

Section 21-09.02 Area Plan Commission.

(a) Establishment.

The area planning law is hereby re-adopted and the *Area Plan Commission* is hereby re-established as the plan commission for the City of South Bend, Indiana, accordance with Indiana Code 36-7-4-200 et seq.

(b) 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.

(c) 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 Ordinance, the *Area Plan Commission* may, to the fullest extent permitted by applicable laws:

- (1) Supervise and make rules for the administration of the affairs of the planning department;
- (2) Prescribe uniform rules pertaining to investigations and hearings, and other matters authorized by Indiana Planning and Zoning Laws;
- (3) Keep a complete record of all departmental proceedings;
- (4) Record and file all bonds and contracts and assume responsibility for the custody and preservation of all papers and documents of the planning department;
- (5) Prepare, publish and distribute reports, ordinances and other material related to the *Area Plan Commission* activities authorized by Indiana State Law or this Ordinance;
- (6) Adopt a seal;
- (7) Certify to all official acts;
- (8) Supervise the fiscal affairs of the planning department;
- (9) 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;

Section 21-09.02
Area Plan Commission

- (10) 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;
- (11) Delegate authority to its employees to perform ministerial acts in all cases except where final action of the *Area Plan Commission* is necessary;
- (12) Designate a hearing examiner or a committee of the commission to conduct any public hearing required to be held by the *Area Plan Commission*;
- (13) Appoint a plat committee to hold hearings on and approve plats and replats on behalf of the *Area Plan Commission*;
- (14) Make recommendations to the Common Council concerning:
 - (A) The adoption of the *Comprehensive Plan* and amendments to the *Comprehensive Plan*;
 - (B) The adoption or text amendment of this Ordinance, a replacement zoning ordinance, or the South Bend Subdivision Control Ordinance;
 - (C) The adoption or amendment of a *PUD District Ordinance*; and,
 - (D) Zone Map Changes;
- (15) Render decisions concerning and approve *plats* or replats of *subdivisions*;
- (16) 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 City Engineer of the City of South Bend;
- (17) The naming or renaming of *streets* when performed in connection with a plat or replat (the naming or renaming of streets within the corporate limits of the City of South Bend, when not performed in connection with a plat or replat, shall be within the jurisdiction of the Board of Public Works;
- (18) Render decisions concerning *development plans* and amendments to *development plans*;

- (19) 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*;
- (20) Establish an executive committee which may act in the name of the *Area Plan Commission* as set forth in IC 36-7-4-408;
- (21) Negotiate for grants-in-aid and agree to terms and conditions attached to such grants-in-aid;
- (22) Subject to final confirmation and approval by the Common Council of the City of South Bend, establish a schedule of reasonable fees to defray the administrative costs connected with:
 - (A) processing and hearing administrative appeals and petitions for zone map change, *special exception uses*, *variances*, *planned unit developments*, and *development plan* approvals;
 - (B) issuing *improvement location permits*; and,
 - (C) other official actions taken under this Ordinance;
- (23) Invoke any legal, equitable, or special remedy available under this Ordinance or applicable law for the enforcement of the provisions of this Ordinance or actions taken hereunder;
- (24) Exercise all powers conferred on it by State law, local ordinance, or rule in the manner so prescribed. This Article shall not be construed as a limitation on such powers.

(d) Commitments.

- (1) Requirement of Commitments by the Area Plan Commission.
 - (A) The *Area Plan Commission* may, when in the discretion of the *Area Plan Commission* it is deemed necessary to: (i) assure the compatibility of a proposed development with surrounding properties; or, (ii) 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:
 - i. a *development plan* approval as provided for in this Ordinance;

Section 21-09.02
Area Plan Commission

- ii. a recommendation to the Common Council regarding a zone map change to any *district* classification contained in this Ordinance;
 - iii. a recommendation to the Common Council regarding a *PUD District Ordinance*;
 - iv. a *secondary approval* of a *PUD*; or,
 - v. a modification of *permitted uses* or *development requirements* of a *PUD*.
- (B) 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:
- i. as long as the zone map applicable to the parcel remains unchanged;
 - ii. the parcel is designed as a *PUD* under Section 21-05 of this Ordinance; or,
 - iii. modified or terminated as provided below.
- (C) *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 Common Council as certified by the *Area Plan Commission*.
- (D) 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.
- (E) 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.
- (F) The *Area Plan Commission*, South Bend City Attorney, *Zoning Administrator*, appropriate enforcement official, Owners of all parcels of ground located within three-hundred (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.

- (G) The *commitments* required or allowed by the *Area Plan Commission* shall be in substantially the form set forth in Exhibit "A" of this Ordinance.
- (2) Modification of Commitments by the Area Plan Commission.
 - (A) *Commitments* required or allowed by the *Area Plan Commission* 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*.
 - (B) Any modification or termination of the *commitments* shall not be effective until:
 - i. reduced to writing;
 - ii. approved by the *Area Plan Commission*;
 - iii. executed and notarized by the present owner(s) of the real estate; and,
 - iv. recorded in the Office of the Recorder of St. Joseph County, Indiana.
 - (C) The modification or termination of *commitments* shall be in substantially the form set forth in Exhibit "B" of this Ordinance.