

**CITY OF BYRON
ORDINANCE 2020-07**

AN ORDINANCE AMENDING BYRON MUNICIPAL CODE CHAPTER 17

NOW THEREFORE, be it ordained by the Council of City of Byron, in the State of Illinois, as follows:

SECTION 1: **REPEAL** “17.12 PLAN COMMISSION” of the City of Byron Municipal Code is hereby *repealed* as follows:

BEFORE REPEAL

17.12 PLAN COMMISSION

17.12.010 Creation

A plan commission is hereby created and hereby known as the City of Byron plan commission.

(Ord. No. 2008-24, § 1, 12-15-2008)

17.12.020 Membership

The plan commission shall consist of all alderman appointed to the city's community services committee (formerly public works and planning and development) and any other citizens of the City of Byron that the mayor from time to time shall appoint.

(Ord. No. 2013-02, § 1, 5-15-2013)

17.12.030 Powers And Duties

The plan commission shall have the following powers:

- A. To recommend to the city council a comprehensive plan for the present and future development or redevelopment of the city. Such plan may be adopted in whole or in separate geographical or functional parts, each of which, when adopted, shall be the official comprehensive plan, or part thereof, of the city. This plan may include reasonable requirements with reference to streets, alleys, public ground, and other improvements. The plan, as recommended by the plan commission, and as thereafter adopted by the city, may be made applicable, by the terms thereof, to land situated within the corporate limits, and contiguous territory not more than one and one-half miles beyond the corporate limits, and not included in any other municipality of this state.
 1. Such plan may be implemented by recommendations for ordinances to be adopted by the city, establishing reasonable standards of design for development or redevelopment of unimproved land, and of areas subject to redevelopment in respect to public improvements. The plan may also establish reasonable requirements

governing the location, width, course, and surfacing of public streets and highways, alleys, ways of public service facilities, curbs, gutters, sidewalks, street lights, parks, play grounds, school grounds, size of lots to be used for residential purposes, storm water drainage, water supply and distribution, sanitary sewers, and sewage collection and treatment.

2. The plan may designate land suitable for annexation to the municipality, and the recommended zoning classification for such land upon annexation.
 3. In the event that the plan is adopted by the city, the plan commission may from time to time, recommend changes thereof to the city council.
- B. To prepare and recommend to the city council plans for specific improvements in pursuance of the official comprehensive plan.
 - C. To give aid to the municipal officials charged with the direction of projects for improvements embraced within the official plan, to further the making of such projects and, generally to promote the realization of the official comprehensive plan.
 - D. To review and assist in the implementation of developments within the city or within the one and one-half miles of corporate limits as prescribed in Title 16 of this code, as amended from time to time.
 - E. To exercise such other powers as may be conferred by the city council from time to time.

(Ord. No. 2008-24, § 1, 12-15-2008)

17.12.040 Plan Commission Procedures

The plan commission shall follow these procedures.

- A. All recommendations and actions of the plan commission shall require a majority vote of those members present at a meeting, so long as there is a quorum present (a quorum being defined as fifty percent plus one member of those then holding office).
- B. The mayor, with approval of the city council, shall appoint a member of the plan commission to serve as the plan commission's initial chairperson, said person to serve for one year. Thereafter, the members of the plan commission shall appoint one of its members to serve as chairperson on an annual basis. The chairperson's sole responsibility shall be to facilitate discussion at the meeting.
- C. The plan commission shall appoint one of its members to serve as secretary on an annual basis for the purpose of recording minutes of the meetings of the plan commission.
- D. The plan commission shall meet as needed, on the first Tuesday of each month at 7:00 o'clock p.m.
- E. These procedures are a guideline and to be followed whenever practical. Failure to obtain strict compliance with the guidelines, however, shall not invalidate any action taken by the plan commission or any action taken by the city pursuant to a recommendation of the plan commission. Failure to obtain strict compliance shall not constitute a waiver by the city of any requirement herein.

(Ord. No. 2008-24, § 1, 12-15-2008)

17.12.050 Comprehensive Plan - Applicability

The official comprehensive plan, or any amendments thereof or additions thereto proposed by the plan commission, shall be effective in the city limits and contiguous area only after its formal adoption by the city council. Such plan shall be advisory and of itself shall not be construed to regulate or control the use of private property in any way except pursuant to ordinance duly enacted by the city council implementing the comprehensive plan, or parts thereof.

(Ord. No. 2008-24, § 1, 12-15-2008)

17.12.060 Comprehensive Plan - Procedure And Provisions

- A. The mayor and city council may initiate plans and maps by requesting the plan commission to prepare an official comprehensive plan and recommend the same, or may originate an official comprehensive plan, or a part thereof, or an amendment thereto, and may refer same or suggested changes in an existing comprehensive plan to the plan commission for its consideration and recommendation thereon.
- B. The city council may adopt part of a comprehensive plan recommendation by the plan commission without adopting the entire comprehensive plan as recommended, or may modify or amend portions of a recommended comprehensive plan without a re-reference of same to the plan commission and may adopt such comprehensive plan, as modified or amended. Such comprehensive plan, when adopted, shall be the official comprehensive plan, or part thereof, of the city.
- C. Upon submission by the city council of any suggested comprehensive plan, part thereof or amendment to an existing comprehensive plan to the plan commission for consideration and recommendation, the city council may require a report thereon from the plan commission with its recommendation within ninety days from the date of such submission, and if the plan commission shall fail to make such report within such ninety days, then the city council may proceed to consider such comprehensive plan, part thereof, or amendment to an existing comprehensive plan, for adoption, including arranging for and holding of a public hearing thereon in accordance with the provisions contained in subsection D of this section in the same manner as if the plan commission had made its recommendation.
- D. Upon submission of a comprehensive plan by the plan commission, or a proposed amendment to an existing comprehensive plan, the city council shall schedule a public hearing, either before the plan commission or the city council. Not less than fifteen days' notice of the proposed hearing, and the time and place thereof, shall be given by publication in a newspaper of general circulation in Ogle County. The hearing shall be informal, but all persons desiring to be heard in support or opposition to the comprehensive plan or amendment shall be afforded such opportunity, and may submit their statements orally, in writing, or both. The hearing may be recessed to another date if not concluded, if notice of the time and place thereof is publicly announced at the hearing or is given by newspaper publication not less than five days prior to the next date for the recessed hearing.
- E. Within ninety days after the conclusion of the hearing, the city council, after consideration of the recommendation of the plan commission and such information as shall have been derived from the hearing, shall either adopt the comprehensive plan or amendment in whole or in part or reject the entire comprehensive plan or amendment. If adopted, the city council shall enact the ordinance including a map or maps as previously provided in this

chapter. In adopting an official comprehensive plan, the city council shall be subject to the same limitations as to subject matter as apply to the plan commission. If at the expiration of such ninety days, the city council has taken no formal action, the comprehensive plan or amendment thereto may hereafter not be acted upon by the city council without again complying with the notice and hearing conditions previously provided in subsection D of this section.

- F. No official map, or development or amendment or addition thereto, shall be ground for rejection of any plat of subdivision, re-subdivision or development, by the city council, if application for final approval of such subdivision re-subdivision or development is filed with the city council fifteen days or more prior to the date on which the ordinance approving the official map, or amendment or addition thereto is adopted.
- G. The comprehensive plan or amendment shall become effective upon the expiration of ten days after the date of filing notice of the adoption of such comprehensive plan of amendment with the Ogle County recorder of deeds.

(Ord. No. 2008-24, § 1, 12-15-2008)

AFTER REPEAL

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 - 1. Such plan may be implemented by recommendations for ordinances to be adopted by the city, establishing reasonable standards of design for development or re-

development of unimproved land, and of areas subject to redevelopment in respect

to public improvements. The plan may also establish reasonable requirements governing the location, width, course, and surfacing of public streets and highways, alleys, ways of public service facilities, curbs, gutters, sidewalks, street lights, parks, play grounds, school grounds, size of lots to be used for residential purposes, storm water drainage, water supply and distribution, sanitary sewers, and sewage collection and treatment.

2. The plan may designate land suitable for annexation to the municipality, and the recommended zoning classification for such land upon annexation.
 3. In the event that the plan is adopted by the city, the plan commission may from time to time, recommend changes thereof to the city council.
- B. To prepare and recommend to the city council plans for specific improvements in pursuance of the official comprehensive plan.
 - C. To give aid to the municipal officials charged with the direction of projects for improvements embraced within the official plan, to further the making of such projects and, generally to promote the realization of the official comprehensive plan.
 - D. To review and assist in the implementation of developments within the city or within the one and one-half miles of corporate limits as prescribed in Title 16 of this code, as amended from time to time.
 - E. To exercise such other powers as may be conferred by the city council from time to time.

(Ord. No. 2008-24, § 1, 12-15-2008)

17.12.040 Plan Commission Procedures

The plan commission shall follow these procedures.

- A. All recommendations and actions of the plan commission shall require a majority vote of those members present at a meeting, so long as there is a quorum present (a quorum being defined as fifty percent plus one member of those then holding office).
- B. The mayor, with approval of the city council, shall appoint a member of the plan commission to serve as the plan commission's initial chairperson, said person to serve for one year. Thereafter, the members of the plan commission shall appoint one of its members to serve as chairperson on an annual basis. The chairperson's sole responsibility shall be to facilitate discussion at the meeting.
- C. The plan commission shall appoint one of its members to serve as secretary on an annual basis for the purpose of recording minutes of the meetings of the plan commission.
- D. The plan commission shall meet as needed, on the first Tuesday of each month at 7:00 o'clock p.m.
- E. These procedures are a guideline and to be followed whenever practical. Failure to obtain strict compliance with the guidelines, however, shall not invalidate any action taken by the plan commission or any action taken by the city pursuant to a recommendation of the plan commission. Failure to obtain strict compliance shall not constitute a waiver by the city of any requirement herein.

(Ord. No. 2008-24, § 1, 12-15-2008)

17.12.050 Comprehensive Plan - Applicability

The official comprehensive plan, or any amendments thereof or additions thereto proposed by the plan commission, shall be effective in the city limits and contiguous area only after its formal adoption by the city council. Such plan shall be advisory and of itself shall not be construed to regulate or control the use of private property in any way except pursuant to ordinance duly enacted by the city council implementing the comprehensive plan, or parts thereof.

(Ord. No. 2008-24, § 1, 12-15-2008)

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- B. The city council may adopt part of a comprehensive plan recommendation by the plan commission without adopting the entire comprehensive plan as recommended, or may modify or amend portions of a recommended comprehensive plan without a re-reference of same to the plan commission and may adopt such comprehensive plan, as modified or amended. Such comprehensive plan, when adopted, shall be the official comprehensive plan, or part thereof, of the city.
- C. Upon submission by the city council of any suggested comprehensive plan, part thereof or amendment to an existing comprehensive plan to the plan commission for consideration and recommendation, the city council may require a report thereon from the plan commission with its recommendation within ninety days from the date of such submission, and if the plan commission shall fail to make such report within such ninety days, then the city council may proceed to consider such comprehensive plan, part thereof, or amendment to an existing comprehensive plan, for adoption, including arranging for and holding of a public hearing thereon in accordance with the provisions contained in subsection D of this section in the same manner as if the plan commission had made its recommendation.
- D. Upon submission of a comprehensive plan by the plan commission, or a proposed amendment to an existing comprehensive plan, the city council shall schedule a public hearing, either before the plan commission or the city council. Not less than fifteen days' notice of the proposed hearing, and the time and place thereof, shall be given by publication in a newspaper of general circulation in Ogle County. The hearing shall be informal, but all persons desiring to be heard in support or opposition to the comprehensive plan or amendment shall be afforded such opportunity, and may submit their statements orally, in writing, or both. The hearing may be recessed to another date if not concluded, if notice of the time and place thereof is publicly announced at the hearing or is given by newspaper publication not less than five days prior to the next date for the recessed hearing.
- E. Within ninety days after the conclusion of the hearing, the city council, after consideration of the recommendation of the plan commission and such information as shall have been derived from the hearing, shall either adopt the comprehensive plan or amendment in

whole or in part or reject the entire comprehensive plan or amendment. If adopted, the city council shall enact the ordinance including a map or maps as previously provided in this chapter. In adopting an official comprehensive plan, the city council shall be subject to the same limitations as to subject matter as apply to the plan commission. If at the expiration of such ninety days, the city council has taken no formal action, the comprehensive plan or amendment thereto may hereafter not be acted upon by the city council without again complying with the notice and hearing conditions previously provided in subsection D of this section.

- F. No official map, or development or amendment or addition thereto, shall be ground for rejection of any plat of subdivision, re-subdivision or development, by the city council, if application for final approval of such subdivision re-subdivision or development is filed with the city council fifteen days or more prior to the date on which the ordinance approving the official map, or amendment or addition thereto is adopted.
- G. The comprehensive plan or amendment shall become effective upon the expiration of ten days after the date of filing notice of the adoption of such comprehensive plan of amendment with the Ogle County recorder of deeds.

(Ord. No. 2008-24, § 1, 12-15-2008)

~~17.12 PLAN COMMISSION~~ (Repealed)

~~17.12.010 Creation~~ (Repealed)

~~17.12.020 Membership~~ (Repealed)

~~17.12.030 Powers And Duties~~ (Repealed)

~~17.12.040 Plan Commission Procedures~~ (Repealed)

~~17.12.050 Comprehensive Plan – Applicability~~ (Repealed)

~~17.12.060 Comprehensive Plan – Procedure And Provisions~~ (Repealed)

~~17.12.010 Creation~~ (Repealed)

~~17.12.020 Membership~~ (Repealed)

~~17.12.030 Powers And Duties~~ (Repealed)

~~17.12.040 Plan Commission Procedures~~ (Repealed)

~~17.12.050 Comprehensive Plan – Applicability~~ (Repealed)

~~17.12.060 Comprehensive Plan – Procedure And Provisions~~ (Repealed)

SECTION 2: **REPEAL** “17.44.110 Yards - Porches, Garages And Carports” of the City of Byron Municipal Code is hereby *repealed* as follows:

BEFORE REPEAL

17.44.110 Yards - Porches, Garages And Carports

An unenclosed porch with roof may project into a required yard area a distance not to exceed six feet and shall not be considered in the determination of yard sizes or coverage; provided, however, that such porch shall not be closer than four feet at any point to any lot line. Any enclosed porch, garage or unenclosed carport shall be considered a part of the building in the determination of yards and coverage.

(Ord. No. 2008-24, § 1, 12-15-2008)

AFTER REPEAL

~~17.44.110 Yards - Porches, Garages And Carports (Repealed)~~

~~An unenclosed porch with roof may project into a required yard area a distance not to exceed six feet and shall not be considered in the determination of yard sizes or coverage; provided, however, that such porch shall not be closer than four feet at any point to any lot line. Any enclosed porch, garage or unenclosed carport shall be considered a part of the building in the determination of yards and coverage.~~

~~(Ord. No. 2008-24, § 1, 12-15-2008)~~

SECTION 3: **REPEAL** “17.44.140 Yards - Reduction In Rear Yards” of the City of Byron Municipal Code is hereby *repealed* as follows:

BEFORE REPEAL

17.44.140 Yards - Reduction In Rear Yards

When a lot is less than one hundred feet deep at the date of passage of the ordinance codified in this title, such rear yard may be decreased one-quarter the distance that the lot depth is less than the one hundred feet; provided, however, that no rear yard shall be less than twenty feet in depth.

(Ord. No. 2008-24, § 1, 12-15-2008)

AFTER REPEAL

~~17.44.140 Yards - Reduction In Rear Yards (Repealed)~~

~~When a lot is less than one hundred feet deep at the date of passage of the ordinance codified in this title, such rear yard may be decreased one-quarter the distance that the lot depth is less than the one hundred feet; provided, however, that no rear yard shall be less than twenty feet in depth.~~

~~(Ord. No. 2008-24, § 1, 12-15-2008)~~

SECTION 4: **AMENDMENT** “17.44.200 Exterior Design Restrictions” of the City of Byron Municipal Code is hereby *amended* as follows:

BEFORE AMENDMENT

17.44.200 Exterior Design Restrictions

The construction of any building the exterior design of which is intended to resemble an item of clothing, or food, or mechanical device, or an igloo, tepee, teapot, ice cream freezer, bottle, barrel, boat or objects of similar nature is prohibited in all districts.

(Ord. No. 2008-24, § 1, 12-15-2008)

AFTER AMENDMENT

17.44.200 Exterior Design Restrictions

The construction of any building, the exterior design of which is intended to resemble an item of clothing, or food, or mechanical device, or an igloo, tepee, teapot, ice cream freezer, bottle, barrel, boat or objects of similar nature is prohibited in all districts.

(Ord. No. 2008-24, § 1, 12-15-2008)

SECTION 5: **AMENDMENT** “17.45.040 Light Pole And Building-Mounted Lighting Heights” of the City of Byron Municipal Code is hereby *amended* as follows:

BEFORE AMENDMENT

17.45.040 Light Pole And Building-Mounted Lighting Heights

The maximum height of light poles on private property, as measured from grade at the base of the bottom of the luminaire, shall be as specified below. These standards do not apply to public right-of-way lighting. Permitted light pole heights shall be as follows:

- A. Non-Residential Districts (District Nos. 4 through 6). Light poles and building-mounted fixtures shall be designed with fully shielded luminaires. Such poles or mounts shall not exceed sixteen feet in height. The planning and development commission may approve, in appropriate circumstances as part of site plan review, a pole or mount of up to twenty-four feet.

- B. Residential Districts (District Nos. 1 through 3). Light poles for single-family and two-family dwellings shall not exceed eight feet in height. Light poles for multi-family uses shall not exceed twelve feet in height. Lighting, including under-soffit lighting mounted upon a single-family, two-family or multi-family residential dwelling shall not be mounted higher than ten feet above grade. Light poles on school sites or that light public outdoor recreational facilities shall not exceed twenty-four feet in height.

(Ord. No. 2008-24, § 1, 12-15-2008)

AFTER AMENDMENT

17.45.040 Light Pole And Building-Mounted Lighting Heights

The maximum height of light poles on private property, as measured from grade at the base of the bottom of the luminaire, shall be as specified below. These standards do not apply to public right-of-way lighting. Permitted light pole heights shall be as follows:

- A. Non-Residential Districts (District Nos. 4 through 6). Light poles and building-mounted fixtures shall be designed with fully shielded luminaries. Such poles or mounts shall not exceed sixteen feet in height. The ~~planning and development commission~~ Community Services Committee may approve, in appropriate circumstances as part of site plan review, a pole or mount of up to twenty-four feet.
- B. Residential Districts (District Nos. 1 through 3). Light poles for single-family and two-family dwellings shall not exceed eight feet in height. Light poles for multi-family uses shall not exceed twelve feet in height. Lighting, including under-soffit lighting mounted upon a single-family, two-family or multi-family residential dwelling shall not be mounted higher than ten feet above grade. Light poles on school sites or that light public outdoor recreational facilities shall not exceed twenty-four feet in height.

(Ord. No. 2008-24, § 1, 12-15-2008)

SECTION 6: AMENDMENT “17.48.020 Board Of Appeals - Powers And Duties” of the City of Byron Municipal Code is hereby *amended* as follows:

BEFORE AMENDMENT

17.48.020 Board Of Appeals - Powers And Duties

The zoning board of appeals shall have all the powers and duties prescribed by law and by this title, which are more particularly specified as follows:

- A. Interpretation. Upon appeal from a decision by an administrative official, to decide any question involving the interpretation of any provision of this title, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.
- B. Special Use Permits. To conduct a hearing on all applications for special use permits for

any of the uses for which this title requires the obtaining of such permits from the board of appeals; or for the extension of a building or use as such existed at the time of the passage of the ordinance codified in this title into a contiguous more restrictive district for a distance not exceeding fifty feet; not for any other use or purpose. The zoning board of appeals shall not recommend to the city council that any special use permit be granted by the city council unless the board of appeals finds that:

1. The use is listed in the title as a special permitted use.
2. All provisions of the title governing the issuance of such permits are followed exactly.
3. The board of appeals has the duty of conducting hearings on applications for special permits or special use permits and to make all of the considerations and set forth all the findings in writing as is required for variances, as stated in subsection C of this section. The special permits, uses or special use permits shall be heard before the board of appeals at a public hearing, of which there shall be notice of the time and place of the hearing published at least once, not more than thirty nor less than fifteen days before the hearing, in one or more newspapers published in the city. The board of appeals shall forward their recommendation for such special use permits, special permits, or uses to the city council who shall grant or deny such special use permit, or special permit or temporary special permit, without further public hearing, by ordinance.

C. Variances. To conduct a hearing to vary or adopt the strict application of any requirements of this title, and to recommend to the city council, which shall have final power to determine and approve, variations exercisable by the adoption of ordinances. The city council is to determine and vary the application of any of the requirements of this title in harmony with their general purpose and intent where there are practical difficulties or particular hardship in the way of carrying out the strict letter of any of these regulations relating to the use, construction, or alteration of buildings or structures, or the use of land. The board of appeals is to consider, and the city council is to consider, the standards of practical difficulties or particular hardships, and it must be shown to the board of appeals and to the city council, and finding shall be made that:

1. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone;
2. The plight of the owner is due to unique circumstances;
3. The variation, if granted, will not alter the essential character of the locality;
4. The proposed variance will not be unreasonably detrimental to the value of the surrounding properties in the neighborhood in which it is located;
5. That the proposed variance complies with all provisions of the applicable district regulations;
6. That adequate utilities, ingress/egress to the site, access roads, drainage and other such necessary facilities have been or will be provided;
7. That the proposed use can be operated in a manner that is not detrimental to the permitted development and uses in the zoning district, can be developed and operated in a matter that is visually compatible with the permitted uses in the surrounding area, and is deemed essential or desirable to preserve and promote the public health, safety and general welfare of the city.

The recommendation of the board of appeals is to be communicated in writing along with

the above-captioned findings to the clerk of the city who shall submit to the city council at the next special or regular meeting. No such variation shall be made, except in a specific case and after a public hearing before the board of appeals of which there shall be a notice of the time and place of the hearing published at least once, not more than thirty nor less than fifteen days before the hearing, in one or more newspapers published in the municipality, or, if not newspapers are published therein, then in one or more newspapers with a general circulation within the municipality. This notice shall contain the particular location for which the variation is requested, as well as a brief statement of what the proposed variation consists. The corporate authorities, by ordinance, without further public hearing, may adopt any proposed variation indicated to it by the board of appeals, or may refer it back to the board of appeals for further consideration, and any proposed variation which fails to receive the approval of the board of appeals shall not be passed by the city council except by the favorable vote of two-thirds of all aldermen. Every variation shall be accompanied by findings of facts and shall refer to any exhibits containing plans and specifications for the proposed use or variation, which shall remain a part of the permanent records of the board of appeals. Findings of fact shall specify the reason or reasons for making the variation. The terms of the relief granted shall be specifically set forth in a conclusion or statement separate from the findings of fact of the board of appeals or ordinance. Property for which relief has been granted shall not be used in violation of the specific terms of the board of appeal's findings or the findings recited in the ordinance, unless its usage is changed by further findings of fact of the board of appeals and additional ordinances.

- D. Rules and Regulations. To adopt such rules and regulations as may be deemed necessary from time to time to carry into effect the provisions of this title.
- E. Procedure. The board of appeals shall act in strict accordance with the procedure specified by law and by this title. All appeals and applications made to the board shall be in writing, on forms prescribed by the board. Every appeal or application shall refer to the specific provision of the ordinance involved, and shall set forth exactly the interpretation that is claimed, the use for which the special permit is sought, or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be.

(Ord. No. 2008-24, § 1, 12-15-2008)

AFTER AMENDMENT

17.48.020 Board Of Appeals - Powers And Duties

The zoning board of appeals shall have all the powers and duties prescribed by law and by this title, which are more particularly specified as follows:

- A. Interpretation. Upon appeal from a decision by an administrative official, to decide any question involving the interpretation of any provision of this title, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.
- B. Special Use Permits. To conduct a hearing on all applications for special use permits for any of the uses for which this title requires the obtaining of such permits from the board of appeals; or for the extension of a building or use as such existed at the time of the passage

of the ordinance codified in this title into a contiguous more restrictive district for a distance not exceeding fifty feet; not for any other use or purpose. The zoning board of appeals shall not recommend to the city council that any special use permit be granted by the city council unless the board of appeals finds that:

1. The use is listed in the title as a special permitted use.
2. All provisions of the title governing the issuance of such permits are followed exactly.
3. The board of appeals has the duty of conducting hearings on applications for special permits or special use permits and to make all of the considerations and set forth all the findings in writing as is required for variances, as stated in subsection C of this section. The special permits, uses or special use permits shall be heard before the board of appeals at a public hearing, of which there shall be notice of the time and place of the hearing published at least once, not more than thirty nor less than fifteen days before the hearing, in one or more newspapers published in the city. The board of appeals shall forward their recommendation for such special use permits, special permits, or uses to the city council who shall grant or deny such special use permit, or special permit or temporary special permit, without further public hearing, by ordinance.

C. Variances. To conduct a hearing to vary or adopt the strict application of any requirements of this title, and to recommend to the city council, which shall have final power to determine and approve, variations exercisable by the adoption of ordinances. The city council is to determine and vary the application of any of the requirements of this title in harmony with their general purpose and intent where there are practical difficulties or particular hardship in the way of carrying out the strict letter of any of these regulations relating to the use, construction, or alteration of buildings or structures, or the use of land. The board of appeals is to consider, and the city council is to consider, the standards of practical difficulties or particular hardships, and it must be shown to the board of appeals and to the city council, and finding shall be made that:

1. ~~The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone;~~ Can the property in question yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone?
2. ~~The plight of the owner is due to unique circumstances; The variation, if granted, will not alter the essential character of the locality;~~ Is the proposed Variance or Special Use unreasonably detrimental to the value of the surrounding properties in the neighborhood in which it is located?
3. ~~The proposed variance will not be unreasonably detrimental to the value of the surrounding properties in the neighborhood in which it is located;~~ Have adequate utilities, ingress/egress to the site, access roads, drainage and other such necessary facilities been or will be provided?
4. ~~That the proposed variance complies with all provisions of the applicable district regulations;~~ Can the proposed use be operated in a manner that is not detrimental to the permitted developments and uses in the Zoning District; can it be developed and operated in a matter that is visually compatible with the permitted uses in the surrounding area?

5. ~~That adequate utilities, ingress/egress to the site, access roads, drainage and other such necessary facilities have been or will be provided;~~ Will the proposed Variation or Special Use, if granted, alter the essential character of the locality?
6. ~~That the proposed use can be operated in a manner that is not detrimental to the permitted development and uses in the zoning district, can be developed and operated in a manner that is visually compatible with the permitted uses in the surrounding area, and is deemed essential or desirable to preserve and promote the public health, safety and general welfare of the city.~~

The recommendation of the board of appeals is to be communicated in writing along with the above-captioned findings to the clerk of the city who shall submit to the city council at the next special or regular meeting. No such variation shall be made, except in a specific case and after a public hearing before the board of appeals of which there shall be a notice of the time and place of the hearing published at least once, not more than thirty nor less than fifteen days before the hearing, in one or more newspapers published in the municipality, or, if not newspapers are published therein, then in one or more newspapers with a general circulation within the municipality. This notice shall contain the particular location for which the variation is requested, as well as a brief statement of what the proposed variation consists. The corporate authorities, by ordinance, without further public hearing, may adopt any proposed variation indicated to it by the board of appeals, or may refer it back to the board of appeals for further consideration, and any proposed variation which fails to receive the approval of the board of appeals shall not be passed by the city council except by the favorable vote of two-thirds of all aldermen. Every variation shall be accompanied by findings of facts and shall refer to any exhibits containing plans and specifications for the proposed use or variation, which shall remain a part of the permanent records of the board of appeals. Findings of fact shall specify the reason or reasons for making the variation. The terms of the relief granted shall be specifically set forth in a conclusion or statement separate from the findings of fact of the board of appeals or ordinance. Property for which relief has been granted shall not be used in violation of the specific terms of the board of appeal's findings or the findings recited in the ordinance, unless its usage is changed by further findings of fact of the board of appeals and additional ordinances.

- D. Rules and Regulations. To adopt such rules and regulations as may be deemed necessary from time to time to carry into effect the provisions of this title.
- E. Procedure. The board of appeals shall act in strict accordance with the procedure specified by law and by this title. All appeals and applications made to the board shall be in writing, on forms prescribed by the board. Every appeal or application shall refer to the specific provision of the ordinance involved, and shall set forth exactly the interpretation that is claimed, the use for which the special permit is sought, or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be.

(Ord. No. 2008-24, § 1, 12-15-2008)

SECTION 7: AMENDMENT “17.48.180 Fees” of the City of Byron Municipal Code is hereby *amended* as follows:

BEFORE AMENDMENT

17.48.180 Fees

- A. Minimum Fees. The following minimum fees shall be paid at the time an application for zoning map amendment, variance or special use is submitted:
 - 1. Zoning map amendment—Four hundred dollars.
 - 2. Request for variance—Two hundred fifty dollars.
 - 3. Special use permit—Three hundred dollars.
- B. Additional Fees. In addition to the minimum fees required under subsection A of this section, a deposit of one hundred dollars shall be submitted at the time of application to cover the actual costs of any and all court reporters/stenographic recording, engineering, city attorney, appraisal or publication costs incurred by the city. Any refund of the deposit or additional payment required of the applicant to cover such costs shall be paid before the city council takes action on any recommendation of the zoning board of appeals on the zoning request.

(Ord. No. 2008-24, § 1, 12-15-2008; Ord. No. 2010-04, § 14, 7-7-2010)

AFTER AMENDMENT

17.48.180 Fees

- A. Minimum Fees. The following minimum fees shall be paid at the time an application for zoning map amendment, variance or special use is submitted:
 - 1. Zoning map amendment—Four hundred dollars.
 - 2. Request for variance—Two hundred fifty dollars.
 - 3. Special use permit—Three hundred dollars.
- B. ~~Additional Fees. In addition to the minimum fees required under subsection A of this section, a deposit of one hundred dollars shall be submitted at the time of application to cover the actual costs of any and all court reporters/stenographic recording, engineering, city attorney, appraisal or publication costs incurred by the city. Any refund of the deposit or additional payment required of the applicant to cover such costs shall be paid before the city council takes action on any recommendation of the zoning board of appeals on the zoning request.~~

(Ord. No. 2008-24, § 1, 12-15-2008; Ord. No. 2010-04, § 14, 7-7-2010)

SECTION 8: REPEALER CLAUSE All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 9: SEVERABILITY CLAUSE Should any part or provision of this

Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.


SECTION 10: EFFECTIVE DATE This Ordinance shall be in full force and effect from the date of its passage, and after the required approval and publication according to law.

PASSED AND ADOPTED BY THE CITY OF BYRON COUNCIL JANUARY 20, 2021.

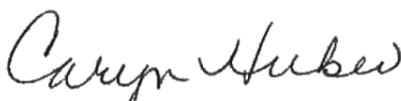
	AYE	NAY	ABSENT	ABSTAIN
Todd Isaacs	_____	_____	<u> X </u>	_____
Emily Gerdes	<u> X </u>	_____	_____	_____
Mittzi Fulrath	<u> X </u>	_____	_____	_____
Dan Reilly	<u> X </u>	_____	_____	_____
Zeke Hobbie	<u> X </u>	_____	_____	_____
Jessica Nehring	<u> X </u>	_____	_____	_____
Mike Gyorkos	<u> X </u>	_____	_____	_____
Christy Hanlin	<u> X </u>	_____	_____	_____

Presiding Officer

Attest



John Rickard, Mayor, City of Byron



Caryn Huber, City Clerk City of Byron

