

## CHAPTER 151: SUBDIVISION REGULATIONS

### Section

#### *General Provisions*

- 151.01 Title
- 151.02 Policy
- 151.03 Purposes
- 151.04 Jurisdiction
- 151.05 Definitions
- 151.06 Legal authority
- 151.07 Conditions
- 151.08 Interpretation, conflict and separability
- 151.09 Preservation and appeals
- 151.10 Amendments
- 151.11 Variances
- 151.12 Enforcement
- 151.13 Resubdivision of land
- 151.14 Conveyance by metes and bounds

#### *Procedures for Submission of Plats*

- 151.25 Coordination of flexible zoning application with subdivision approval
- 151.26 Preliminary plat
- 151.27 Final plat

#### *Specifications for Documents*

- 151.40 Preliminary plat
- 151.41 Final plat
- 151.42 Construction plans: final plat

*Requirements for Improvements, Reservations and Design*

- 151.55 General improvements
- 151.56 Improvements
- 151.57 Streets
- 151.58 Drainage and storm sewers
- 151.59 Water facilities
- 151.60 Sewerage facilities
- 151.61 Sidewalks and other pedestrian facilities
- 151.62 Utilities
- 151.63 Public uses
- 151.64 Nonresidential subdivision

*Assurance for Completion and Maintenance of Improvements*

- 151.75 Improvements and issuance of zoning certificates/building permits
- 151.76 Inspection and acceptance of improvements
- 151.77 Maintenance of improvements
- 151.78 Deferral or waiver of required improvements
  
- 151.99 Penalty

**GENERAL PROVISIONS****§ 151.01 TITLE.**

These regulations shall hereafter be known, cited and referred to as the "Subdivision Ordinance of the City of Byron, Minnesota."  
(Ord. passed 11-93)

**§ 151.02 POLICY.**

(A) It is declared to be the policy of the city to consider the subdivision of land and the subsequent development of the subdivided plat as subject to the control of the city pursuant to the Comprehensive Land Use Plan of the municipality for the orderly, planned, efficient and economical development of Byron.

(B) Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to public health or peril from fire, flood or other menace to property owners or the land resource and land shall not be subdivided until available public facilities and improvements exist and proper provision has been made for drainage, water supply, sewerage and capital improvements such as parks, recreation facilities, transportation facilities and improvements.

(C) The existing and proposed public improvements shall conform to and be properly related to the proposals shown in the Comprehensive Land Use Plan and it is intended that these regulations shall supplement and facilitate the enforcement of the provisions and standards contained in the Building Code, zoning code and Comprehensive Land Use Plan.

(Ord. passed 11-93)

**§ 151.03 PURPOSES.**

(A) This chapter sets forth the minimum requirements deemed necessary to insure and protect the health, safety and welfare of the public.

(B) More specifically, the provisions of this chapter are designed:

(1) To guide the future growth and development of the municipality, in accordance with the Comprehensive Land Use Plan;

(2) To provide for adequate light, air and privacy, to secure safety from fire, flood and other danger and to prevent overcrowding of the land and undue congestion of population;

(3) To protect the character and the social and economic stability of all parts of Byron and to encourage the orderly and beneficial development of the entire city;

(4) To protect and conserve the value of land throughout Byron and the value of buildings and improvements upon the land and to minimize the conflicts among the uses of land and buildings;

(5) To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation and other public requirements and facilities;

(6) To provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the municipality having particular regard to the avoidance of congestion in the streets and highways and the pedestrian traffic movements appropriate to the various uses of land and buildings and to provide for the proper location and width of streets and building lines;

**Byron - Land Usage**

(7) To establish reasonable standards of design and procedures for subdivisions and resubdivisions in order to further the orderly layout and use of land and to insure proper legal descriptions and monumenting of subdivided land;

(8) To insure that public facilities are available and will have a sufficient capacity to serve the proposed subdivision;

(9) To prevent the pollution of air, streams and ponds, to assure the adequacy of drainage facilities, to safeguard the water table and to encourage the wise use and management of natural resources throughout the city in order to preserve the integrity, stability and beauty of the community and the value of the land;

(10) To preserve the natural beauty and topography of the city and to insure appropriate development with regard to these natural features;

(11) To provide for open spaces through the most efficient design and layout of the land, including the use of average density in providing for minimum width and area of lots, while preserving the density of land as established in the zoning code of Byron.

(Ord. passed 11-93)

**§ 151.04 JURISDICTION.**

(A) These subdivision regulations shall apply to all subdivisions of land, as defined herein, located within the corporate limits of Byron.

(B) No land shall be subdivided within the corporate limits of the city until:

(1) The subdivider or his or her agent shall submit a preliminary and final plat of the parcel to the Planning Commission through the City Administrator;

(2) Obtain approval of the concept plan where necessary by the Planning Commission and preliminary and final approval of the plat by the Planning Commission and City Council;

(3) The approved plat is filed with the County Recorder with a copy required by the City Administrator.

(C) No building permit shall be issued for any parcel or plat of land which was created by subdivision after the effective date of, and not in conformity with, the provisions of these subdivision regulations, and no excavation of land or construction of any public or private improvement shall take place or be commenced except in conformity with the regulations.

(Ord. passed 11-93)

§ 151.05 DEFINITIONS.

(A) For the purpose of these regulations, certain numbers, abbreviations, terms and words used herein shall be used, interpreted and defined as set forth in this section.

(B) Unless the context clearly indicates to the contrary, words used in the plural number include the singular; the word *HEREIN* means in these regulations; the word *REGULATIONS* means these regulations.

(C) A *PERSON* includes a corporation, a partnership and an incorporated association of persons such as a club; *SHALL* is always mandatory; a *BUILDING* or *STRUCTURE* includes any part thereof; *USED* or *OCCUPIED* as applied to any land or building shall be construed to include the words intended, arranged or designed to be used or occupied.

*APPLICANT.* The owner of land proposed to be subdivided or his or her representative. Consent shall be required from the legal owner of the premises.

*BLOCK.* Any combination of land ownership bounded by streets, roads or highways, or a combination thereof, or by a combination of streets, roads or highways and public parks, cemeteries, railroad right-of-ways, streams, lakes or similar manmade or natural physical barriers.

*BOND.* Any form of security, including a cash deposit, surety bond, collateral, property or instrument of credit in an amount and form satisfactory to the City Council.

*BUILDABLE AREA.* That part of the lot not included within the minimum yards and open space, including buffering and screening required by the zoning ordinance, official map or other official control.

*BUILDING.* Any structure having a roof supported by columns or walls and used or built for the support, shelter or enclosure of persons, animals, chattels 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.

*CITY ADMINISTRATOR.* The officer as appointed by the governing body to administer these regulations and to assist administratively other boards and commissions.

*CITY ATTORNEY.* The licensed attorney designated by the governing body to furnish legal assistance for the administration of these regulations.

*CITY ENGINEER.* The registered engineer designated by the governing body to furnish engineering assistance for the administration of these regulations.

**Byron - Land Usage**

**COMPREHENSIVE LAND USE PLAN.** A compilation of policy statements, goals, standards and maps for guiding the physical, social and economic development, both private and public, of the municipality and its environs and may include, but is not limited to, the following: statements of policies, goals, standards, a land use plan, a community facilities plan, a transportation plan and recommendations for plan execution. A Comprehensive Land Use Plan represents the City Council's recommendations for the future development of the municipality.

**CONSTRUCTION PLAN.** The maps and drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the governing body as a condition of the approval of the plat.

**CROSS WALKWAY.** A right-of-way or easement dedicated to public use, which cuts across or into a block to facilitate pedestrian access to adjacent streets and public lands, including schools and parks.

**CUL-DE-SAC.** A short street having one end open to traffic and being permanently terminated by a circular turn-around for vehicles.

**DEVELOPER.** The owner of land proposed to be subdivided or his or her representative. Consent shall be required from the legal owner of the premises.

**EASEMENT.** A grant of one or more of the property rights by the property owner for the use of a designated portion of land by the public, individuals, groups or corporations for specific purposes.

**FINAL PLAT.** The final plat shall mean all required maps, information and documents as set forth in the subdivision regulations and as required by the Planning Commission and the City Council.

**FLEXIBLE ZONING.** Zoning which permits uses of land and density of buildings different from those which are allowed as of right within the zoning district in which the land is situated. **FLEXIBLE ZONING** applications may include, but are not limited to, conditional use permit and cluster development planned residential development.

**FRONTAGE.** That side of a lot abutting on a public street or way and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side of a corner lot.

**GOVERNING BODY.** The body of the local government having the power to adopt ordinances for Byron is the Byron City Council.

**GRADE.** The slope of a road, street or other public way, specified in percentage terms.

**IMPROVEMENTS.** See **LOT IMPROVEMENTS** or **PUBLIC IMPROVEMENTS**.

**LOT.** A portion of a subdivision or other parcel of land intended as a unit for transfer of ownership or for development.

**LOT, CORNER.** A lot situated at the intersection of two streets, the interior angle of such intersection not exceeding 135 degrees.

**LOT, IMPROVEMENT.** Any building, structure, place, work of art or other object or improvement of the land on which they are situated constituting a physical betterment. Certain lot improvements shall be properly bonded as provided in these regulations.

**MONUMENT.** Concrete and/or metal markers utilized to establish survey points and lot boundaries.

**NONRESIDENTIAL SUBDIVISION.** A subdivision whose intended use is other than residential, such as commercial or industrial. Such subdivision shall comply with the applicable provisions of these regulations and Minnesota Statutes.

**OFFICIAL MAP.** A map of the municipality and/or any portion thereof lying within the incorporated limits which shows the exact alignment, gradients, dimensions and other pertinent data for parkland, highways and major streets and including specific controls for setbacks from the right-of-way of buildings or other physical structures or facilities.

**OPEN SPACE.** An area of land preserved from building development to provide for the proper density on a design of subdivision, to protect unbuildable areas or areas that are part of a natural system such as drainage facilities or reserved for the use of a home-owners' association for the purpose of active and passive recreation and/or certain other necessary community facilities.

**ORDINANCE.** Any legislative action, however denominated, of a local government which has the force of law, including any amendment or repeal of any ordinance.

**OWNER.** Any person, group of persons, firm or firms, corporation or corporations or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under these regulations.

**PARK AND RECREATION IMPROVEMENT FUND.** A special fund established by the governing body to retain monies contributed by developers in accordance with the required deposit provisions of these regulations within reasonable proximity of the land to be subdivided so as to be of local use to the future residents of the subdivision.

**Byron - Land Usage**

**PARKS.** Area of public land developed and maintained primarily as pleasurable landscaped areas providing for both active and passive recreational pursuits, including tot-lots, playgrounds, neighborhood parks, play fields and special purpose areas.

**PLANNING COMMISSION.** The Planning Commission is a governmental agency appointed by the governing body according to M.S. §§ 462.352 and 462.354, as amended from time to time.

**PLAT.** A map representing a tract of land, a subdivision prepared for filing of record pursuant to state platting laws and containing all elements and requirements set forth in this chapter and the applicable zoning ordinance regulations.

**PRELIMINARY PLAT.** The preliminary plat shall mean all required maps, plans, information and documents as set forth in these regulations and as required by the Planning Commission and City Council for approval.

**PREPLAT INVESTIGATION.** The preplat investigation shall mean the submittal of a concept plan to the Planning Commission and governing body to enable the subdivider to save time and expense in reaching a general understanding with the Planning Commission and governing body as to the required site design, maps, information and documents and the objectives of these regulations.

**PUBLIC IMPROVEMENT.** Any drainage ditch, roadway, parkway, sidewalk, pedestrianway, tree, lawn, off-street parking area, lot improvement or other facility for which the local government may ultimately assume the responsibility for maintenance and operation or which may affect an improvement for which local government responsibility is established. All such improvements shall be properly bonded.

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

**RIGHT-OF-WAY.** A strip of land acquired by dedication, reservation, prescription or condemnation and occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees or for another special use.

**RIGHT-OF-WAY WIDTH.** The distance between property lines measured at right angles to the center line of the street.

**SETBACK.** The minimum distance in linear feet measured on a horizontal plane between a building and each of its lot lines.

**SHADE TREE.** A tree in a public place, street, special easement or right-of-way adjoining a street, as provided in these regulations.

**STREETS.**

(a) **ARTERIAL.** An arterial is a two to four lane street which provides service for municipal or inter-urban trips at a somewhat lower level of travel mobility than a four lane divided or limited access highway. The at-grade intersections should be fully or partially regulated by traffic control devices to ensure safe and efficient conditions for the arterial traffic. Direct private access onto the street shall be permitted but regulated. Under certain circumstances, a frontage road may be needed. Additional right-of-way would be required for the frontage road.

(b) **COLLECTOR.** A collector is a street that serves local traffic and provides for direct private access to abutting land uses. This system channels the local traffic to and from the arterial and local systems and is capable of serving a minimum amount of through traffic.

(c) **LOCAL.** A local street offers the lowest level of mobility because service to through traffic is deliberately discouraged. Direct private access to abutting land uses is provided.

(d) **FRONTAGE ROAD.** A frontage road is adjacent to a major thoroughfare. Its primary function is to preserve the safety and capacity of the thoroughfare by controlling access to the major street while still providing direct private access to the adjoining properties. The roadway of the frontage road abuts the thoroughfare's right-of-way.

**SUBDIVIDER.** Any person who:

(a) Having an interest in land, causes it, directly or indirectly, to be divided into a subdivision; or who

(b) Directly or indirectly, sells, leases or develops, or offers to sell, lease or develop or advertises for sale, lease or development any interest, lot, parcel, site, unit or plat on a subdivision; or who

(c) Engages directly or through an agent in the business of selling, leasing, developing or offering for sale, lease or development a subdivision or any interest, lot, parcel site, unit or plat in a subdivision; and who

(d) Is directly or indirectly controlled by or under direct or indirect common control with any of the foregoing.

**SUBDIVISION.** Any land vacant or improved, which is divided or proposed to be divided into two or more lots, parcels, sites, units, plots or interests for the purpose of offer, sale, lease or development or upon any and all other plans, terms and conditions, including resubdivision. **SUBDIVISION** includes the division or development of residential and nonresidential zoned land, whether by deed, devise, intestacy, lease, map, plat or other recorded instrument, except for those subdivisions exempted by M.S. §§ 462.352, subd. 12 and 462.358, subd. 4b, as amended.

**SUBDIVISION AGENT.** Any person who represents or acts for or on behalf of a subdivider or developer in selling, leasing or developing or offering to sell, lease or develop any interest, lot, parcel, unit, site or plat in a subdivision, except an attorney-at-law whose representation of another person consists solely of rendering legal service.

**TEMPORARY IMPROVEMENT.** Improvements built and maintained by a subdivider during construction of the subdivision and prior to final City Engineer inspection and approval of all required improvements.

(Ord. passed 11-93)

#### **§ 151.06 LEGAL AUTHORITY.**

This chapter is enacted pursuant to M.S. § 462.358, as it may be amended from time to time.  
(Ord. passed 11-93)

#### **§ 151.07 CONDITIONS.**

Regulation of the subdivision of land and the attachment of reasonable conditions to land subdivision is an exercise of valid police power delegated by the State of Minnesota to the City of Byron. The developer has the duty of compliance with reasonable conditions laid down by the City Council for design, dedication, improvement and restrictive use of the land so as to conform to the physical and economical developments of the municipality and to the safety and general welfare of the future lot owners in the subdivision and of the community at large.

(Ord. passed 11-93)

#### **§ 151.08 INTERPRETATION, CONFLICT AND SEPARABILITY.**

(A) In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.

(B) (1) *Public provisions.* The regulations are not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute or other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any other regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

(2) *Private provisions.* These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant or private agreement or restriction impose duties and obligations more restrictive or higher standards than the requirements of this chapter or the determination of the Planning Commission or the City Council in approving a subdivision in enforcing this chapter and such private provisions are not inconsistent with this chapter or determinations thereunder, then such private provisions shall be operative and supplemental to this chapter and determinations made thereunder.

(C) If any part or provision of these regulations or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provisions or application directly involved in all controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The City Council declares that it would have enacted the remainder of these regulations even without any such part, provision or application.

(Ord. passed 11-93)

#### **§ 151.09 PRESERVATION AND APPEALS.**

Upon the adoption of these regulations according to law, any previous subdivision regulations of the city, as amended, are repealed, except as to such sections expressly retained herein.

(Ord. passed 11-93)

#### **§ 151.10 AMENDMENTS.**

The Planning Commission may, of its own motion or upon petition or at the direction of the City Council, cause to be prepared amendments supplementing or changing regulations herein established. Before any proposed amendment can be acted on, a public hearing shall be held by the Planning Commission with notice given in the official newspaper at least 10 days prior to the hearing. Upon receiving the recommendation of the Planning Commission, the City Council shall study the Planning

Commission's recommendation and approve or disapprove the amendments. If action is not taken within 60 days of the public hearing, another hearing shall be held with the same procedures.  
(Ord. passed 11-93)

#### § 151.11 VARIANCES.

(A) *General.* The City Council, on request of the applicant by written application, may grant a variance from strict compliance with the subdivision regulations contained in this chapter when it finds that all of the following conditions exist:

(1) That application of a subdivision regulation to the land will create an unusual and exceptional hardship not experienced by other property of similar intended use and condition;

(2) That the authoring of such variance will not be of substantial detriment to the community health, safety or general welfare and will not materially impair the purposes of the subdivision regulations or the public interest;

(3) That because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations are carried out;

(4) That the intended use and conditions of the property forming the basis for granting a variance are unique and not of so general or recurrent a nature as to cause the formulation and adoption of a general subdivision regulation for similar uses and conditions;

(5) That the variances will not in any manner vary the provisions of the zoning code.

(B) *Conditions.* In approving a variance, the City Council may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of these regulations.

(C) *Procedures.* A petition for any such variance shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for the consideration of the Planning Commission. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.  
(Ord. passed 11-93)

#### § 151.12 ENFORCEMENT.

(A) The City Administrator and City Clerk are authorized to enforce these regulations and upon recommendation from the Planning Commission or City Council to bring to the attention of the City Attorney any violations or lack of compliance herewith.

(B) No owner or agent of the owner of any parcel of land located in a proposed subdivision shall transfer or sell any such parcel before a plat of such subdivision has been approved by the Planning Commission and City Council in accordance with the provisions of these regulations and filed with the County Recorder.  
(Ord. passed 11-93)

**§ 151.13 RESUBDIVISION OF LAND.**

For any change in an approved or recorded subdivision plat, if such change affects any street layout shown on such plat, area reserved thereon for public use, any three or more lot lines or if it affects any map or plan legally reached prior to the adoption of any regulations controlling subdivision, such parcel shall be approved by the City Council by the same procedure, rules and regulations as for a final plat.  
(Ord. passed 11-93)

**§ 151.14 CONVEYANCE BY METES AND BOUNDS.**

No conveyance involving a portion of a platted lot or involving unplatted land, the conveyance of which is regulated by M.S. § 462.358, subd. 4b, as amended from time to time, shall be made unless approval is first obtained as follows:

(A) *Portion of platted lot.* On application of the owner, the City Council may approve a division of a portion of a platted lot under the following circumstances if, in each instance, the new and residual parcels of land which would result from the conveyance meet the frontage and area requirements of the zoning code:

- (1) When it is desired to detach a portion of a platted lot and add it to an adjoining platted lot;
- (2) When it is desired to divide a single parcel or rearrange a group of parcels so as to create no more than one additional lot or parcel, where the dedication of a general public utility or street easement or street right-of-way is not involved.

(B) *Unplatted land.* On application of the owner, filed with the City Administrator, the City Council, by resolution, may approve a division of land by metes and bounds if it is determined that the following conditions exist:

- (1) That such division will not interfere with the purposes of the subdivision regulations;
- (2) That the dedication of public utility or street easements or street rights-of-way is not involved;

**Byron - Land Usage**

(3) That such division involves the division of a parcel into not more than two separate parcels;

(4) That the new and residual parcels of land which would result from the division meet the frontage and area requirements of the zoning code;

(5) That such division is consistent with M.S. § 462.352, subd. 12, as amended, which excludes from subdivision regulations those divisions:

(a) Where all the resulting parcels, tracts, lots or interests will be 20 acres or larger in size and 500 feet in width for agricultural or residential uses and five acres or larger in size for commercial and industrial uses;

(b) Creating cemetery lots;

(c) Resulting from court orders or the adjustment of a lot line by the relocation of a common boundary.

(C) *Applications*. All applications under this section shall be filed with the City Administrator and shall have attached thereto a plat (certificate) of survey, legal description and a map of the land to be conveyed.

(Ord. passed 11-93)

***PROCEDURES FOR SUBMISSION OF PLATS*****§ 151.25 COORDINATION OF FLEXIBLE ZONING APPLICATION WITH SUBDIVISION APPROVAL.**

(A) *Intent; forms*. It is the intent of these regulations that subdivision review be carried out simultaneously with the review of flexible zoning applications under the zoning ordinance. The plans required for flexible zoning applications shall be submitted in a form to satisfy the requirements of the subdivision regulations.

(B) *General requirement*. Whenever the zoning ordinance authorizes flexible zoning applications, subdivision approval of the flexible zoning application shall be required by the City Council in addition to all other procedures and approvals required in the zoning code.

(C) *Procedure to be followed.*

(1) *Application submitted.* An application for flexible zoning shall be required and submitted, under the provisions of this chapter, which involves the subdivision of land and/or the creation of public street easements or rights-of-way. The applications shall include all information required by this chapter and the zoning code.

(2) *Preliminary plat.* The processing procedure shall be as outlined in § 151.26 and all information required as specified under § 151.40(B). As required by the zoning code, a conditional use permit shall be submitted along with the preliminary plat. The conditional use shall be approved, approved with conditions or disapproved at this stage of the development review process. The decision of the City Council on the conditional use application shall be made prior to submittal of the final plat.

(3) *Final plat.* The processing procedure shall be as outlined in § 151.27 and all information required as specified under § 151.41(B). The decision of the Planning Commission and City Council on the final plat shall be consistent with the decisions made on the conditional use permit. No building permit and zoning certificate shall be issued for the project until the zoning application and final plat have been approved by the City Council, and the final plat is recorded by the County Recorder as required by this chapter.

(D) *Resubdivisions of flexible zoning development.*

(1) A development approved under flexible zoning may be subdivided or resubdivided for purposes of sale or lease after the final plat and plan have been approved and development completed or partially completed.

(2) If a proposed subdivision or resubdivision of a flexible zoning development will create a new lot line, move a lot line or involves any public utility or street easement or right-of-way, the applicant shall make application to the city for the approval of the subdivision or resubdivision. Where such proposal for subdivision or resubdivision requires the change of use, density or bulk standards, open space and other provisions or requires other changes in the approved final plan, a conditional use application shall be filed simultaneously with proper application for subdivision or resubdivision. The subdivision or resubdivision of flexible zoning development shall be processed by the city under the same procedures, rules and regulations as for a final plat. All pertinent information required by the Planning Commission and City Council shall be submitted with the application forms. The Planning Commission and City Council decision on the proposed change shall be based on all zoning code provisions governing use, density and bulk standards and all requirements of this chapter. Any approved changes shall be recorded as amendments to the final plan and final plat.

(Ord. passed 11-93)

**§ 151.26 PRELIMINARY PLAT.**

*(A) Application procedure.*

(1) Upon approval, by the City Council, of the concept plan at the preplat investigation, where required, the subdivider may prepare a preliminary plat, which shall conform to the requirements of this chapter the approved concept plan and the zoning ordinance, together with preliminary construction plans and other supplemental material as may be specified by the Planning Commission and its reviewing agencies.

(2) An application, along with 15 copies of the preliminary plat, shall be filed at least 20 days prior to the meeting of the Planning Commission at which action is desired. The City Administrator shall send copies of the preliminary plat to each of the following agencies for their comments or recommendations.

<i>Other Agencies</i>	<i>County Agencies</i>
Municipal Engineer	Public Works Department
Peoples Natural Gas Co.	A. Surveyor
Northern States Power Co.	B. Highway Engineer within five days after receiving the preliminary plat if it includes or borders on an existing or proposed county road
GTE of MN	Soil and Water Conservation District (County SCS Office)
TCI Cable Co.	
Within at least 30 days before taking action on the preliminary plat, to the State Department of Transportation, if the plat includes or borders on a truck highway	

(3) Other agencies to which the City Administrator may send copies of the preliminary plat for their comments or recommendations at the request of the Planning Commission include the following:

<i>Other Agencies</i>	<i>County Agencies</i>
Byron Consolidated School District	Consolidated Planning Department
MNDDOT	Sheriff's Department
Byron Volunteer Fire Department	

(B) *Public hearing on preliminary plats.* The Planning Commission shall hold a public hearing on the preliminary plat. Notice of public hearing shall be given at least ten days before the date of such hearing by publication in the official newspaper and by written notice mailed to the applicant and the owners of record listed in the office of the City Administrator of all land within 350 feet of the outer boundary of the preliminary plat. The failure to give mailed notice to individual property owners or defects in the notice shall not affect the validity of the proceedings or of any action taken by the Planning Commission or the City Council.

(C) *Planning Commission recommendation.* After considering the comments and suggestions received at the public hearing, the Planning Commission shall recommend in writing to the City Council stating its reason therefore either that the preliminary plat be granted approval, granted approval subject to certain conditions or that the preliminary plat be disapproved. A copy of the recommendation shall be forwarded to the City Council and the applicant.

(D) *City Council action; preliminary plat.*

(1) The City Council shall consider the preliminary plat at its next meeting following receipt of the Planning Commission recommendation. The City Council shall take under advisement and then approve the preliminary plat, approve it subject to certain conditions or disapprove the plat. The applicant shall be informed by the city of the City Council's action, stating the conditions of approval or reasons for disapproval and shall endorse the date of the approval or disapproval on the preliminary plat. The City Administrator shall send the applicant one copy of the preliminary plat marked with the City Council action and any required revisions.

(2) Approval of a preliminary plat shall not constitute approval of the final plat. Unless earlier rescinded by the City Council, approval of a preliminary plat is limited to a period of two years, after which time the applicant is required to resubmit a preliminary plat; otherwise, conditional approval of the preliminary plat will become null and void. Upon application filed with the City Administrator, the City Council may continue the approval for an additional period of time. The application shall be filed at least 20 days prior to expiration of the approval of the preliminary plat.

(Ord. passed 11-93)

**§ 151.27 FINAL PLAT.**

(A) *Application procedure.* Following approval of a preliminary plat, the applicant may prepare a final plat and shall file an application with the City Administrator for approval of the final plat. The application shall be filed at least 15 days prior to the meeting of the Planning Commission at which action is desired. The City Administrator shall send a copy of the application, final plat and construction plans to the City Engineer to be checked for compliance with the City Council comments and recommendations on the preliminary plat and subdivision requirements for the final plat. No final plat shall be considered unless it is filed with the City Administrator within the effective period of the approval of the preliminary plat. A final plat shall conform to the requirements of this chapter and all conditions set forth in the approval of the preliminary plat.

(B) *Review of final plat.* The Planning Commission shall review the final plat and the comments and recommendations of the City Engineer and shall submit its findings and recommendations in writing to the City Council.

(C) *Signed plat and required documents.* The final plat and all related documents submitted to the City Administration for review and final action by the City Council shall have all required signatures and signed certificates as required in § 151.42(B)(19), with the exception of the City Clerk-Treasurer, Mayor and the County Recorder. All other signatures and signed certificates shall be required on the final plat before the City Council shall take action.

(D) *City Council action.* The City Council shall, by resolution adopted after receiving the Planning Commission's recommendations, approve or deny the final plat. The reasons for disapproval shall be recorded in the minutes of the City Council and reported to the applicant and Planning Commission by the City Administrator. Approval of the final plat shall not be given by the City Council until the City Council has also approved the construction plans. No final plat shall be approved by the City Council unless the final plat is in a form acceptable for recording in the office of the County Recorder.

(E) *Recording final plat.* The final plat of record, prepared in accordance with this chapter, shall be filed by the subdivider with the County Recorder of Deeds within ten working days of notification of approval by the City Council. The subdivider shall furnish a signed official copy of the plat to the Recorder of Deeds at the time of recording. Three reproducible mylar copies signed and stamped shall be furnished, one each, to the Olmsted County Surveyor, Olmsted County Assessor and City Administrator.

(Ord. passed 11-93)

**SPECIFICATIONS FOR DOCUMENTS****§ 151.40 PRELIMINARY PLAT.**

(A) *General.* The preliminary plat shall be prepared and signed by a Minnesota registered land surveyor and be drawn on suitable tracing paper, mylar or other material or suitable quality with black waterproof ink at a scale not greater than 100 feet equals 1 inch. Fifteen copies of the preliminary plat which shall measure 30 inches in length and 20 inches in width with a border line of 2 inches provided on the left side of the 30-inch length and a border of 1/2-inch provided on the other three sides shall be provided to the City Administrator with other required documents. All revision dates must be shown. A reduced copy of the plat shall be provided to the City Administrator in a form that shall be no larger than 8 1/2 inches by 14 inches.

(B) *Form of plats.* Preliminary plats shall be prepared in accordance with the provisions of this subchapter and the laws of the State of Minnesota and shall contain the following information.

(1) *Identification.* Date, scale, north point, proposed name of the subdivision. The name shall not duplicate or closely approximate the name of any other subdivision in Olmsted County. All intended street names according to Byron's street naming and numbering system.

(2) *Legal description.* Legal description of the land to be subdivided and a property location map at a scale of 1 inch equals 1,000 feet.

(3) *Principals.* Names of the owners of record and registered land surveyor.

(4) *Boundaries.* Length and bearings of the exterior boundaries of the land being subdivided.

(5) *Lots and blocks.* Layout and exact dimensions of lots and blocks. Lots shall be numbered progressively through each plat. Outlots shall be lettered in alphabetical order. See M.S. Ch. 505, as it may be amended from time to time.

(6) *Monuments and lot corners.* The exact location of all permanent monuments and lot corners. Each lot corner shall be set with a permanent monument.

(7) *Existing streets and public uses.* Layout, width and identification of existing public streets, easements, drainage ditches, parks and other public uses within and adjacent to the proposed subdivision.

(8) *Existing utilities.* Location of existing sanitary and storm sewer lines, water mains and culverts within and adjacent to the proposed subdivision with pipe sizes, cross-sectional areas, grades and capacities indicated.

**Byron - Land Usage**

(9) *Other existing features.* Location of existing buildings and structures, railroad right-of-way, municipal limits, township lines, rivers and streams and their known high and normal water elevations. Water elevation references shall be to the National Geodetic Vertical Datum of 1929. Flood prone areas, as defined by the zoning code, shall be clearly labeled.

(10) *Zoning.* Zoning classification of lands to be subdivided and all adjacent lands. Indication of the use of any lot other than single family residential and all uses other than residential proposed by the subdivider.

(11) *Topography.* Contours with intervals of two feet referenced to National Geodetic Vertical Datum of 1929.

(12) *Proposed features.* Location, width, bearings, angle of intersection and identification of proposed streets, easements, drainage ditches, parks and other property to be dedicated to the public or reserved by covenants for the common use of property owners within the subdivision. Location of proposed sewer lines, water mains, fire hydrants, culverts, storm water drains and drainage facilities with pipe size, gas mains and telephone, cable TV and power lines.

(13) *Radii and tangents.* Radii of all curves and lengths of all tangents. See M.S. Ch. 505, as it may be amended from time to time.

(14) *Restrictive deed covenants.* Within identified flood prone areas, restrictive deed covenants requiring the flood prone areas to be developed in a manner that meets the minimum requirements of the zoning code, establishing fill requirements and compensatory storage, finished elevations of buildings and all streets and requiring that building or fill modifications shall comply with the zoning code. The required engineering study shall be filed along with the other information.

(15) *Flexible zoning proposals.* For flexible zoning proposals, a statement as to how land will be transferred and protective covenants and homeowners association by-laws.

(16) *Required information.* All information required on the concept plan should also be shown on the preliminary plat and the following notation shall also be shown:

- (a) Explanation of drainage easements, if any;
- (b) Explanation of easements, if any;
- (c) Explanation of reservations, if any.

(17) *Surface and subsurface material.* Profiles of surficial soil and geologic material and location of different soils and geologic material and location of different soils and geologic units, with reference to the SCS publication, Soil Survey of Olmsted County, Minnesota.

(18) *Dedication.* Omit.

(19) *Certificates.* Omit.

(20) *State plane coordinates.*

(a) State plane coordinates shall be shown on all subdivision plats to be recorded in Olmsted County, except where the Olmsted County Surveyor's office does not have such coordinates available on the section and quarter section corners necessary to locate the subdivision plat within the section.

(b) The survey measurement used to tie the plat boundary to the section and quarter section corners shall be measured according to the standards as published for a Minnesota Standard Survey (MSS) in a manual known as "Manual of Standard Procedures for the Identification, Remonumentation and Preservation of the Public Land Survey Corners in the State of Minnesota," as published by Minnesota Association of County Surveyors in 1984. The coordinates on the section and quarter section corners for the section in which the plat is located shall be furnished by the Olmsted County Surveyor's office, and said office shall be responsible for the accuracy of the information furnished. If these coordinates are not available or will not be available within a reasonable amount of time, the surveyor of the plat need not furnish the required coordinate information.

(21) *Information.* The lack of information under any item specified herein, or improper information supplied by the applicant, shall be cause of disapproval of a preliminary plat.  
(Ord. passed 11-93)

**§ 151.41 FINAL PLAT.**

(A) *General.* The final subdivision plat shall be presented in black waterproof ink on reproducible mylar at the same scale and contain the same information, except for any changes or additions required by resolution of the Planning Commission and City Council, as shown on the preliminary plat or as listed below in § 151.42(B). The preliminary plat may be used as the final subdivision plat if it meets these requirements and is revised in accordance with the Planning Commission and City Council resolutions. When more than one sheet is required for any plat, each sheet shall be numbered consecutively and shall contain a notation of the total number of sheets, for example, 2 of 3. The final plat shall be prepared and signed by a Minnesota registered land surveyor.

**Byron - Land Usage**

(B) *Form of plats.* Final plats shall be prepared in accordance with the provisions of this subchapter and the laws of the State of Minnesota and shall contain the following information.

(1) *Identification.* Same as § 151.40(B)(1).

(2) *Legal description.* Same as § 151.40(B)(2).

(3) *Principal.* Same as § 151.40(B)(3).

(4) *Boundaries.* Same as § 151.40(B)(4).

(5) *Lots and blocks.* Same as § 151.40(B)(5).

(6) *Monuments and lot corners.* The exact location and material of all permanent lot corners and monuments.

(7) *Existing streets and public uses.* Same as § 151.40(B)(7), except omit drainage ditches and public uses adjacent to the proposed subdivision.

(8) *Existing utilities.* Omit.

(9) *Other existing features.* Same as § 151.40(B)(9), except buildings and flood prone area designations shall be omitted.

(10) *Zoning.* Omit.

(11) *Topography.* Contours with intervals of two feet referred to U.S. Geological Survey Datum shall be included on a separate sheet accompanying the final plat.

(12) *Proposed features.* Same as § 151.40, except omit location of proposed sewer lines, water mains, culverts and drainage facilities with pipe size, cross-sectional area, grades and capacities indicated and gas mains, telephone, cable TV and power lines.

(13) *Radii and tangents.* Same as § 151.40(B)(13).

(14) *Restrictive deed covenants.* Same as § 151.40(B)(14) but to be filed as separate documents.

(15) *Flexible zoning proposals.* Same as § 151.40(B)(15), but submitted as separate documents.

(16) *Concept plan information.* Omit where this does not conflict with other requirements under the final plat with the exception of § 151.40(B)(16)(a) through (c).

(17) *Surface and subsurface material.* Omit.

(18) *Dedication.* A statement of dedication signed, acknowledged and witnessed as required by law for recording conveyances.

KNOW ALL MEN BY THESE PRESENTS: That . . . and . . . , owners and proprietors of the following described property situated in the County of . . . , State of Minnesota to wit: (Legal description of property) have caused the same to surveyed and platted as (Name of Plat) and do hereby donate and dedicate to the public for public use forever the thoroughfares, walks, public grounds, (parks) and also dedicating the easements as shown on this plat for drainage and utility, purposes only (and restricted access if appropriate). In witness whereof said . . . have hereunto set our hands this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

(19) *Certificates.*

(a) *Surveyor.* A certificate of the surveyor that the plat was made in accordance with this chapter and the laws of Minnesota, that the plat is a correct representation of the survey, that all distances are correctly shown on the plat, that all monuments have been correctly placed in the ground as shown and that the outside boundary lines are correctly designated on the plat.

(b) *Owner.* A certificate of the owners. This certificate shall be signed, acknowledged and witnessed as required by law for recording conveyances.

(c) *Taxes.* A certificate by the County Auditor that all prior taxes have been paid and a certificate by the County Treasurer that taxes due and payable have been paid.

(d) *City Administrator and Mayor.* A certificate by the City Administrator and Mayor that the plat has been approved by the Common Council.

(e) *County Surveyor.* A certificate that the plat has been checked for mathematical closures and compliance with applicable state platting laws. See M.S. Ch. 505, as it may be amended from time to time, for required information.

(f) *City Engineer.* A certificate of the City Engineer that the plat complies with the design standards, construction standards and specifications of the City of Byron.

(20) *State plane coordinates.* Same as § 151.40(B)(20).

(21) *Information.* The lack of information under any item specified herein or improper information supplied by the applicant shall be cause of disapproval of a final plat.  
(Ord. passed 11-93)

#### § 151.42 CONSTRUCTION PLANS: FINAL PLAT.

(A) Construction plans shall be prepared for all required improvements. Plans shall be drawn at a scale of no more than 1 inch equals 40 feet and submitted to the City Administrator along with all other required information and application forms.

(B) The following shall be known:

(1) Profiles showing existing and proposed elevations along center lines of all roads. Where a proposed road intersects an existing road or roads, the elevation along the center line of the existing road or roads within 100 feet of the intersection shall be shown. Radii of all curves, lengths of tangents and central angles on all streets;

(2) Plans and profiles showing the proposed locations and typical cross-section of street pavements, including curbs and gutters, sidewalks, drainage easements, servitudes, rights-of-way, manholes and catch basins; soil and rock profiles and watertable; the locations of street trees and street lighting standards; the location, size and invert elevations of existing and proposed sanitary sewers, stormwater drains and fire hydrants, showing connection to any existing or proposed utility systems; and exact location and size of all water, gas or other underground utilities or structures;

(3) Location, size, elevation and other appropriate description of any existing facilities or utilities, including, but not limited to, existing streets, sewers, drains and other pertinent features such as railroads, buildings, features noted in the Comprehensive Land Use Plan at the point of connection to proposed facilities and utilities within the subdivision. The water elevations of adjoining streams at the date of the survey and the approximate high and normal water elevations of such streams. All elevations shall be referred to the National Geodetic Vertical Datum of 1929. If the subdivision borders a river or stream, the exact location shall be accurately shown. An engineering study is necessary of flood prone areas and proposed changes in the flood prone area regarding fill and storage capacities and land use, and all other requirements of the zoning ordinance, pertaining to flood prone areas, shall be met or exceeded;

(4) Topography at the same scale as the sketch plat with a contour interval of two feet, referred at National Geodetic Vertical Datum of 1929. All datum provided shall be the latest applicable National Geodetic Vertical Datum of 1929 and should be so noted on the plat;

(5) All specifications and references required by the city construction standards and specifications, including a site-grading plan for the entire subdivision;

(6) Title, name, address and signature of professional engineer and surveyor and date, including revision dates;

(7) In addition, under a flexible zoning application, the exact sizes and location of existing and proposed buildings; the existing and proposed uses of structures and open areas; landscaping plan; grading plan; construction schedule, time table or phasing plan; exterior view of buildings; floor plans of buildings; location and design of outdoor advertising devices, playground equipment; mailboxes, air conditioning, trash receptacles and the like.

(Ord. passed 11-93)

***REQUIREMENTS FOR IMPROVEMENTS, RESERVATIONS AND DESIGN***

**§ 151.55 GENERAL IMPROVEMENTS.**

(A) *Conformance to applicable rules and regulations.* The subdivision standards contained in this chapter are to assure that the improvements, reservations and design of developments will conform to minimum requirements promoting the health, safety and general welfare of the public. In addition to these regulations and to ensure that future developments are consistent with land use goals, objectives and policies of the city, subdivisions shall conform to the Byron Land Use Plan, zoning code and building code. All subdivision plats also shall comply with all applicable statutory provisions, rules and regulations of the State of Minnesota.

(B) *Character of the land.* Land which the City Council finds to be unsuitable for subdivision or development due to flooding, severe soil erosion potential, improper drainage or other soil related problems or other features which will reasonably be harmful to the safety, health or general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas shall not be subdivided or developed unless adequate methods are formulated by the developer or subdivider and approved by the City Council upon recommendation of the City Engineer to solve the problems created by the unsuitable land conditions. Such land shall be set aside for land uses that shall not involve such a danger.

(C) *Monuments.* Durable iron monuments shall be placed at all block and lot corners, all intermediate points on blocks where there is a change in the direction of the block line, at points of curves in streets, at each angle and curve point on the exterior boundary lines of the plat and at such other points as may be required by the City Council. Following instances in which the character of the land will require excavation or filling along the lot or block boundaries all permanent monuments set

prior to such activities shall be checked for proper placement by the owner of record, then placed or restored to the proper location in the event that they have been moved. There will be a time limit of two years from the date development is initiated within which this check of monument existence and proper placement shall be initiated and completed.

(D) *Self-imposed restrictions.* If the owner places restrictions on any of the land contained in the subdivision greater than those required by the zoning code or these regulations, such restrictions or reference thereto shall be required to be submitted with the preliminary plat and in a document attached to the final plat. The City Council shall require that restrictive covenants be recorded with the County Recorder in a form to be approved by the City Attorney.

(E) *Design statement.*

(1) A principle purpose of this chapter is to ensure and protect the health, safety and welfare of the public and to obtain sound and sensible site planning of all subdivisions and development. This chapter, as such, sets minimum standards for specific elements of site planning, but not maximum effort at good site planning recognizing all environmental and human factors of a site and all related city policy. The city shall encourage site planning for subdivisions and other development covered by this chapter that is well organized and will be a livable, productive and efficient living space that supports the needs and activities of the people of each subdivision and the people of Byron. In order to accomplish such an objective, developers and subdividers will need to follow a reasonable site planning process that includes, but is not limited to:

- (a) Recognition of the need for responsible and sensitive site planning;
- (b) Collection of information regarding manmade and natural features and analysis of the locality;
- (c) Organization of the site and surrounding area, including land use and density of development;
- (d) Movement to, from and within the site;
- (e) Appearance or attractiveness of the site plan-design;
- (f) Analysis of the development when completed and occupied, including streets, housing types and environmental conditions to see if it works as envisioned; and
- (g) Consideration of future site management.

(2) Finally, the subdivision design should reflect certain basic elements of sound development, including:

- (a) Preservation of the character of the land;
- (b) Economy of construction;
- (c) Inclusion of special facilities;
- (d) Variation in design;
- (e) Privacy and sociability; and
- (f) Individual lot sizes that are practicable and desirable.

(Ord. passed 11-93)

**§ 151.56 IMPROVEMENTS.**

(A) *Lot improvement.* The lot arrangements shall be such that there will be no foreseeable difficulties for reasons of topography and grading or other conditions in securing zoning certificates and building permits to build on all lots in compliance with these regulations and the zoning code and in providing driveway access to buildings on such lots from an approved right-of-way. Where topographic and soils constraints are present on a lot or area, subdivision design and lot sizes shall be suitable for development that will not create unstable slopes and/or the potential for chronic soil erosion problems.

(B) *Lot dimensions.* Lot dimensions shall comply with the minimum standards of the zoning code. Where lots are more than double the minimum required area for the zoning district, the City Council may require that such lots be arranged so as to allow further subdivision and the opening of future streets where they would be necessary to serve such potential lots, all in compliance with the zoning code and these regulations. In general, side lot lines shall be at right angles to street lines (or radial to curving street lines) unless a variation from the rule will give a better street or lot plan. Dimensions of corner lots shall be large enough to allow for erection of buildings and observing the minimum yard requirements from both streets as specified in the zoning code. Lot dimensions shall be large enough to allow for erection of buildings, observing the minimum yard requirements and the need to minimize grading, surface water runoff and soil erosion problems.

(C) *Double frontage lots.* Double frontage and reversed frontage lots shall be avoided except where necessary to provide separation of residential development from arterials or higher level streets or to overcome specific disadvantages of topography and orientation.

(D) *Access to lots.* Every lot shall abut on a public street to assure access for fire protection, utilities and other services. Lots shall not derive access exclusively from an arterial street. Where driveway access to and from an arterial street may be necessary for several adjoining lots, the Planning Commission and City Council may require that such lots be served by a combined access drive in order to limit possible traffic hazards. Where possible, driveways should be designed and arranged so as to avoid requiring vehicles to back onto arterial streets. The creation of reserve strips shall not be permitted adjacent to a proposed street in such a manner as to deny access from adjacent property to such street.

(E) *Soil protection and surface drainage.*

(1) *Soil preservation.* Topsoil shall not be removed from residential lots or used as spoil, but, where necessary, topsoil shall be redistributed so as to provide an adequate amount of cover on the lots and shall be stabilized by sodding or seeding appropriate types of grasses in amounts necessary for adequate soil erosion protection during the current growing season (spring, summer, fall) or the first growing season following lot and/or subdivision improvements, whichever comes first.

(2) *Lot drainage.* Lots shall be laid out so as to provide positive drainage away from all buildings and individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Drainage shall be designed so as to avoid concentrating storm drainage water and flow of such from each lot to adjacent lots, unless surface flow occurs in a designated drainage easement or city-owned drainage system.

(3) *Erosion and sediment control.*

(a) The development shall conform to the natural limitations presented by topography and soil so as to create the least potential for soil erosion.

(b) Erosion and siltation control measures shall be coordinated with the different stages of construction. Appropriate control measures shall be installed prior to development when necessary to control erosion.

(c) Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time.

(d) When soil is exposed, the exposure shall be for the shortest feasible period of time.

(e) Soil erosion and sedimentation shall not occur on public rights-of-way or easements; sediment shall be contained on the lot during and after subdivision and lot development, no matter what time of year development of any type occurs. Where soil erosion or deposition has occurred on public right-of-way or drainage easements and the developer or property owner does not take action to remedy

the resulting situation, the city may take appropriate remedial action and charge the developer or property owner the city's costs for such cleanup action.

(F) *Debris and waste.* No cut trees, timber, debris, earth, rocks, stones, soil, rubbish or other waste materials of any land shall be buried in any land or left or deposited on any lot or street at the time of the issuance of a zoning certificate/building permit and removal of the same shall be required prior to issuance of any zoning certificate/building permit on a subdivision; nor shall any be left or deposited in any area of the subdivision at the time of dedication of public improvements.

(G) *Fencing.* Each subdivider and/or developer shall be required to furnish and install fences wherever the City Council determines that a hazardous condition may exist. No zoning certificate/building permit shall be issued until said fence improvements have been duly installed.

(H) *Lot improvement.* Prior to the signing of a zoning certificate/building permit by the city, completion of all requirements contained in this section, including, but not limited to, soil conservation and stabilization, lot drainage, lawn-grass seeding or sodding, removal of debris and waste, fencing and all other lot improvements required by the City Council shall be required to be in place or constructed. (Ord. passed 11-93)

**§ 151.57 STREETS.**

(A) *General requirements.*

(1) *Frontage on improved roads.* No subdivision shall be approved unless the area to be subdivided shall have frontage on and access from an existing street right-of-way or a street that is an existing state, county or township highway or a street not yet constructed but shown upon a plat approved by the City Council and recorded in the County Recorder office. Such street shall be suitably improved to allow year-round safe access by residents of the area and all safety vehicles.

(2) *Topography and arrangements.*

(a) Streets shall be related appropriately to the topography. Local streets shall be curved wherever possible to avoid conformity of lot appearance. All streets shall be arranged so as to obtain as many as possible building sites at or above the grades of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided. Specific standards are contained in the design standards of these regulations.

(b) All streets shall be properly integrated with the existing and proposed system of thoroughfares and dedicated rights-of-way.

**Byron - Land Usage**

(c) All collector streets shall be properly related to special traffic generators such as industries, business districts, schools, churches and shopping centers; to population densities; and to the pattern of existing and proposed land uses.

(d) Local streets shall be laid out to conform as much as possible to the topography, to discourage use by through traffic, to permit efficient drainage and utility systems and to require the minimum number of streets necessary to provide convenient and safe access to property.

(e) The rigid rectangular grid iron street pattern need not necessarily be adhered to and the use of curvilinear streets, cul-de-sacs or U-shaped streets may be permitted where such use will result in a more desirable subdivision design.

(f) Wherever possible streets shall be designed with an east/west orientation, or alignment within +30 degrees of the east/west range to ensure a southerly orientation for all lots and buildings and reasonable solar access.

(g) Streets of an approved plat shall be improved (both the right-of-way and pavement) to the boundary lines of the tract to be subdivided unless prevented by topography or other physical conditions or unless in the opinion of the City Council such extension is not necessary or desirable for the coordination of the layout of the subdivision with the existing layout or the most advantageous future development on adjacent tracts.

(h) In commercial and industrial developments, the streets and other accessways shall be planned in connection with the grouping of buildings, location of rail facilities and the provision of alleys, truck loading and maneuvering areas and walks and parking areas so as to minimize conflict of movement between the various types of traffic, including pedestrian.

(3) *Blocks.*

(a) Blocks shall have sufficient width to provide for two tiers of lots of appropriate depths. Exceptions to this prescribed block width shall be permitted in blocks adjacent to arterial streets or frontage roads, railroads, waterways, natural hazards or sensitive areas.

(b) The lengths, widths and shapes of blocks shall be such as are appropriate for the locality and the type of development contemplated, but block lengths in residential areas shall not exceed 1,200 feet, nor be less than 400 feet in length.

(c) In long blocks, the City Council may require the reservation of an easement or dedication of a right-of-way through the block to accommodate utilities, drainage facilities or pedestrian traffic. Crosswalks not less than 10 feet wide may be required by the City Council through the center

of blocks more than 800 feet long where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation or other community facilities.

(d) Blocks designed for industrial uses shall be of such length and width as may be determined suitable by the City Council for prospective use.

(4) *Access to arterial streets.* Where a subdivision borders on or contains an existing or proposed arterial, the City Council may require that access to such streets be limited by one of the following means.

(a) The subdivision of lots so as to back onto the arterial and front onto a parallel local street. No access shall be provided from the arterial, and screening shall be provided in a strip of land along the rear property line of such lots.

(b) A series of cul-de-sacs, U-shaped streets or short loop streets entered from and designed generally at right angles to such a parallel street, with the rear lines of their terminal lots backing onto the arterial.

(c) A marginal access or frontage road (separated from the primary arterial by a planting or grass strip and having access thereto at suitable points).

(5) *Street signs.* The city shall install all street signs and street regulatory signs as deemed necessary or at appropriate times as the subdivision is developed. Street names shall be sufficiently different in sound and spelling from other city street names so as not to cause confusion. A street which is or is planned as a continuation of an existing street shall bear the same name. Where possible all streets shall be numbered progressively.

(6) *Treatment of dead-end streets.*

(a) *Dead end streets (temporary).* The arrangement of streets shall provide for the continuation of principal streets between adjacent properties when such continuation is necessary for convenient movement of traffic, effective fire protection, for efficient provision of utilities and where such continuation is in accordance with the Comprehensive Land Use Plan. If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right-of-way shall be extended to the property line. A circular turnabout shall be provided on all temporary dead-end streets, with the notation on the preliminary plat and on a separate document with the final plat, that land outside the normal street right-of-way shall revert to abutters whenever the street is continued. The City Council may limit the length of temporary dead-end streets in accordance with the design standards of these regulations. A barricade shall be required to be placed across the end of the temporary dead-end street, the length of the barricade shall be the minimum required surface width as specified in this section.

(b) *Dead end streets (permanent)*. Where a street does not extend beyond the boundary of the subdivision, and its continuation is not required by the City Council for access to adjoining property, its terminus shall normally not be nearer to such boundary than 50 feet. However, the City Council may require the reservation of an appropriate easement or right-of-way to accommodate drainage facilities, utilities or pedestrian traffic. A cul-de-sac turnaround shall be provided at the end of a permanent dead-end street and meeting the minimum design standards. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall be limited in length to 500 feet.

(B) *Design standards*. In order to provide for streets of suitable location, width and improvements to accommodate prospective traffic and afford satisfactory access to police, firefighting, snow removal, sanitation and road maintenance equipment and to coordinate streets so as to compose a convenient system and avoid undue hardships to adjoining properties, the following design standards for streets are required.

(1) *Street improvements*. After storm and sanitary sewer, water and other utilities have been installed, the city or developer shall provide final grading and placement of subsurface material and curb and gutter as specified by city standards or specifications. Adequate provision shall be made for culverts, drains, shoulders and curves.

(2) *Railroads*. Railroad rights-of-way where so located as to affect the subdivision of adjoining lands shall be treated as follows.

(a) In residential districts a buffer strip at least 25 feet in depth in addition to the depth of the lot required in the zoning district shall be provided adjacent to the railroad right-of-way. This strip shall be part of the platted lots and shall be designated on the preliminary plat and attached as a separate document on the final plat: "This strip is reserved for buffering and screening. The placement of structures hereon is prohibited."

(b) Streets parallel to the railroad when intersecting a street which crosses the railroad at grade shall, to the extent practicable, be at a distance of at least 150 feet from the railroad right-of-way. Such distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of appropriate approach gradients.

(3) *Intersections*.

(a) Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two new streets at an angle of less than 75 degrees shall not be permitted. An oblique street should be curved approaching an intersection and should be approximately at right angles for at least 100 feet therefrom. Not more than two streets shall intersect at any one point unless specifically approved by the City Council.

(b) Proposed new intersections along one side of an existing street shall, wherever practicable, coincide with any existing intersections on the opposite side of such street. Street jogs with center-line offsets of less than 150 feet shall not be permitted. Where local or collector streets intersect arterial streets, their alignment shall be continuous. Intersection of arterial streets shall be at least 1,000 feet apart.

(c) The cross-slopes on all streets, including intersections, shall not exceed 3%.

(d) Intersections shall be designed with a flat grade wherever practical.

(e) Minimum curb radius at the intersection of two local streets shall be at least 20 feet; and minimum curb radius at an intersection involving a collector street shall be at least 25 feet. Abrupt changes in alignment within a block shall have the corners cut off in accordance with standard engineering practice to permit safe vehicular movement.

(C) *Street dedications and reservations.*

(1) *New perimeter streets.* Street systems in new subdivisions shall be laid out so as to eliminate or avoid new perimeter half-streets. The City Council may authorize a new perimeter street where the subdivider dedicates the entire required street right-of-way width completely within the proposed subdivision.

(2) *Widening and realignment of existing roads.* Where a subdivision borders an existing undersized street based on these regulations or when the Comprehensive Land Use Plan or capital improvement program indicate plans for realignment or widening of a street that would require the use of some of the land in the subdivision, the applicant shall be required to dedicate at his or her expense such areas for widening or realignment of such roads. Such frontage roads and streets shall be dedicated by the applicant at his or her own expense to the full width as required by these subdivision regulations. Land reserved for any street purposes may not be counted in satisfying yard or area requirements of the zoning code, whether the land is to be dedicated in fee simple or an easement is granted to the city. (Ord. passed 11-93)

**§ 151.58 DRAINAGE AND STORM SEWERS.**

(A) *General requirements.* The Planning Commission shall not recommend for approval and the City Council shall not approve any plat of subdivision which does not make adequate provision for storm or flood water runoff channels or basins. The natural drainage system shall be used where feasible for the storage and flow of water runoff. The storm water drainage system shall be separate and independent of any sanitary sewer system. Storm sewers, where required, shall be designed through appropriate methods as approved by the City Council. Inlets shall be provided so that surface water is not carried

across or around any intersection unless concrete gutters are provided nor for a distance of more than 600 feet in the gutter. When calculations indicate that curb capacities are exceeded at a point, no further allowance shall be made for flow beyond that point, and basins shall be used to intercept flow at that point. Surface water drainage patterns shall be shown for every lot and block and planned in coordination with the applicable public storm sewers and natural drainageways.

(B) *Nature of storm water facilities.*

(1) *Location.* The applicant may be required by the City Council to carry away by pipe or open drainageway any groundwater, spring or surface water that may exist either previously to or as a result of the subdivision. Such drainage facilities shall be located in the street right-of-way where feasible or in perpetual unobstructed easements of appropriate width and shall be approved by the City Council. (Groundwater, for the purposes of this chapter, shall include all water below the water table or upper limits of saturation and water below an apparent or perched water table as defined by the USDA SCS, Soil Survey of Olmsted County, Minnesota.)

(2) *Accessibility to public storm sewers.*

(a) Where a public storm sewer is accessible, the applicant shall install storm sewer facilities. If no outlets are within a reasonable distance, adequate provision shall be made for the disposal of storm waters, subject to the specifications of the City Engineer. However, in residential subdivisions containing lots less than 15,000 square feet in area and where natural drainage systems cannot adequately conduct water runoff, and in commercial and industrial districts, underground storm sewer systems shall be constructed throughout the subdivision and be conducted to an approved outfall. Inspection of facilities shall be conducted by the City Engineer.

(b) If a connection to a public storm sewer will be provided eventually, as determined by the City Engineer and the City Council, the developer shall provide for future storm water disposal by a public storm sewer system at the time the plat receives final approval.

(c) All lots shall be developed to maximize the use of the natural drainage system of an area, minimizing direct overland runoff from lot to lot and into adjoining streets and water courses. Storm water runoff from roofs and other impervious surfaces should be directed to pervious soil and into drainageways or onto terraces on the lot when possible. This may be an additional element to or an alternative to the underground storm sewer system as required in this section.

(3) *Accommodation of upstream drainage areas.* A culvert or natural drainageway or other facility in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The City Engineer shall determine the necessary size of the facility, based on the construction standards and specifications assuming conditions of maximum potential watershed development permitted by the zoning ordinance.

(4) *Effect on downstream drainage areas.* The City Engineer shall study the effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision. Any local or state government drainage studies, together with such other studies as shall be appropriate shall serve as a guide to needed improvements. No subdivision shall be approved unless adequate drainage shall be provided to an adequate surface drainage facility and system. Development shall not increase surface water runoff from the property being subdivided and later developed. However, the City Council may permit an increase in surface water runoff where a registered professional engineer or hydrologist certifies that while causing an increase in the rate of runoff, the proposed development will not cause an increase in downstream flood elevations or velocities, due to the location of the development in the watershed.

(5) *Flood prone areas.* The City Council may, when it deems it necessary for the health, safety or welfare of the present and future population of the area and necessary to the conservation of water, drainage and sanitary facilities, prohibit the subdivision of any portion of land which lies within the flood prone area as identified by the zoning code. These flood prone areas shall be preserved from any and all destruction, damage or alteration which restricts flow or changes the direction of flow and substantially changes the location of flooding, as required by the zoning code.

(6) *Subsurface water drainage.* Each subdivision shall be required to have located in the street right-of-way or a separate utility or drainage easement drain tile meeting all city engineering specifications, unless the City Council waives this requirement. Prior to such waiver the City Council and City Engineer shall determine that due to existing development patterns and public improvements there is no possible means to provide a proper outlet for such drainage system. Connections from this drain tile to the lot line of every lot of the subdivision shall be provided. Every lot owner shall be required to connect drain tile that surrounds the residential building foundation and including sump pump facilities to the drain tile located in the street right-of-way or an utility or drainage easement. This connection by the lot owner shall be required at the time the residential building is being constructed.

(7) *Construction drainageway.* This section addresses drainageways constructed by the developer or subdivider for any new or reconstructed existing drainageways.

(a) The widths of a constructed waterway shall be sufficiently large to channel runoff from a ten-year storm. Adequacy shall be determined by the expected runoff when full development of the drainage area is reached. Constructed waterways should be designed so that the time of concentration of stormwater flows remains unchanged or is lengthened unless a registered professional engineer or hydrologist certifies that any decrease in the time of concentration will not cause an increase in downstream flood elevations or velocities due to the location of the development in the watershed. In addition, the resultant new waterway, when replacing an existing natural drainageway, shall have less velocity or shall provide measures which will reduce streambank erosion.

- (b) The banks of the waterway shall be protected with permanent vegetation.
- (c) The banks of the waterway should not exceed five feet horizontal to one foot vertical in gradient.
- (d) The bed of the waterway should be protected with turf, sod or concrete. If turf or sod will not function properly, rip rap may be used. Rip rap shall consist of quarried limestone, field-stone (if random rip rap is used) or construction materials of concrete. Construction materials shall be used only in those areas where the waterway is not used as part of a city park.
- (e) If the flow velocity in the waterway is such that erosion of the turf sidewall will occur and said velocity cannot be decreased via velocity control structures, then other materials may replace turf on the side walls.
- (f) Development of housing and other structures shall be restricted from the area on either side of the waterway required to channel a 25-year storm, unless all requirements of the zoning code are met or exceeded.

(C) *Dedication of drainage easements.*

(1) *General requirements.* Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse and of such width and construction or both as will be adequate for the purpose. Wherever possible, it is desirable that the drainage be maintained by an open channel with landscaped banks and adequate dimension for maximum potential volume of flow without causing soil erosion. In addition, all requirements of the zoning code shall be complied with.

(2) *Drainage easements.*

(a) Where conditions are such as to make impractical the inclusion of drainage facilities within street right-of-ways, perpetual unobstructed easements at least 15 feet in width for such drainage facilities shall be provided across property outside the street lines and with satisfactory access to the street. Drainage easements shall connect the street right-of-way to a natural watercourse or to other approved drainage facilities. Easements shall be designated on the plat.

(b) When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and indicated on the preliminary plat and in a separate document attached to the final plat.

(c) The applicant shall dedicate, either in fee or by drainage or conservation, an easement of land on both sides of existing watercourses to a distance to be determined by the City Engineer and City Council.

(d) Low-lying lands along watercourses subject to flooding during storm periods, whether or not included in areas for dedication, shall be preserved and retained in their natural state as drainageways. Such land or lands subject to periodic flooding shall not be computed in determining the number of lots to be utilized for average density procedures nor for computing the area requirement of any lot.

(3) *Drainage during construction.* Where necessary, the natural surface drainage system shall be augmented by constructed surface drainageways. The drainage system shall be constructed and operational during the initial phases of construction. Drainageways shall be constructed in such a way as to not cause additional soil erosion or sedimentation during and after all phases of construction. (Ord. passed 11-93)

**§ 151.59 WATER FACILITIES.**

(A) *General requirements.*

(1) The subdivider shall install adequate water facilities, including fire hydrants, subject to the specifications of the city and State of Minnesota.

(2) Water main extensions shall be approved by the City Council.

(3) The horizontal and vertical location of water service lines to individual lots shall be identified for all subdivisions and included on the "as built" survey plat drawn by the City Engineer, and installation shall be to city specifications with inspection required by the City Engineer.

(4) To facilitate the above, the location of all fire hydrants, all water supply improvements and the boundary lines of proposed districts indicating all improvements proposed shall be shown on the preliminary plat.

(B) *Fire hydrants.* Fire hydrants shall be required for all subdivisions. Fire hydrants shall be located no more than 400 feet apart and within 200 feet of any structure and shall be approved by the applicable fire department. To eliminate future street openings, all underground utilities for fire hydrants, together with the fire hydrants themselves and all other supply improvements, shall be installed before any final paving of a street shown on the subdivision plat. (Ord. passed 11-93)

**§ 151.60 SEWERAGE FACILITIES.**

(A) *General requirements.* The applicants shall install sanitary sewer facilities in a manner prescribed by the city and the Minnesota Pollution Control Agency construction standards and

specifications. All plans shall be designed in accordance with the rules, regulations and standards of the city and the Minnesota Pollution Control Agency. Plans shall be approved by the City Engineer and City Council.

(B) *Mandatory connection to public sewer system.* If a public sanitary sewer is accessible and a sanitary sewer is placed in a street or alley abutting upon property, the owner thereof shall be required to connect to said sewer for the purpose of disposing of waste, and it shall be unlawful for any such owner or occupant to maintain upon any such property an individual sewage disposal system.  
(Ord. passed 11-93) Penalty, see § 151.99

### § 151.61 SIDEWALKS AND OTHER PEDESTRIAN FACILITIES.

Sidewalks shall be required only in potential high pedestrian traffic corridors or in potential unsafe areas, including business or industrial parks or districts. Additional pedestrian-oriented facilities, including bicycle racks, outdoor seating, proper lighting and safe crosswalks and separation of pedestrian ways from vehicular traffic where possible may be required by the City Council. Refer to § 151.57 regarding mid-block cross walkways.  
(Ord. passed 11-93)

### § 151.62 UTILITIES.

#### (A) *Location.*

(1) All utility facilities, including, but not limited to gas, electric power, telephone and CATV cables shall be located underground throughout the subdivision. Wherever existing utility facilities are located above ground, except where existing on public roads and rights-of-way, they shall be removed and placed underground. All utility facilities existing and proposed throughout the subdivision shall be shown on the preliminary plat. Underground service connections to the street property line of each platted lot shall be installed at the subdivider's expense. At the discretion of the City Council, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use.

(2) All utility facilities shall be located within the street right-of-way provided adjacent to each lot within the subdivision. Only where topographic and other conditions are such as to make impractical the inclusion of utilities in the street right-of-way shall easements in alternative locations be identified and used for utilities.

(B) *Easements.*

(1) Perpetual unobstructed easements centered on rear lot lines, where required by the City Council, shall be provided for public utilities; such easements shall be at least ten feet wide. Proper coordination shall be established between the subdivider and the applicable utility companies for the establishment of utility easements established in adjoining properties.

(2) Where topographic or other conditions are such as to make impractical the inclusion of utilities within the rear lot lines or perpetual unobstructed easements at least ten feet in width shall be provided along side lot lines with satisfactory access to the road or rear lot lines. Easements shall be indicated on the plat.

(Ord. passed 11-93)

**§ 151.63 PUBLIC USES.**

(A) *Park, playgrounds and recreation areas.* A developer shall be responsible for providing to the city a minimum of outdoor recreation resources either through a monetary deposit or land in lieu of money. The City Council shall have the discretion to require one or the other method or a combination of both depending on the development size, site characteristics and concept plans; so long as each developer is required to meet the minimum deposit or land dedication requirements set forth herein.

(1) *Responsibility for recreation opportunities.* The City Council shall require that the applicant deposit with the City Council a cash payment. The deposit shall be required at the time of or prior to issuance of a building permit for each lot of the approved subdivision. The deposit shall be placed in a city and neighborhood park and recreation improvement fund to be established by the City Council. The deposit shall be used by the city for improvement of a city park, playground or recreation area, including the acquisition of property. The deposit must be used for facilities that will be actually available to and benefit the persons in said subdivision. The recreational facilities may be considered to serve also the entire city or be located in the general neighborhood of the subdivision.

(a) *Formula for required deposit.* The City Council shall determine the amount to be deposited for all subdivisions developed with single family detached/attached residences, based on the following formula: \$150 multiplied by the number of total lots proposed in the subdivision plat.

(b) *Multifamily and high-density residential.* The City Council shall determine the amount to be deposited, based on the following formula: \$55 multiplied by the number of individual housing units proposed and constructed in the subdivision or on individual lots.

(c) *Credit for land dedication.* Where a developer has decided to combine a deposit and land dedication a credit shall be given for the amount of land actually reserved for recreation purposes,

if any, as the land reserved bears in proportion to the land required for reservation in this section, but not including any lands reserved through flexible zoning.

(d) *Credit for previous deposit.* A credit shall be given for previous deposits made for platted lands where the developer has applied for and received approval of resubdivision of land. All appropriate formulas shall apply to a resubdivision and where additional funds are needed after credit is given the developer shall provide the additional funds.

(2) *Alternative procedure; land in lieu of money.* The City Council may accept land in lieu of money at the discretion of the City Council. The land shall be reserved for parks and playgrounds or other recreation purposes in locations designated on the Comprehensive Land Use Plan or otherwise where such reservations would be appropriate. Each reservation shall be of suitable size, location, dimension, topography and general character and shall have adequate street access for the particular purposes envisioned by the City Council. The area shall be shown and marked on the plat, "Reserved for Park and/or Recreation Purposes." When recreation areas are accepted by the City Council, it shall be based on the standard of three acres of recreation area for every 100 dwelling units. Land reserved for recreation purposes shall have an area of at least two acres, and no dimension of the site shall be less than 200 feet.

(3) *Applicability to flexible zoning developments.* Any subdivision plat in which the principle of flexible zoning has been utilized shall not be exempt from the provisions of this section, except as to such portion of the land which is actually dedicated to the city for park and recreation purposes.

(4) *Other recreation reservations.* The provisions of this section are minimum standards. None of the paragraphs above shall be construed as prohibiting a developer from reserving other land for recreation purposes in addition to the requirements of this section.

(B) *Other public uses.*

(1) *Plat to provide for identified public uses.* Except when an applicant utilizes flexible zoning in which land is set aside by the developer as required by the provision of the zoning ordinance, whenever a tract to be subdivided includes recreation uses provided by the land owner or developer in excess of the requirements of division (A) of this section, or other public use as indicated on the Comprehensive Land Use Plan or any portion thereof, such space shall be suitably incorporated by the applicant into the concept plan. After proper determination of its necessity by the City Council, the site shall be suitably incorporated by the applicant into the preliminary and final plats.

(2) *Duration of land reservation.* The acquisition of land reserved by the city on the final plat shall be initiated within 12 months of notification, in writing from the owner, that he or she intends to develop the land. The letter of intent shall be accompanied by a concept plan of the proposed

development and a tentative schedule of construction. Failure on the part of the city to initiate acquisition within the prescribed 12 months shall result in the removal of the "reserved" designation from the property involved and the freeing of the property for development in accordance with these regulations. (Ord. passed 11-93)

**§ 151.64 NONRESIDENTIAL SUBDIVISION.**

**(A) General.**

(1) If a proposed subdivision includes land that is zoned for commercial or industrial purposes, the layout of the subdivision with respect to such land shall make such provision as the City Council may require.

(2) An industrial subdivision shall also be subject to all the requirements of site plan approval set forth in the zoning code. Site plan approval and nonresidential subdivision plat approval may proceed simultaneously at the discretion of the City Council. A nonresidential subdivision shall be subject to all the requirements of these regulations, as well as such additional standards for improvements required by the City Council, and shall conform to the proposed land use and standards established in the Comprehensive Land Use Plan and zoning code.

**(B) Standards.** In addition to the principles and standards in these regulations, which are appropriate to the planning of all subdivisions, the applicant shall demonstrate to the satisfaction of the City Council that the street, parcel and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:

(1) Proposed industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated;

(2) Special requirements may be imposed by the city for street, gutter and sidewalk design and construction and for the installation of public utilities, including water, sewer and storm water drainage;

(3) Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas.

(Ord. passed 11-93)

**ASSURANCE FOR COMPLETION AND MAINTENANCE OF IMPROVEMENTS****§ 151.75 IMPROVEMENTS AND ISSUANCE OF ZONING CERTIFICATES/BUILDING PERMITS.**

(A) *Completion of improvements.* Before zoning certificates/building permits are signed by the city, all applicants shall be required to complete, in accordance with the City Council's decision and to the satisfaction of the City Engineer, any improvements as required in these regulations, specified in the final subdivision plat, and as approved by the City Council. The applicant shall dedicate all improvements to the city, free and clear of all liens and encumbrances on the property and public improvements thus dedicated.

(B) *Temporary and permanent improvements.* All temporary and permanent required improvements shall be made by the applicant or the city as specified by the City Council. All required temporary improvements shall be maintained for the period specified by the City Council. Each lot of a subdivision shall be assessed its fair share of the cost of required improvements completed by the city. Where the city provides the improvements, it shall be by methods in accordance with city policy and state law in order to pay the cost of improvements as required herein and subject to the following:

(1) The approved subdivision must be abutting upon a presently platted and substantially developed area;

(2) The total cost of required improvements shall be assessed against the benefitted property within a reasonable period of time acceptable to the City Council.

(C) *Required improvement contract.* Prior to development of construction plans and installation of required improvements, and prior to approval of the final plat, the subdivider shall enter into a contract with the city stating that the subdivider furnish and construct said improvements in accordance with plans and specifications to be approved by the City Engineer. The contract shall stipulate, but not be limited to, who shall construct the improvements, the type and extent of the improvements to be constructed, the cost of construction, the construction time schedule and the city's authority to inspect the construction.

(D) *Performance bonds.* The city shall require a performance bond from a subdivider in addition to a contract. The following requirements shall be met:

(1) The applicant shall be required to post a bond at the time of application for final subdivision approval in an amount estimated by the City Engineer and City Council as sufficient to secure to the city the satisfactory construction, installation and dedication of the uncompleted portion

of required improvements. The performance bond shall also secure all lot improvements on the individual lots of the subdivision as required in these regulations.

(2) Such performance bond shall comply with all statutory requirements and shall be satisfactory to the City Attorney as to form, sufficiency and manner of execution as set forth in these regulations. The period within which required improvements must be completed shall be specified by the City Council in the resolution approving the final subdivision plat and shall be incorporated in the bond and shall not in any event exceed two years from the date of final approval. Such bond shall be approved by the City Council as to amount and surety and satisfactory conditions. The Planning Commission may, upon proof of difficulty, recommend to the City Council extension of the completion date set forth in such bond for a maximum period of one additional year. The City Council may at any time during the period or such bond accept a substitution of principal or sureties on the bond.

(3) In those cases where a performance bond has been posted and required improvements have not been installed within the terms of such performance bond, the City Council may thereupon declare the bond to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the bond is declared to be in default.

(Ord. passed 11-93)

#### **§ 151.76 INSPECTION AND ACCEPTANCE OF IMPROVEMENTS.**

(A) *General procedure and fees.* The City Council shall provide for inspection of required improvements during construction and insure their satisfactory completion. The applicant shall pay to the city an inspection fee that will equal the actual cost of inspection. These fees shall be due and payable upon demand of the city and no zoning certificate/building permits shall be issued until all fees are paid. If the City Engineer finds upon inspection that any of the required improvements have not been constructed in accordance with the city's construction standards and specifications, the applicant shall be responsible for completing the improvements in accordance with construction standards and specifications.

(B) *Certificate of satisfactory completion.* The City Council will not accept dedication of required improvements until the City Engineer has submitted a certificate stating that all required improvements have been satisfactorily completed and until the applicant's engineer or surveyor has certified to the City Engineer, through submission of detailed "as-built" survey plat of the subdivision, indicating location, dimensions, materials and other information required by the City Council or City Engineer that the layout of the line and grade of all public improvements is in accordance with construction plans for the subdivision and are ready for dedication to the city and are free and clear of any and all liens and encumbrances. Upon such approval and recommendation, the City Council shall thereafter accept the improvements for dedication in accordance with the established procedure.

(C) *Extent of improvements.* The extent of street improvement shall be adequate for vehicular access by the prospective occupants of buildings and by police and fire equipment prior to the issuance of a zoning certificate/building permit.

(Ord. passed 11-93)

#### **§ 151.77 MAINTENANCE OF IMPROVEMENTS.**

The applicant shall be required to maintain all improvements on the individual subdivided lots such as erosion control and provide for snow removal on streets, if required, until acceptance of the improvements by the City Council.

(Ord. passed 11-93)

#### **§ 151.78 DEFERRAL OR WAIVER OF REQUIRED IMPROVEMENTS.**

(A) The City Council may defer or waive at the time of final plat approval, subject to appropriate conditions, the provision of any or all such improvements as, in its judgement, are not requisite in the interests of the public health, safety and general welfare or which are inappropriate because of inadequacy or lack of connecting facilities.

(B) Whenever it is deemed necessary by the City Council to defer the construction of any improvement required herein because of incompatible grades, future planning, inadequacy or lack of connecting facilities or for other reasons, each lot shall be assessed for its fair share of the costs of the future improvements to the city prior to the issuing of zoning certificates/building permits, or the subdivider may post a bond insuring completion of said improvements upon demand of the City Council.

(Ord. passed 11-93)

#### **§ 151.99 PENALTY.**

(A) Any person, firm or corporation who fails to comply with or violates any of these regulations shall be guilty of a misdemeanor and punished as provided in § 10.99.

(B) Appropriate actions and proceedings may be taken by law or in equity to prevent any violation of these regulations to prevent unlawful constructions and to recover damages, to restrain, correct or abate a violation; and these remedies shall be in addition to the penalties described above.

(Ord. passed 11-93)