

**BERRIEN COUNTY PLANNING COMMISSION
ORDINANCE OF 2009**

ORDINANCE #22

Adopted May 7, 2009
Effective May 7, 2009

WHEREAS, The People of the County of Berrien did establish the Berrien County Planning Commission by resolution, and

WHEREAS, it is now desired to adopt this ordinance to insure proper record of the action it created, and

WHEREAS, An ordinance to create a Planning Commission for the County of Berrien as authorized by P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, M.C.L. 125.3801 *et. seq.* for the purpose of having planning and zoning in Berrien County to create, organize, enumerate powers and duties, and to provide for the regulation and subdivision of land, coordinated and harmonious development of the County of Berrien and to function in cooperation with other constituted authorities of incorporated and unincorporated areas within the state where Berrien County exists.

THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF BERRIEN COUNTY, MICHIGAN:

Section 1.01

Creation:

There shall be a Berrien County Planning Commission pursuant to P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, M.C.L. 125.3801 *et. seq.*, hereinafter referred to as the Commission with the powers and duties as therein set forth and as hereinafter provided and staffed by the Community Development Department. This ordinance shall be officially known and described as the "Berrien County Planning Commission Ordinance".

Section 1.02

Membership:

A.

The Commission shall consist of 11 members appointed by the County Board of Commissioners. To be qualified to be a member and remain a member of the Planning Commission, the individual shall meet the following qualifications:

1. shall be a qualified elector of Berrien County except that one member may be a non-qualified elector;

2. after an individual's first appointment and before reappointment shall have attended training for Commission members, pursuant to section 104 of this ordinance;
3. shall meet the conditions provided for each individual member in sections 102.a, 102.d, 102.e, and 102.f of this Ordinance, except the geographical location of the individual's residency may be considered optional.
 - a. Members shall be appointed for three-year terms. However when first appointed a number of members shall be appointed to one-year, two-year, or three-year terms such that, as nearly as possible, the terms of $\frac{1}{3}$ of all commission members will expire each year. If a vacancy occurs, the vacancy shall be filled for the unexpired term in the same manner as provided for an original appointment such that, as nearly as possible, the terms of $\frac{1}{3}$ of all commission members continue to expire each year.
 - b. Ex officio members shall include 1 [one] member of the Board of Commissioners. The terms of office of ex officio members shall coincide with their elected terms of office on the legislative body or the term of office of the chief elected official who appointed him or her.
 - c. Every reasonable effort shall be made to insure that the membership of the county planning commission includes a member of a public school board, or an administrative employee of a school district included, in whole or in part, within the county's boundaries.
 - d. The membership of a planning commission shall be representative of important segments of the community, such as the economic, governmental, educational, and social development of the local unit of government, in accordance with the major interests as they exist in the local unit of government, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry and commerce. The membership shall also be representative of the entire geography of the local unit of government to the extent practicable.
 - e. A member of the County Board, chief administrative officer, person appointed by the chief administrative official, or the chief elected official of the County shall not be chair of the Commission.
 - f. Not more than $\frac{1}{3}$ of the total membership of the Commission shall consist of, collectively, a member of

the County Board, chief administrative officer, person appointed by the chief administrative official, or chief elected official of the county.

Section 1.03

A.

Liaisons:

The Commission, in its Bylaws, may name “liaisons” to the Commission. The purpose of liaisons is to provide certain county and quasi-county officials ability to participate in discussion with the Commission in addition to speaking in public participation, and nothing else. At a minimum liaisons shall include:

1. Community Development Department staff, and their agents and consultants.
2. Berrien County Administrator.
3. Berrien County Corporate Counsel.

Section 1.04

A.

Members, Appointment and Terms:

In November of each year the Berrien County Administrative Assistant shall determine which members’ terms of office expire, shall identify what interest segments to be targeted.

B.

In December of each year the Board of Commissioners shall consider the applications and nominations received, and appoint members to the Commission by a majority vote for a three year term of office which shall end December 31, at 9:00 a.m. of the respective year.

Section 1.05

A.

Removal from Office:

The County Board of Commissioners may remove a member of the Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. Failure to disclose a potential conflict of interest shall be considered malfeasance in office. Failure to repeatedly not attend Commission meetings shall be considered nonfeasance in office.

B.

The secretary of the Planning Commission shall report any member who has missed three regular meetings in a row to the Board of Commissioners.

Section 1.06

Membership; Vacancies:

The Board of Commissioners shall fill any vacancy in the membership of the Commission for the unexpired terms in the same manner as the initial appointment.

Section 1.07

Membership; Transition:

- A. The transition from the previous Berrien County Planning Commission and the Commission established in this ordinance shall be gradual and shall take place over the next three years. The Board of Commissioners shall continue to make annual appointments, appointing approximately $\frac{1}{3}$ of the membership of the Commission as specified in this Ordinance, so that three years from the effective date of this ordinance the membership, membership representation, and number of members have completed the transition to fully comply with this Ordinance.
- B. All other aspects of this ordinance shall have immediate effect.

Section 1.08

Membership; Compensation:

All members of the Planning Commission shall serve as such with compensation equal to the per diem of the County Board per meeting plus mileage.

Section 1.09

Meetings:

- A. The Commission shall meet at least once every month and a majority of the Commission shall constitute a quorum for the transaction of the ordinary business of said Commission and all questions which shall arise at their meetings shall be determined by a vote of the majority of the members of the Planning Commission.
- B. The affirmative vote of $\frac{2}{3}$ of the total number of seats for members of the Commission, regardless if vacancies or absences exist or not, shall be necessary for the adoption, or recommendation for adoption, of any plan or amendment to a plan.

Section 1.10

Powers and Duties:

The Commission shall have their powers and duties as set forth in P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, M.C.L. 125.3801 *et seq.*; and P.A. 110 of the Public Acts of 2006, as amended, being the Michigan Zoning Enabling Act, (M.C.L. 125.3101 *et seq.*).

Section 1.11

Staff:

- A. The Community Development Director shall be a department head, and shall hire or dismiss other such staff within the budget provided for this purpose.
- B. The appointment of the Community Development Director and other such employees shall be subject to the same provisions of law, employment policies, employee roster, employee or union contracts, if any, as govern other employees of Berrien County.
- C. Employees who are assigned to work with the Commission shall

follow the directives of the Commission in matters of planning and zoning public policy issues, but shall not be subject to Commission directives concerning employment provisions of law, employment policies, employee roster, employee or union contracts, if any.

Section 1.12 Meetings; Records:

The Commission shall adopt Bylaws for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which records shall be a public record.

Section 1.13 Approval, Ratification, and Reconfirmation:

All official actions taken by all Berrien County Planning Commissions preceding the Commission created by this ordinance are hereby approved, ratified and reconfirmed. Any project, review, or process taking place at the effective date of this Ordinance shall continue with the Commission created by this ordinance, subject to the requirements of this Ordinance, and shall be deemed a continuation of any previous Berrien County Planning Commission. This Ordinance shall be in full force and effect from and after its adoption and publication.

Section 1.14 Severability:

If any part of this ordinance shall be determined to be unenforceable by a court of competent jurisdiction, that part shall be deemed to be severed and removed from the body of this ordinance, and the rest shall remain in full force and effect.

Section 1.15 Adoption:

Passed, adopted and approved this 7th day of May, 2009 by the Board of Commissioners of the County of Berrien.

Section 1.16 Effective:

This ordinance shall become effective on May 7, 2009.

Signed: /s/ Dave Pagel
Board of Commissioners Chair

Date: May 7, 2009

CERTIFICATION

I hereby certify that the above is a true and complete copy of the ordinance adopted by the Board of Commissioners of Berrien County, Michigan, at a regular meeting held on the 7th day of May, 2009 and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976, as amended, and that the minutes of said meeting were kept and will be or have been made available as required by said act.

Signed: /s/ Frank Sampsell
 Deputy County Clerk

Date: May 7, 2009