

Article 27

Plan Commissions

Section 27.01 Establishment

There shall be plan commissions for the county and each city, established as follows:

- (a) **County of La Porte.** The county of La Porte plan commission exists as an advisory plan commission under the authority of I.C. 36-7-4-208 and any amendments thereto. The rules of the plan commission are adopted in accordance with the requirements of I.C. 36-7-4-401.
- (b) **City of La Porte.** The city of La Porte plan commission exists as an advisory plan commission under the authority of IC 36-7-4-207(b) and any amendments thereto. The rules of the plan commission are adopted in accordance with the requirements of I.C. 36-7-4-401.
- (c) **City of Michigan City.** The city of Michigan City plan commission exists as an advisory plan commission under the authority of IC 36-7-4-207(a) and any amendments thereto. The rules of the plan commission are adopted in accordance with the requirements of I.C. 36-7-4-401.

Section 27.02 Officers and Employees

- (a) Each plan commission shall establish officers consistent with I.C. 36-7-4-303 and 304.
- (b) Each plan commission may appoint employees consistent with I.C. 36-7-4-311.
- (c) Each plan commission may establish committees consistent with I.C. 36-7-4-407.

Section 27.03 Duties

The powers and duties of each plan commission shall be those set forth in state statute and other responsibilities as may be required by local ordinance including this ordinance. The plan commission has the following powers:

- (a) The power to review all PUD applications and to hold pre-application workshops; the power to approve preliminary site plans, final site plans and all modifications and changes to any PUD or PD district including those that were existing under any predecessor zoning ordinance; the power to review, report upon, and enforce compliance with final plans for any PUD or PD district including those that were existing under any predecessor zoning ordinance.
- (b) The power to hear and determine minor subdivision and major subdivision applications.
- (c) The power to conduct hearings regarding changes to the zoning ordinance and the zoning maps, upon its own or upon request of the city common council or county commissioners or other landowner petitioners, and to make recommendations thereon to the city common council or county commissioners.
- (d) The power to review and enforce any decision made under a predecessor zoning ordinance.
- (e) The power to make recommendations on the zoning ordinance.
- (f) The power to make an annual report to the city common council or county commissioners concerning the operation of the plan commission and the status of planning within its jurisdiction.
- (g) The power to exercise all other powers and duties as set forth in state statute or this ordinance.

Section 27.04 Policy Covering Plan Commission Activities

- (a) So as to assure the promotion of public health, safety, morals, convenience, order, or the general welfare and for the sake of efficiency and economy in the process of development, each plan commission shall prepare a county land development plan which must contain the items in (1) through (3) below (per I.C. 36-7-4-502) and may contain the other following items.
- (1) A statement of objectives for the future development of the jurisdiction.
 - (2) A statement of policy for the land use development of the jurisdiction.
 - (3) A statement of policy for the development of public way, public places, public lands, public structures, and public utilities.
 - (4) Careful and comprehensive surveys and studies of existing conditions and probable future growth of the county or city and its environs.
 - (5) Maps, plats, charts, and descriptive material presenting basic information, locations, extent, and character of the community, including demographics, land use, infrastructure and environmental conditions.
 - (6) Reports, maps, charts, and recommendations setting forth plans for the development, redevelopment, improvement, extension, and revision of the subjects and physical situation of the community so as to substantially accomplish the object of the legislation.
 - (7) A long range development program of public works projects based on the recommended plans of the plan commission for the purpose of eliminating unplanned, unsightly, untimely, and extravagant projects and with a view to stabilizing industry and employment and the keeping of the program up to date by yearly revision.
 - (8) A long range financial program of governmental expenditures in order that the development program may be carried out and the keeping of the program up to date for all separate taxing units within the county or city for the purpose of assuring efficient and economic use of public funds.
- (b) The plan commissions may also formulate policies for:
- (1) The districts in which subdivision of land is permitted.
 - (2) The issuance of permits.
 - (3) Laying out and development of public ways and services to platted and unplatted lands.
 - (4) If the county land development plan includes a major thoroughfare or highway plan, the plan commission may determine the lines for new, extended, widened, or narrowed streets or highways in any portion of the community and certify to the legislative body the amended or additional plan.
 - (5) Procedures of the plan commission, including ethical standards.

Section 27.05 Meetings

- (a) The plan commissions will meet as necessary to carry out the duties of this article. At the yearly organizational meeting, the plan commission will establish dates and times for meetings for the current year.

- (b) Special meetings may be called by the president or two members of the plan commission upon written request to the secretary. The secretary shall send to all members, at least three (3) days before the special meeting, a written notice fixing the time and place of the meeting.
- (c) The president of the plan commission shall preside over meetings, decide questions of order, subject to appeal by plan commission members, and preserve decorum in the meeting room. The president shall pronounce the decisions of the plan commission for purpose of recording in the minutes.

Section 27.06 Official Action; Discussion and Voting

- (a) A majority of the members of the plan commission who are qualified to vote shall constitute a quorum. Action of the plan commission shall not be official unless it is authorized at a regular or properly-called special meeting by a majority of the entire membership of the plan commission.
- (b) All members present shall vote on every question unless they are permitted to abstain by the presiding officer, or, in the case of a zoning matter, have disqualified themselves because of a conflict of interest as described in division (c) below.
- (c) No member of the plan commission shall participate in a hearing, discussion, or decision of the plan commission upon any decision or legislative act (as defined in I.C. 36-7-4-1016) in which the member is: 1) biased or prejudiced or otherwise unable to be impartial; or 2) the member has a direct or indirect financial interest in the outcome of the zoning decision. A legislative act is defined as an administrative appeal, request for exception, use, and variances, appeals of commitment modification or termination, development plans, planned unit developments and all other acts set forth in I.C. 36-7-4-1016. A member shall declare his or her known conflict of interest. The plan commission shall enter into its records the fact that the member has this disqualification, and the name of the alternate member, if any, who participates in the hearing in place of the regular member.
- (d) In the event that a majority vote of the plan commission cannot be achieved due to absences, permitted abstentions, or disqualifications, the matter shall be rescheduled for the next regular meeting at the request of any plan commission member, a petitioner, or a remonstrator.

Section 27.07 Minutes and Records

- (a) The secretary of the plan commission shall prepare and maintain minutes of its meetings. The minutes shall include the vote of each member on each question presented or shall indicate that the member is absent, abstaining with permission, or not voting because of a disqualification.
- (b) The minutes of plan commission meetings and all records shall be filed in the office of the plan commission and are public records, as defined by I.C. 5-14-3, once approved by the plan commission.
- (c) The minutes shall be presented to the plan commission for approval at the next succeeding regular meeting. When approved, the minutes shall be signed by the president and attested by the secretary.

Section 27.08 Public Hearings

- (a) The plan commissions shall hold those public hearings as are required by state statute and county or city ordinances. The plan commissions may hold additional hearings at times and places and upon such notice as it considers necessary.
- (b) The petitioner shall prepare the legal advertisement of the public hearing for approval by the plan commission and shall bear the expense of the advertising costs. In addition, the petitioner will notify all persons deemed by state statute and the plan commission to be interested parties at least 10 days

before the date of the public hearing. At the public hearing, the petitioner shall provide proof that he or she has complied with this requirement.

Section 27.09 Notice Requirements; Public Hearings

- (a) A notice of a public hearing required by state statute or county, or city ordinance shall contain as a minimum the following information:
 - (1) The substance of the matter to be heard by the plan commission and including the nature and request concerning the appeal, use, exception, or variance applied for, if any;
 - (2) General location, general description, and address of the property affected;
 - (3) Name of the person, agency, or entity initiating the matter to be heard;
 - (4) Time and place of the hearing;
 - (5) Statement that the petition may be examined at the plan commission office;
 - (6) Statement that any person may offer verbal comments at the hearing or may file written comments prior to or at the hearing; and
 - (7) Any other information which may be required by law to be contained in the notice.
- (b) Where a petition to rezone a specific piece of property or several adjacent properties is filed by a private property owner, all interested parties as defined by section 30.03 of this code must receive notice of any petition pending before the plan commission. The applicant must provide the plan commission proof of mailing of notice to all interested parties at the time the petition is presented for hearing.
- (c) The applicant must also publish notice pursuant to I.C. 5-3-1 et seq. Publication must occur at least 10 days prior to the meeting in which the petition is heard. At the time of hearing, the petitioner must provide an affidavit showing proof of publication.
- (d) For the purpose of this subchapter, the notice requirements contained in the previous sections are the bare minimum necessary for the presentation of the petition of any matter to be heard before the plan commission. In the event that any state statute, particularly I.C. 36-7-4 et seq., requires any other additional notice, in addition to that provided by this subchapter, the petitioner shall comply with same.
- (e) The names of the interested parties who are property owners to be notified are to be ascertained from the real estate tax records, as maintained by the county or city assessor's office.

Section 27.10 Conduct of Public Hearings

The plan commission shall conduct public hearings required under this ordinance based upon rules of procedure adopted by the plan commission.

Section 27.11 Final Disposition of Cases

- (a) The final disposition of any petition shall be in the form of a findings of fact of the plan commission, together with any modification, specification, or limitation which it makes.
- (b) The plan commission may dismiss a petition for lack of prosecution or lack of jurisdiction. When a petitioner has failed to appear at two consecutive meetings, the petition may be dismissed for lack of prosecution.

- (c) Following the publication of notice for any public hearing, until the conclusion of the hearing, a petitioner may not withdraw the matter to come before the public hearing without the approval of the plan commission.
- (d) A petition which has been withdrawn by the petitioner shall not be again placed on the docket for consideration within a period of 12 months after the date of withdrawal.
- (e) A petition for rezoning which has been decided adversely to the petitioner shall not again be placed on the docket for consideration until 12 months after the date of decision previously rendered.
- (f) **Legislative Action.** The plan commission recommendations on resolution, ordinance amendments and rezonings are advisory. Petitions for rezoning, amendments to the county land development plan, and amendments to the zoning or subdivision control ordinances shall be forwarded to the city common council or county commissioners for consideration within ten (10) days of the plan commission recommendation.

Section 27.12 Conformance with County Land Development Plan

After adoption of the county land development plan and zoning code, the legislative body and the plan commission shall be guided by and shall give consideration to the general policy and pattern of development set out in the county land development plan in the:

- (a) Authorization, construction, alteration, or abandonment of public ways, public places, public structures, or public utilities. Further, no public way or platted lot shall be abandoned or vacated until the plan commission having jurisdiction over the area involved shall have first given notice and held public hearing on vacation of all or part of a platted subdivision. The plan commission shall forward its recommendation to the governing body having jurisdiction over the area.
- (b) Authorization, acceptance, or construction of water mains, sewers, connections, facilities, or utilities.

Section 27.13 Actions for Injunction for Restraint of Violation

- (a) The plan commissions or any designated enforcement official may institute a suit for injunction in the circuit court of La Porte County to restrain an individual or a governmental unit from violating the provisions of I.C. 36-7-4 or of an ordinance enacted pursuant to its terms.
- (b) The plan commissions may institute a suit for a mandatory injunction directing an individual or a governmental unit to remove a structure erected in violation of the provisions of I.C. 36-7-4 or of an ordinance enacted pursuant to its terms. If the plan commission is successful in its suit the respondent shall bear the cost of the action.
- (c) No compensation or delegations shall be awarded for the taking of or injury to any structure erected in violation of the provisions of I.C. 36-7-4 or of an ordinance enacted pursuant to its terms.

Section 27.14 Coordination with State Statutes

Should any provisions of state statute be amended in any way that affects this article, the provisions of this article shall be applied in a manner consistent with any such amendment.

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