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**Town of Kinnickinnic Plan Commission Ordinance  
2005- 01**

The Town Board of the Town of Kinnickinnic, St. Croix County, Wisconsin, does ordain as follows:

**Section 1. Title**

This ordinance is entitled the "Town of Kinnickinnic Plan Commission Ordinance" and the Town's prior Planning Commission Ordinance approved in September 2, 2003 is hereby amended by repeal and recreation as set forth herein.

**Section 2. Purpose**

A. The purpose of this ordinance is to establish a Town of Kinnickinnic Plan Commission and set forth its organization, powers and duties, to further the health, safety, welfare and wise use of resources for the benefit of current and future residents of the Town and affected neighboring jurisdictions, through the adoption and implementation of comprehensive planning with significant citizen involvement.

B. The Plan Commission's purposes are: (1) to promote good planning practices and to keep the public and town Board well informed on planning issues; (2) to review and recommend all proposed subdivision of land; (3) to prepare and recommend for Town Board approval the Town's comprehensive plan and any amendment thereto and to recommend implementation measures concerning it; (4) to review land use matters referred to it by the Town Board and to perform other duties at the request of the Town Board; (5) within the framework of County zoning procedures and deadlines, to review requests for County rezoning of land located in the Town of Kinnickinnic and to make a recommendation thereon to the Town Board, taking the Town's master/comprehensive plan into account; and (6) to keep accurate records of its actions.

**Section 3. Authority; Establishment**

The Town Board of the Town of Kinnickinnic, having been authorized by the Town meeting under sec. 60.10(2)(c), Wis. Stats., to exercise village powers, hereby exercises village powers under sec. 60.22(3), Wis. Stats., and establishes a seven (7) member Plan Commission under secs. 61.35 and 62.23, Wis. Stats. The Plan Commission shall be considered the "Town Planning Agency" under secs. 236.02(13) and 236.45, Wis. Stats., which authorize, but do not require, Town adoption of a subdivision or other land division ordinance.

**Section 4. Membership**

The Plan Commission shall consist of the Town Chairperson, one additional member of the Town Board, and five citizen members who are not otherwise Town officials and who shall be persons of recognized experience and qualifications.

**Section 5. Appointments**

The Town Board Chairperson shall appoint the members of the Plan Commission to fill expiring terms. Appointments are subject to the approval of the Town Board but such approvals

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are advisory and is not a condition of valid appointment. Appointments to the Plan Commission shall be made after the April election, during special re-organizational meeting of the new Town Board. Citizens appointed to the Plan Commission shall take and file the oath of office within five days of notice of appointment as required by Wis. Stats. 60.31.

### **Section 6. Terms of Office**

A. Citizen Members. The term of office for each Commission member shall be for a period of 3 years, ending on April 30, or until a successor is appointed and qualified. Citizen members shall be appointed for staggered terms, so that initially one appointment expires annually for each of two years and two appointments expire the third year.

B. Town Board Members. Town Board members who serve on the Plan Commission shall be appointed for a two year term. Loss of position as an elected member of the Town Board automatically creates a Plan Commission vacancy to be filled by appointment of another Town Board member.

C. Removal. Plan Commission members are "at pleasure" appointments within the meaning of Wis. Stat. Sec. 17.13, who are appointed for a set term. Removal during an appointed term shall be by a majority vote of the entire Town Board, preceded by a hearing at which the Plan Commission member shall be entitled to be heard on the matter and to present testimony on his/her behalf. "Just cause" or "cause" is not required for removal.

### **Section 7. Vacancies**

A person who is appointed to fill a vacancy on the Plan Commission shall serve for the remainder of the term.

### **Section 8. Compensation; Expenses**

All Plan Commission members shall receive a per diem for each Plan Commission meeting in an amount set from time to time by resolution of the Town Board. The Town Board may also reimburse for pre-authorized reasonable expenses, upon being presented with a receipt. Where appropriate, a report or explanation maybe required as a condition of expense reimbursement.

### **Section 9. Experts & Staff**

The Plan Commission may, under sec. 62.23(1), Wis. Stats., recommend to the Town Board the employment of experts and staff, and may review and recommend to the approval authority proposed payments under any contract with an expert.

### **Section 10. Rules; Records**

The Plan Commission, under sec. 62.23(2), Wis. Stats., may adopt rules for the transaction of its business, subject to Town ordinances, and shall keep a record of its resolutions, transactions, findings and determinations, which shall be a public record under secs. 19.21-19.39, Wis. Stats.

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**Section 11. Chairperson & Officers**

A. Chairperson. By majority vote, the seven member Plan Commission shall elect from its membership the Chairperson of the Plan Commission. The Town Chairperson. Duties of the Plan Commission Chairperson include:

- (1) provide leadership to the Commission;
- (2) set Commission meeting and hearing dates;
- (3) provide notice of Commission meetings and hearings and set their agendas, personally or by his or her designee;
- (4) preside at Commission meetings and hearings; and
- (5) ensure that the laws are followed and the land use goals and objectives of the Town are always a consideration of the Plan Commission in its decisions.

B. Vice Chairperson. By majority vote the seven member of the Plan Commission shall elect one of its members as Vice Chairperson. The Vice Chairperson shall act in place of the Chairperson when that person is absent or incapacitated.

C. Secretary. The Plan Commission shall elect, by open vote or secret ballot under sec. 19.88(1), Wis. Stats., one of its members to serve as Secretary, or, with the approval of the Town Board, designate the Town Clerk or other Town officer or employee as Secretary.

**Section 12. Commission Members as Local Public Officials**

All members of the Plan Commission shall faithfully discharge their official duties to the best of their abilities, as provided in the oath of office, sec. 19.01, Wis. Stats., in accordance with, but not limited to, the provisions of the Wisconsin Statutes on: Public Records, secs. 19.21-19.39; Code of Ethics for Local Government Officials, secs. 19.42, 19.58 & 19.59; Open Meetings, secs. 19.81-19.89; Misconduct in Office, sec. 946.12; and Private Interests in Public Contracts, sec. 946.13. Commission members shall further perform their duties in a fair and rational manner and avoid arbitrary actions.

**Section 13. General & Miscellaneous Powers**

The Plan Commission, under sec. 62.23(4), Wis. Stats., shall have the power:

- A. Necessary to enable it to perform its functions and promote Town planning.
- B. To make reports and recommendations relating to the plan and development of the Town to the Town Board, other public bodies, citizens, public utilities and organizations.
- C. To recommend to the Town Board programs for public improvements and the financing of such improvements.
- D. To receive from public officials, within a reasonable time, requested available information required for the Commission to do its work.
- E. For itself, its members and employees, in the performance of their duties, to enter upon land, make examinations and surveys, and place and maintain necessary monuments and marks thereon. However, entry shall not be made upon private land, except to the extent that the

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private land is held open to the general public, without the permission of the landowner or tenant. If such permission has been refused, entry shall be made under the authority of an inspection warrant issued for cause under sec. 66.0119, Wis. Stats., or other court-issued warrant.

#### **Section 14. Town Comprehensive Planning: General Authority & Requirements**

A. The Plan Commission shall make and adopt a comprehensive plan under secs. 62.23 and 66.1001, Wis. Stats., which contains the elements specified in sec. 66.1001(2), Wis. Stats., and follows the procedures in sec. 66.1001(4), Wis. Stats.

B. The Plan Commission shall make and adopt the comprehensive plan within the time period directed by the Town Board, but not later than a time sufficient to allow the Town Board to review the plan and pass an ordinance adopting it to take effect on or before January 1, 2010, or such other effective date as may be later required by the State of Wisconsin.

C. In this section the requirement to “make” the plan means that the Plan Commission shall ensure that the plan is prepared, and oversee and coordinate the preparation of the plan, whether the work is performed for the Town by the Plan Commission, Town staff, another unit of government, the regional planning commission, a consultant, citizens, an advisory committee, or by any other person, group or organization.

#### **Section 15. Procedure for Plan Commission Adoption & Recommendation of a Town Comprehensive Plan**

To ensure compliance with the requirements of Wis. Stats. 66.1001(4), the Plan Commission shall proceed as follows:

A. Public participation verification. Prior to beginning work on a comprehensive plan, the Plan Commission shall verify that the Town Board has adopted written procedures designed to foster public participation in every stage of preparation of the comprehensive plan. Effective modes of public participation include but are not limited to open discussion, communication programs, information services, and noticed public meetings. The procedures established by the Town Board shall provide for wide distribution of proposed, alternative or amended elements of the comprehensive plan, and shall provide an opportunity for written comments to be submitted by members of the public to the Town Board and for the Town Board to respond to such comments.

B. Resolution. The Plan Commission, under sec. 66.1001(4)(b), Wis. Stats., shall recommend its proposed comprehensive plan or amendment to the Town Board by adopting a resolution by a majority vote of the entire Plan Commission. The vote shall be recorded in the minutes of the Plan Commission. The resolution shall refer to maps and other descriptive materials that relate to one or more elements of the comprehensive plan. The resolution adopting a comprehensive plan shall further recite that the requirements of the comprehensive planning law have been met, under sec. 66.1001, Wis. Stats., namely that:

- (1) the Town Board adopted written procedures to foster public participation and that such procedures allowed public participation at each stage of preparing the comprehensive plan;

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- (2) the plan contains the nine (9) specified elements and meets the requirements of those elements;
- (3) the maps and other descriptive materials relate to the plan;
- (4) the plan has been adopted by a majority vote of the entire Plan Commission, which the clerk or secretary is directed to record in the minutes; and
- (5) the Plan Commission clerk or secretary is directed to send a copy of the comprehensive plan adopted by the Commission to the governmental units specified in sec. 66.1001(4), Wis. Stats., and sub. C of this section.

(C) Transmittal. One copy of the comprehensive plan or amendment adopted by the Plan Commission for recommendation to the Town Board shall be sent to:

- (1) Every governmental body that is located in whole or in part within the boundaries of the Town, including any school district, Town sanitary district, public inland lake protection and rehabilitation district or other special district.
- (2) The clerk of every city, village, town, county and regional planning commission that is adjacent to the Town.
- (3) The Wisconsin Land Council.
- (4) After September 1, 2003, the Department of Administration.
- (5) The regional planning commission in which the Town is located.
- (6) The public library that serves the area in which the Town is located.

## **Section 16. Plan Implementation & Administration**

A. Ordinance development. If directed by resolution or motion of the Town Board, the Plan Commission shall prepare the following:

- (1) Zoning. A proposed Town zoning ordinance under village powers, secs. 60.22(3), 61.35 and 62.23(7), Wis. Stats., a Town construction site erosion control and stormwater management zoning ordinance under sec. 60.627(6), Wis. Stats., a Town exclusive agricultural zoning ordinance under subch. V of ch. 91, Wis. Stats., and any other zoning ordinance within the Town's authority.
- (2) Official map. A proposed official map ordinance under sec. 62.23 (6), Wis. Stats.
- (3) Subdivisions. A proposed Town subdivision or other land division ordinance under sec. 236.45, Wis. Stats.
- (4) Other. Any other ordinance specified by the Town Board

B. Ordinance amendment. The Plan Commission, on its own motion, or at the direction of the Town Board by its resolution or motion, may prepare proposed amendments to the Town's ordinances relating to comprehensive planning and land use.

C. Non-regulatory programs. The Plan Commission, on its own motion, or at the direction of the Town Board by resolution or motion, may propose non-regulatory programs to implement the comprehensive plan, including programs relating to topics such as education, economic development and tourism promotion, preservation of natural resources through the acquisition of land or conservation easements, and capital improvement planning.

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D. Program administration. The Plan Commission shall, pursuant to Town ordinances, have the following powers.

- (1) Recommendations for local or County variances and County special exception permits. To review and make recommendations to the Town Board concerning the appropriate action or position of the Town to take on applications for variances under Town or County ordinances or under applications for Special Exception permits under the St. Croix County Zoning Ordinance.
- (2) Subdivision review. Proposed plats under ch. 236, Wis. Stats., and proposed subdivisions or other land divisions under the Town subdivision ordinance shall be referred to the Plan Commission for review and recommendation to the Town Board.
- (3) Other To review and make recommendations to the Town Board concerning the appropriate action or position for the Town to take on the following topics: Building Code, Driveway Ordinance, Cooperative Boundary Agreement.

E. Consistency. Any ordinance, amendment or program proposed by the Plan Commission, and any Plan Commission approval, recommendation for approval or other action under Town ordinances or programs that implement the Town's comprehensive plan shall be consistent with that plan as of January 1, 2010 or such later time as the state may allow. If any such Plan Commission action would not be consistent with the comprehensive plan, the Plan Commission shall use this as information to consider in updating the comprehensive plan.

### Section 17. Referrals to the Plan Commission

A. Required referrals under sec. 62.23(5), Wis. Stats. The following shall be referred to the Plan Commission for consideration and report:

- (1) The location and architectural design of any public building.
- (2) The location of any statue or other memorial.
- (3) The location, acceptance, extension, alteration, vacation, abandonment, change of use, sale, acquisition of land for or lease of land for any
  - (a) street, alley or other public way;
  - (b) park or playground;
  - (c) airport;
  - (d) area for parking vehicles; or
  - (e) other memorial or public grounds.
- (4) The location, extension, abandonment or authorization for any publicly or privately owned public utility.
- (5) All divisions of land unto parcels falling under the Town's jurisdiction, including divisions under the Town subdivision ordinance.
- (6) The location, character and extent or acquisition, leasing or sale of lands for
  - (a) public or semi-public housing;
  - (b) slum clearance;
  - (c) relief of congestion; or
  - (d) vacation camps for children.
- (7) The amendment or repeal of any ordinance adopted under sec. 62.23, Wis. Stats., including ordinances relating to: the Town Plan Commission; the Town

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master plan or the Town comprehensive plan under sec. 66.1001, Wis. Stats.; a Town official map; and Town zoning under village powers.

**B. Required referrals under sections of the Wisconsin Statutes other than sec. 62.23(5), Wis. Stats.** The following shall be referred to the Plan Commission for consideration and report:

- (1) An application for initial licensure of a child welfare agency or group home under sec. 48.68(3), Wis. Stats.
- (2) An application for initial licensure of a community-based residential facility under sec. 50.03(4), Wis. Stats.
- (3) Proposed designation of a street, road or public way, or any part thereof, wholly within the jurisdiction of the Town, as a pedestrian mall under sec. 66.0905, Wis. Stats.
- (4) Matters relating to the establishment or termination of an architectural conservancy district under sec 66.1007, Wis. Stats.
- (5) Matters relating to the establishment of a reinvestment neighborhood required to be referred under sec. 66.1107, Wis. Stats.
- (6) Matters relating to the establishment or termination of a business improvement district required to be referred under sec, 66.1109, Wis. Stats.
- (7) A proposed housing project under sec. 66.1211(3), Wis. Stats.
- (8) Matters relating to urban redevelopment and renewal in the Town required to be referred under subch. XIII of ch. 66, Wis. Stats.
- (9) The adoption or amendment of a Town subdivision or other land division ordinance under sec. 236.45(4), Wis. Stats.
- (10) Any other matter required by the Wisconsin Statutes to be referred to the Plan Commission.

**C. Required referrals under this ordinance.** In addition to referrals required by the Wisconsin Statutes, the following matters shall be referred to the Plan Commission for consideration and report:

- (1) Any proposal, under sec. 59.69, Wis. Stats., for the town to approve general county zoning so that it takes effect in the town, or to remain under general county zoning.
- (2) Proposed regulations or amendments relating to historic preservation under sec. 60.64, Wis. Stats.
- (3) A proposed driveway access ordinance or amendment.
- (4) A proposed Town official map ordinance under sec. 62.23(6), Wis. Stats., or any other proposed Town ordinance under sec. 62.23, Wis. Stats., not specifically required by the Wisconsin Statutes to be referred to the commission.
- (5) A proposed Town zoning ordinance or amendment adopted under authority separate from or supplemental to sec. 62.23, Wis. Stats., including a Town construction site erosion control and stormwater management zoning ordinance under sec. 60.627(6), Wis. Stats., and a Town exclusive agricultural zoning ordinance under subch. V of ch. 91, Wis. Stats.
- (6) A requested recommendation on an application for a special exception permit under the County zoning ordinance.
- (7) Concept and site plans.

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- (8) Action affecting an extraterritorial zoning ordinance.
- (9) Agreements affecting municipal boundaries and entered into pursuant to Wis. Stats. 66.0225.
- (10) A zoning ordinance or amendment pursuant to a proposed agreement in an approved cooperative plan under Wis. Stats. 66.0307(7m)
- (11) Any proposed plan, element of a plan or amendment to such plan or element developed by the regional planning commission and sent to the Town for review or adoption.
- (12) Any proposed contract, for the provision of information, or the preparation of a comprehensive plan, an element of a plan or an implementation measure, between the Town and the regional planning commission, under sec. 66.0309, Wis. Stats., another unit of government, a consultant or any other person or organization.
- (13) A proposed ordinance, regulation or plan, or amendment to the foregoing, relating to a mobile home park under sec. 66.0435, Wis. Stats.
- (14) An agreement, or amendment to such agreement, to establish an airport affected area, under sec. 66.1009, Wis. Stats.
- (15) A Town airport zoning ordinance under sec. 114.136(2), Wis. Stats.
- (16) A proposal to create environmental remediation tax incremental financing in the town under sec. 66.1106, Wis. Stats.
- (17) A county agricultural preservation plan or amendment, under subch. IV of ch. 91, Wis. Stats., referred by the county to the Town, or proposed Town agricultural preservation plan or amendment.
- (18) A proposed county development plan or comprehensive plan, proposed element of such a plan, or proposed amendment to such plan.
- (19) A proposed county zoning ordinance or amendment.
- (20) Amendments to the county subdivision ordinance under sec. 236.45, Wis. Stats.
- (21) A request for a recommendation on an appeal or permit application under the county zoning ordinance to the County zoning board of adjustment, county planning body or other county body.
- (22) Any intergovernmental cooperation agreement, under sec. 66.0301, Wis. Stats., or other statute, affecting land use, or a municipal revenue sharing agreement under sec. 66.0305, Wis. Stats.
- (23) Recommendation and report on a County Plan under Wis. Stats. 236.46 for a system of public roads
- (24) Any other matter deemed advisable by the Town Chairperson or a majority of the Town Board for referral to the Plan Commission for consideration and report.

#### D. Referral period.

No final action may be taken by the Town Board or any other officer or body with final authority on a matter referred to the Plan Commission until the Commission has made its report, or thirty (30) days, or such longer period as stipulated by the Town Board, has passed since referral. The thirty (30) day period for referrals required by the Wisconsin Statutes may be shortened only if so authorized by statute. The thirty (30) day referral period, for matters subject to required or discretionary referral under the Town's ordinances, but not required to be referred

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under the Wisconsin Statutes, may be made subject by the Town Board to a referral period shorter or longer than the thirty (30) day referral period if deemed advisable.

**Section 18. Severability.**

A judicial determination that any portion of this Ordinance is invalid shall not invalidate the entire Ordinance, but only the portion identified by the court. Any such determination of invalidity shall not operate retroactively.

**Section 19. Effective Date**

Following passage by the Town Board, this ordinance shall take effect the day after the date of publication or posting as provided by sec. 60.80, Wis. Stats.

ADOPTED this 3 day of May, 2005.

Mary R. Muehlen (Town Board Chairperson)

[Published / Posted] this 16 day of May, 2005.

Attest: Gola Diggum (Town Clerk)