

**CHAPTER 31
PLANNING COMMISSION**

ARTICLE I. PLANNING COMMISSION

An ordinance to create a Planning Commission for the City of Benton Harbor 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 the City of Benton Harbor, to create, organize, enumerate powers and duties, and to provide for the regulation and subdivision of land, coordinated and harmonious development of the City of Benton Harbor, and to function in cooperation with other constituted authorities of incorporated and unincorporated areas within the state where City of Benton Harbor exists.

THE PEOPLE OF CITY OF BENTON HARBOR DO ORDAIN:

31-1. Creation

There shall be a City of Benton Harbor 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 set forth and as hereinafter provided and staffed Planning Department. This ordinance shall be officially known and described as the “City of Benton Harbor Planning Commission Ordinance.”

31-2. Membership

A. Membership of the planning commission shall be as set forth in the City of Benton Harbor Charter. Appointment of members shall be the same as provided for in the City of Benton Harbor charter.

B. The Commission shall consist of 9 members appointed by the City of Benton Harbor City Commission. To be qualified to be a member and remain a member of the Commission, the individual shall meet the following qualifications:

1. shall be qualified elector of City of Benton Harbor, except non-qualified elector(s) may be member(s) and one member of the commission;
2. shall not be declared candidate for any political office, except this condition shall not apply to the City Commission representative to the Commission (section 102.E.10, of this ordinance);
3. after an individual’s first appointment and before reappointment shall have attended training for Commission members, pursuant to section 104 of this ordinance;
4. shall meet the conditions provided for each individual member in sections 102.B, 102.D, 102.E, and 102.F of this Ordinance, except the geographical location of the individual’s residency may be considered optional.

C. The membership shall be representative of the important geographic and interest segments of the City of Benton Harbor, as follows:

D. 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 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 1/3 of all commission members continue to expire each year.

E. Ex officio members shall include the chief elected official and one member of the City Commission. 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.

F. The membership shall be representative of the important segments of the community, such as the economic, governmental, educational, and social development of the City of Benton Harbor, in accordance with the major interests as they exist in the City of Benton Harbor, as follows:

1. Agriculture;
2. Natural resources;

3. Recreation;
4. Education;
5. Public health;
6. Government;
7. Transportation;
8. Industry;
9. Commerce;
10. Regional Planner or Economic Development.

G. The membership shall also be representative of the entire geography of the City of Benton Harbor to the extent practicable, and as a secondary consideration to the representation of the major interests.

H. A member of the City of Benton Harbor's City Commission, or the City Manager or his designee shall not be chair of the Commission.

I. Not more than 1/3 of the total membership of the Commission shall consist of, collectively, a member of the City Commission, the City Manager or his designee.

31-3. Liaisons

A. The Commission, in its Bylaws, may name "liaisons" to the Commission. The sole purpose of liaisons is to provide certain City of Benton Harbor and quasi-City of Benton Harbor official's ability to participate in discussion with the Commission in addition to speaking in public participation. Liaisons shall, but are not limited to, include:

1. Planning Department staff, and their agents and consultants.
2. City of Benton Harbor Administrator.
3. City of Benton Harbor Attorney.

31-4. Training

A. Appointed members of the Commission shall attend educational programs designed for training members of Michigan Planning Commissions if the adopted City of Benton Harbor budget for that fiscal year includes funds to pay for tuition, registration, and travel expenses for the training. Nothing in this paragraph shall deem a member who has not had training from finishing his term of office unless the member resigns or is removed by action of the Benton Harbor City Commission. The member shall be ineligible for reappointment at the conclusion of the term of office if they did not attend training. The Commission shall include in its Bylaws what training programs qualify to meet this requirement.

31-5. Members, Appointment and Terms

A. In July of each year the City of Benton Harbor City Clerk shall determine which members' terms of office expire, shall request nominations from the City's Planning Administrator.

B. In August of each year if the City Clerk has not received at least two nominations from the City's Planning Administrator, then the City Clerk shall discard those applications and shall place an advertisement(s) in a local newspaper with paid circulation in City of Benton Harbor to seek new applications.

C. In September of each year the City Commission 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 September 30th, at 9:00 a.m. of the respective year.

31-6. Removal from Office

A. The City Commission 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 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 City Commission.

31-7. Membership; Vacancies

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

31-8. Membership; Transition

The transition from the previous City of Benton Harbor Planning Commission and the Commission established in this ordinance shall be gradual and shall take place over the next three years. The City Commission shall continue to make annual appointments, appointing approximately 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.

31-8. Membership; Compensation

All members of the Planning Commission shall serve as such with no compensation.

31-9. Meetings

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 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.

31-10. 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.).

B. The Commission shall be designated as a metropolitan county planning commission, pursuant to section 37(1) of P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, M.C.L. 125.3837(1); and the Planning Commission shall serve as a coordinating agency for all planning committees or commissions that are now or may be within the County of Berrien.

C. The Commission shall have authority to apply for and receive grants from any government agency or the federal government and to receive gifts.

31-11. Staff

A. The Commission is delegated the authority to hire or dismiss a planning director within the budget provided for this purpose.

B. The planning director shall be a department head, and shall hire or dismiss other such staff within the budget provided for this purpose.

C. The appointment of the planning 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 the City of Benton Harbor.

D. Employees that 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.

31-12. 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.

31-13. Approval, Ratification, and Reconfirmation

All official actions taken by the City of Benton Harbor 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 Benton Harbor Planning Commission. This Ordinance shall be in full force and effect from and after its adoption and publication.