city specifications. Each manufactured home lot shall be equipped with a public water outlet, a public sewer, a telephone outlet, an electrical outlet, a natural gas outlet and a cable TV outlet, all to be placed underground. Fire hydrants shall be located in accordance with generally accepted practices as determined by the City Council.

(k) Trash and garbage disposal shall be in common disposal areas with adequately sized bins in a walled or fenced area and be located within 150 feet of each lot and meet all Olmsted County Health Department regulations. Individual garbage cans shall not be permitted.

(l) There shall be provided within each manufactured home park, open space for play lots and recreation facilities for the exclusive use of the park occupants. Such open space area shall be a total of 20,000 square feet for each 50 manufactured home lots or an equal proportion thereof. Play lots shall be a minimum of 500 square feet in area and recreational areas shall be a minimum of 10,000 square feet in area. These open space areas shall be of appropriate design and provided with appropriate recreational equipment.

(6) *Manufactured home and lot improvements.*

(a) No building or structure shall be attached to the manufactured home other than one removable cabana or awning. One carport and one utility shed shall be permitted on a manufactured home lot. Tuck under garages where the appropriate foundation walls are provided shall be permitted.

(b) All recreational vehicles, trailers and other similar equipment shall be required to be parked in an area designated for such use on the manufactured home park plan. No on-street parking of recreational vehicles shall be permitted. This storage area shall be screened with a fence, berm or trees and shrubs.

(7) *Permit required.* A conditional use permit shall be required and site design review required and approval granted prior to the development and operation of a manufactured home park.

(Ord. passed 11-93)

§ 152.096 MANUFACTURED HOME SUBDIVISION.

Manufactured home subdivisions shall comply with the adopted subdivision ordinance for the city.

(A) A manufactured home subdivision shall contain not less than 15 lots.

(B) Manufactured home subdivisions shall be required to meet all requirements of the R-3 Zoning District. Subdivisions shall be required to have a minimum lot size of 5,000 square feet.

(C) All manufactured homes shall be equipped with an anchoring system approved by the Minnesota Department of Administration (Building Code Division) and consistent with the city building code.

(D) Manufactured homes shall be the exclusive dwelling type permitted within the subdivision.
(Ord. passed 11-93)

§ 152.097 TRAVEL TRAILER PARKS AND CAMPGROUNDS.

The following requirements shall apply to travel trailer parks and campgrounds in addition to zoning district regulations:

(A) The park shall abut a paved public highway or street and have safe access onto such public roadway;

(B) A buffer shall be required along the entire property boundary perimeter as specified in § 152.100;

(C) Each travel trailer parking site or camping site shall be within 200 feet of a community building which shall provide separate toilet facilities for each sex. Drinking water outlets shall be provided throughout the park or campground;

(D) Interior streets or paths for safe vehicle circulation shall be constructed in a manner so as to be useable during any time of the year and kept in a dust-free condition. Recreational travel trailer or other recreational vehicle parking areas shall be similarly constructed so as to be useable and dust free during any time of year;

(E) The park shall be graded and equipped to drain all surface water in a safe and efficient manner, without risk of erosion or flooding of lands adjoining or in the vicinity of the park. All surface area, excluding paved areas, shall be required to maintain vegetative cover of grasses, herbs or similar vegetative material on the entire park;

(F) Proper waste disposal methods shall be used that meet Olmsted County Department of Health standards and State Department of Health standards;

(G) The applicant shall be required to provide an accurate scaled drawing of the design of the planned park or campground. Information on all requirements of this chapter shall be included on the application by the applicant;

(H) All State of Minnesota laws and regulations and Olmsted County Department of Health regulations shall be complied with.

(Ord. passed 11-93)

§ 152.098 COMMON OPEN SPACE OWNERSHIP.

At the time of development review, the city shall not require dedication of common open space or otherwise obtain such open space, unless the city determines that a public purpose will be served by providing open space within the area of the city under development review, where common open space has been proposed as part of a development. Common open space shall remain in private ownership unless the City Council determines that it is in the best interest of the city to obtain the open space and make it available to the public.

(Ord. passed 11-93)

§ 152.099 OWNERSHIP AND MAINTENANCE OF COMMON IMPROVEMENTS.

All developments involving common open space area and other common improvements shall meet the requirements herein set forth, and no development application shall be approved until compliance with this section is established.

(A) The applicant or developer shall provide for and establish a non-profit organization or other legal entity under the laws of Minnesota for the ownership, care and maintenance of common landscaped areas, recreational areas, private streets, parking lots or other commonly owned facilities.

(B) Such organization shall be created by covenants and restrictions running with the land and shall be composed of all persons having ownership within the development. Such organization shall be responsible for the perpetuation, maintenance and function of all common lands, uses and facilities.

(C) If the common areas are deeded to a homeowner's association, the proposed documents governing the association shall be filed with the Zoning Administrator. Such documents shall meet the following requirements:

Byron - Land Usage

- (1) The homeowner's association must be established before any residences are sold;
- (2) Membership in the association must be mandatory for each residence owner;
- (3) Common area restrictions must be permanent and not for a period of years;
- (4) The homeowner's association must be made responsible for liability insurance, taxes and maintenance of recreational and other facilities;
- (5) The association must have the power to levy assessments which can become a lien on individual premises for the purpose of paying the cost of operating and maintaining common facilities;
- (6) The governing board of any such association shall consist of at least three members who shall be owners of property in the development.

(D) All lands and improvements shall be described and identified as to location, size, use and control in a restrictive covenant, and such covenant shall set forth the method of assessment for the maintenance of such land.

(E) Such restrictive covenant and organization shall continue in effect so as to control the availability of the facilities and land thereby provided to maintain the land and facilities for their intended function on and to protect the development from additional and unplanned densities of use. Such organization shall not be dissolved nor shall such organization dispose of any common open space, unless that land is dedicated to the city.

(F) In the event the organization established to own and maintain common open spaces, recreational areas, communally owned facilities and private streets or any successor organization shall at any time fail to maintain the common facilities in responsible order and condition in accordance with the approved plan, the City Council may cause written notice to be served upon such organization or upon the owners of property in the development setting forth the manner in which the common facilities have failed to be maintained in reasonable condition, which notice shall include the demand that the deficiencies noted be cured within 30 days thereafter and shall state the date and place of a hearing to be held within 14 days of the notice. At the time of hearing, the City Council may modify the terms of the original notice as to deficiencies and may extend the time within which the same may be cured. If the deficiencies set forth in the original notice or modifications are not cured within the time set, the City Council, in order to preserve the taxable values of properties within the development and to prevent the common facilities from becoming a public nuisance, may enter upon such common facilities and maintain the same for a period of six months. Such entry and maintenance shall not vest in the public any right to use the common facilities not dedicated to public use. Before expiration of such six months, the City Council shall, upon its own initiative or upon the written request of the organization theretofore responsible for maintenance, call a public hearing and give notice of such hearing to the organization responsible for

maintenance or the property owners of the development. At such hearing, the organization responsible for maintenance and/or the residents of the development may show cause why maintenance by the city should not be continued for a succeeding six months. If the City Council determines that it is not necessary for the city to continue such maintenance, the city shall cease such maintenance at the time established by the City Council. Otherwise the city shall continue maintenance for the next succeeding six months subject to a similar hearing and determination at the end of each six months thereafter. The cost of maintenance by the city shall be a lien against the common facilities of the development and the private properties within the development. The City Council shall have the right to make assessments against properties in the development on the same basis that the organization responsible for maintenance of the facilities could make such assessments. Any unpaid assessment shall be a lien against the property responsible for the same, enforceable the same as a mortgage against the property. The city may further foreclose its lien on the common facility by certifying the same to the County Treasurer for collection of general property taxes.

(Ord. passed 11-93)

§ 152.100 BUFFERING AND SCREENING.

(A) *Purpose.* Buffering and screening serves to soften the outline of buildings, to screen glare and noise and to create a visual and/or physical barrier between conflicting land uses. Buffering and screening are required between specified lots in different zoning districts and between land developments and along existing streets. The extent of buffering and screening required shall be determined by the type of use proposed and the adjacent uses and/or zoning surrounding the proposed development. The impact of the proposed use on adjoining properties is the basis for establishing buffering and screening standards.

(B) *Required buffering and screening.* All buffering and screening required by this chapter shall conform to the regulations set forth in this section of this chapter. Buffering and screening that conforms to the requirements of this section shall be required as specified in the table set forth below or subsections (D)(1) through (4). The applicant proposing the new land use, rezoning or major structural change or expansion shall be responsible for meeting the requirements of this section of this chapter.

(C) *Determination of buffering and screening class.*

(1) The table set forth in this division specifies the buffering and screening that shall be required. For each property boundary, the applicant shall determine the adjacent zoning district(s). Then, the applicant shall match the proposed land use, whether the land is vacant or there is an existing use that is proposing a major structural change or expansion or rezoning with the identified adjacent zoning district(s) in the table below. The letter indicates the buffer class. After determining the buffer class from the table, the applicant shall select a planting option from the table set forth in division (E) of this section.

Byron - Land Usage

(2) A major structural change or expansion, for the purposes of this section, shall be considered to be an expansion of the existing building floor area or land area used by 40% or more.

| <i>Adjacent Zoning</i> | | | | | |
|---|---------------------|--------------------------------|---------------------------------|-------------------------|--------------------------|
| <i>Proposed Land Use/Rezoning Major Structural Changes, Expansion</i> | <i>Agricultural</i> | <i>Low/Mixed</i> | | <i>Commercial</i> | <i>Industrial</i> |
| | | <i>Low Density Residential</i> | <i>High Density Residential</i> | <i>(Downtown Other)</i> | <i>(Other, Downtown)</i> |
| Agricultural | — | — | — | — | — |
| Low/Mixed Low Density Residential | — | — | B | A | C |
| High Density Residential | — | B | — | A | C |
| Commercial | | | | | |
| Downtown | — | A | A | — | A |
| Other | — | B | B | — | A |
| Industrial | | | | | |
| Other | — | D | D | — | — |
| Downtown | — | A | A | — | — |

(3) Where a street or alley is located between the proposed and adjacent land uses, the required Class (A-D) shall be reduced to the next less restrictive class, such as from Class C to Class B, except industrial uses which shall be required to use the same classes as indicated on the table above.

(D) Special planting option requirements.

(1) Buffering and screening shall be required to be located along the perimeter of all parking areas of nonresidential uses located in residential districts. The buffering and screening planting option required shall be Class B.

(2) Buffering and screening shall be required around the perimeter of manufactured home parks as follows:

(a) Where adjacent to Low or Mixed Low Density Residential areas, it shall require a Class C planting option;

(b) Where adjacent to High Density Residential areas, it shall require a Class B planting option;

(c) For travel trailer parks and campgrounds, the buffering and screening planting option shall be a Class C.

(3) Buffering and screening shall be required around the perimeter of parking areas serving multi family, limited uses located in the Mixed Low Density Residential (R-2) District. The buffering and screening planting required shall be one deciduous canopy tree per 40 feet and one understory tree per 40 feet or a hedge planted on 3-foot centers and meeting all other requirements of this section.

(4) Low or High Density Residential uses proposed for development adjacent to arterial streets, as designated in the Land Use Plan or railroad right-of-way shall be required to provide buffering and screening to the level specified in planting options, Class B.

(5) Where a railroad right-of-way is located between the proposed industrial and adjacent residential uses/zoning, no buffer or screening shall be required adjacent to the railroad right-of-way.

(E) Planting options.

(1) The options below indicate the amount of plant material and fencing that is required. Unless specified, plantings are not required to be aligned on property or right-of-way boundaries, but may be sited in any required yard on the property for buffering and screening purposes. The Planning Commission and City Council may permit staggering or grouping of plant materials if a satisfactory buffer is achieved. Determination of the total number of plants shall be made by dividing the dimensions of the area where buffering and screening is required by the specification of the tables set forth in this section.

| <i>Class</i> | <i>Option</i> |
|--------------|--|
| A | (1) 10 feet wide with one hedgerow on lot line (plants on 3 foot centers) and one canopy tree per 50 feet. |
| | (2) 7 feet wide with 6 foot high fencing on lot line and one canopy tree per 50 feet. |

Byron - Land Usage

| <i>Class</i> | <i>Option</i> |
|--------------|---|
| B | (1) 10 feet wide with one deciduous canopy tree per 50 feet and one shrub per 4 feet. |
| | (2) 15 feet wide with one deciduous canopy tree per 40 feet and one understory tree per 40 feet. |
| | (3) 20 feet wide with one deciduous canopy tree per 40 feet and one understory tree per 50 feet. |
| | (4) 20 feet wide with one deciduous canopy tree per 40 feet and one coniferous tree per 80 feet. |
| C | (1) 10 feet wide with one canopy tree per 40 feet, one understory tree per 20 feet, one shrub per 15 feet and 6 foot high fencing on lot line. |
| | (2) 15 feet wide with one deciduous canopy tree per 40 feet, one coniferous canopy tree per 40 feet, one understory tree per 30 feet and one shrub per 20 feet. |
| | (3) 20 feet wide with one deciduous canopy tree per 40 feet, one coniferous canopy tree per 50 feet, one understory tree per 40 feet and one shrub per 30 feet. |
| | (4) 25 feet wide with one deciduous canopy tree per 40 feet, one coniferous canopy tree per 60 feet and one understory tree per 40 feet. |
| D | (1) 25 feet wide with one deciduous canopy tree per 60 feet, one coniferous tree per 40 feet, one understory tree per 50 feet and one hedge on boundary (hedge plants on 3 foot centers). |
| | (2) 25 feet wide with one deciduous canopy tree per 60 feet, one coniferous canopy tree per 30 feet and one berm averaging 4 feet in height. |
| | (3) 30 feet wide with one deciduous canopy tree per 60 feet, one coniferous canopy tree per 50 feet and one understory tree per 30 feet. |
| | (4) 20 feet wide with one deciduous canopy tree per 40 feet, one coniferous tree per 30 feet, one understory tree per 40 feet and one coniferous shrub per 10 feet or one deciduous shrub per 5 feet. |
| | (5) 10 feet wide with one deciduous canopy tree per 40 feet, one coniferous canopy tree per 40 feet, one understory tree per 30 feet, one shrub per 10 feet and 6 foot high fencing on lot line. |

(2) All shrubs shall be planted in groupings of shrubs or shrubs and understory trees. Shrubs may be evergreen or deciduous unless otherwise specified.

(3) Fencing shall be visually solid and constructed of wood that is weather resistant and permanently anchored in the ground.

(F) *General requirements.*

(1) All existing deciduous and coniferous trees larger than two inches in diameter, six inches above ground level and/or six feet in height may be considered to contribute to the required buffering and screening. Where the amount of existing plant material of that size or greater equals or contributes to the required number of plants under the appropriate class, an equivalent reduction may be taken in the number and type of required plants. In all cases, existing plant material of the above diameter and height shall be preserved in any buffer yard, except where clearance is required to insure adequate sight distance. Any removal shall, where feasible, involve relocation rather than clearing.

(2) The bufferyard may be coterminous with required front, side or rear yards, and in case of conflict, the larger yard requirements shall apply.

(3) All buffering and screening areas shall be maintained and kept clean of all debris, rubbish, weeds and tall grass in conformance with existing regulations.

(4) No structure, manufacturing or processing activity or storage of materials shall be permitted in the buffering and screening areas; however, parking of passenger automobiles shall be permitted in the portion of the buffering and screening area exclusive of the exterior 15 feet adjacent to the lot line.

(5) The buffering and screening areas shall be located on the outer perimeter of the lot, extending to the property line, except when there exists a utility easement, in which case the buffering and screening area shall be measured from the inner boundary of the utility easement. No bufferyard shall be located on any portion of an existing or dedicated public or private street right-of-way.

(6) Plant materials:

(a) By this chapter, canopy trees (deciduous or coniferous) shall be considered to be trees that when full-grown will attain a height of over 30 feet in height; understory trees shall be considered to be trees that when full-grown attain a height of between ten and 30 feet; shrubs shall be considered to be woody perennial plants that when full-grown attain a height of between three and 15 feet.

(b) Minimum size:

Byron - Land Usage

| | | |
|-----------------|--------------------------|-----------------------|
| Canopy tree | deciduous | 1½" - 1¾" in diameter |
| | conifers | 6 - 8 feet in height |
| Understory tree | | 1½" - 1¾" in diameter |
| Shrub | deciduous and coniferous | 2 - 4 feet in height |

(c) Plant materials shall be permanently maintained and any plant material which does not live shall be replaced within one year. All plant material shall be native to Minnesota or have been known to be able to survive and grow in the southeast Minnesota climate. All planting material shall meet the standards of the American Association of Nurserymen.

(d) It is encouraged that plant materials in buffering and screening areas be planted in natural clusters that will give privacy but will not block views or vistas. The exception shall be commercial or industrial uses bordering residential uses. Here a dense, visual screen is encouraged.

(e) Prior to the issuance of any zoning permit, complete plans showing the arrangement of all buffering and screening areas; the placement, species and size of all plant materials; and the placement, size, materials and type of all fences to be placed in such buffering and screening areas shall be reviewed by the Zoning Administrator to ascertain that the plans are in conformance with the terms of this chapter.

(Ord. passed 11-93)

§ 152.101 EARTH-SHELTERED BUILDING REQUIREMENTS.

(A) *Purpose.* Earth-sheltered buildings located either below the existing average ground level on a sloping lot or above the existing average ground level prior to construction and covered over 50% of the building by earth, create different development opportunities and problems on a site-by-site basis. Due to major differences between above grade housing and earth-sheltered buildings, the potential for soil erosion and slope failure and increased stormwater runoff from the development site and development of earth-sheltered buildings shall be reviewed on a site basis and be required to comply with the following standards.

(B) *Minimum requirements.*

(1) A landscaping plan shall be required. The purpose of landscaping shall be to insure maximum compatibility with adjacent aboveground housing and to insure that no soil erosion occurs following the completion of the building. The landscaping plan shall be a part of the application and

shall be approved, approved with conditions or denied. No zoning and building permit shall be issued until a landscaping plan is submitted and approved or approved with conditions.

(2) Following the completion of all construction activities, soil erosion shall occur. All soil surface laid bare during construction shall be promptly mulched and seeded to prevent erosion. Additional methods of erosion control may be required by the City Council where it is found that mulching and seeding will not be sufficient. Where construction is completed at some time other than during the growing season, the property owner shall protect against soil erosion by appropriate means and shall seed all unvegetated ground at the beginning of the next growing season.

(3) Where earth-sheltered buildings are developed on a naturally occurring sloped site, the applicant shall evaluate the potential for slope failure. Earth-sheltered buildings located on sloping sites shall not be the cause of slope failure.

(4) All surface water (stormwater) runoff shall be controlled on-site by proper grading, landscaping and permanent soil cover such that the peak rate of runoff shall not be increased by more than 2%.

(5) Earth-sheltered buildings shall be required to meet all minimum yard requirements of the zoning district in which located. Computations for yard area shall be made from the exterior surface of the building. (The exterior surface shall be the surface opposite from the interior building wall and ceiling/roof interior surface.)

(6) Maximum lot coverage requirements of the district in which located shall apply only to above-grade buildings and shall cover not more than 15% of the total lot area.
(Ord. passed 11-93)

§ 152.102 HAZARDOUS MATERIAL STORAGE.

(A) *Purpose.* Hazardous materials or materials that may become hazardous if improperly treated so as to create a hazardous substance are specifically addressed within this section of this chapter. A potential exists that such materials, if improperly treated, stored or handled will affect the health and safety of a portion of or all the residents of the city. This section shall specify minimum standards of operation and related requirements to protect the public health, safety and welfare.

(B) *Minimum requirements.*

(1) Industrial and commercial establishments and the buildings, structures and land used by such establishments shall be required to comply with all requirements in the State Building Code (city

Byron - Land Usage

building code) that may provide protection against accidents and the results of accidents or improper treatment of actual or potential hazardous materials.

(2) Storage areas for actual or potentially hazardous materials shall be protected from unauthorized or forced entry. Storage areas shall be fenced and locked and buildings and structures shall be locked or otherwise protected from unauthorized entry.

(3) Property, buildings or structures on which actual or potential hazardous materials are stored shall be required to control potential runoff of hazardous substances in the case of an accident.

(4) All industrial or commercial establishments handling actual or potential hazardous materials shall be required to report to the Byron Volunteer Fire Department and Olmsted County Sheriff's Department on a periodic basis and at least one time each year the actual or potential hazardous materials to be located on this property. This requirement should allow the Fire Department and Sheriff's Department to react to accidents in a timely fashion and in a manner that will protect to the fullest extent possible fire and police personnel and citizens of Byron.

(5) The City Council may require that concentrations of actual or potential hazardous materials in storage be limited to safe levels where, if accidents occur or materials are improperly managed, the impact of hazardous materials will be minimal to the surrounding properties and permit safety personnel to control such impacts.

(6) A conditional use permit shall be required of any proposed land use where any actual or potentially hazardous materials will be used in operations of the establishment or stored for sale or other use.

(7) Gas/service stations shall be exempt under this section of this chapter. However, such uses shall be required to meet state laws and regulations and all other requirements of this chapter, including § 152.090.

(8) All related Minnesota and federal laws and regulations addressing a hazardous material shall be complied with.
(Ord. passed 11-93)

§ 152.103 FENCES, WALLS AND HEDGES.

A fence, wall, column, peer, post or any similar type, structure or any combination of such structures may be permitted in the required yards of the various districts, subject to the following requirements:

(A) It shall be the responsibility of the property owner to locate all property lines;

(B) No fence, hedge or wall may extend beyond or across a property line unless in joint agreement with the abutting property owner;

(C) No fence, hedge or wall shall be placed closer than 18 inches to any public sidewalk;

(D) Fences, walls and hedges shall not exceed seven feet in height above the elevation of the surface of the ground at any point, except:

(1) That in instances where public safety or security necessitate, the Zoning Administrator may authorize fences and walls to have a maximum height of not to exceed ten feet above the elevation of the surface of the ground at any point;

(2) Where the grade of buildings on adjacent lots is greater than that of buildings on the applicant's lot, the fence may exceed the height limitations, but in no case shall it exceed the grade of the adjacent building by more than five feet;

(3) Where used for private open space requirements in cluster or planned residential development; or

(E) Fences, walls and hedges shall not interfere with solar energy access to existing solar energy systems located on adjacent lots.

(Ord. passed 11-93; Am. Ord. passed 4-28-15)

§ 152.104 FLOOD PRONE AREA REQUIREMENTS.

(A) *Intent.* The intent of these requirements is to guide development in the flood prone area consistent with the flood threat in order to minimize adverse effects on the public health, safety and general welfare.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DRAINAGEWAY, NATURAL. Any naturally occurring watercourse, trench, ditch, swale or similar depression in which surface water or groundwater is collected and flows during any part of a year.

Byron - Land Usage

FLOOD PRONE SOILS. Based on the U.S.D.A. Soil Conservation Service Soil Survey of Olmsted County, Minnesota alluvial soils or soils deposited by surface water runoff that indicate areas of land that are flooded temporarily. Any land area on which the following soils are located are subject to flooding and are flood prone soils:

| <i>Map Symbol</i> | <i>Soil Name</i> |
|-------------------|------------------|
| 19 | Chaseburg |
| 467 | Sawmill |
| 468 | Otter |
| 1846 | Kato |

FLOOD LEVEL, MAXIMUM. The elevations at which flooding is recorded by the flood prone soils in a natural drainageway, for example, or the elevation of flood prone soil boundaries in undeveloped watersheds.

(C) *Uses in the flood prone area.* All uses permitted as of right or conditionally permitted in the designated district shall be permitted only after a conditional use permit has been issued by the city.

(D) *Development standards.* The deposition of any fill or spoil from dredging or sand and gravel operations, the construction of any structure or the grading or paving of any area shall require certification by a registered professional engineer or hydrologist that the following conditions have been met. The City Engineer also shall review all permit applications to determine that the following conditions have been met:

- (1) Fill deposited in the flood prone area shall be no more than the minimum amount necessary to conduct the use. Where any permanent building or structure is planned to be located fill shall be at a minimum of one foot above the maximum flood level;
- (2) No net loss of capacity for surface storage of flood waters shall result from the activity. The cumulative effect of fill within the flood prone area shall cause no increase in upstream flood levels. Compensatory storage shall be provided to offset the storage lost through filling;
- (3) The cumulative effect of fill shall not cause an increase in the velocity of flood waters;
- (4) The effect of such activities in the flood prone area shall not result in an increase in erosion potential on the site or in the flood prone area downstream of the fill site;

(5) In no event shall an increase in the maximum flood level be permitted if it would affect any existing building;

(6) Fill shall consist of soil or rock materials only;

(7) All fill areas shall be stabilized with material which will insure and protect against erosion, undercutting and undermining.

(E) *Engineering studies.* In developing proper hydrologic and hydraulic studies, the following conditions shall be addressed:

(1) Consideration of the effects of a proposed use shall be based on a reasonable assumption that there will be an equal degree of encroachment extending for a significant reach on both sides of the natural drainageway;

(2) The maximum flood level is calculated based on the location of alluvial soils and is therefore an historic record, not a reflection of the potential flooding once urban development occurs in the watershed or a portion thereof. Engineering studies shall address this difference and where the studies indicate that the maximum flood level, as defined, is at a lower elevation than the flooding elevation based on hydraulic studies of a developing watershed, then the flooding elevation of the hydraulic studies shall be used to determine all further development standards under this section of this chapter.

(F) *Flood prone soils location.* The location of flood prone soils shall be determined by the Zoning Administrator by scaling the location from the soils map covering the Byron area in the Soil Survey of Olmsted County, Minnesota. Otherwise the applicant shall be given the opportunity to determine flood prone soils locations as part of the required engineering study carried out by a registered professional engineer or hydrologist.

(Ord. passed 11-93)

§ 152.105 SOIL EROSION AND SEDIMENTATION CONTROL.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ERODIBLE SLOPE. All slopes with inclines in excess of 4%.

LARGE FLAT SURFACE AREA (UNPAVED). An area which is flat or whose slope is less than 4% and which consists of more than 1,000 square feet of exposed soil.

SEDIMENTATION. The settling out of the soil particles which are transported by water and wind. **SEDIMENTATION** occurs when the velocity of water or wind in which soil particles are suspended is slowed to a sufficient degree and for a sufficient period of time to allow the particles to settle out of suspension or when the degree of slope is lessened to achieve the same result.

SOIL EROSION. Any removal and/or loss of soil by the action of water, ice, gravity or wind. **EROSION** includes both the detachment and transport of soil particles.

(B) *Erosion control policies.* Any conditional use permit or other application requiring site plan approval and subdivision plats shall prepare a soil erosion plan addressing the following policies. Such plan shall be approved by the City Engineer as a condition to site plan approval.

(1) The smallest practical area of land shall be exposed at any given time during development.

(2) Such minimum area exposure shall be kept to as short a duration of time as is practicable.

(3) If at all practicable, temporary vegetation, mulching or other cover shall be used to protect areas exposed during development.

(4) Provision shall be made to accommodate effectively the increased surface water runoff caused by changed soil and surface conditions during and after development on upstream and downstream flooding, surface water runoff volumes and soil erosion and sedimentation, such that there is no significant increase thereof.

(5) Permanent, final plant covering or structures shall be installed as soon as possible.

(6) The plan of development shall relate to the topography and soils of the site so that the lowest potential for erosion is created.

(7) Natural plant covering shall be retained and protected and shall be deemed a dominating factor in developing the site.

(Ord. passed 11-93)

§ 152.106 WIND ENERGY CONVERSION SYSTEMS (WECS).

The location, design and maintenance of WECS shall be governed as follows:

(A) Applicants requesting a building permit for a WECS shall furnish such scale drawings and information as the city deems necessary. This information shall include, but is not limited to the following:

- (1) A site plan of the premises involved showing lot lines;
 - (2) The accurate location of all buildings or structures on the premises and on each adjacent lot;
 - (3) The location of proposed tower and all guy wires, poles or anchors; and
 - (4) A sketch elevation of the premises accurately depicting the proposed tower and its relationship to structures on adjacent lots.
- (B) The permitted maximum height of a WECS shall be determined in one of two ways:
- (1) A ratio of one to one between the distance from the closest property line to any part of the WECS tower to the height of the tower;
 - (2) A maximum of 100 feet in the agricultural and industrial districts and 50 feet in residential and commercial districts. The shortest height of the two above mentioned methods shall be used in determining maximum height. Height shall be measured from the surrounding grade to the rotor hub or top of the tower whichever is higher.
- (C) No part of the WECS shall be located within or above any required front, side or rear yard.
- (D) No part of the WECS shall be located such that it could potentially affect or come into contact with any telephone, TV cable or electrical lines on the same adjacent properties.
- (E) All WECS shall be designed to meet the following minimum standards:
- (1) The tower and tower footing be engineered to withstand wind and icing loads for this geographic area;
 - (2) The WECS shall have an automatic braking device capable of halting operation in conditions of imbalance or excessive wind speeds (40 m.p.h. or greater);
 - (3) The WECS shall be designed, constructed and operated so as to not cause radio and television interference;
 - (4) The WECS blade design and materials shall be adequate to insure safe operation in an urban area;

Byron - Land Usage

(5) The wind turbine and the tower shall be compatible;

(6) The WECS shall be operated and maintained in a condition which will not exceed the noise level prescribed by Minnesota State Regulation NPC 1 and 2 Noise Standards and any amendments thereto;

(7) The WECS shall be guarded against unauthorized climbing. The first 12 feet of the tower shall be unclimbable by unauthorized persons by design or be enclosed by a 6-foot high, non-climbable fence with a secured access;

(8) The WECS shall be designed and installed to withstand natural lightening strikes;

(9) The WECS electrical equipment and connections shall adhere to all state and local government, as well as power company regulations and standards.

(F) Any WECS not in operation for 12 consecutive months shall be dismantled.

(G) The city shall require liability insurance to be maintained on the WECS by its owner.

(H) In order to insure adequate wind access, the city does encourage the use of private easements and restrictive covenants as a means to protect wind access.

(Ord. passed 11-93)

§ 152.107 SOLAR ENERGY SYSTEMS.

(A) Solar energy systems shall be considered as accessory structures and shall meet all requirements as such; however, provided that lot coverage requirements shall not apply and that such systems may be located closer than six feet to the principal building which the system serves, although all building code requirements shall be met or exceeded.

(B) Use of solar energy systems is subject to the constraints imposed by the topography and any existing vegetation or tall structures on adjacent and nearby lots at the time of adoption of this chapter.

(C) Solar energy systems shall be exempted from lot coverage restrictions; however in all residential districts if the total surface of the solar energy systems is equal to or more than 10% of the lot area, then a conditional use shall be required prior to construction of any system elements.

(D) After placement of a solar energy system on a lot all new vegetation on public lands, including rights-of-way, shall not interfere with the proper and efficient operation of existing solar energy systems on adjacent and nearby private property.

(E) As a general policy, reasonable care should be taken to protect the opportunity for the utilization of solar energy systems at all locations where solar energy is available.

(F) The city does encourage the use of private easements and restrictive covenants as a means to protect access to sunlight. All such documents should be recorded with the Olmsted County Recorder.

(G) Where a solar energy system is installed on a lot, a statement to that effect shall be filed and recorded with the Olmsted County Recorder and the date of installation shall be the date of recordation. Furthermore, as a means of evidencing conditions, the owner of a solar energy system may file notarized photographs of the affected area with the city prior to installation of said system.
(Ord. passed 11-93)

§ 152.108 SANITARY SEWER PROVISIONS.

(A) Providing treatment capacity is available, the owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated within the city and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the city are required at the owners expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter within 90 days after date of official notice to do so, provided that said public sewer is within 100 feet of the property line and the structure to be served is reasonably close to the property line where tracts larger than a normal municipal lot are to be served.

(B) The provisions of this section shall not apply to temporary construction sites or portable units used in farming operations.

(C) No portion of this section shall restrict the city from enforcing other city ordinances related to the construction, location, maintenance or operation, connections and uses of the sanitary sewer system.
(Ord. passed 11-93)

§ 152.109 SWIMMING POOLS, HOT TUBS AND SPAS.

(A) *Application.* This section applies to any pool, hot tub or spa which is in excess of 48 inches in depth and over 100 square feet in surface area.

(B) *Exclusive private use.* The pool, hot tub or spa is intended and is to be used solely for the enjoyment of the occupants of the principal building of the property upon which it is located and their guests.

Byron - Land Usage

(C) *Distance requirements.* Swimming pools, hot tubs or spas may be located in the buildable area or required rear yard but shall not be closer than 10 feet to any property line on which they are located, provided that pump installations shall be located not closer than 20 feet to any property line.

(D) *Fencing and access control.*

(1) For a below grade swimming pool, hot tub or spa, the pool, hot tub or spa, or the property upon which said pool, hot tub or spa is located, shall be enclosed by a fence of a type which effectively controls the entrance by children to the pool, hot tub or spa area, said fence to be at least six feet in height. Wooden fences with boards placed vertically shall not have any opening wider than four inches per opening and wooden fences with boards placed horizontally shall not have any opening wider than one inch per opening.

(2) (a) For an above grade swimming pool, hot tub or spa, the pool, hot tub or spa shall be equipped with an automatically retractable type ladder, a retractable ladder or a removable ladder or shall be fenced in accordance with subsection (1) of this division, said ladder to be removed or retracted when the pool is not being attended.

(b) If access to the pool, hot tub or spa is via a deck or porch, then no access from the ground is permitted to the deck area unless the property or the ground access to the deck is fenced in accordance with subsection (1) of this division.

(3) (a) It shall be the responsibility of the property owner upon where said pool, hot tub or spa is located to maintain all fences, gates and closure devices in good operating condition.

(b) Failure to maintain fences, failure to have gates closed or failure to either remove or retract the ladder access to the pool, hot tub or spa shall constitute a violation of this chapter and therefore be subject to the penalties contained in § 152.999.
(Ord. 157, passed 12-18-96) Penalty, see § 152.999

§ 152.110 WIRELESS COMMUNICATIONS AND ANTENNAS.

(A) *Purpose.* Establish regulations that protect the public health, safety and general welfare of the community, for the siting, construction and maintenance of Wireless Communication Towers (WCT) and similar facilities within the city. This does not pertain to amateur radio.

(B) *Objectives.* The regulations of this subchapter are intended to:

(1) Maximize the use of existing approved structures for siting new antennas in order to reduce the number of new towers needed to serve the community.

(2) Provide for the appropriate location and development of antennas and towers within the city.

(3) Minimize adverse visual effects of wireless communications towers through siting standards.

(4) Utilize standard structural and setback requirements to avoid potential damage to adjacent properties from antenna and tower failure.

(C) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANTENNA. Any device or equipment used for the transmission or reception of electromagnetic waves, which may include omni-directional antenna, directional antenna or parabolic antenna.

CO-LOCATION. The location of more than one antenna or set of antennas on the same wireless communication tower or structure.

ENGINEER. Any person practicing as a professional engineer shall be duly licensed and certified under the guidelines stipulated in M.S. Ch. 326, as may be amended from time to time, for their particular field.

FAA. Federal Aviation Administration.

FCC: Federal Communication Commission.

HEIGHT. The distance measured from the ground level at the base of the tower or structure to the highest point on a tower or structure.

TOWER. Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, e.g. monopoles and similar structures.

TOWER ACCESSORY STRUCTURE. Any structure located at the base of a tower for housing receiving or transmitting equipment.

WIRELESS COMMUNICATION. Any personal wireless service as defined in the Federal Communications Act of 1996, including FCC licensed commercial wireless telecommunications services such as cellular, personal communication services (PCS), paging and similar services that currently exist or may be developed.

(D) *Conditional use.* Wireless communication towers and similar facilities are a conditional use within all zoning districts subject to the following conditions:

(1) *Permit required.* It shall be unlawful for any person, firm, or corporation to erect, construct, place, replace or structurally repair any wireless communication tower or adjoining/accessory

Byron - Land Usage

buildings without first making application to the Zoning Administrator and securing appropriate permit approval. Building permits are not required for adjustment or replacement of the elements for an antenna array affixed to a tower or antenna. All applications shall be accompanied by a coverage/interference and capacity analysis, including a technical evaluation of existing and proposed transmissions indicating all potential interference problems including, but not limited to, residential broadcast reception and public safety communications. All applications must demonstrate compliance with all existing FCC, FAA, Uniform Building Code and other pertinent regulations. As regulations change, wireless communication operators must demonstrate continued compliance at their expense. All subsequent co-locators must apply for individual building and conditional use permits in conformance with this section.

(2) Permitted locations.

(a) No wireless communication tower shall be erected in the city unless the applicant demonstrates that the equipment planned for the purpose of the proposed wireless communication cannot be accommodated on an existing or approved tower, building, or structure within one mile search radius of the proposed tower due to one or more of the following reasons:

1. The planned equipment would exceed the structural capacity of the existing or approved structure, as documented by a qualified and licensed professional engineer; and the existing or approved structure cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

2. 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 and licensed professional engineer, and the interference cannot be prevented at a reasonable cost.

3. Existing or approved wireless communication towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.

4. Other unforeseen reasons that make it unfeasible to locate the planned equipment upon an existing or approved structure.

(b) Wireless communications towers are permitted with a conditional use in areas with the following uses:

1. Industrial, manufacturing, commercial, and agricultural;
2. Parks and public open space when sited and designed to be compatible with the nature of the site;
3. Government, school and public utility structures; and
4. Church sites.

(E) *Design standard.* All applications must meet the following minimum requirements.

(1) All towers and antennas shall comply with all FCC and FAA rules and regulations. Wireless communication towers attached to a building or existing structure shall comply with the setbacks of the zoning district and shall not exceed 20 feet in height beyond the top of the primary structure. Free standing towers shall be set back one foot from any property line or building for each one foot of structural height. Freestanding towers shall not be located in a front yard, nor shall any part of the antenna or tower extend across or over any part of the public right-of-way, street, highway or walkway.

(2) Towers should be located in areas that provide the maximum possible amount of natural or existing structural screening for off-site view.

(3) Towers shall be self supporting without the use of wires, cables, beams or other means, the design should utilize an open framework or monopole configuration that is designed to collapse in on itself in the event of structural damage. Design and installation of towers and antennas shall comply with all applicable federal and state standards, including FCC and FAA standards and the current Uniform Building Code, and shall be approved and stamped by a licensed professional structural engineer.

(4) Towers shall be designed to allow the future co-location of equipment at varying heights. Tower operators are required to accept co-location of communication equipment and shall not make co-location economically unfeasible. Towers over 150 feet in height shall be designed for co-location of at least three additional antennas. Towers of 125 feet to less than 150 feet shall be designed for co-location of at least two additional antennas. Towers of 100 feet to less than 125 feet shall be designed for co-location of at least one additional antenna. Subsequent co-locators are subject to the same provisions and procedures as the primary conditional use applicant.

(5) Towers shall only be illuminated by artificial means if such light is required by Federal (FAA) or State regulations; or if the lighting is used to illuminate ball fields, parking lots or similar areas; or if said artificial illumination is used for crime prevention purposes.

(6) The use of any portion of a tower for signs other than required warning or equipment information is prohibited. All buildings and structures accessory to a tower shall:

(a) Be constructed of a material on the exterior of the building similar to the surrounding residential area when located in or adjacent to a residential zoning district.

(b) Be buffered and screened from adjoining uses as established in the requirements of the underlying zoning district.

(c) Meet the height and setback limitations as established for each zoning district.

Byron - Land Usage

(7) A tower shall have only one accessory building, which shall be immediately adjacent to the tower. The accessory building shall contain only electronic equipment that is necessary for the functioning of the telecommunications system.

(8) The ground level perimeter may be required to be screened with pre-approved landscaping and/or fencing at the owners expense. The tower shall be reasonably protected against unauthorized access and vandalism.

(9) All construction, installation, wiring and maintenance of towers shall not create a safety hazard or damage to the property of others, nor interfere with public safety communications.

(10) Owners or operators shall remove abandoned or unused towers and similar facilities within 12 months of the cessation of operations and shall restore the site to its original condition. Should the owners or operators of abandoned or unused towers and similar facilities fail to abide by this provision, the city shall remove the structure and shall assess the costs to the property, owner or operator.

(11) All wireless communication facilities that are in existence to date may continue to operate, but may not be replaced or structurally altered without complying in all respects to this section. Routine adjustment or replacement of the primary or co-location antennae shall not constitute a replacement or structural alteration of a wireless communication facility.

(12) When the owner of property upon which a wireless communication facility is located requests preliminary plat approval or requests the issuance of a building permit, any and all wireless communication facilities which fail to conform to this section shall be removed prior to preliminary plat approval or building permit issuance, whichever occurs first.

(Ord. 01-02, passed 11-28-01)

§ 152.111 SUBSTITUTES FOR BUILDINGS.

(A) *Purpose.* The purpose of this section is to promote and enhance the health, comfort, aesthetics, prosperity and overall positive quality of growth of the city by providing uniform regulation of the use of semi-trailers and other similar conveyances as substitutes for principal and accessory buildings. The purpose is not to ban trailers that are being used to transport snowmobiles, sporting equipment, race cars or other recreational vehicles.

(B) *No substitute for principal building.* It shall be unlawful to place, erect or maintain within the city any shipping container, wagon, motor vehicle, semi-trailer, truck or similar conveyance as a substitute for a principal building.

(C) *No substitute for accessory building on lands zoned for residential use.* It shall be unlawful to place, erect or maintain in the city, upon any lands zoned for any residential use any shipping container

as defined herein, wagon, motor vehicle, railroad car, trailer, semi-trailer, truck or similar conveyance which has not been manufactured for use exclusively for mobile recreational purposes as a substitute for an accessory building.

(D) *Substitute for accessory building used exclusively for storage purposes on lands zoned for other than residential use.* It shall be unlawful to place or erect upon any lands zoned for other than residential use in the city any semi-trailer or similar conveyance as defined herein used as a substitute for an accessory building used exclusively for storage purposes after May 31, 2002 with the following exceptions:

(1) *Mobile medical diagnostic equipment.* Mobile units that contain medical diagnostic equipment for medical clinics or medical facilities.

(2) *Construction sites.* The provisions of this section shall not prevent the use of semi-trailers, shipping containers or similar conveyances to be used temporarily as substitutes for buildings on construction sites during construction provided, however, in no event shall such temporary substitutes for buildings remain 30 days after cessation or completion of construction.

(3) *Tents.* Tents shall not be used as substitutes for principal buildings or as accessory buildings, except when erected in accordance with applicable state and local code may be used as an accessory building or for the conducting of retail sales for a period not to exceed 21 days in each calendar year.

(4) *Temporary retail sales.* The provisions of this section shall not prevent the conducting of retail sales directly from semi-trailers or trucks for a period not to exceed 72 consecutive hours per placement and no more than three such placements in aggregate per address, location or parcel in any one calendar year.

(5) *When permitted.* On lands zoned for other than any residential use, a permit may be issued by the City Council, to allow semi-trailers, shipping containers and other similar conveyances used exclusively for storage to be placed for a maximum aggregate period of 60 days within any one calendar year if determined by the City Council that such placement is not contrary to the provisions of this code. A permit from the City Council for the placement of such semi-trailers and similar conveyances shall be required. The permit fee for such semi-trailers and similar conveyances shall be \$25 per unit, per placement. Applications for a permit shall be submitted on forms provided and shall include other information as required by the City Council.

(6) *Special permission and variance.* Special permission or a variance may be obtained to allow semi-trailers and similar conveyances as described herein used as a substitute for an accessory building used exclusively for storage purposes which are existing as of March 31, 2002 and which are located upon lands zoned for other than any residential use and are within 100 feet and not less than 25 feet to any residentially zoned lands, for a period of more than 60 days in any one calendar year from the City Council in accordance with the procedure set forth in this division to the extent applicable.

Byron - Land Usage

(a) *Time limit to apply for special permission or variance to allow existing semi-trailers or similar conveyances.* Persons wishing to apply for such special permission or variance for semi-trailers or similar conveyances in existence as of March 31, 2002 shall be required to make such application and obtain such special permission or variance from the City Council before December 31, 2002.

(b) *Fire Department approval.* Such request for special permission or variance shall first be reviewed and approved in writing by the City Fire Department as to proposed location and contents and shall be submitted on forms provided by City Hall. Completed applications shall be submitted to the Planning and Zoning Commission which will process and forward them to the City Council.

(c) *Notification of neighbors and council member.* The owners of all properties located within 350 feet of the property to which the application for a variance or special permission pertains, including those property owners across any street or alley way, are located shall be provided not less than ten days prior written notice by regular mail of the date, time and location of when and where the matter will be heard by the Planning and Zoning Commission with its recommendation forwarded to the City Council for final action.

(d) *A Permit required for sites granted special permission or variance.* A permit shall be obtained from the City Council for all existing semi-trailers and similar conveyances allowed under special permission or variance by the City Council. Subsequent annual permits may be issued by the City Council without further appeals to the City Council if the size, type, number, location and screening of trailers and other similar conveyances originally approved by the City Council remain unchanged and in any case such permits shall not exceed the time limitations for ultimate removal set forth in this section. The permit fee shall be \$50 per location or address paid on or before January 31 of each year for which the permit is valid.

(7) *Sunset dates for removal.* In the event of a transfer of business management, proprietorship or ownership of land upon which such semi-trailers or similar conveyances are located, special permission or variance granted by the City Council to allow semi-trailers or similar conveyances for a period of more than 60 days in any one calendar year shall be limited to a period of not greater than five years from the date of such transfer or January 1, 2010, whichever comes first. In all other cases such special permission or variance shall not extend beyond January 1, 2010.

(a) All semi-trailers and similar conveyances used as substitutes for accessory buildings used exclusively for storage shall be removed no later than January 2, 2010.

(b) All such semi-trailers and similar conveyances used as substitutes for accessory buildings used exclusively for storage which have not been validated via the special permission or variance process and which have not been allowed via the permit process by December 31, 2002 as required by this subsection or which have not been removed on or before January 2, 2010 as provided herein shall be ordered removed by the City Council.

(c) In the event of noncompliance with the order to remove, the City Council shall be empowered to authorize and effect the removal and disposal of such noncompliant trailers or similar conveyances regardless of physical condition, along with any contents thereof, the cost of which may be charged in full or in part against the real estate upon which the trailers or similar conveyances are located, and if that cost is so charged it is a lien upon the real estate and may be assessed and collected as a special tax.

(E) (1) *Setback requirements.* All such semi-trailers or similar conveyances including those on land zoned industrial and commercial shall be located not less than 25 feet from all lands zoned for residential use measured so as to exclude any street or alley right-of-way and shall be located not less than 10 feet from any other building or structure excluding fences.

(2) Appeals in accordance with the procedures provided in the Zoning Ordinance may grant a variance from the above setback requirements.

(F) (1) *Screening and maintenance requirements.* Vertical stacking of shipping containers or similar conveyances shall not be permitted.

(2) Existing semi-trailers or similar conveyances used as substitutes for accessory buildings exclusively for storage under special permission or a variance granted by the City Council that are within 100 feet and not less than 25 feet of residentially zoned lands shall be screened from view by the principal building and/or coniferous trees and/or by opaque fencing approved by the City Council. Coniferous trees shall be at least six feet in height at the time of planting, measured from the ground, immediately adjacent to the tree and such trees shall be of a species that grows to a height of at least 12 feet and shall be maintained to sufficiently screen such semi-trailer or similar conveyance so long as such use is permitted.

(3) Such semi-trailer or similar conveyance shall be kept in good repair and condition so as not to constitute a nuisance or unsightly condition.

(G) *Revocation of special permission, variance and permits.* All special permission, variances or permits granted under this section may be revoked or rescinded by the granting or issuing authority should there be any violations of this section or the conditions of any such special permission, variance or permit.

(Ord. 02-03, passed 4-10-02) Penalty, see § 152.999

§ 152.112 EASEMENT ENCROACHMENTS AND VACATIONS.

(A) The City of Byron will consider easement encroachment/vacation under certain circumstances. Those circumstances being:

(1) The encroachment/vacation is not located within the 100-year water elevation of an existing storm water pond, wetland or drainage area.

Byron - Land Usage

(2) The drainage will not be affected by the encroachment/vacation of the easement.

(3) The property owner will create the encroachment at no expense to the city.

(4) The property owner agrees to supply the city plans and drawings in detail, illustrating the proposed encroachment.

(5) Any encroachment/vacation is done at the property owner's own risk. If drainage and/or utility improvements on this easement are not properly maintained or otherwise become a problem in the future, the property owner(s) may be required by the city to remove the easement encroachment structure and regrade the easement, at the property owner(s) sole expense.

(6) All other requirements of the Zoning Ordinance shall be enforced. This agreement shall become a part of the permanent property record and apply to all present and future property owners. The property owner shall provide a scaled rendering of the structural encroachment/vacation that shall be attached to and recorded with the application for encroachment.

(7) The encroachment/vacation does not constitute a traffic or other hazard.

(8) The encroachment/vacation does not destroy or impair the public's use of the land for its intended purposes or serves a public purpose that cannot otherwise be accomplished without such minor impairment.

(9) The property owner agrees to save harmless the city from any and all claims for damages, injury or death resulting from the continuation and maintenance of said encroachment.

(10) Property owner agrees that the city or other utility may remove any encroachment or portion thereof, at the property owners' expense, if it is reasonably necessary to do so in order to construct, alter, maintain, repair or replace any utility in said easement. Should a utility remove any such encroachments, or portions thereof, the utility is not liable to the property owner or its successors or assigns for any damages resulting by reason of such removal. In no event shall the utility company be required to replace the encroachment or any part thereof.

(B) A violation of this section would consist of any permanent alteration of any kind to or on an easement prior to completing the vacation/encroachment process. Any individual found in violation of any provision of this section, shall be a guilty of a misdemeanor.
(Ord. passed 10-14-14)

AMENDMENTS

§ 152.120 PROCEDURE FOR AMENDING.

(A) The regulations, restrictions and boundaries set forth in this chapter may from time to time be amended, supplemented, changed or repealed; provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard.

Byron - Land Usage

(B) The Planning Commission shall consider each petition and, after determination of the adequacy of the content of the petition and supplemental data, set a date and prepare the proposed amendment for public hearing, as required by M.S. § 462.357, subd. 3, as it may be amended from time to time. At least ten days' notice of the time and place of such hearing shall be published in a local newspaper. The Planning Commission shall notify by mail all property owners within 350 feet of the property in question at least ten days prior to the date of the public hearing. Failure of any property owner or occupant to receive such notice shall not invalidate the proceedings.

(C) The public hearing shall be held within 30 days after determination of the adequacy of the petition and supplemental data, and a recommendation shall be submitted to the City Council after the determination of the adequacy of the petition and supplemental data. The Planning Commission may recommend modification of a proposed amendment as it affects the land use plan and regulations of the city and as it reflects the interest of adjacent property and of the community as a whole.

(D) The City Council shall make disposition of the recommendation after receipt of the recommendations from the Planning Commission.
(Ord. passed 11-93)

§ 152.121 VOTE REQUIRED FOR AMENDMENTS.

As required by M.S. § 462.357, subd. 2, as amended from time to time, amendments to this chapter which changes all or part of the existing classification of a zoning district from residential to either commercial or industrial shall be by passage upon a two-thirds vote of the full City Council.
(Ord. passed 11-93)

§ 152.122 PETITIONS PREVIOUSLY DENIED.

A period of not less than one year is required between presentation to the Planning Commission of the same petitions for a change or amendment applying to a specific piece of property where prior petition was denied unless there has been a substantial change of facts.
(Ord. passed 11-93)

§ 152.123 MAP ADJUSTMENTS.

If, in accordance with this subchapter, changes are made in the district boundaries or other information portrayed on the Zoning Map, such changes shall be entered on the Zoning Map within one month after the amendment has been approved by the City Council, together with a copy of the

application and related written material submitted, gathered or developed for consideration of the application for amendment of the Zoning Map and which shall be kept as a public record by the Zoning Administrator.

(Ord. passed 11-93)

BOARD OF ADJUSTMENT

§ 152.135 POWERS AND DUTIES.

(A) The Board of Adjustment shall act upon all questions as they may arise in the administration of this chapter, including the interpretation of zoning district boundaries, and it shall hear and decide appeals from and review any order, requirement, decision or determination made by the Zoning Administrator. Such appeal may be taken by any person aggrieved or by any officer, department, board or commission of the city.

(B) Such appeal shall be taken in such time as is prescribed under § 152.137 by filing with the Board of Adjustment through the Zoning Administrator's office a notice of appeal specifying the grounds thereon. All appeals shall be properly filed with the Board of Adjustment. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the appellant and the Zoning Administrator from whom the appeal is taken and decide the same within a reasonable time. The Board of Adjustment may, so long as such action is in conformity with the terms of the chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the Zoning Administrator from whom the appeal was taken and may issue or direct the issuance of a permit. The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter or to effect any variation in the application of this chapter. The reason for the Board's decision shall be stated in written findings. Any aggrieved person shall have the right to appeal to the District Court for Olmsted County.

(C) The Board of Adjustment shall have power to vary or adapt the strict application of any of the requirements of this chapter in the case of exceptionally irregular, narrow or shallow lots or other exceptional physical conditions, whereby such strict application would result in undue hardship as provided in M.S. § 462.357, subd. 6(1), as it may be amended from time to time or undue hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other cases except as specifically described in § 152.136.

(Ord. passed 11-93)

§ 152.136 VARIANCES, CONDITIONS GOVERNING APPLICATIONS.

(A) Pursuant to M.S. § 462.357, subd. (6), as it may be amended from time to time, the Planning Commission may recommend to Council to approve variances from the provisions of this zoning code. A variance is a modification or variation of the provisions of this zoning code as applied to a specific piece of property.

(B) Variances shall only be permitted:

- (1) When they are in harmony with the general purposes and intent of this section; and
- (2) When the variances are consistent with the comprehensive plan.

(C) Practical difficulties, as used in connection with the granting of a variance, means that:

- (1) The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;
- (2) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
- (3) The variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

(D) (1) Variances shall be granted for earth sheltered construction as defined in M.S. § 216C.06, subd. 14, when in harmony with this section.

(2) The Planning Commission may not recommend a variance for any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located.

(3) Under no circumstances shall the City Council grant a variance to an existing nonconforming use of land or building as specified under § 152.084.

(4) The Board may recommend as a variance the temporary use of a one family dwelling as a two family dwelling.

(5) The Board may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance. Violation of such conditions, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

(Ord. passed 11-93; Am. Ord. passed 4-11-12)

§ 152.137 PROCEDURE.

(A) After receipt of filing of a request for a variance or an appeal from an administrative order or determination, and after proper notice of such hearings have been issued the Planning Commission shall hold a public hearing on their next regularly scheduled meeting date. At the public hearing the Planning Commission shall hear such persons as wish to be heard, allowing for proper legal notification, either in person or by agent or attorney. Notice of such hearing shall be published in the official newspaper of the city at least ten days prior to the date of the hearing. In addition, notice of such hearing shall be mailed not less than ten days before the date of the hearing to the person or persons who filed the appeal or request and, in the case of a request for a variance, to each owner of property situated wholly or partly within 350 feet of the property to which the appeal or variance relates.

(B) The Planning Commission shall review and report its findings on each appeal or petition to the City Council.

(C) Not later than 30 days after the hearing, the City Council shall make its order deciding the matter and serve a copy of such order upon the appellant or the petitioner by mail.
(Ord. passed 11-93; Am. Ord. passed 4-11-12)

§ 152.138 REQUIRED EXHIBITS.

The following exhibits shall be required for all variance proceedings:

(A) A completed application form. For variance requests the application in whatever form shall include all required information. For all other appeals the applicant shall state the ground upon which the appeal is based and furthermore shall state the particular kind of relief the applicant is seeking;

(B) An accurate site plan.
(Ord. passed 11-93; Am. Ord. passed 4-11-12)

ADMINISTRATION AND ENFORCEMENT

§ 152.150 ENFORCEMENT.

The provisions of this chapter shall be administered and enforced by the Zoning Administrator designated by the City Council or his or her authorized representative.
(Ord. passed 11-93)

§ 152.151 ADMINISTRATIVE COMPLIANCE.

The Zoning Administrator shall examine all applications for zoning certificates required for the construction, alteration, repair, enlargement of any building or structure or expansion of any use of land and shall find that all proposed uses comply with the provisions of this chapter and shall endorse thereon the date of his or her approval. Any permit or license issued in conflict with the provisions of this chapter shall be null and void and of no effect whatsoever.
(Ord. passed 11-93)

§ 152.152 ADMINISTRATIVE ACTION FOR VIOLATIONS.

If the Zoning Administrator shall find that any of the provisions of this chapter are being violated, he or she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He or she shall order discontinuance of the legal use of land, buildings or structures; removal of illegal buildings or structures or of illegal additions, alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions.
(Ord. passed 11-93)

§ 152.153 COMPLAINTS REGARDING VIOLATIONS.

Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the causes and basis thereof and shall be filed with the Zoning Administrator. The Zoning Administrator shall record properly such complaint, investigate in a timely fashion and take action thereon as provided by this chapter. The person(s) filing the complaint shall remain confidential as required by state law.
(Ord. passed 11-93)

§ 152.154 ZONING CERTIFICATE.

(A) It shall be unlawful to initiate construction, conversions, whole or partial alterations or enlargements of a use, building or structure covered by the requirements of this chapter until a zoning certificate has been issued by the City Council or Zoning Administrator stating that the proposed use of the building or land conforms to the requirements of this chapter.

(B) All applications for zoning certificates shall be accompanied by a certificate of survey for new development or a legal description and site plans drawn to scale showing the actual dimensions and shape of the lot to be built upon, the exact sizes and locations on the lot of buildings already existing, if any, and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the City Council or Zoning Administrator, including existing or proposed uses of the building or alteration; the number of families, housekeeping units or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with and provide for the enforcement of this chapter.

(C) One copy of the zoning certificate application shall be submitted to the Olmsted County Public Works Department at the time of filing for a building permit. One copy of the plans shall be returned to the applicant by the Zoning Administrator after he or she shall have marked such copy either as approved or disapproved and attested to same by his or her signature on such copy. The original of the certificate, similarly marked, shall be retained by the Zoning Administrator. The Zoning Administrator shall maintain a record of all zoning certificates and a copy shall be furnished upon request to any person.

(D) Failure to obtain a zoning certificate shall be a violation of this chapter and punishable under § 152.998.

(Ord. passed 11-93) Penalty, see § 152.999

§ 152.155 EXPIRATION OF ZONING CERTIFICATE.

If the work described in any zoning certificate has not begun within six months from the date of issuance thereof, the permit shall expire; it shall be canceled by the Zoning Administrator, and written notice thereof shall be given to the persons affected.

(Ord. passed 11-93)

§ 152.156 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS, PERMITS AND ZONING CERTIFICATES.

Zoning certificates issued on the basis of plans and applications approved by the administrative official authorize only the use, arrangement and construction set forth in such approved plans and applications and no other use, arrangement or construction. Use, arrangement or construction at variance with that authorized shall be deemed a violation of this chapter and punishable as provided by § 152.998. (Ord. passed 11-93)

§ 152.157 CONDITIONAL USES; CONDITIONS GOVERNING APPLICATIONS, PROCEDURES.

(A) *Definition and purpose.* A conditional use (CUP) and an interim use permit (IUP) is a use that is permitted within the applicable zoning district but which may be or could become incompatible under certain conditions with adjacent uses or generally with other uses within the applicable zoning district. As a result a public review shall be required before the land may be used for the specified purpose with review of the proposed site design and conditions on the use of the property or lot under consideration may be added before approval is granted. The use shall comply with all standards of this chapter and any additional conditions, including conditions of operation, location, arrangement, and construction, as may be necessary to protect public health, safety or welfare.

(B) *Procedure.* Because of their peculiar characteristics, certain uses may have an adverse effect on a neighborhood, on the use and enjoyment of adjoining property or on public services and facilities. Therefore, the procedure shall be the same procedure as outlined in § 152.120. Proposed cluster developments and planned residential developments shall be processed under the subdivision platting procedures as required by the subdivision ordinance.

(C) *Application.* Application for a CUP or IUP shall be made to the city on an official city application form. An application for a CUP or IUP shall be accompanied by a non-refundable fee as set forth on the City Council annual fee schedule. Such application shall also include written and graphic materials fully explaining the proposed change, development or use. The city may require that the applicant submit the following information before the application can be deemed complete:

- (1) Legal description of the subject property;
- (2) Evidence of ownership or an interest in the property;
- (3) Landscape plan drawn to scale;
- (4) Grading and drainage plan;
- (5) Description of type of business or activity and proposed number of employees;

Byron - Land Usage

(6) The Planning Commission may require preliminary architectural drawings and sketches on all buildings or groups of buildings showing front, side and rear elevations of the proposed building, structure or other improvements. An accurate property description and a site design plan showing existing or proposed buildings, streets, access, parking spaces, signs and landscaping and screening plans where necessary shall be required to be submitted along with the application form; and

(7) Site design plans shall be considered in an endeavor to ascertain that such buildings, structures and other improvements shall be so designed and constructed that they will not be detrimental to or endanger the public health, safety and general welfare.

(D) *Standards.* The Planning Commission shall recommend a conditional use permit/interim use permit and the City Council shall order the issuance of such permit only if it finds the use to be consistent with the general purpose and intent of this chapter and the comprehensive plan. Its judgement shall be based upon, but not limited to the following:

- (1) Will be harmonious with the general and applicable specific policies of the Comprehensive Guide Plan of the city and this chapter;
- (2) Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the surrounding area and will not change the essential character of that area;
- (3) Will not be hazardous, unhealthy or unsafe to existing or future neighboring uses;
- (4) Will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, water and sewer systems and schools or will be served adequately by such facilities and services provided by the persons or agencies responsible for the establishment of the proposed use;
- (5) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
- (6) Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare because of excessive production of or offensive traffic, noise, smoke, fumes, dust, glare, vibrations, odors or other pollutants;
- (7) Will have vehicular approaches to the property which are so designed as not to create traffic congestion or an interference with traffic on surrounding public thoroughfares;
- (8) Will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance;
- (9) Shall conform to specific standards of this chapter applicable to the particular use and location;

(10) Will be compatible with surrounding buildings, circulation, open space, landscaping, parking and compatible with existing natural topography, natural water courses, vegetation, exposure to sunlight and wind.

(E) *Conditions.* In recommending or approving any conditional use permit/interim use permit, the Planning Commission and the City Council may impose conditions which it considers necessary to meet the standards of this chapter and to protect the best interests of the surrounding area or the city as a whole. Such conditions as are imposed shall bind any successors and shall not be affected by any subsequent transfer of ownership. Violation of any such condition is a violation of this section. These conditions may include but are not limited to the following:

(1) Ingress and egress modifications to the property and proposed structures thereon with particular reference to vehicle and pedestrian safety and convenience, traffic flow and control and access in case of fire or other catastrophe;

(2) Changes to off-street parking and loading areas where required with particular attention to the related noise, glare or odor effects on nearby property;

(3) Changes to refuse and service areas with particular attention to ingress and egress;

(4) Modifications in utility plans with reference to location, availability and compatibility;

(5) The addition of fencing, screening, landscaping or other facilities to protect or buffer abutting or adjacent property;

(6) Modification to proposed signs, if any, and proposed exterior lighting with reference to glare, traffic, safety and compatibility and harmony with properties in the district;

(7) Changes in required yards and other open space;

(8) Controls on the hours of operation of all or portions of a particular use.

(F) Prior to approving an application for a CUP or IUP, the applicant must bring property taxes, special assessments, interest and city utilities up to date.

(G) Application for changes in the conditions or site design plan of an approved conditional use/interim use permit shall be required.

(1) The City Council may approve, disapprove or approve with conditions the application. Approval of the changes by the City Council shall be granted before on-site changes or development are permitted. A public hearing before the City Council shall be held where a public hearing was required for approval of the original proposal and application. Changes in the approved site plan, submitted as part of the conditional use permit application, involving minor changes in:

Byron - Land Usage

(a) The location and alignment of buildings not to exceed ten feet and that meet all other ordinance requirements;

(b) Other minor revisions in the shape of structures and still meeting all other ordinance requirements;

(c) Or adding accessory structures not exceeding 5% of the total floor area of all structures on the property and meeting all other ordinance requirements may be authorized by the Zoning Administrator for good cause shown.

(2) The Zoning Administrator, however, may refer such proposed changes to the site plan to the Planning Commission for review if the proposed changes do not appear to fit clearly into one of the above three options or where proposed changes appear to change or compromise conditions placed on the applicant at the time of approval of the conditional use and site plan by the City Council.

(H) *Denial for noncompliance.* If the Planning Commission recommends denial of a conditional use permit or the Council orders such denial, it shall include in its recommendations or determination findings as to the ways in which the proposed use does not comply with the standards required by this chapter.

(I) *Expiration.* If substantial construction has not taken place within six months after the date of a conditional use permit, the permit is void except that, on application the City Council, after receiving the recommendation of the Planning Commission, may extend the permit for an additional period not to exceed six months. A conditional use permit authorizes only the conditional use specified in the permit and expires if for any reason the authorized use ceases for more than one year. An interim use permit expires and the interim use must terminate at the earlier of:

(1) The expiration date in the interim use permit;

(2) The occurrence of any event identified in the interim use permit for the termination of the use;

(3) Revocation of the interim use permit;

(4) An amendment of the City Code that no longer allows the interim use;

(5) An interim use permit expires one year after approval if the proposed use has not commenced or a building permit for a structure to support the interim use has not been issued; or

(6) An interim use permit expires if the interim use ceases operation for a continuous period of at least one year.

(J) *Revocation or modification.* The city may review a conditional use or interim use permit periodically and may revoke a permit upon violation of any condition of the permit, any law of the United States or the State of Minnesota, or any city ordinance. If it is discovered after approval of the conditional use or interim use permit that the city's decision was based at least in part on false, misleading, or fraudulent information, the city may revoke the permit, modify the conditions or impose additional conditions to ensure compliance with this section.

(Ord. passed 11-93; Am. Ord. passed 1-14-14)

§ 152.998 VIOLATIONS.

Any building or structure being erected, constructed, reconstructed, altered, repaired, converted or maintained, any building, structure or sign hereafter erected or maintained or land use made or permitted in violation of this chapter is declared unlawful. In the event of a violation or threatened violation of this chapter or other official control adopted under M.S. §§ 462.351 through 462.365, in addition to other remedies, the City Council or their designee may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violation or threatened violations, and it shall be the duty of the Zoning Administrator to institute such actions.

(Ord. passed 11-93; Am. Ord. passed 1-14-14) Penalty, see § 152.999

§ 152.999 PENALTY.

Any person, firm, corporation or entity who violates any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction, be punished as provided in § 10.99. Each day that a violation is committed or permitted to exist shall constitute a separate offense. The imposition of any fine or sentence shall not exempt the offender from compliance with the requirements of this chapter, and the city may pursue, by appropriate actions or proceedings, any or all additional other remedies.

(Ord. passed 11-93; Am. Ord. passed 1-14-14)

