

## AREA PLAN COMMISSION

### 154.540 ESTABLISHMENT.

The area planning law is hereby re-adopted and the Area Plan Commission is hereby re-established as the plan commission for St. Joseph County, Indiana, accordance with Indiana Code 36-7-4-200 et seq.

*(Ord. 51-05, § 8.10.02A, passed 5-10-2005)*

### 154.541 MEMBERSHIP, QUALIFICATIONS AND TERMS.

The membership of the Area Plan Commission, the qualification of its members and the terms of membership shall be in accordance with Indiana Code 36-7-4-200 et seq.

*(Ord. 51-05, § 8.10.02B, passed 5-10-2005)*

### 154.542 DUTIES AND POWERS.

The Area Plan Commission is hereby vested with the duties and powers imposed upon and granted to an area plan commission under the area planning law, including, without limitation, the powers and duties listed below. To effectuate the purposes of this chapter, the Area Plan Commission may, to the fullest extent permitted by applicable laws:

- (A) Supervise and make rules for the administration of the affairs of the planning department;
- (B) Prescribe uniform rules pertaining to investigations and hearings, and other matters authorized by Indiana Planning and Zoning Laws;
- (C) Keep a complete record of all departmental proceedings;
- (D) Record and file all bonds and contracts and assume responsibility for the custody and preservation of all papers and documents of the planning department;
- (E) Prepare, publish and distribute reports, ordinances and other material related to the Area Plan Commission activities authorized by Indiana State Law or this chapter;
- (F) Adopt a seal;
- (G) Certify to all official acts;
- (H) Supervise the fiscal affairs of the planning department;
- (I) Prepare and submit an annual budget and be limited in all expenditures to the provisions made for expenditures by the legislative bodies of participating municipalities or the Board of Commissioners of St. Joseph County;

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(J) Prescribe the qualifications of, with the consent of the Executive Director, fix the compensation of the employees of the planning department, which compensation shall conform to salaries and compensations fixed before that time by the Board of Commissioners of St. Joseph County;

(K) Delegate authority to its employees to perform ministerial acts in all cases except where final action of the Area Plan Commission is necessary;

(L) Designate a hearing examiner or a committee of the commission to conduct any public hearing required to be held by the Area Plan Commission;

(M) Appoint a plat committee to hold hearings on and approve plats and replats on behalf of the Area Plan Commission;

(N) Make recommendations to the County Council concerning:

(1) The adoption of the Comprehensive Plan and amendments to the Comprehensive Plan;

(2) The adoption or text amendment of this chapter, a replacement zoning ordinance, or the St. Joseph County Subdivision Control Ordinance;

(3) The adoption or amendment of a PUD District Ordinance; and,

(4) Zone Map Changes.

(O) Render decisions concerning and approve plats or replats of subdivisions;

(P) Assign street numbers to lots and structures or renumber lots and structures on streets or highways within the Area Plan Commission's jurisdiction to conform with the numbers of structures on streets within cities within St. Joseph County. The Area Plan Commission hereby delegates the assignment of street numbers to the County Surveyor of St. Joseph County;

(Q) The naming or renaming of streets when performed in connection with a plat or replat;

(R) Render decisions concerning development plans and amendments to development plans;

(S) Establish advisory committees of citizens interested in problems of planning and zoning which shall report to the Area Plan Commission and shall make inquiries and reports only on the subject and problems specified in the resolution establishing the advisory committee of citizens by the Area Plan Commission;

(T) Establish an executive committee which may act in the name of the Area Plan Commission as set forth in IC 36-7-4-408;

(U) Negotiate for grants-in-aid and agree to terms and conditions attached to such grants-in-aid;

(V) Subject to final confirmation and approval by the County Council of St. Joseph County, establish a schedule of reasonable fees to defray the administrative costs connected with:

(1) Processing and hearing administrative appeals and petitions for zone map change, special exception uses, variances, planned unit developments, and development plan approvals;

(2) Issuing improvement location permits; and,

(3) Other official actions taken under this chapter.

(W) Invoke any legal, equitable, or special remedy available under this Chapter or applicable law for the enforcement of the provisions of this chapter or actions taken hereunder; and

(X) Exercise all powers conferred on it by State law, local ordinance, or rule in the manner so prescribed. This section shall not be construed as a limitation on such powers.

*(Ord. 51-05, § 8.10.02C, passed 5-10-2005)*

**154.543 COMMITMENTS.**

(A) *Requirement of commitments by the Area Plan Commission.*

(1) The Area Plan Commission may, when in the discretion of the Area Plan Commission it is deemed necessary to:

(a) Assure the compatibility of a proposed development with surrounding properties; or,

(b) To minimize the potential for the occurrence of detrimental affects from any attributes of a proposed development on surrounding properties, require or allow the owner of a parcel of property to make written commitments concerning the use or development of the subject property in connection with:

1. A development plan approval;

2. A recommendation to the County Council regarding a zone map change to any district classification contained in this chapter;

3. A recommendation to the County Council regarding a PUD District Ordinance;

4. A secondary approval of a PUD; or,

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5. A modification of permitted uses or development requirements of a PUD.

(2) The commitments shall be reduced to writing in recordable form and signed by the owner(s) of the real estate. The commitments shall be in effect for:

- (a) As long as the zone map applicable to the parcel remains unchanged;
- (b) The parcel is designed as a PUD under Article 8.06 of the Chapter; or,
- (c) Modified or terminated as provided below.

(3) Commitments required or allowed in connection with a zone map change or the adoption of a PUD District Ordinance shall be voted upon by the County Council as certified by the Area Plan Commission.

(4) The commitments shall authorize their recording by staff in the office of the Recorder of St. Joseph County, Indiana upon the final approval of the applicable petition. The staff shall be reimbursed by the petitioner for any and all fees associated with the recording of said commitments.

(5) Following the recording of the commitments, staff shall return the original recorded commitments to petitioner and shall retain a copy of the recorded commitments in its file.

(6) The Area Plan Commission, St. Joseph County Attorney, Zoning Administrator, appropriate enforcement official, Owners of all parcels of ground located within 300 feet of the real estate and all owners of real estate within the area included in the petition who were not petitioners for approval, and other specially affected persons designated in such commitments shall be entitled to enforce such commitments pursuant to Indiana Code 36-7-4-1015 or as otherwise provided by applicable law.

(7) The commitments required or allowed by the Area Plan Commission shall be in substantially the form set forth in Appendix A of this chapter.

(B) *Modification or termination of commitments by the Area Plan Commission.*

(1) Commitments required or allowed by the Area Plan Commission may be modified or terminated in the following manner:

(a) Commitments regarding development standards or site design issues may be modified or terminated by a decision of the Area Plan Commission, made at a public hearing after notice to adjoining owners has been given pursuant to the Rules of Procedure of the Area Plan Commission; and

(b) 1. Commitments regarding the use of real property may be modified or terminated upon receiving a favorable recommendation from the Area Plan Commission, made at a public hearing after notice to adjoining owners has been given pursuant to the Rules of Procedure of the Area Plan Commission. Such favorable recommendation shall be forwarded to the County Council which may approve or deny such modification at a public meeting.

2. If a proposed modification or termination of a commitment regarding the use of real property receives either an unfavorable recommendation or no recommendation from the Area Plan Commission, such modification shall be deemed denied.

(2) Any modification or termination of the commitments shall not be effective until:

(a) Reduced to writing;

(b) Approved by the Area Plan Commission;

(c) Executed and notarized by the present owner(s) of the real estate;

and,

(d) recorded in the Office of the Recorder of St. Joseph County,

Indiana.

(3) The modification or termination of commitments shall be in substantially the form set forth in Appendix B of this chapter.

(C) *Conditions, commitments, limitations or agreements made under prior regulations.*

(1) Any limitation on the use or development of real property entered into or imposed in connection with a petition for zone map change prior to the effective date of this chapter, whether under the guise of "a rezone subject to a final site development plan", "conditions", "written commitments", "parole covenants" or other verbal representations, which were recognized and enforceable under any prior St. Joseph County Zoning Ordinance, shall be deemed to be enforceable under the provisions of this chapter as commitments.

(2) Any change, modification or amendment of such limitation shall be reviewed by the Executive Director for conformity with the provisions of the chapter and for substantial conformity with the purpose and intent of such limitation. Any change, modification or amendment which, in the sole discretion of the Executive Director, represents substantial deviation, substantial modification or termination of such limitation may only be approved in accordance with the provisions set forth above.

*(Ord. 51-05, § 8.10.02D, passed 5-10-2005)*