

**TOWN OF BYRON
FOND DU LAC COUNTY, WISCONSIN**

ORDINANCE AMENDING ZONING ORDINANCE

The Town Board, after a public hearing and recommendation by the Plan Commission, preceded by a Class II Legal Notice, does hereby ordain the following amendments to the Town of Byron Zoning Ordinance:

Section 3.2 is amended to create the following definitions:

- 3.89 Solar energy system: A free-standing solar energy system that constitutes the principal use of the property or that exceeds the limitations established for a free-standing energy system as an accessory use. (In contrast see Solar energy system, free-standing).
- 3.90 Solar energy system, free-standing: An accessory use that is the installation of equipment mounted on the ground that uses sunlight to produce electricity or provide heat or hot water to a building. (In contrast see Solar energy system).
- 3.91 Solar energy system, building-mounted: An accessory use that is the installation of equipment mounted on a building or incorporated into the exterior building materials that uses sunlight to produce electricity or provide heat or water to a building.

Section 4.156 is amended to read:

In addition to specific requirements outlined in any zoning district, Accessory buildings which are not a part of the main buildings shall not occupy more than 30% of the area of the required rear yard and shall not be nearer than 5 feet to any lot line. Where an accessory building is a part of the main building or is substantially attached thereto, the side yard and rear yard regulations applicable to the main building shall be applied to the necessary building

Section 4.51 is created to read:

- 4.51 Solar energy system, building-mounted and Solar energy system, free-standing as Accessory Uses

4.51(A) Solar energy system, building-mounted

4.51(A)(i) Maximum surface area. No portion of a panel used to collect solar energy may extend beyond the roof surface or the wall surface to which it is attached.

4.51(A)(ii) Maximum height. A building-mounted solar energy system shall comply with the maximum height requirements of the zoning district in which the building is located (i.e. accessory and/or principal).

4.51(A)(iii) Placement on a flat roof. The panels of a solar energy system that are mounted on a flat roof may be either fixed or movable and may be placed at an angle to optimize efficiency of the system.

4.51(A)(iv) Placement on a pitched roof. The panels of a solar energy system that are mounted on a pitched roof may be either fixed or movable and may be placed at an angle to optimize efficiency of the system.

4.51(A)(v) Placement on a façade. A solar energy system may be mounted on the façade of a commercial building so long as the installation does not project more than 4 feet from the face of the wall.

4.51(A)(vi) Certification. A solar panel shall be certified by one of the following: Underwriters Laboratories, Inc.; National Renewable Energy Laboratory; Solar Rating and Certification Corporation; or other recognized body as approved by the zoning administrator.

4.51(A)(vii) Termination of use. If the zoning administrator determines that more than 50 percent of the panels (measured by total area) have not been operational for a continuous period of 12 months, the building inspector shall follow the procedure outlined in Article XVI to remove the inoperable solar panels.

4.51(B) Solar energy system, free-standing

4.51(B)(i) Surface area. The surface area of a free-standing solar energy system shall not exceed 150 square feet when located in one of the following zoning districts: Residential and Multi-Family Residential. There is no maximum surface area of a freestanding solar energy system in all other districts. The surface area for a free-standing solar energy system shall not be included when determining the total accessory structure area allowed.

4.51(B)(ii) Number. There shall be no more than one free-standing solar energy system when located in the following districts: Residential and Multi-Family Residential. There is no maximum number of free-standing solar energy systems in all other districts.

4.51(B)(iii) Maximum height. A free-standing solar energy system shall meet the maximum height restriction for an accessory structure for the zoning district which the system is located.

4.51(B)(iv) Setback. A free-standing solar energy system shall meet all setback requirements for an accessory structure for the zoning district which the system is located or a buffer yard as may be required by this chapter.

Pursuant to the procedures and requirements in Section 12 of this chapter, the Town may approve a special use to allow a free-standing solar energy system to extend into a yard setback or a buffer yard when no other location on the parcel is acceptable and the encroachment is the least necessary to allow the system to operate.

4.51(B)(v) Certification. A free-standing solar energy system shall be certified by one of the following: Underwriters Laboratories, Inc.; National Renewable Energy Laboratory; Solar Rating and Certification Corporation; or other recognized body as approved by the zoning administrator.

4.51(B)(vi) Termination of use. If the zoning administrator determines that more than 50 percent of the panels (measured by total area) have not been operational for a continuous period of 12 months, the building inspector shall follow the procedure outlined in Article XVI to remove the inoperable solar panels.

Section 5.34 is amended to read:

Accessory Buildings: Accessory buildings, including private garages, located in the Residential District shall be regulated as follows:

(A) Accessory buildings located on a lot between 0 and 1.4 acres shall have a maximum height of 10 feet at the eaves and a maximum square footage of 900 sq. ft.

(B) Accessory buildings located on a lot between 1.5 and 2.0 acres shall have a maximum height of 12 feet at the eaves and a maximum square footage of 1,200 sq. ft.

(C) Accessory buildings located on a lot between 2.1 and 4.9 acres shall have a maximum height of 16 feet at the eaves and a maximum square footage of 2,000 sq. ft.

(D) Accessory buildings located on a lot 5 acres or greater shall have a maximum height of 16 feet at the eaves and a maximum square footage of 4,000 sq. ft.

Section 5.3 is amended to create the following subsection:

5.35 Accessory Uses. The accessory uses and regulations permitted in Section 4.51(A) and 4.51(B) are permitted in this district.

Section 6.3 is amended to create the following section:

Accessory Uses. The accessory uses and regulations permitted in Section 4.51(A) and 4.51(B) are permitted in this district.

Section 6.43 is amended to read:

The restrictions on Accessory Buildings in Section 5.34 also apply in this district.

Section 7.35 is amended to create the following subsection:

7.356 The accessory uses and regulations permitted in Section 4.51(A) and 4.51(B) are permitted in this district provided that solar energy system, building-mounted and solar energy, free standing located in a Farmland Preservation district meet the requirements of s. 91.01(1), 91.44(1)(f) or s. 91.46(4), Wis. Stats., as amended.

Section 8.3 is amended to create the following section:

Accessory Uses. The accessory uses and regulations permitted in Section 4.51(A) and 4.51(B) are permitted in this district.

Section 9.3 is amended to create the following section:

Accessory Uses. The accessory uses and regulations permitted in Section 4.51(A) and 4.51(B) are permitted in this district.

Section 10.3 is amended to create the following section:

Accessory Uses. The accessory uses and regulations permitted in Section 4.51(A) and 4.51(B) are permitted in this district

Section 12.623 is amended to read:

Solar Energy Systems. A free-standing solar energy system that constitutes the principal use of the property or that exceeds the limitations established for a free-standing energy system as an accessory use in Section 4.51(B).

All other provisions of the Zoning Ordinance remain in full force and effect.

The Town Clerk and Town Attorney are authorized and directed to make all changes to the Town Zoning Ordinance necessary to implement the amendments contained herein.

Dated this 9th day of April, 2019.

TOWN OF BYRON

By: Bob Simon /s/ Town of Byron

Bob Simon, Town Chairperson

Attest:

Mary /s/ Laudolff

Mary Laudolff, Town Clerk

TOWN OF BYRON ZONING ORDINANCE

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TOWN OF BYRON
FOND DU LAC COUNTY, WISCONSIN

ZONING ORDINANCE

An Ordinance under the provisions of Section 62.23(7) to promote the health, safety, morals and general welfare; to aid in implementing the Town of Byron Comprehensive Plan; to regulate and restrict the height, number of stories and size of buildings and other structures, the size of yards, courts and other open spaces, the density of population, the location and use of buildings, structures and land for trade, industry, residence and other purposes; and for the said purpose to divide the Town of Byron, Fond du Lac County, Wisconsin, into districts of such number, shape, and area as are deemed best suited to carry out the said purposes; to provide a method for its administration and enforcement and to provide penalties for its violation.

The Town Board of the Town of Byron, Fond du Lac County, Wisconsin having been granted village powers pursuant to Section 60.10(2), does ordain as follows:

ARTICLE I

Section 1.0 Interpretation and Purposes.

- 1.1 The provisions of this ordinance shall be held to be minimum requirements adopted to promote the health, safety, morals, comfort, prosperity and general welfare of the Town of Byron, Fond du Lac County, Wisconsin.
- 1.2 It is not intended by this ordinance to repeal, abrogate, annul, impair or interfere with any existing easement, covenants, or agreements between parties, or with any rules, regulations, or permits previously adopted or issued pursuant to laws; provided, however, that where this ordinance imposes a greater restriction upon the use of buildings or premises, or upon the height of a building or requires larger open spaces than are required by other rules, regulations or permits or by easements, covenants or agreements, the provisions of this ordinance shall govern.

ARTICLE II

Section 2.0 Districts.

- 2.1 For the purposes of this ordinance, the Town of Byron, Fond du Lac County, Wisconsin is hereby divided into 6 districts as follows:
 - 2.11 Residential District
 - 2.12 Multi-Family Residential District

- 2.13 Farmland Preservation District
- 2.14 General Agricultural District
- 2.15 Business District
- 2.16 Industrial District

2.2 The boundaries of the aforesaid districts are hereby established as shown on the map entitled "Zoning Map for the Town of Byron, Fond du Lac County, Wisconsin," which map is made a part of this ordinance and is on file in the office of the Clerk of said township. All notations and references shown on the District Map are as much a part of this ordinance as though specifically described herein.

2.21 The district boundaries, unless otherwise indicated, are street or highway center lines, railroad right-of-way lines extended, lines parallel or perpendicular to such street, highway or railroad lines, the shore line of lakes or streams, lot or alley lines, section lines, quarter section lines, or quarter-quarter section lines, and when the designation on the district map indicates that the various districts are approximately bounded by any of the above lines, such lines shall be construed to be the district boundary line.

2.22 The district boundaries, where not otherwise designated, shall be determined by the use of the scale shown on the district map.

ARTICLE III

Section 3.0 Glossary of Terms.

3.1 General Terms. For the purposes of this ordinance, certain words and terms are defined as follows: Words used in the present tense include the future; the singular number includes the plural number and the plural number includes the singular number; the word "building" includes the word "structure"; the word "shall" is mandatory and not directory.

3.2 Definitions.

3.21 Airport, Public - Any airport which complies with the definition contained in Section 114.013(3), Wisconsin Statutes, or any airport which serves or offers to serve common carriers engaged in air transport.

3.22 Alley - A street or thoroughfare less than 21 feet wide and affording only secondary access to abutting property.

- 3.23 Animal Units - A unit of measure used to determine the total number of single animal types or combination of animal operation types, as specified in s. NR 243.11 and 243.05, that are at an animal feeding operation.
- 3.24 Automobile Wrecking Yard - Any premises on which two or more automotive vehicles, not in operating condition, are stored in the open.
- 3.25 Base Farm Tract
- (1) All land, whether one parcel or 2 or more contiguous parcels, that is in the Farmland Preservation District and is part of a single farm on March 4, 2011, regardless of any subsequent changes in the size of the farm.
 - (2) Any other tract that DATCP by rule defines as a base farm tract.
- 3.26 Boarding House - A building other than a hotel where meals, or lodging and meals, are furnished for compensation for 5 or more persons not members of a family.
- 3.27 Boathouse - Any structure designed for the purpose of protecting or storing boats for noncommercial purposes. Boathouses shall not be used for human habitation.
- 3.28 Boundary Separation - Specifications for separation between the nonmetallic mining site and nonmetallic mining operation, as defined in this ordinance, and adjacent property or right-of-way boundaries. Excluded from separation requirements are authorized ingress and egress roads and areas authorized by the board as defined in this ordinance.
- 3.29 Building - Any structure for the shelter, support or enclosure of persons, animals, chattels or property of any kind. When separated by division walls without openings, each portion of such building, so separated shall be deemed a separate building.
- 3.30 Building, Accessory - A building or portion of a building subordinate to the main building and used for a purpose customarily incidental to the permitted use of the main building or the use of the premises.

- 3.31 Building, Height of - The vertical distance from the average curb level in front of the lot or the finished grade at the building line, whichever is higher, to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the average height of the highest gable of a gambrel, hip or pitch roof.
- 3.32 Building, Main - A building constituting the principal use of a lot.
- 3.33 Center Line - A line connecting points on highways from which setback lines shall be measured, at any point on the highway.
- 3.34 Channel - A natural or artificial watercourse of perceptible extent, which definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow thus is that water which is flowing within the limits of the defined channel.
- 3.35 Common Ownership - Ownership by the same person or persons, or by a legal business entity that is wholly owned by the same person or persons. "Common ownership" includes joint tenancy and tenancy in common. Solely for purposes of this definition, a parcel owned by one member of a married couple is deemed to be owned by the married couple.
- 3.36 Contiguous - Adjacent to or sharing a common boundary. This includes land that is separated only by a river, stream, section line, public road, private road, railroad, pipeline, transmission line, or transportation or transmission right-of-way. Parcels are not contiguous if they meet only at a single point.
- 3.37 DATCP - An abbreviation for the Department of Agriculture, Trade, and Consumer Protection.
- 3.38 Dwelling Unit - A building or portion thereof which provides or is intended to provide living quarters exclusively for one family.
- 3.39 Dwelling, One Family - A detached building designed for or occupied exclusively by one family.
- 3.40 Dwelling, Two Family - A detached or semidetached building designed for and occupied exclusively by two families.
- 3.41 Dwelling, Multiple Family - A building or portion thereof designed

for and occupied by more than two families including tenement houses, row houses, apartment houses and apartment hotels.

- 3.42 Environmental Pollution - The contaminating or rendering unclean or impure the air, land or waters of the state or making the same injurious to public health, harmful for commercial or recreational use or deleterious to fish, bird, animal or plant life.
- 3.43 Existing Nonmetallic Mining Operation - A nonmetallic mining operation existing before the effective date of this ordinance. For purposes of this ordinance, such operations shall be deemed to be confined to such parcels or portions of parcels as were, or had been under actual excavation as of May 11, 1993. When contiguous parcels are owned by the same entity and excavation operations are in existence on part of the land, all land constituting an integral part of the operations is deemed "in use" for purposes of determining what is an existing nonmetallic mining operation.
- 3.44 Expansion - Any vertical or horizontal increase beyond dimensions of the original application for the nonmetallic mining site.
- 3.45 Family - (a) an individual; or (b) 2 or more persons related by blood, marriage, or adoption; or (c) maximum of 5 persons not so related; together with his or their domestic servants and gratuitous guest maintaining common household in a dwelling unit or lodging unit.
- 3.46 Farm - means a parcel of land, or a collection of 2 or more contiguous parcels of land, which meets all of the following conditions:
- (1) All of the land is under common ownership.
 - (2) More than half of the entire land area is assigned for property tax purposes to one or more of the following use classification as defined by the Wisconsin Department of Revenue pursuant to s. 70.32(2), Wis. Stats:
 - a. Agricultural land (class 4)
 - b. Agricultural forest (class 5m)
 - c. Productive forest (class 6)
- 3.47 Farm Acreage - means, for the purposes of 7.431 acreage that is part of a farm, except that farm acreage does not include any nonfarm residential acreage.

- 3.48 Farm Residence - Any of the following structures that is located on a farm:
- (1) A single-family or duplex residence that is the only residential structure on the farm or is occupied by any of the following:
 - (a) An owner or operator of the farm.
 - (b) A parent or child of an owner or operator of the farm.
 - (c) An individual who earns more than 50 percent of his or her gross income from the farm.
 - (2) A migrant labor camp that is certified under s. 103.92.
- 3.49 Frontage - All the property abutting on one side of a road or street between 2 intersecting roads or streets or all of the property abutting on one side of a road or street between an intersecting road or street and the dead end of a road or street.
- 3.50 Garage, Private - An accessory building or space for the storage of motor-driven vehicles.
- 3.51 Garage, Public - Any building or premises, other than a private, or a storage garage, where motor-driven vehicles are equipped, repair, serviced, hired, sold or stored.
- 3.52 Garage, Storage - Any building or premises used for the storage only of motor-driven vehicles or motor-driven machinery, pursuant to previous arrangements and not to transients, and where no equipment, parts, fuel, grease or oil is sold.
- 3.53 Gross Income - The meaning given for Wisconsin adjusted gross income in s. 71.01 (13).
- 3.54 Home Occupation - A gainful occupation conducted by members of the family only, within their place of residence; provided that no article is sold or offered for sale on the premises except such as is produced by such occupation, that no stock in trade is kept or sold, that no mechanical equipment is used other than such as is permissible for purely domestic purposes, that no sign other than one unlighted name plate not more than 2 feet square is installed and that no person other than a member of the immediate family is involved.
- 3.55 Hotel - A building in which lodging, with or without meals, is

offered to transient guests for compensation and in which there are more than 5 sleeping rooms with no cooking facilities in any individual room or apartment.

- 3.56 Junk Yard - A lot, land, building, or structure, or part thereof used primarily for the collecting, storage, and/or sale of waste paper, rags, scrap metal, or discarded material or for the collecting, dismantling, storage, and salvaging of machinery or vehicles not in running condition and for sale or parts therefrom.
- 3.57 Kenel - Any use involving the kenneling, boarding, breeding, grooming, commercial or competitive showing, or sale of dogs or puppies of any age, which typically involves the keeping of three or more dogs or puppies of any age.
- 3.58 Livestock
- (1) For use in determining compliance with Wis. Stat. Chapter 91 Farmland Preservation (article 7 of this ordinance), livestock means bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites, and farm-raised fish.
- 3.59 Lodging House - A building other than a hotel where lodging is provided for compensation for 3 or more persons not members of the family.
- 3.60 Lot, Zoning Lot - A single property, parcel, unit, tract, plot or otherwise designated to be used, as a unit under single ownership or control, and which may be occupied by 1 or more structures and the accessory structures, or uses customarily incidental to it, including such open spaces as are arranged and designed to be used in connection with such structure. A "zoning lot" may or may not coincide with a lot of record.
- 3.61 Lot Corner - A lot located:
- (1) At the junction of and abutting 2 or more intersecting streets; or
- (2) At the junction of and abutting street and the nearest shoreline of highwater line of a storm or floodwater runoff channel or basin; or
- (3) At the junction of and abutting 2 or more storm or flood water

- runoff channels or basins; or
- (4) At and abutting the point of abrupt change of a single street where the interior angle is less than 135 degrees and the radius of the street is less than 100 feet.
- 3.62 Lot Depth - The average distance from the front to the rear lot lines measured in the general direction of the side lot lines.
- 3.63 Lot, Interior - A lot other than a corner lot.
- 3.64 Lot Width - The distance between side lines of the lot at the building line. In the case of a shoreland lot, the lot width is the width of the lot 75 feet from the waterline.
- 3.65 Minor Structure - An small, movable accessory structure or construction such as birdhouses, tool houses, ice shanties, pet houses, play equipment, arbors, and walls and fences under four feet in height.
- 3.66 Mobile Home - A transportable factory built structure designed for long-term occupancy built prior to enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976, and which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway, and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used; including any additions, attachments, annexes, foundations and appurtenances. In the purpose of this Section, a mobile home shall remain classified as a mobile home regardless of whether its wheels or other rolling devices have been removed or not, and even though assessable value of additions, attachments, annexes, foundations and appurtenances or other added investments to the mobile home equal or exceed fifty percent (50%) of the assessable value of the mobile home. Excluded from this definition are "manufactured homes" as defined below.
- 3.67 Manufactured Home - A dwelling structure or component thereof fabricated in an off-site manufacturing facility for installation or assembly at the building site which is certified and labeled as a manufactured home under 42 U.S.C. secs. 5401-5426, which, when placed on the site: (a) is set on an enclosed continuous foundation in accordance with sec. 70.41(1), Wis. Stats. and COMM 21, subchapters III, IV and V of the Wisconsin Administrative Code, or

is set on a comparable enclosed continuous foundation system approved by the Building Inspector, who may require a plan for such foundation to be certified by a registered architect or engineer to ensure proper support for such structure; (b) is installed in accordance with the manufacturer's instructions; (c) is properly connected to utilities; and (d) meets other applicable standards of this Zoning Ordinance.

- 3.68 Mobile Home Park - Any plot or tract of ground upon which two or more mobile homes or manufactured homes, occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodations.
- 3.69 Motel - A building or group of buildings containing rooms which are offered for compensation for the temporary accommodations of transients.
- 3.70 Nonconforming Structure - A building or premises lawfully used, occupied, or erected at the time of the passage of this ordinance or amendments thereto, which does not conform to the regulations of this ordinance with respect to frontage, width, height, area, yard, parking, loading, or distance requirements.
- 3.71 Nonconforming Use - A building or premises lawfully used or occupied at the time of the passage of this ordinance or amendments thereto, which use or occupancy does not conform to the regulations of this ordinance or amendments thereto.
- 3.72 Nonfarm Residence - A single-family or multi-family residence other than a farm residence.
- 3.73 Nonfarm Residential Acreage - For purposes of section 7.431 the combined total acreage of all parcels on which nonfarm residences are located, all parcels on which the Town of Byron has approved nonfarm residences, all parcels that do not qualify as farms, and the parcel to which the Special Use permit application pertains.
- 3.74 Nonmetallic Mining - Operations or activities for the extraction from the earth for sale or use by the operator of mineral aggregates such as stone, sand and gravel, and nonmetallic mineral such as asbestos, beryl, clay, feldspar, peat and talc, and related operations or activities such as excavation, grading or dredging, if the purpose of said activities is the extraction of mineral aggregates and nonmetallic

minerals and related processes such as crushing, screening, scalping, dewatering and blending. The location where a nonmetallic mining operation is proposed or conducted includes all surface areas from which materials are removed, related storage and processing areas, areas where nonmetallic mining refuse is deposited, and areas disturbed by the nonmetallic mining operation. Nonmetallic mining includes, but is not limited to, quarrying, borrow pits and the preparation of hot blacktop mix or ready-mix concrete, and the operation of kilns. This definition does not apply to the following activities:

- (1) Activities less than 5 acres for the use of the property owner if no material is removed from the property(s).
- (2) Pre-mining activities such as site surveying, coring, mapping and other functions necessary solely for proper preparation of the permit, subject to the following restrictions:
 - (a) The prospective operator shall obtain an exploration permit.
 - (b) The prospective operator shall pay a refundable exploration fee of \$500.00. Said fee shall be refunded provided (i) the subject property has been restored to its pre-exploration condition, or (ii) the prospective operator submits an application for a nonmetallic permit under this ordinance, in which event the exploration fee shall be credited against the nonmetallic permit fee.
 - (c) No more than 1 acre per 40 acre parcel may be opened for exploration at one time.
 - (d) The term of the exploration permit shall not exceed 90 days.
- (3) Excavation in conjunction with utility installation, which is to be backfilled.
- (4) Excavation in conjunction with road construction, within the limits of the right-of-way, when construction plans have been approved by the Department of Transportation and/or other governmental bodies.
- (5) Excavation which by nature is of limited duration such as graves, septic tanks, and swimming pools.
- (6) Agricultural drainage work incidental to agricultural operations and irrigation/stock watering ponds, if no material is removed from the property.
- (7) Excavation for structures, parking areas, and stripping of up to 1 1/2 feet of topsoil for the development of subdivisions,

- following final subdivision approval.
- (8) Re-grading of property for aesthetic purposes that does not affect existing drainage, if no material is removed from the property.
 - (9) Dredging operations under the jurisdiction of the U.S. Army Corps of Engineers or other governmental bodies.
 - (10) Ponds developed for wildlife purposes in conjunction with the Soil Conservation Service or Land and Water Conservation Department, provided that materials excavated to form such ponds remain on the parcel from which they were excavated and are deposited in compliance with law, including local ordinances.
 - (11) Excavation activities related to sod farming.
- 3.75 Nonmetallic Mining Refuse - Waste soil, rock, mineral, liquid, vegetation and other waste material resulting from a nonmetallic mining operation. This term does not include merchantable by-products resulting from or displaced by the nonmetallic mining operation.
- 3.76 Nonmetallic Mining Site or "Site" - The location where a nonmetallic mining operation is proposed or conducted including all surface areas from which materials are removed, related storage and processing areas, areas where nonmetallic mining refuse is deposited and areas disturbed by the nonmetallic mining operation by activities such as the construction or improvement of roads.
- 3.77 Operator - Any person who is engaged in a nonmetallic mining operation or nonmetallic mining site reclamation or who applies for or holds a nonmetallic mining permit issued under a nonmetallic mining reclamation ordinance whether individually, jointly or through subsidiaries, agents, employees, contractors or subcontractors or subcontractors.
- 3.78 Prime Farmland - An area with a class I or class II land capability classification as identified by the Natural Resources Conservation Service of the United States Department of Agriculture or an area that is identified as prime farmland in the Fond du Lac County Farmland Preservation Plan.
- 3.79 Professional Office - The office of a doctor, practitioner, dentist, minister, architect, landscape architect, professional engineer, lawyer, author, musician beauty parlor or barbershop or other

recognized profession. When established in the Residential, Farmland Preservation or General Agricultural District, a professional office shall be incidental to the residential occupation, not more than 25% of the floor area of only 1 story of a dwelling unit shall be occupied by such office, except that a beauty parlor shall be limited to 3 licensed operators working at any one time, and a barbershop to 2 licensed barbers operating in not to exceed 2 barber chairs at any one time; and provided further that a beauty parlor or barbershop shall not occupy over 500 square feet of floor area, including lavatories and waiting room; and only 1 unlighted name plate, not exceeding 4 square feet in area, containing the name and profession of the occupant of the premises shall be exhibited.

- 3.80 Reclamation - The rehabilitation of a nonmetallic mining site including but not limited to removal of nonmetallic mining refuse, grading the site, replacement of topsoil, stabilization of soil conditions, establishment of vegetative cover, control of surface water and groundwater, prevention of environmental pollution, construction of fences, and restoration of plant, fish and wildlife habitat.
- 3.81 Replacement of Topsoil - The replacement of the topsoil which was removed or disturbed by a nonmetallic mining operation or the provision of soil which is at least as adequate as the topsoil which was removed or disturbed for the purposes of providing adequate vegetative cover and stabilization of soil conditions.
- 3.82 Residence, Nonfarm - Any residence other than a farm residence.
- 3.83 Residential Cluster, Nonfarm - The grouping of lots for the purpose of development of nonfarm residences whereby the lots are contiguous, on nonprime farmland or other site deemed unsuitable for agricultural production or of limited agricultural value by the Board of Appeals.
- 3.84 Roadside Stand - A structure not permanently fixed to the ground that is readily removable in its entirety covered or uncovered and not wholly enclosed, and used solely for the sale of farm products produced on the premises. No such roadside stand shall be more than 50 square feet in ground area and there shall not be more than 1 roadside stand on any one premises.
- 3.85 Sanitary Sewer - A constructed conduit for the collection and

carrying of liquid and solid sewage wastes from 2 or more premises, other than storm water, to a sewage treatment plant, and which is approved by the Wisconsin Department of Natural Resources.

- 3.86 Setback - Lines established along and parallel to highways at specified distances from the nearest boundary line of the dedicated road right-of-way, which permitted buildings or structures shall be set back of, or outside of, and within which they may not be placed except as hereinafter provided. "Within the setback line" means between the setback line and the highway.
- 3.87 Sign - Any structure or device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge, or insignia of any government or governmental agency, or any civic, charitable, religious, patriotic, fraternal or similar organization, or any sign indicating address. Each display surface of a sign shall be considered a sign.
- 3.88 Sign, Directional - A sign erected for the purpose of directing persons to a place of business, recreation or public building, school or church.
- 3.89 Solar energy system - A free-standing solar energy system that constitutes the principal use of the property or that exceeds the limitations established for a free-standing energy system as an accessory use. (In contrast see Solar energy system, free-standing).
- 3.90 Solar energy system, free-standing - An accessory use that is the installation of equipment mounted on the ground that uses sunlight to produce electricity or provide heat or hot water to a building. (In contrast see Solar energy system).
- 3.91 Solar energy system, building-mounted - An accessory use that is the installation of equipment mounted on a building or incorporated into the exterior building materials that uses sunlight to produce electricity or provide heat or water to a building.
- 3.92 Stable - "Stable" shall have the same meaning as "garage," one draft animal being considered the equivalent of one self-propelled vehicle.
- 3.93 Street - All property dedicated or intended for public or private street purposes or subject to public easements therefor and 21 feet or more in width.

- 3.94 Street Line - A dividing line between a lot, tract or parcel of land and a contiguous street.
- 3.95 Structure - Anything constructed or erected, the use of which requires a more or less permanent location on or in the ground. Includes but is not limited to objects such as buildings, factories, sheds, cabins, wells, septic tanks, and disposal fields.
- 3.96 Temporary Structure - A structure which is built of such materials and in such a way that it would commonly be expected to have a relatively short useful life, or is built for a purpose that would commonly be expected to be relatively short-term and not to be habitable.
- 3.97 Structural Alteration - Any change in the bearing walls, columns, beams, girders, or supporting members of a structure; any change or rearrangement in the floor area of a building, any enlargement of a structure whether by extending horizontally or by increasing in height, and/or any movement of a structure from 1 location or position to another.
- 3.98 Traffic Lane - A strip of roadway intended to accommodate a single line of moving vehicles.
- 3.99 Use, Accessory - A use customarily incidental to the principal use and on the same lot as the principal use.
- 3.100 Use, Special - A "special use" is a use which, because of its unique characteristics and impact upon the environment, cannot be properly classified as a permitted use. It is allowable only after the issuance of a special use permit by the Board of Appeals.
- 3.101 Use, Permitted - A use that may lawfully be established in a particular district or districts, provided it conforms to all requirements, regulations, and standards of such district.
- 3.102 Use, Principal - The primary use of a property or structures.
- 3.103 Yard - An open space, other than a court, on the same lot with a structure, lying between the structure and the nearest lot line, and is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein.

- 3.104 Yard, Front - A yard extending the full width of a lot and situated between the front lot line and the nearest line of a structure located on said lot. Where a lot is located such that its rear and front lot lines each abut a street right-of-way line both such yards shall be classified as front yards. Every yard of a corner lot facing a street right-of-way line shall be classified as a front yard.
- 3.105 Yard, Rear - A yard extending the full width of a lot and situated between the rear lot line and the nearest line of a structure located on said lot.
- 3.106 Yard, Side - A yard situated between the side lot line and the nearest line of a structure located on said lot and extending from the rear line of the front yard to the front line of the rear yard.

ARTICLE IV

Section 4.0 General Provisions

- 4.1 Compliance. The use and height of a building hereinafter erected, converted, enlarged or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such land or building is located.
- 4.11 No alterations to any building, except uncovered steps, shall project into the front yard established at the time of the original construction of such building beyond a line connecting the nearest points on the setback lines of the next existing buildings on each side of such building.
- 4.12 Where a housing project consisting of a group of 2 or more buildings containing 4 or more dwelling units is to be constructed on a site not subdivided into customary lots and streets, or where an existing lot and street layout make it impractical to apply the requirements of this ordinance to the individual building units, the Board of Appeals may approve a development plan provided it complies with the regulations of this ordinance as applied to the whole plat.
- 4.13 Every part of a required yard shall be open to the sky unobstructed, except the accessory buildings in a rear yard, and the ordinary projections of sills, belt courses, cornices and ornamental features projecting not more than 24 inches, and/or up to 48 inches for solar

heating systems.

4.14 All dwellings shall conform to minimum floor size and be securely anchored to a permanent footed foundation or slip.

4.15 Exceptions. The regulations contained herein relating to the heights of buildings and the size of yards and other open spaces shall be subject to the following exceptions.

4.151 Churches, schools, hospitals, sanatoriums and other public and quasi-public buildings may be erected to a height not exceeding 65 feet nor 5 stories, provided the front, side and rear yards required in the district in which such building is to be located are each increased at least 1 foot for each foot of additional building height above the height limit otherwise established for the district in which such building is to be located.

4.152 Chimneys, cooling towers, elevator bulkheads, fire towers, silos, monuments, penthouses, setbacks, scenery lofts, tanks, water towers, ornamental towers, spires, wireless, television or broadcasting towers, masts or aerials, telephone, telegraph and power poles and lines, micro-wave radio relay structures, and necessary mechanical appurtenances are hereby excepted from the height regulations of this ordinance and may be erected in accordance with the other regulations or ordinances of the Town of Byron.

4.153 Residences in the Residential and Agricultural Districts may be increased in height by not more than 10 feet when all yards and other required open spaces are increased by 1-foot for each foot by which such building exceeds the height limit of the district in which it is located.

4.154 Where a lot abuts on 2 or more streets or alleys having different average established grades, the higher of such grades shall control only for a depth of 120 feet from the line of the higher average established grade.

4.155 Buildings on through lots and extending from street to street may waive the requirements for a rear yard by furnishing an equivalent open space on the same lot in lieu of the required rear yard provided that the setback requirements on both streets be complied with.

- 4.156 In addition to specific requirements outlined in any zoning district, Accessory buildings which are not a part of the main buildings shall not occupy more than 30% of the area of the required rear yard and shall not be nearer than 5 feet to any lot line. Where an accessory building is a part of the main building or is substantially attached thereto, the side yard and rear yard regulations applicable to the main building shall be applied to the necessary building.
- 4.157 Open or enclosed fire escapes and fire towers may project into a required yard not more than 5 feet provided they be so located as not to obstruct light and ventilation.
- 4.2 Lots. No lot area shall be so reduced that the yards and open spaces shall be smaller than is required by this ordinance, nor shall the density of population be increased in any manner except in conformity with the area regulations hereby established for the district in which a building or premises is located.
- 4.3 Yards. No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this ordinance shall be included as a part of a yard or other open space required for another building.
- 4.4 Nonconforming Uses, Structures, and Lots.
- 4.41 Applicability and Intent. Any lawful use of land or structures, or any lot or structure which lawfully existed at the effective date of adoption or amendment of this ordinance which would not be permitted or permissible by the provisions of this ordinance as adopted or amended, shall be deemed a nonconforming use, lot or structure respectively. It is the intent of this ordinance to permit such nonconformities to continue, subject to certain restrictions. No use, lot, or structure will receive nonconforming status under this section unless it lawfully existed at the effective date of adoption or amendment of this ordinance.
- 4.42 Abolishment. If a nonconforming use or structure is discontinued for a period of twelve (12) months, any future use of the land or structure shall conform to the provisions of this Ordinance.
- 4.43 Nonconforming Uses of Land
1. Where, at the effective date of adoption or amendment of this ordinance, a use of land lawfully exists which would not be

allowed as a permitted or special use in the district in which it is located as amended, such use may be continued subject to the following restrictions:

- a. Such use shall not be enlarged, increased, nor extended to occupy a greater area of the lot than was occupied at the effective date of adoption or amendment of this ordinance.
- b. Such use shall not be moved in whole or in part to any other portion of the lot other than the portion occupied by such use at the effective date of adoption or amendment of this ordinance.
- c. When such use is discontinued or abandoned for a period of more than twelve consecutive months for any reason whatever, or when such use is replaced by a use allowed as a permitted or special use, a nonconforming use shall not thereafter be resumed.
- d. No additional structure in connection with such use shall be erected.

4.44 Nonconforming Uses of Structures.

1. Where, at the effective date of adoption or amendment of this ordinance, the use of a structure lawfully exists which would not be allowed as a permitted or special use in the district in which it is located as amended, such use may be continued subject to the following restrictions:
 - a. No existing structure devoted to a use not permitted or permissible shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use that is a permitted or special use in the district in which it is located.
 - b. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the effective date of adoption or amendment of this ordinance. Any nonconforming use that occupied a portion of a building not originally designed or intended for such use shall not be extended to any part of the building. No nonconforming use shall be extended to occupy any land outside the building, nor any other building not used for such nonconforming use.
 - c. There may be a change in tenancy, ownership, or management of a nonconforming use provided there is no change in the nature or character of such

- nonconforming use.
- d. When such use of a structure is discontinued or abandoned for a period of more than twelve consecutive months for any reason whatever, or when such use is replaced by a permitted or special use, a nonconforming use shall not thereafter be resumed.
- e. If such structure is destroyed or damaged due to violent wind, vandalism, fire, flood, ice, snow, mold, or infestation, the structure may be restored to the size and use that it had immediately before the damage or destruction occurred or to a larger size if necessary for the structure to comply with applicable state or federal requirements.

4.45 Nonconforming Structures.

- 1. Where, at the effective date of adoption or amendment of this ordinance, a structure lawfully exists which could not be erected in the district in which it is located as amended by reason of restriction on area or coverage, height, yards, its location on the lot or other requirements concerning the structure, such structure may continue in existence subject to the following restrictions:
 - a. Such lawful structure shall not be altered in any manner that would increase the degree of nonconformity.
 - b. If such lawful structure is destroyed or damaged due to violent wind, vandalism, fire, flood, ice, snow, mold, or infestation, the structure may be restored to the size and use that it had immediately before the damage or destruction occurred or to a larger size if necessary for the structure to comply with applicable state or federal requirements.

4.46 Nonconforming Characteristics of Use. If characteristics of use such as lighting, parking, noise or other matters pertaining to the use of land, structures and premises are made nonconforming by the provisions of this ordinance as adopted or amended, no change shall thereafter be made in such characteristics of use which increases the nonconformity; provided, however, that changes may be made which do not increase, or which decrease, such nonconformity.

4.47 Nonconforming Lots of Record. In any district, any permitted or permissible structure may be erected on a single lot of record at the effective date of adoption or amendment of this ordinance. This provision shall apply even though such lot fails to meet the

requirements of lot area, lot width, or both for the district in which it is located as amended as long as the lot lawfully existed at the time of the adoption of or amendment to this ordinance, provided such lot shall be in separate ownership and not of continuous frontage with other lots in the same ownership, and provided all other requirements for the district are met.

- 4.48 Nonconforming Signs. No nonconforming sign shall be altered in any manner that would increase the degree of nonconformity. If such sign is destroyed or damaged to an extent of more than 50 percent of its replacement cost at the time of destruction, such sign shall be replaced as a conforming sign. If a nonconforming sign is destroyed or damaged to an extent of less than 50 percent of its replacement cost at the time of destruction, it may be reconstructed provided any reconstruction does not increase the degree of nonconformity that previously existed.
- 4.49 Casual, Temporary, or Illegal Use. The casual, temporary, or illegal use of land or structures, or land structures in combination, shall not be sufficient to establish the existence of a nonconforming use or to create rights in the continuance of such use.
- 4.50 Repairs and Maintenance. Nothing in this ordinance shall be deemed to prevent normal maintenance or repair of any structure or to prevent restoring to a safe condition any structure declared to be unsafe.
- 4.51 Solar energy system, building-mounted and Solar energy system, free-standing as Accessory Uses.
1. Solar energy system, building-mounted:
 - a. Maximum surface area. No portion of a panel used to collect solar energy may extend beyond the roof surface or the wall surface to which it is attached.
 - b. Maximum height. A building-mounted solar energy system shall comply with the maximum height requirements of the zoning district in which the building is located (i.e. accessory and/or principal).
 - c. Placement on a flat roof. The panels of a solar energy system that are mounted on a flat roof may be either fixed or movable and may be placed at an angle to

optimize efficiency of the system.

- d. Placement on a pitched roof. The panels of a solar energy system that are mounted on a pitched roof may be either fixed or movable and may be placed at an angle to optimize efficiency of the system.
- e. Placement on a façade. A solar energy system may be mounted on the façade of a commercial building so long as the installation does not project more than 4 feet from the face of the wall.
- f. Certification. A solar panel shall be certified by one of the following: Underwriters Laboratories, Inc.; National Renewable Energy Laboratory; Solar Rating and Certification Corporation; or other recognized body as approved by the zoning administrator.
- g. Termination of use. If the zoning administrator determines that more than 50 percent of the panels (measured by total area) have not been operational for a continuous period of 12 months, the building inspector shall follow the procedure outlined in Article XVI to remove the inoperable solar panels.

2. Solar energy system, free-standing:

- a. Surface area. The surface area of a free-standing solar energy system shall not exceed 150 square feet when located in one of the following zoning districts:

Residential and Multi-Family Residential.

There is no maximum surface area of a freestanding solar energy system in all other districts. The surface area for a free-standing solar energy system shall not be included when determining the total accessory structure area allowed.

- b. Number. There shall be no more than one free-standing solar energy system when located in the following districts:

Residential and Multi-Family Residential.

There is no maximum number of free-standing solar energy systems in all other districts.

- c. Maximum height. A free-standing solar energy system shall meet the maximum height restriction for an accessory structure for the zoning district which the system is located.
- d. Setback. A free-standing solar energy system shall meet all setback requirements for an accessory structure for the zoning district which the system is located or a buffer yard as may be required by this chapter. Pursuant to the procedures and requirements in Section 12 of this chapter, the Town may approve a special use to allow a free-standing solar energy system to extend into a yard setback or a buffer yard when no other location on the parcel is acceptable and the encroachment is the least necessary to allow the system to operate.
- e. Certification. A free-standing solar energy system shall be certified by one of the following: Underwriters Laboratories, Inc.; National Renewable Energy Laboratory; Solar Rating and Certification Corporation; or other recognized body as approved by the zoning administrator.
- f. Termination of use. If the zoning administrator determines that more than 50 percent of the panels (measured by total area) have not been operational for a continuous period of 12 months, the building inspector shall follow the procedure outlined in Article XVI to remove the inoperable solar panels.

ARTICLE VSection 5.0 Residential District.

5.1 Purpose. The Residential District is intended to provide the area covered by this ordinance with low-density residential district.

5.2 Permitted Uses:

5.21 One-family dwellings;

5.211 Manufactured homes occupied by not more than one (1) family and complying with all of the following requirements and limitations: (a) the home shall be a double-wide of at least twenty four (24) feet in width and forty two (42) feet in length; (b) the home shall be installed on an approved foundation system in conformity with the Uniform Dwelling Code. The wheels and axles must be removed. The enclosed foundation system shall be approved by the Building Inspector and/or Town Engineer; the Building Inspector may require a plan to be certified by a registered architect or engineer to ensure proper support for the home; (c) the home shall be equipped with foundation siding, which, in design, color and texture, appears to be an integral part of the adjacent exterior wall of the manufactured home; (d) the home shall comply with other applicable structural requirements of this Zoning Ordinance.

5.22 Two-family dwellings;

5.23 Public parks, playgrounds;

5.24 Conversion of any existing building to a permitted use;

5.25 General farming, but not including the keeping, raising or feeding of livestock or poultry or fur farming;

5.26 Home occupations, provided that no more than 1 sign not be illuminated and not exceeding 4 square feet in area which refers to the home occupation is placed on the premises.

5.3 Regulations and Standards: The following regulations and standards shall

apply to all dwellings.

- 5.31 Occupancy: Residential occupancy per dwelling unit shall be limited to 1 family and not more than 2 roomers or boarders.
- 5.32 Location: Dwellings shall be located so as to abut a public highway and lots shall have a minimum of 50 feet of frontage thereon.
- 5.33 Ground Floor Area: The minimum ground floor area per dwelling unit shall be one thousand eight (1,008) square feet for one story, nine hundred (900) square feet for split level, and eight hundred (800) square feet for dwellings of two stories or more. No dwelling shall be less than twenty four (24) feet in width. Not less than one-half ($\frac{1}{2}$) of the vertical measurement of a story must be above ground level.
- 5.34 Accessory Buildings: Accessory buildings, including private garages, located in the Residential District shall be regulated as follows:
1. Accessory buildings located on a lot between 0 and 1.4 acres shall have a maximum height of 10 feet at the eaves and a maximum square footage of 900 sq. ft.
 2. Accessory buildings located on a lot between 1.5 and 2.0 acres shall have a maximum height of 12 feet at the eaves and a maximum square footage of 1,200 sq. ft.
 3. Accessory buildings located on a lot between 2.1 and 4.9 acres shall have a maximum height of 16 feet at the eaves and a maximum square footage of 2,000 sq. ft.
 4. Accessory buildings located on a lot 5 acres or greater shall have a maximum height of 16 feet at the eaves and a maximum square footage of 4,000 sq. ft.
- 5.35 Accessory Uses. The accessory uses and regulations permitted in Section 4.51 1. and 4.51 2. are permitted in this district.

- 5.36 Off-Street Parking Space: (1) each dwelling unit shall be provided with a minimum of 2 off-street parking spaces located in the same lot or tract of land as the dwelling served; (2) such off-street parking space shall total at least 300 square feet for each space required; (3) not more than 1 such space within a private garage or private carport shall be rented or leased to a non-resident of the premises; (4) location: no such space shall be located less than 10 feet from any front lot line and shall be located not less than 5 feet from any side or rear lot line.
- 5.37 Dimensions of Building Sites:
- 5.371 Lots not served by Public Sanitary Sewer. Minimum Area and Width for each family unit:
1. The minimum lot area shall be 65,340 square feet (1 ½ acres) and the minimum lot width 150 feet at the building line; on riparian lots, 75 feet at the water's edge.
 2. Where soil conditions are such as to require larger lot sizes for subdivisions of land under the provisions of Section H62.20 and or H65, Wisconsin Administrative Code or the Sanitary Ordinance of Fond du Lac County, then such larger lot sizes shall be considered as required by the Zoning Ordinance.
 3. The building inspector shall require a sanitary permit issued by the County Sanitarian under the County Sanitary Ordinance.
- 5.38 Height - Not to exceed 35 feet or 3 stories.
- 5.39 Side Yard - (1) For buildings not over 1 1/2 stories in height, the sum of the width of the required side yards shall not be less than 25 feet and no single side yard shall be less than 10 feet; (2) For buildings from 1 1/2 stories to 3 stories in height, the sum of the width of the required side yard shall not be less than 30 feet and no single yard shall be less than 12 feet.
- 5.40 Rear Yard - Minimum depth 25 feet. On riparian lots, rear yards shall comply with applicable County ordinances and State law.
- 5.41 Structural Requirements - Residential dwellings, including manufactured homes, shall be equipped with a roof pitched at a minimum level of three (3) inches to twelve (12) inches. The

dwelling must also be constructed with overhanging eaves with a minimum of twelve (12) inches of overhang.

ARTICLE VI

Section 6.0 Multiple-Family Residential District

6.1 Purpose. The purpose of this district is to provide an area of higher density residential use than is allowed in other zoning districts. The district is appropriate where increased density would be compatible with surrounding areas, buildings, and future development.

6.2 Permitted Uses.

6.21 One-family dwellings

6.211 Manufactured homes occupied by not more than one (1) family and complying with all of the following requirements and limitations:

1. The home shall be a double-wide of at least twenty-four (24) feet in width and forty two (42) feet in length.
2. The home shall be installed on an approved foundation system in conformity with the Uniform Dwelling Code.
3. The wheels and axels must be removed.
4. The enclosed foundation system shall be approved by the Building Inspector and/or Town Engineer.
5. The Building Inspector may require a plan to be certified by a registered architect or engineer to ensure proper support for the home.
6. The home shall be equipped with foundation siding which, in design, color, and texture, appears to be an integral part of the adjacent exterior wall of the manufactured home.
7. The home shall comply with other applicable structural requirements of this Zoning Ordinance.

6.22 Two-family dwellings

6.23 Conversion of any existing building to a permitted use

6.24 Home occupations, provided that no more than one (1) sign, which may not be illuminated and which may not exceed four (4) square

feet in area is placed on the premises.

- 6.3 Accessory Uses. The accessory uses and regulations permitted in Section 4.51 1. and 4.51 2. are permitted in this district.

6.4 Special Uses.

6.41 Multiple family dwellings served by public sanitary sewer

6.42 Multiple family dwellings not served by public sanitary sewer

- 6.5 Regulations and Standards. The following regulations and standards shall apply to all dwellings:

6.51 Occupancy. Residential occupancy per dwelling unit shall be limited to one (1) family and not more than two (2) roomers or boarders.

6.52 Location. Dwellings shall be located so as to abut a public highway, and lots shall have a minimum of 50 feet of frontage thereon.

6.53 Accessory Buildings. The restrictions on Accessory Buildings outlined in Section 5.34 also apply in this district.

6.54 Off-Street Parking. Each dwelling unit shall be provided with a minimum of two (2) off-street parking spaces located in the same lot or tract of land as the dwelling served. Each parking space shall be at least 300 square feet in size. No parking space shall be located less than 10 feet from any front lot line nor less than five (5) feet from any side or rear lot line.

6.55 Minimum Lot Width. 200 feet for a three-unit building or less; 250 feet for a building with more than three dwellings.

6.56 Minimum Rear Yard. 30 feet, except as otherwise required by ordinance or State law.

6.57 Minimum Side Yard. Sum of the side yards shall be 15 feet per unit with a maximum of 40 feet. No single side yard shall be less than 40% of the required total.

6.58 Minimum Front Yard. 50 feet.

6.59 Minimum Lot Area. Minimum lot size shall be 45,000 square feet plus 7,500 additional square feet for each unit in excess of three units.

6.60 Minimum Open Space Area. Minimum open space area shall be 20% exclusive of private onsite wastewater treatment systems and parking.

ARTICLE VII

Section 7.0 Farmland Preservation District

7.1 Purposes. The purposes of the Farmland Preservation District are to (1) preserve productive agricultural land for food and fiber production; (2) preserve productive farms by preventing land use conflicts between incompatible uses and controlling public services; (3) maintain a viable agricultural base to support agricultural processing and service industries; (4) prevent conflicts between incompatible uses; (5) reduce costs of providing services to scattered, non-farm uses; (6) pace and shape urban growth; (7) implement the policies of the Fond du Lac County Farmland Preservation Plan; (8) and comply with the provisions of the Farmland Preservation Law to permit eligible landowners to receive tax credits under Wis. Stat. Ch. 91.

To comply with the Farmland Preservation Law, only uses identified in Wis. Stat. Sec. 91.42 are allowed. No building or use shall hereafter be established or enlarged within the Farmland Preservation District unless it conforms to the following regulations.

7.2 Lands Included Within This District: This district is generally intended to include prime agricultural lands historically exhibiting high crop yields, which generally consist of Class I, II and III soil capability classes established by the Soil Conservation Service, USDA. This district also includes other lands that are integral parts of productive farm operations.

7.3 Permitted Uses. The following are permitted uses unless regulated as special uses under 7.4:

7.31 Agricultural Uses as follows

7.311 Crop or forage production.

7.312 Keeping livestock of less than 500 animal units.

7.313 Beekeeping.

- 7.314 Nursery, sod, or Christmas tree production.
- 7.315 Floriculture.
- 7.316 Aquaculture.
- 7.317 Fur farming.
- 7.318 Forest management
- 7.319 Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
- 7.320 Any other use that DATCP, by rule, identifies as an agricultural use.
- 7.32 Veterinarian businesses that primarily serve livestock..
- 7.33 Accessory Uses:
 - 7.331 A including a building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use. This may include, for example:
 - 1. A facility used to store or process raw agricultural commodities, all of which are produced on the farm.
 - 2. A facility used to keep livestock on the farm.
 - 3. A facility used to store or process inputs primarily for agricultural uses on the farm.
 - 4. A facility used to keep or service vehicles or equipment primarily employed in agricultural uses on the farm.
 - 5. A manure digester, bio-fuel facility, or other facility that produces energy primarily from materials grown or produced on the farm, primarily for use on the farm.
 - 6. A waste storage or processing facility used to store or process animal waste produced solely from livestock kept on the farm.
 - 7. Riding stables and boarding facilities.
 - 7.332 An activity or business operation that is an integral part of, or incidental to, an agricultural use.
 - 7.333 A farm residence.
 - 7.334 A business, activity, or enterprise, whether or not associated with an agricultural use, that is conducted by the owner or operator of a farm, that requires no buildings, structures, or improvements other than those described in 7.351. or 7.353., that employs no more than 4 full-time employees annually, and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland.
 - 7.335 Any other use that DATCP, by rule, identifies as an accessory

use.

7.336 The accessory uses and regulations permitted in Section 4.51 1. and 4.51 2. are permitted in this district provided that solar energy system, building-mounted and solar energy, free standing located in a Farmland Preservation district meet the requirements of s. 91.01(1), 91.44(1)(f) or s. 91.46(4), Wis. Stats., as amended.

7.34 Undeveloped natural resource and open space areas

7.35 A transportation, utility, communication, or other use that is required under state or federal law to be located in a specific place or that is authorized to be located in a specific place under a state or federal law that preempts the requirement of a special use permit for that use.

7.36 Nonfarm residences constructed in a rural residential cluster in accordance with an approval of the cluster as a conditional use under Section 7.44.

7.37 Other uses identified by DATCP rule.

7.4 Special Uses. Special uses are also subject to the requirements in Section 12.0 Special Uses.

7.41 Keeping livestock at a new or expanded livestock facility of 500 or more animal units, subject to the Ordinance incorporating State Livestock Facility Siting Law into Town's Zoning Ordinance and subject to the setback requirements of ATCP 51.

7.42 Agriculture-Related Uses. A facility or use, whether or not located on a farm, that has at least one of the following as a primary and not merely incidental purpose:

Providing agricultural supplies, agricultural equipment, agricultural inputs or agricultural services directly to farms, including farms in the farmland preservation zoning district.
Storing, processing or handling raw agricultural commodities obtained directly from farms, including farms in the farmland preservation zoning district.

Slaughtering livestock, including livestock from farms in the farmland preservation zoning district.

Marketing livestock to or from farms, including farms in the

farmland preservation zoning district.
Processing agricultural by-products or wastes received directly from farms, including farms in the farmland preservation zoning district.
Any other use that DATCP, by rule, identifies as an agriculture-related use.

"Agriculture-Related Uses" exclude veterinarian businesses that primarily serve livestock, which are permitted uses under Section 7.33.

7.43 The creation of a nonfarm residence or a proposal to convert a farm residence to a nonfarm residence through a change in occupancy shall be subject to the following.

7.431 The ratio of nonfarm residential acreage to farm acreage on the base farm tract on which the residence is or will be located will not be greater than 1 to 20 after the residence is constructed or converted to a nonfarm residence.

7.432 There will not be more than 4 dwelling units in nonfarm residences, nor more than 5 dwelling units in residences of any kind, on the base farm tract after the residence is constructed or converted to a nonfarm residence.

7.433 The location and size of the proposed nonfarm residential parcel, and, for a new nonfarm residence, the location of the nonfarm residence on that nonfarm residential parcel, will not do any of the following:

1. Convert prime farmland from agricultural use or convert land previously used as cropland, other than a woodlot, from agricultural use if on the farm there is a reasonable alternative location or size for a nonfarm residential parcel or nonfarm residence.
2. Significantly impair or limit the current or future agricultural use of other protected farmland.

7.44 Nonfarm residential cluster created from a base farm tract that covers more than one nonfarm residence if all of the following apply:

7.441 The parcels on which the nonfarm residences would be located are contiguous.

7.442 Legal restrictions on the construction of the nonfarm residences so that if all of the nonfarm residences were constructed, each would satisfy the requirements under 7.43.

- 7.45 Transportation, communications, pipeline, electric transmission, utility, or drainage uses if the following apply:
- 7.451 The use and its location are consistent with the purposes of the district.
 - 7.452 The use and its location are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
 - 7.453 The use is reasonably designed to minimize conversion of land, at and around the site of the use, from agricultural use or open space use.
 - 7.454 The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
 - 7.455 Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
- 7.46 Governmental, institutional, religious, or nonprofit community uses if all of the following apply:
- 7.461 The use and its location are consistent with the purposes of the farmland preservation zoning district.
 - 7.462 The use and its location are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
 - 7.463 The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
 - 7.464 The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
 - 7.465 Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
- 7.47 Nonmetallic mineral extraction if all of the following apply:
- 7.471 The operation complies with Subchapter I of Wis. Stat. Ch. 295 as amended and rules promulgated under that subchapter, with 12.54 of this ordinance, and with any applicable requirements of the Wisconsin Department of Transportation concerning the restoration of nonmetallic mining sites.
 - 7.472 The operation and its location are consistent with the purposes of the district.
 - 7.473 The operation and its location are reasonable and appropriate, considering alternative locations outside the district, or are

specifically approved under state or federal law.

7.474 The operation is reasonably designed to minimize the conversion of land around the extraction site from agricultural use or open space use.

7.475 The operation does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

7.476 The owner restores the land to agricultural use, consistent with any required locally approved reclamation plan, when extraction is completed.

7.48 Oil and gas exploration or production that is licensed by the Wisconsin Department of Natural Resources under subch. II of ch 295.

7.5 Minimum Lot, Height and Yard Requirements

7.51 Livestock facilities that are subject to a special use permit per the Ordinance Incorporating State Livestock Facility Siting Law into Town's Zoning Ordinance are subject to the setback requirements of ATCP 51.

7.52 Minimum lot size: One and a half acres for all uses.

7.53 Minimum lot width: 150 feet.

7.54 Highway setbacks: As specified in Section 11 Highway Setback Lines.

7.55 Side and rear yard setbacks:

7.551 10 feet from the nearest lot line for farm and non-farm residences.

7.552 At least 50 feet from the nearest lot line for non-residential buildings in which animals are not housed.

7.553 At least 100 feet from the nearest lot line for animal waste and feed storage structures and for buildings housing animals other than fur-bearing animals.

7.554 At least 300 feet from the nearest lot line for structures or pens housing fur-bearing animals.

7.56 Accessory building setbacks: 5 feet in the side and rear yard for accessory buildings of 200 square feet or less.

7.57 Maximum building height: No building used for dwelling purposes shall be more than 35 feet in height.

7.6 Standards for Rezoning: The Plan Commission shall include a written "findings of fact" in their recommendation to rezone land out of the Farmland Preservation District. If a petitioner is rezoning lands out of the Farmland Preservation District, the Plan Commission must find all of the following, after public hearing:

7.61 The land is better suited for a use not allowed in the farmland preservation zoning district.

7.62 The rezoning is consistent with any applicable comprehensive plan.

7.63 The rezoning is substantially consistent with the county certified farmland preservation plan.

7.64 The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

7.7 Reporting Requirements: By March 1 of each year, the Town of Byron will provide to DATCP report of the number of acres that the Town of Byron has rezoned out of a farmland preservation zoning district the previous year and a map that clearly shows the location of those acres.

7.71 The Town of Byron shall, by March 1 of each year, submit a copy of the information that it reports to DATCP under 15.42 to Fond du Lac County.

ARTICLE VIII

Section 8.0 General Agricultural District

8.1 Purpose: The purpose of the General Agricultural District is to provide for the continuation of general agriculture and related uses in those areas that are generally suitable for farming but which do not necessarily meet the standards and objectives of the Farmland Preservation District. The intent is to conserve areas with soils, drainage and topography generally suitable for farming while permitting limited and regulated residential, commercial and industrial development in these areas.

8.2 Permitted Uses:

- 8.21 All permitted uses set forth in Section 7.3 for the Farmland Preservation District
- 8.22 In addition, the following uses are permitted: commercial greenhouses and nurseries; single and two-family residential dwellings; adult family homes, as defined in sec. 50.01 of the Wisconsin Statutes; community based residential facilities, as defined in sec. 50.01 of the Wisconsin Statutes; family day care homes equipped to serve not more than eight persons.
- 8.3 Accessory Uses. The accessory uses and regulations permitted in Section 4.51 1. and 4.51 2. are permitted in this district
- 8.4 Special Uses:
- 8.41 All special uses set forth in Section 7.4 Farmland Preservation District except nonfarm residences (which are a permitted use in this district) and nonmetallic mining operations.
- 8.42 In addition, the following special uses: manufactured homes, provided that the requirements of Section 5.211 and 5.41 are met; bed and breakfast establishments; community based residential facilities as defined in sec. 50.01 of the Wisconsin Statutes, in which more than eight persons may reside; adult day care facilities which serve more than eight persons; veterinary clinics and animal hospitals; kennels, as defined in Section 3.57; self-service storage facilities.
- 8.5 Standards and Conditions for Special Uses. The standards for, and conditions which may be attached to, special uses in the General Agricultural District are the same as set forth in Article XI.
- 8.6 Minimum Lot Size. The minimum lot size in the General Agricultural District is 5 acres.
- 8.7 Height and Yard Requirements. Height requirements, side yard and rear yard setbacks are as set forth in Section 6.5. Highway setbacks are as set forth in Article XI.

ARTICLE IX

Section 9.0 Business District.

- 9.1 Purpose: To accommodate rural commercial development that serves the general area that is properly buffered from residential or other conflicting land uses.

9.2 Permitted Uses. The Business District is intended to provide space for those retail, business, service business and office uses serving the area. Within the Business District the following uses are permitted:

1. Any use permitted in Residential District.
2. Retail stores and shops.
3. Banks, post office, medical or dental clinics; business or professional offices.
4. Service-type business, such as barbershop, beauty parlor, laundromat, music, dancing, art or photography studio, servicing or repair of home appliances or farm equipment and similar uses.
5. Automobile service stations and public garages; new or used car sales areas; new or used farm equipment sales areas, sale or repair of other vehicles; but not including the storage of wrecked vehicles or wrecked farm equipment.
6. Hotel, motel, boarding or lodging houses, and dwelling units, located on the same lot with such a permitted use.
7. Clubs, lodges, public meeting halls, theaters, bowling alley, similar places of assembly or recreation.
8. Blacksmith shops, machine shops, welding shops, sheet metal shops.
9. Farm implement sales.
10. Feed mill.
11. Signs
 - (a) Advertising and announcement signs which advertise the products, goods or services offered by a specific business conducted on the premises where the sign is located, not exceeding 350 square feet in area (on double faced signs, only 1 side shall be counted in determining square footage); such sign shall be set back from the highway right-of-way line 1 foot for each additional 10 square feet in excess of 100 square feet, and shall provide a minimum of 6 feet of visual clearance above ground level; such signs if illuminated, shall not blink or be mechanically activated in whole or in part; and provided that setback requirements, except as in this paragraph set out, shall not apply to such signs.
 - (b) Directional signs indicating the location of a business offering goods or services conducted on premises located within the Town and on a location so set up that persons traveling on the highway may conveniently locate the business, even though located off the highway on which the sign is located. Such signs shall observe setback and side yard requirements, shall not be illuminated and shall not exceed 250 square feet in area.

12. Adult entertainment establishments, as defined in the Town of Byron Ordinance Licensing Adult-Oriented Establishments, and subject to the standards contained therein.

9.3 Accessory Uses. The accessory uses and regulations permitted in Section 4.51 1. and 4.51 2. are permitted in this district

9.4 Regulations and Standards.

9.41 All residence uses shall comply with the regulations and standards provided for Residential District, Section 5.3.

9.42 Height of Buildings: Not to exceed 60 feet.

9.43 Side Yard: As established for Residential District, Section 5.39.

9.44 Setback: As established for Residential District.

9.45 Rear Yard: As established for Residential District, Section 5.40.

9.46 Minimum Lot Size: As established for Residential District, Section 5.371.

9.47 When an apartment or residence is a part of the business structure, then there shall be additional square footage sufficient to qualify the same under the requirements for residences in the Residential District and subject to the alternative provisions and the tests provisions therein contained. This same provision shall apply to multiple family residence, boarding houses and lodging houses.

9.48 Off-Street Parking Space: Off-street parking spaces shall be provided as follows:

9.481 1 off-street parking space per dwelling unit or lodging unit on the same lot or tract of land of such dwelling unit or lodging unit served.

9.482 1 off-street parking space per person, normally employed on the lot or tract of land.

9.483 1 off-street parking space for each 100 square feet of retail sales floor area of the establishment being served.

ARTICLE X

Section 10.0 Industrial District.

- 10.1 Purpose: To accommodate rural industrial development with a variety of lot sizes located in areas that are well-served by the transportation system, and provide buffering techniques that will minimize conflict with adjacent land uses.
- 10.2 Permitted Uses. In the Industrial District no building or premises shall be used and no building shall hereafter be erected or structurally altered, unless otherwise provided in this ordinance, except for 1 or more of the following uses:
1. Any use permitted in the Business District, but not including religious, educational and institutional uses or residential uses other than the dwelling of a watchman or caretaker employed on the premises, the residence of a farmer engaged in general farming on the premises or dormitories and bunkhouses for the accommodation of seasonal workers employed in the harvesting, processing or manufacture of food and food products.
 2. Cleaning, dyeing and pressing establishments and laundries, except bag cleaning.
 3. General farming.
 4. Knitting mills and the manufacture of products from finished fabrics.
 5. Laboratories.
 6. Manufacture of goods from leather, but not tanning or hides, or manufacture of leather.
 7. Manufacturing of products not otherwise prohibited.
 8. Printing and publishing.
 9. Processing, packing and manufacture of food, except meat and meat products, fish and fish products, sauerkraut and cabbage by-products or the vining of peas.
 10. Repair, service and assembly of motor-propelled or non-motor-propelled vehicles, including the repair and storage of automotive accessories, except the wrecking of motor-propelled vehicles; blacksmithing, tin-smithing and welding shop.
 11. Storage and warehousing of fuel and materials, except contractors' yards and the storage of wrecked and dismantled vehicles, junk, explosives, or inflammable gases or liquids.
 12. Wholesale business.
 13. Advertising and announcement signs as defined in Section 9.2(11).
 14. Any other uses similar in character to or customarily established in connection with the foregoing.

10.3 Accessory Uses. The accessory uses and regulations permitted in Section 4.51 1. and 4.51 2. are permitted in this district

10.4 Special Uses

10.41 Nonmetallic mining, subject to Section 12.54

10.5 Regulations and Standards.

10.51 Minimum Lot Size. 150 feet minimum width at building line, 36,000 square feet in area.

10.52 Maximum Coverage. The amount of the total lot area which may be covered by all principal and accessory building shall not exceed 50%.

10.53 Required Yards and Open Spaces. On every lot in the Industrial District yards shall be required as follows:

A front yard on each lot line abutting a street, a side and a rear yard, except in the case where 3 lot sides abut, there shall be required in addition to 3 front yards, a side yard.

10.531 Front Yard. Depth where a lot abuts a highway or street shall be 60 feet from the right-of-way.

If the building is to be constructed in an established block where there are existing buildings, the yard depth shall be the average of the yard depths of buildings existing on the block face where the building is to be located, but not less than 15 feet from the right-of-way.

10.532 Side Yard. Width shall be 10 feet or greater, no accessory building shall project into the required side yard space.

10.533 Rear Yard. Depth shall not be less than 25 feet within the required yards or in addition thereto, there shall be sufficient space for the loading and unloading of motor vehicles off the street.

Where a lot abuts a lot in a Residential District there shall be provided along such lot line a suitable buffer or plant materials, fencing or a combination of both, to shield the residential area from the industrial area. Where the transition from the Industrial District to the Residential District is a public street, the front yard in the Industrial

District shall be suitable landscaped.

10.54 Any permitted use shall be so constructed and operated as to create no nuisance with respect to noise, vibration, emission of smoke or particular matter, glare and heat or as to create fire or explosive hazards.

10.55 Off-Street Parking Space. Off-street parking shall be provided as follows:

10.551 Off-street parking space per person normally employed on the lot or tract of land.

10.551 Off-street parking space for each truck or other vehicle incidental to the use of such lot or tract of land.

10.56 Signs. Signs are permitted as an accessory use to the principal use of the premises.

10.561 The gross area of signs per establishment shall not exceed 2 times the lineal feet of frontage of the zoning lot on which such signs are located.

10.561 No signs affixed to a structure shall project more than 3 feet beyond the limits of such structure and shall not project across lot lines.

10.57 On lots not served by public sewer, sufficient lot area shall be provided so that the requirements of Fond du Lac County Sanitary Code and all provisions of the Administrative Code relating to the use and occupancy of the building are complied with.

ARTICLE XI

Section 11.0 Highway Setback Lines.

- 11.1 Purpose. In order to promote and enhance the public safety, general welfare and convenience, it is necessary that highway setback lines be and they are hereby established in the Town of Byron, Fond du Lac County, Wisconsin, outside the limits of incorporated cities and villages; along all public highways; at the intersections of highways with highways and highways with railways as hereafter provided.
- 11.2 Borders. Where a highway is located on a village boundary, this section is not intended to be effective on the side within the village, nor on the side within another town where the highway is located on a town boundary.
- 11.3 Structures Prohibited Within Setback Lines. No new building, mobile home, new sign or other structure or part thereof shall be placed between the setback lines established by this ordinance and the highway, except as provided by this ordinance, and no building, mobile home, sign or structure or part thereof existing within such setback lines on the effective date of this ordinance shall be altered, enlarged or added to in any way that increases or prolongs the permanency thereof, or be reconstructed in its original existing location after having been destroyed by fire, storm or other catastrophe to the extent of 50% or more of its current value as determined by the local assessor.
- 11.4 Structures Permitted Within Setback Lines. The following kinds of structures may be placed between the setback line and the highway:
- 11.41 Open fences.
- 11.42 Telephone, telegraph and power transmission poles and lines and micro-wave radio relay structures may be constructed within the setback lines, and additions to and replacements of existing structures may be made, provided the owner file with the Town Board an agreement in writing to the effect that the owner will remove all new construction, additions and replacements erected after the adoption of this ordinance at his expense, when necessary for the improvement of the highway.
- 11.43 Underground structures not capable of being used as foundations for future prohibited overground structures.

- 11.44 Access or service highways constructed according to plans as approved by the Board of Appeals. In giving such approval, the Board of Appeals shall give due consideration to highway safety and maximum sight distances.
- 11.45 This section shall not be interpreted so as to prohibit the planting and harvesting of field crops, shrubbery or trees; provided, however, that no building or structure, trees or shrubbery, shall be so located, maintained or permitted to grow so that the view across the sectors at the intersections shall be obstructed.
- 11.5 Setback Distances. Except as otherwise provided, the distances from the dedicated road right-of-way to the setback line applicable to the various classifications of highways as defined in this ordinance, shall be as provided by the following paragraphs of this subsection, respectively.
- 11.51 In cases where the provisions of this section may be interpreted to provide for different setback distances, the greater setback distance shall prevail.
- 11.52 Along road rights-of-way generally, the setback distances from the nearest boundary of the right-of-way, at any point shall be 67 feet, except in platted subdivisions, where the setback distance shall be 30 feet, and excepting lots abutting private roads where the setback distance from private roads shall be 50 feet.
- 11.521 Exceptions: Except that where buildings, structures or uses are to be erected or established between buildings existing at the time of the adoption of this ordinance which buildings are located not more than 150 feet apart and have setback lines less than are established by this section, the setback line for each such proposed building, structure or use shall be the average of the setback lines of the nearest existing buildings on both sides of the proposed building, structure or use, provided that a setback line of more than 67 feet from the nearest boundary of the road right-of-way shall not be required in any case. The Board of Appeals may further vary this regulation in appropriate cases, provided that the Board of Appeals shall establish such conditions as will save the Town harmless from additional improvement damages which might accrue when and if the highway is improved, and provided further that no such variation shall permit a

setback less than the average setback of the adjacent buildings.

- 11.53 At Ordinary Highway Intersections. At grade intersections of highways with highways, except those roads and streets in platted subdivision which do not intersect Class 2 Highways or Class 3 Highways, there shall be vision clearance triangles in each sector of such intersections. Each such vision clearance triangle shall be established by a supplementary setback line, which shall be a straight line connecting points on the setback lines along the intersecting highways and 50 feet back from the intersection of such setback lines.
- 11.531 Class 2 highways include the following: (1) County trunk highways that have not been improved in accordance with engineering surveys or plans accepted by the County Board or their agent, the County Highway Committee. (2) County trunk highways that have been improved according to the engineering surveys and plans accepted by the County Board or their agent, the County Highway Committee. Class 3I highways include state trunk highways that have been approved according to surveys and plans of the State Highway Commission or plans accepted by the County Board, and United States highways.
- 11.54 At Highway Intersections With Transitional Widening. At intersections provided with transitional widening of pavement or surfacing, such transitional widening shall be considered as additional width, and the setback line on the side which is widened shall be increased by an amount equal to the width of the additional pavement.
- 11.55 At Highway Intersections With Curve Connections. In all cases where the right-of-way curves, the setback from any point on the curve shall be measured on a line perpendicular to the tangent of the nearest boundary of the right-of-way at that point.
- 11.56 At Railroad Grade Crossings. At railroad grade crossings there shall be vision clearance triangles in each sector of such intersection. Each such vision clearance triangle shall be established by a supplementary setback line which shall be a straight line connecting points on the railway right-of-way line and the highway setback line

and 75 feet back from the intersection of such highway setback lines and such railway right-of-way line.

ARTICLE XII

Section 12.0 Special Uses.

A "Special Use" is a use which is necessary or desirable for the public welfare, but which is potentially incompatible with the uses normally permitted in the zoning districts established herein. It is hereby declared the policy and purpose of this ordinance to employ the Special Use as a flexible means of permitting certain exceptions to the districts established and the rules and regulations adopted herein, in cases where the public benefit of such uses outweighs the potential harm, and under such conditions imposed as are necessary to protect the public health, safety and welfare and individual property rights.

12.1 Authorizing Special Use Permits. Special Use Permits may be authorized by the Board of Appeals in accordance with the procedure set forth in Section 13.35 when it appears:

12.11 That it is reasonably necessary for the public convenience at that location.

12.12 That it is so designed, located and proposed as to be operated so that it will not be injurious to the district in which it shall be located or otherwise detrimental to the public welfare.

12.13 That it conforms to the applicable regulations and standards of and preserves the essential character of the district in which it shall be located.

12.14 That in the case of an existing non-conforming use, will make such use more compatible with its surroundings.

12.15 That in the case of a special use in the Farmland Preservation and the General Agriculture districts, the following relevant factors shall also be considered:

- A. The statement of purpose of the zoning ordinance and the Farmland Preservation district
- B. The potential for conflict with agricultural use.
- C. The need of the proposed use for a location in an agricultural area.
- D. The availability of alternative locations.

- E. Compatibility with existing or permitted uses on adjacent lands.
- F. The productivity of the lands involved.
- G. The location of the proposed use so as to reduce to a minimum the amount of productive agricultural land converted.
- H. The need for public services created by the proposed use.
- I. The availability of adequate public services and the ability of affected local units of government to provide them without an unreasonable burden.
- J. The effect of the proposed use on water or air pollution, soil erosion and rare or irreplaceable natural resources.

12.2 Application Requirements. The applicant shall provide the following information on the Special Use application form, which is available from the Town Zoning Administrator:

12.21 Applicant and property owner's name, address, and telephone number.

12.22 Parcel information, including tax key number, legal description, street address, if any, dimensions and existing zoning and land use designations.

12.23 Description of Special Use being requested.

12.24 Written justification for the Special Use being requested and supporting documentation describing how the applicant believes that the request conforms to the standards for Special Uses listed in subsection.

12.25 Filing fee on file in the Town Clerk's office.

Note: When applying for a nonfarm residential Special Use permit in a certified farmland preservation district, the petitioner should be aware of the following:

1. *To calculate the maximum non-farm residential acreage allowed in any base farm tract, divide the number of acres in the base farm tract by 21. Further divide the number of acres in non-farm residential acreage by 1.5 to determine the number of residential lots allowed in the base farm tract.*
2. *The number of residential lots that can be created by Special Use will be limited to 4 or 5 as stated in 7.432.*
3. *The amount of nonfarm acreage available for lot creation will be determined by the Zoning Administrator prior to accepting*

a Special Use application.

4. *The list of nonfarm residential acreages counted toward the ratio calculation should also include any existing nonfarm residences that do not have a Special Use permit or that are not part of the application for the Special Use permit.*

12.3 Conditions Which May be Attached to Special Uses: Upon a consideration of information supplied at the public hearing, the following conditions may be attached to the granting of a special use: increased setbacks and yards; specifications for water supply, liquid waste, and solid waste disposal facilities; landscaping and planting screens, sureties, operational controls, erosion prevention measures; location of the use; and other requirements found necessary to fulfill the purpose and intent of this ordinance. A performance bond may be required to insure compliance with such requirements. Violation of these conditions shall constitute a violation of this ordinance as provided in Section 16.1.

12.4 Existing Nonfarm Residences in the Farmland Preservation Zoning District. The Town of Byron may, upon its own initiative or upon application by a property owner, grant a special use permit for an existing nonfarm residence in the Farmland Preservation Zoning District. Findings for this special use permit shall be based on the following:

12.41 The nonfarm residence was granted a building permit by the Town of Byron prior to the 21st of June, which is the adoption date of this ordinance, and

12.42 The nonfarm residence is shown on the Town of Byron's Future Land Use map as a residential land use.

12.5 Schedule of Special Uses. Special uses in addition to those listed in a zoning district which may be authorized by the Board are as follows:

12.51 Automobile wrecking yard or junk yard, in the Industrial District only.

12.52 Privately owned sanitary landfill, in the Industrial District only.

12.53 Canneries, cheese factories, condenseries, creameries, pea viners and such other establishments for the processing, packing or manufacture of the agricultural products of Fond du Lac County as may have a nuisance factor not separable therefrom, such as the emission or effluence of noxious or odorous wastes or by-products, in the

Industrial District only.

12.54 Nonmetallic mining may be authorized as a special use only in the districts in which is it listed as a special use as follows, and, if located in the Farmland Preservation District, the requirements in 7.47 are met:

- A. In the case of parcels which neither were, nor had been under actual excavation as of May 11, 1993, an application for a nonmetallic permit shall be submitted by the operator to the Town Clerk. The Town Board shall refer the application to the Board of Appeals.
- B. In the case of existing nonmetallic mining operations, the operator shall register such parcels or portions thereof with the Town Clerk.
- C. The application or registration, as the case may be, shall be accompanied by information which shall include the following:
 - (1) The name and address of the operator;
 - (2) A signed copy of the lease or a letter signed by the owner of record authorizing the operator to enter upon the owner's land for the purpose of nonmetallic mining;
 - (3) A legal description and general location map of the tracts of land involved;
 - (4) A plan of the site showing proposed and existing roads and drives;
 - (5) A plan of the site showing the sources, quantity and disposition of water to be used, if any;
 - (6) An operation plan that includes the following information:
 - i. Map drawn to a scale of 1" equals 100';
 - ii. A written description explaining the mapped information, including, but not limited to, the proposed site and future expansion of the site; boundaries of previous excavations; location

and use of proposed buildings; storage of reclamation topsoil and methods of disposing material not to be sold or reclaimed; areas for excavation, processing, manufacturing, stock piling and phasing of these activities across the site over time; location and height of berms, fencing and/or vegetation to screen the operation from adjacent property owners;

- iii. Roads to be used for transportation of excavated material, including all points of ingress and egress and an estimate of the maximum and average number of trucks proposed to enter and leave the site on a daily basis; an estimate of the quantity and type of materials to be removed from the site and the timetable to complete the excavation; a list of the type and quantity of equipment to be used; hours and days of operation; noise and dust control measures; a cross-section map showing the estimated final depth of the excavation; and any other information required by the board;
 - iv. A water table map in order to determine the depth of the groundwater; water levels as determined from existing wells, nearby streams, and (or) springs are acceptable as data points;
 - v. Representations accompanied by appropriate financial assurances that the applicant shall be responsible for the cost of redrilling/repairing private wells that may be damaged by the nonmetallic mining operation, including, but not limited to, blasting activity; specific requirements regarding the area to be protected and the amount of financial security deemed necessary shall be determined by the board on a case by case basis after consideration of the nature of the operation under review.
- (7) A drainage and erosion control plan that includes the following information:
- i. A map drawn to a scale of 1" equals 100';
 - ii. Written description detailing the mapped

information; contours shown at no greater than 10' intervals at the time of the application; existing drainage ways, subsurface tile drains, pipes and culverts; existing floodplain, wetlands and water bodies; soil types according to the Fond du Lac County Soil Survey; arrows showing direction of surface water flow; calculations showing pre-mining runoff rates compared to runoff rates during mining (applicant must address the impact of the mining activity on adjacent property upstream and downstream from the site in order to demonstrate that runoff rates during mining activity shall not be greater than pre-mining runoff rates); location and design details of proposed runoff detention facilities to be constructed; temporary and permanent erosion control measures.

- D. In addition to the information required by Section 12.54 A, above, the applicant or registrant shall submit a reclamation plan which shall be subject to final approval of the board. The intent of final reclamation is to leave the site in a maintenance free and stable condition upon cessation of the operation. Reclamation shall be required for all nonmetallic mining operation, with the exception of the operations which have filed reclamation plans prior to the adoption of this ordinance. Nonmetallic mining operations commenced after May 11, 1993 shall adhere to all of the requirements of this section. The partial reclamation program required for existing nonmetallic mining operations shall include, where practicable in light of the circumstances of the operation, the items listed in subsections (1)-(4) below. At a minimum, existing nonmetallic mining operations shall adhere to partial reclamation requirements in order to mitigate safety concerns on areas already mined. Partial reclamation shall be the responsibility of the operator even if the nonmetallic mining operation were conducted previously by a different operator. Reclamation plans shall include the following:

- (1) The plan shall include a map of the subject parcel(s) drawn to a scale of 1" equals 100';
- (2) The plan shall include a written description detailing mapped information, including the following items:
 - i. Final slope angles, terracing, and other slopes stabilization measures;
 - ii. Means to mitigate potentially dangerous steep slope and other dangerous areas;
 - iii. Topsoil stripping, stabilization and conservation methods that will be used during mining and reclamation;
 - iv. Final drainage patterns, shown by arrows, after reclamation is completed.
 - v. Anticipated topography, water impoundments, artificial lakes and anticipated future land use of the site (Note: special attention must be given to the preservation and restoration of natural features. Every effort must be made to preserve contours and plant life. Soils shall be blended and matched to those found on adjacent properties. Plant selection and landscape design should consider the ecology of the site and the preservation and use of existing species of vegetation;
 - vii. Estimated cost of reclamation for each stage of the project or entire site if staging is not planned;
 - viii. Timetable of the commencement, duration and cessation of reclamation activities.
- (3) The plan shall include the following minimum criteria:
 - i. All final slopes around the area shall be flatter than a 3 to 1 horizontal slope in a sand and gravel or borrow pit operation, or in a safe angle

of repose in quarrying operation;

- ii. All topsoil on the site shall be saved for future application, unless applicant is able to prove that it is not needed for reclamation;
 - iii. Permanent soil erosion control measures, including seeding, mulching and sodding, where necessary.
 - iv. Stabilization of drainage ways (including ditches and culverts) by rip rapping or other approved methods.
- (4) The reclamation plan submitted by the applicant shall designate and contain appropriate provisions for one or a combination of the following four major land reuse alternatives based on site specific conditions and location:
- i. A natural site where special attention is given to the preservation and restoration of natural features;
 - ii. A recreational site that is well suited for sports and other forms of recreation;
 - iii. A building site that is well-suited for building facilities to support community growth and development; and
 - iv. An agricultural site that has excellent soils and adequate drainage to support plant life.

E. Nonmetallic mining operations, whether new or existing, are subject to the following miscellaneous requirements:

- (1) All property operation, site and phase boundaries shall be staked or otherwise marked and the applicant shall notify the board that the site is staked prior to commencing operations;
- (2) The applicant shall comply with the following setback

requirements:

- i. 50' from adjacent property lines, but in no event closer than 250 feet to a residential dwelling;
- ii. 200' from adjacent property lines of parcels containing existing residences which are less than five (5) acres in size;
- iii. 100' from the centerline of existing private or public road right-of-ways;
- iv. 1200' from the property line of a landfill, unless a hydrogeologic study demonstrates that groundwater contamination will not occur and groundwater flow patterns will not be disrupted. The hydrogeologic study shall be conducted by a registered engineer showing the impact on existing groundwater flow patterns. Unless otherwise determined by the board, the determination of a landfill location shall be based on Wisconsin Department of Natural Resources, records of active, inactive and abandoned landfills in Wisconsin, as updated from time to time;
- v. A lesser setback may be negotiated between the operator and the relevant property owner(s), but in no event shall the negotiated setback be less than 50, from the adjacent property lines of parcels containing existing residences. The enforceability of such negotiated setback as against successors in interest of the operator or such property owner(s) shall be determined according to the laws of this state;
- vi. The area within the designated setbacks may be used for buildings and storage upon the approval of the board;
- vii. The minimum setbacks may be waived by the board if the relevant quarry boundary line is contiguous with another quarry boundary line.

- (3) Except as provided below, no more than 40 acres may be open for nonmetallic mining at any time. More than 40 acres may be opened for nonmetallic mining at any time provided (i) the new operation for which a permit is sought is contiguous to an existing nonmetallic mining operation, and (ii) the Town's Compliance and Inspection Quarry Committee has determined that there is significant economic value in the remaining nonmetallic minerals located in the pre-existing nonmetallic site. In the event that more than 40 acres are allowed to remain open the operator shall nevertheless begin partial reclamation of the pre-existing nonmetallic site unless reclamation is economically infeasible, in which case the operator shall double the amount of the financial assurance required to be filed under this ordinance;
- (4) Blasting activity shall be conducted in accordance with requirements of Chapter ILHR 7 of the Wisconsin Administrative Code, as amended, the Institute of Makers of Explosives, as amended, and the following additional requirements:
- a. Blasting activity shall be restricted from 10:00 a.m. to 6:00 p.m., Monday through Friday;
 - b. The maximum charge shall not exceed 3,000 pounds;
 - c. Neighbor(s) within 1/4 mile shall receive advance notice of the blasting, provided the neighbors has requested that the operator provided prior notice;
 - d. A seismograph shall be provided to the neighbors or the Town Board, if reasonably requested; and
 - e. The operator shall perform a home inspection upon the written request of the neighbors residing in the vicinity of the blasting activity. The operator may, at its option, and upon reasonable notice to the resident, inspect such

residences before and after blasting. The Town Building Inspector shall accompany the operator during the inspection;

- (5) The applicant shall obtain a permit from the Wisconsin Department of Natural Resources prior to the on-site burning of any materials. The applicant shall comply with all county, State, and Federal rules, regulations and laws applicable to on-site burning. Notwithstanding the preceding, only pallets, cardboard, brush, and wood generated from the normal operations of the quarry may be burned. Burning shall be restricted from 8:00 a.m. to 5:00 p.m., Monday through Friday;
 - (6) The applicant shall comply with any local, state and federal permits or approvals required for the operation. Copies of the permits or approvals shall be submitted to the board before a special use permit will be issued;
 - (7) The board may impose additional standards or conditions as are reasonably necessary to assure operation and reclamation in a manner consistent with the purposes of the special use permit.
 - (8) The Town Building Inspector shall conduct ordinance compliance inspections as needed, but in any event at least annually. The Building Inspector shall submit his report to the board and the board shall consider the report before a permit is issued or re-issued.
- F. No permit shall be granted for a period of time exceeding four years. A renewal may be granted upon application, provided that the applicant has met all permit restrictions. A renewal permit may not be considered by the board until all special use terms and conditions have been met or corrected.
- G. Sand and gravel operations shall comply with the following special requirements:
- (1) Except as may be otherwise approved by the board on a case-by-case basis, no more than 10 acres may be open for a sand and gravel operation at any time;

provided, however, that a sand and gravel operation may be expanded on an acre reclaimed to an acre opened basis;

- (2) The initial permit for a sand and gravel operation shall not exceed 2 years and the total term of the initial permit any renewal permits shall not exceed 10 years;
- (3) The entire sand and gravel operation shall be fully reclaimed upon the expiration of the initial term and renewal terms, if any; and
- (4) The same filing fees as set forth below shall apply to sand and gravel operations.

H. When an operator succeeds to the interest of another in an uncompleted site, the board shall release the first operator of the responsibilities imposed by the permit only if:

- (1) Both operators are in compliance with the requirements and standards of this chapter.
- (2) The new operator assumes the responsibility of the former operator's permit requirements.

I. A filing fee of \$500 shall be required for each initial application or registration, and a filing fee of \$150 for each permit renewal application. The applicant shall reimburse the town for any fees reasonably incurred by the town arising out of the review of the application, including engineers, surveyors, attorneys or independent consultants. In addition to the preceding, the applicant shall provide financial assurance in an amount equal to \$12,000 for each 40 acre (or less) parcel to secure the completion of the reclamation plan. Financial assurance shall be in the form of a bond, interest bearing cash escrow account, or comparable financial assurance approved by the board. The financial assurance submitted to the town shall be released for each individual phase of the operation not less than two years after inspection and approval by the board to insure that the slopes, seeding, drainage, etc. have been properly established. The board may re-evaluate and adjust accordingly the amount of the financial assurance based on unknown circumstances, changes in cost

estimates partial completion of, or modifications to the reclamation plan, or other factors determined by the board.

J. Operators of existing nonmetallic mining operations shall register within one year after the effective date of this ordinance or cease all operations on the site.

K. The Town Board shall appoint a 4 person Compliance and Inspection Quarry Committee consisting of a representative of the nonmetallic mining industry, a citizen unaffiliated with the nonmetallic mining industry, the Town Building Inspector, and a Town Board member. The responsibilities of the committee shall include, but not be limited to, the following:

- (1) To inspect each existing operation at least annually in order to determine compliance with this ordinance;
- (2) To make recommendations to the Town Board of any modifications to this ordinance;
- (3) To submit a report on the committee's findings of its inspections and to state the degree of compliance or noncompliance of the operations that were inspected by the committee; and
- (4) To receive complaints from operators, citizens, and other interested parties.

L. Special use permits issued to existing nonmetallic mining operations prior to May 11, 1993 shall remain in full force and effect. Only that portion covered by the special use permit shall be considered an existing nonmetallic mining operation.

M. References to "applicant" shall include "registrant" unless the context indicates otherwise.

12.55 Micro-wave radio relay structures and mechanical appurtenances in the Industrial and Business Districts only.

12.56 Penal and correctional institutions in the Industrial and Business Districts only.

- 12.58 Public utility or public service corporation building or structures in the Industrial and Business Districts, provided that the Board of Appeals shall find that the proposed location of such buildings or structures is reasonably necessary for the public convenience, safety or welfare.
- 12.59 Public parks, golf grounds, picnic areas and other recreational uses similar in character to or customarily established in connection with the foregoing in any district; provided, however, that no permit shall be issued until plans for sanitary facilities shall have been approved as adequate by the County Sanitarian, and if located in the Farmland Preservation District, would need to meet the requirements of s.91.46.
- 12.60 Mobile home parks in the Residential District only, subject to the following provisions:
- A. Application. No mobile home park may be developed or expanded without a building permit issued by the building inspector in accordance with this ordinance. The Building Inspector shall not issue a permit for a mobile home park or expansion of a mobile home park until:
- 1) A petition to establish and develop a mobile home park has been submitted with a fee of \$50 to the Building Inspector. The petitioners shall submit 4 complete copies of all plans and specifications containing information as required herein. The Building Inspector shall send 1 copy to the Town Chairman, who shall convene the Town Board as a Town Plan Committee for recommendations and review to the Building Inspector within 30 days; 1 copy to the Town Clerk who shall call the hearing and shall notify the following: the applicant, the Town Board, the Building Inspector, and the County Planning Department. The Building Inspector shall also forward 1 copy of the plans and specifications to the County Planning Department for review and comment.
 - 2) A public hearing has been held in accordance with this section and the Town Plan Committee has submitted a report recommending approval of the mobile home

park, and the Board of Appeals has approved the plans.

- 3) The application and plans for a mobile home park equal or exceed the requirements noted herein. The plans submitted and approved by the Board of Appeals and Plan Committee shall be made a condition for granting the special permit.

B. Plans specifications to be submitted: Complete final site plans for mobile home parks shall be submitted at a scale of no less than 50 feet to the inch and shall show the area and dimensions of the proposed mobile home park, the street and lot layout, the location of water, natural gas and sewer lines, a drainage plan for the mobile home park prepared by a registered engineer, location and dimensions of all buffers, office structures, utility buildings, recreation areas, etc., and electric and telephone distribution lines.

C. Development requirements and standards: The park shall be designed and constructed in accordance with the following requirements:

- 1) Site Preparation. The mobile home park shall be fitted to the terrain, with a minimum disturbance of the land. Existing trees, rock formations and other natural site features shall be preserved to the extent practical. The developer shall provide the mobile home park with public sewer system or approved private sewerage collection and treatment system, and an approved public or private water utility system.
- 2) Size and density. The minimum area allowable for a park shall be 10 acres and the maximum density of mobile homes within the park shall be 5 mobile homes per gross acre. (Gross acreage includes all area within the approved mobile home park boundaries).
- 3) Mobile Home space. Each mobile home space shall be clearly defined and shall abut on a driveway of not less than 50 feet in width of which not less than 22 feet shall be paved, with unobstructed access to a public street, and each mobile home space shall contain no

more than 1 mobile home and accessory structures; the mobile home and accessory structures shall not occupy more than 30% of the site area.

- a) Each mobile home shall contain a minimum of 900 square feet.
 - b) Minimum yards required between mobile homes or any enclosed appurtenances and lot lines shall be: Front yard, 10 feet; Side yard, 20 feet between units or appurtenances; Rear yard, 15 feet.
- 4) Mobile home skirting. All mobile homes shall have around their entire perimeters a continuous skirting material of wood, metal or masonry of not more than 25% open face extending from the bottom of the mobile home to the finished grade of the mobile home stand. Said skirting shall be broken only to provide for such necessary appurtenances as porches or trailer hitches where skirting would prevent the provision of same.
 - 5) Street improvements. All streets shall be paved according to the standards and specifications used for bituminous road construction by Fond du Lac County.
 - 6) Street lighting. All streets or driveways within the park shall be lighted at night with electric lights providing a minimum average illumination of 0.2 foot candles.
 - 7) Required recreation area. A minimum of 8% of the gross site area shall be devoted to recreational facilities.
 - 8) Required buffers. Mobile home parks shall be surrounded by buffer strips of least 15 feet in depth on the sides and rear and 65 feet in depth along the front; provided, however, that no side or rear buffers are required between adjacent mobile home developments. Buffers shall be attractively landscaped and maintained, and shall otherwise be unoccupied except for permitted utility facilities, approved signs or

entrance ornamentations. The inside 35 feet of a 65 foot front buffer may be used for street or driveway right-of-way, or recreational facilities.

- 9) Parking. There shall be a minimum of 2 paved parking spaces provided for each mobile home lot plus an additional car space for each 4 lots, to provide for guest parking. All parking spaces shall be paved. No parking shall be allowed on any mobile home access driveway.
- 10) Utility lines. All utility lines shall be underground, except where soil conditions do not permit.

D. Criteria for approval. In the exercise of approval of mobile home parks, site plans shall be based on the development requirements set forth in this ordinance, and the Board of Appeals shall be guided by the following standards and shall consider the following factors, and shall show on its record that each factor was considered. Before final site plan approval is granted, the plan committee shall also find in the case of these factors and other significant factors that the purpose and requirements of this ordinance have been met by the applicant in respect to:

- 1) Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety, traffic flow and control, and access in case of fire and catastrophe.
- 2) Off-street loading and parking areas, with particular attention to the items in d. (1) above and the economic noise, glare or effects of the location of such areas on adjoining properties and properties generally in the district.
- 3) Refuse and service areas, with particular reference to the items d. (1) and (2) above.
- 4) Manner of drainage of the property, with particular reference to the effect of provisions for drainage on adjacent properties and the consequences of such drainage on overall Town drainage capacities.

- 5) Screening and buffering, with reference to the type, dimensions and character, to preserve and improve compatibility and harmony between the proposed use and the uses and structures of adjacent and nearby properties and properties generally in the district.
- 6) Signs and proposed exterior lighting, with reference to glare, traffic safety, economic effects of the same on properties in the district, and compatibility and harmony with nearby properties.
- 7) General amenities and conveniences, with reference to insuring that exterior appearance of the proposed mobile home park will be as compatible and harmonious with properties in the general area as may be and will not be so at variance with other uses in the general areas as to cause a substantial depreciation of property value.

E. Additional requirements. In addition to the foregoing requirements and standards, the following authorities may:

- 1) Require pre-approved designs and standards for accessory buildings, the placement thereof on the site or in the general area.
- 2) Require park and play areas and equipping thereof, recreation areas and service structures, and general parking area and the location thereof within the park in approved areas.
- 3) Permit the erection of a permanent residence for the resident manager, including a parking office in connection therewith.

12.61 Municipal sewage disposal plants in any district subject to the provision that they shall be located not less than one thousand (1000) feet from the nearest dwelling, shall be properly and adequately screened and buffered from the highway and adjacent property, and shall be so constructed and operated that there shall be no offensive odors or noise, that there is adequate provision for the effluent and for the disposal of all sludge and residues, that the area shall be completely enclosed with an adequate chain link type of fencing in

addition to shrubbery screening; that the foregoing provisions and all the provisions required by State law or Administrative Code are maintained during the operation thereof, and if located in the Farmland Preservation District, would need to meet the requirements of s.91.46.

12.62 In all districts, provided that any uses listed that are in the Farmland Preservation District must meet applicable requirements of Chapter 91 of the state statutes:

- 12.621 Electric and/or gas substations, public waterworks and appurtenant structures, telephone exchanges, police stations, fire stations, charitable institutions, and governmental administration building.
- 12.622 Topsoil removal. However, no permit shall be required for the removal in any district of not more than 20 cubic yards of topsoil in any five year period.
- 12.623 Solar Energy Systems. A free-standing solar energy system that constitutes the principal use of the property or that exceeds the limitations established for a free-standing energy system as an accessory use in Section 4.51 2.
- 12.6231 Every application for a Solar Energy System special use permit shall be made in writing and shall, upon request of the Town, include the following information:
 - (a) Name and address of the applicant.
 - (b) Evidence that the applicant is the owner of the property involved or has the written permission of the owner to make such an application.
 - (c) Scaled drawing of the solar energy system and its dimensions, its height above ground level, orientation, and slope from the horizontal.
 - (d) Site plan showing lot lines and dimensions of the solar energy system user's lot and neighboring lots that will be

affected by the solar energy system.

(e) Documentation showing that no reasonable alternative location exists for the solar energy system that would result in less impact on neighboring lots.

(f) Documentation showing that removing or trimming vegetation on the applicant's lot will not permit an alternative location for the solar energy system that would result in less impact on neighboring lots.

(g) Such additional information as may be reasonably requested.

(h) Any of the information required by this section may be waived by the Town at its discretion.

12.6332 The Town will consider each solar energy system on a case-by-case basis. The Town may deny a special use permit for a solar energy system or may impose restrictions on a solar energy system if the Town finds that the denial or restrictions satisfy one of the following conditions:

(a) The denial or restriction serves to preserve or protect the public health or safety.

(b) The denial or restriction does not significantly increase the cost of the system or significantly decrease its efficiency.

(c) The denial or restriction allows for an alternative system of comparable cost efficiency.

12.6333 The Town may impose restrictions on a solar energy system relating to any of the following:

(a) Setbacks from inhabited structures, property lines, public roads, communication and electrical lines, and other sensitive structures and locations.

(b) Wiring and electrical controls of the solar energy system.

(c) Reimbursement for emergency services required as a result of the solar energy system.

(d) Solar energy system ground clearance.

(e) Solar energy system height.

(f) Any other matters the Town finds appropriate.

12.6334 Any special use permit granted for the installation or maintenance or a solar energy system may be revoked by the Town if the permit holder, its heirs, or assigns, violates the provisions of this ordinance or the provisions of a special use permit granted pursuant to this ordinance.

ARTICLE XIII

Section 13.0 Board of Appeals. Under the provisions of Section 62.23(7)(e) Wisconsin Statutes, there is hereby established a Board of Appeals.

13.1 Organization of Board of Appeals. The Board of Appeals shall consist of 5 members appointed by the Town Chairman and subject to confirmation of the Town Board for terms of 3 years, except that of those first appointed, 1 shall serve for 1 year; 2 for 2 years and 2 for 3 years. The members of the Board shall serve at such compensation to be fixed by resolution. The Town Chairman shall designate one of the members chairman. Vacancies shall be filled for the unexpired terms of members whose terms become vacant.

13.2 Meetings of the Board of Appeals. The Board shall adopt rules in accordance with the provisions of this section. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

13.3 Power of the Board of Appeals. The Board of Appeals shall have the following powers:

- 13.31 To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination by an administrative official in the enforcement of this ordinance.
- a. Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer of the Town affected by any decision of the Building Inspector. Such appeal shall be taken within 20 days of filing with the Building Inspector and with the Board of Appeals a notice of appeal specifying the grounds thereof. The Building Inspector shall forthwith transmit to the Board all the papers constituting the record upon which the appeals action was taken.
 - b. The Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and give public notice thereof by a Class 1 notice under Chapter 985, Wisconsin Statutes, in an official paper or a paper of general circulation, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.
- 13.32 To permit the extension of a district where the boundary lines of a district divides a lot in single ownership as shown of record.
- 13.33 To interpret the provisions of this ordinance where the street layout on the ground differs from the official Zoning Map.
- 13.34 To authorize upon appeal in specific cases, a variance from the standards of the ordinance as will not be contrary to the public interest. Variations for uses shall not be granted by the Board. A variance for the purpose of this ordinance shall not be granted unless:
- a. A written application for a variance is submitted demonstrating:
 1. That special conditions exist which are peculiar to the land or structure involved which are not applicable to other lands or structures in the same district.
 2. That literal enforcement of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other lands or structures in the same district under the terms of this ordinance.

3. That the special conditions and circumstances do not result from the actions of the applicant.
4. That the granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands or structures in the same district.
 - a. No non-conforming use of neighboring lands or structures in the same district, and no permitted use of land or structures in other districts shall be considered grounds for the issuance of a variance.
 - b. The application is in proper form and a fee as specified in Sections 14.3 and 15.2 has been paid. The Board shall hold a public hearing on such matter in accordance with the provisions of Section 12.31(b). Reasonable special conditions and safeguards for the protection of the public health, safety, and welfare may be imposed by the Board if it grants the application for variance.

13.35 Grant a Special Use.

- a) An application for a special use permit shall be made by filing a written application or petition to the Board. Such applications shall:
 - 1) State the name and address of applicant and owner.
 - 2) State the location of property for which the Special Use Permit is sought.
 - 3) State the specific Special Use desired.
 - 4) State the facts sufficient and demonstrate that the conditions prescribed in Section 11.2 exist and support such statement with any plans and/or data as are required by the Board.
- b) If the application for Special Use is in proper form and a fee as determined by Sections 14.3 and 15.2 has been paid, the

Board shall hold a public hearing on such matter and give notice as provided in Section 12.31(b). Reasonable special conditions and safeguards for the protection of the public health, safety and welfare may be imposed by the Board if it grants the application for Special Use.

- c) Nothing herein contained shall be construed to give or grant to the Board of Appeals the power or authority to alter or change the zoning ordinance or the District Map; such power and authority being reserved to the Town Board.
- d) No Special Use Permit shall be issued unless the Board shall find that the specially permitted use is consistent with the spirit, purpose and intent of this ordinance, will not substantially and permanently injure the appropriate use of neighboring property and will serve the public convenience and welfare and that such building or use shall comply with all other regulations in the district in which it is proposed to be located.

13.4 Exercise of Power:

- 13.41 In exercising the above mentioned powers such Board may, in conformity with the provisions of such section, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken, and may issue or direct the issue of a permit.
- 13.42 The concurring vote of 4 members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in such ordinance. The grounds of every such determination shall be stated.

ARTICLE XIV

Section 14.0 Enforcement.

- 14.1 Duty to Enforce. It shall be the duty of the Building Inspector to enforce the provisions of this ordinance.
- 14.2 Permit Needed. No building, structure or mobile home shall hereafter be created, moved or structurally altered, except as hereinafter provided, until a permit therefor shall have been applied for and issued. No permit shall be issued until the Building Inspector has satisfactory proof that the premises is in full compliance with the Fond du Lac County Subdivision, Shoreland Zoning, and Flood Plain Zoning Ordinances, and that a Fond du Lac County Sanitary Permit for the installation of a private sewage system to serve the premises has been issued, except that lots served by public sewer shall not require a sewer permit.
- 14.3 Applications. All applications for a land use permit shall be accompanied by plans in duplicate, drawn to scale, showing the location, actual shape and dimensions of the lot to be built upon, the exact size and location on the lot of the proposed or existing building and accessory building, the lines within which the building shall be erected, altered or moved, the existing and/or intended use of each building or part of a building, the number of families the building is intended to accommodate, and such other information with regard to the lot and neighboring lots or buildings as may be necessary to determine and provide for the enforcement of this ordinance.
- 14.4 Survey and Staking. All dimensions shown relating to the location and size of the lot shall be based upon an actual survey. The lot and the location of the building thereon shall be staked out on the ground before construction is started.
- 14.5 Certificate of Compliance.
- 14.51 No vacant land shall be occupied or used, and no building or mobile home hereafter erected, altered or moved shall be occupied until the certificate of compliance shall have been issued by the Building Inspector. Such certificate shall show that the building or premises or part thereof and the proposed use thereof are in conformity with the provisions of this ordinance. Such certificate shall be issued only when the building or premises and the proposed use thereof conform with all the requirements of this ordinance.

- 14.52 Under such rules and regulations as may be established by the Town Board, the Building Inspector may issue a temporary certificate of compliance for part of a dwelling.
- 14.53 Upon written request from the owner, the Building Inspector shall issue a certificate of compliance for any building or premises existing at the time of the adoption of this ordinance, certifying after inspection, the extent and kind of use made of the building or premises and whether or not such use conforms to the provisions of the ordinance.

ARTICLE XV

Section 15.0 Fees.

- 15.1 Building Permit - A fee in an amount determined by the Town Board is required to be paid by the applicant for a building permit, or for a certificate of occupancy where no building permit was required. The fee shall be paid to the Town Treasurer.
- 15.2 Fee – Board of Appeals. A fee in an amount determined by the Town Board is required to be paid by the applicant for each application or appeal to the Board of Appeals, which fee shall be paid to the Town Treasurer and receipt therefor filed with the application. This fee shall not be required of any township officers acting in his official capacity.
- 15.3 Fee – Zoning Amendment. A fee in an amount determined by the Town Board is required for any petition for the amendment of this zoning ordinance, which fee shall be paid to the Town Treasurer and receipt therefor filed with the amendment petition. In addition thereto, a petitioner shall be charged with the cost of the official newspaper publication of the notice of hearing. This provision shall not apply to amendments initiated by the Town Zoning Committee.
- 15.4 Reimbursement of Town Expenses: The Town Board may utilize the services of such professionals as it deems appropriate to advise and assist the Town Board and Town Plan Commission regarding a development. Before final approval of an application for development, the Town Board may require the developer to reimburse all fees, charges and costs incurred by the Town for such professional services, including but not limited to plan review, inspection, engineering, legal and administrative. The Town Board may, from time to time, establish a schedule of such professional

charges by resolution. The Town Board may require that the estimated cost for such professional services be included in the bond, letter of credit, or cash deposit to be provided to the Town.

ARTICLE XVI

Section 16.0 Violations and Penalties.

- 16.1 Violations. Any building, structure or mobile home hereafter erected, enlarged, altered, repaired or moved or any use hereafter established in violation of any of the provisions of this ordinance shall be deemed an unlawful building, structure, mobile home or use. The Building Inspector shall promptly report all such violations to the Town Board, which shall instruct the attorney for the Town to bring an action to enjoin the erection, enlargement, alteration, repair or moving of such building, structure or mobile home or the establishment of such use, or to cause such building, structure, mobile home or use to be removed.
- 16.2 Penalties. At the discretion of the court, such person, firm or corporation may also be required, upon conviction, to forfeit not less than \$10 nor more than \$200 for each offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution, may be imprisoned in the county jail of Fond du Lac County until said forfeiture and costs are paid, but not to exceed 30 days for each violation. Each day that a violation continues to exist shall constitute a separate offense.

ARTICLE XVII

Section 17.0 Changes and Amendments.

- 17.1 Amendments. When any amendment of the district boundaries or of the regulations contained in this ordinance shall be petitioned for by any interested party or moved by the Town Board, the Town Board shall appoint a Town Zoning Committee to formulate a tentative draft of such amendment and recommend the same to the Town Board. Before adoption of such amendment by the Town Board, the Town Board shall give not less than 10 days' notice of a public hearing on such amendment, specifying the time and place of such hearing.

ARTICLE XVIII

Section 18.0 Validity and Conflicts.

- 18.1 Validity. Should any section, clause or provisions of this ordinance be declared by courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.
- 18.2 Conflicts. All ordinances or parts of ordinances in conflict with any of the provisions of this ordinance are hereby repealed.


ARTICLE XIX

Section 19.0 Effective Date and Repeal of Interim Ordinance.

- 19.1 This ordinance shall be in force from and after its passage, approval, publication and recording according to law.

Dated this 9th day of April, 2019.

TOWN OF BYRON


Town Chairman

Attest:


Town Clerk

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