

**SMITHS GROVE CITY COMMISSION
ORDINANCE NO. 2021-004**

Ordinance- Amended & Restated Agreement for the Establishment of the Joint City-County Planning Commission of Warren County and the Joint City-County Board of Adjustment

The City of Smiths Grove adopted the Amended & Restated Agreement for the Establishment of the Joint City-County Planning Commission of Warren County and the Joint City-County Board of Adjustment (includes the change of $\frac{3}{4}$ mile perimeter language for small cities) by a 5-0 yea vote on May 24, 2021 and 5-0 yea vote on June 28, 2021.

A full copy of the Amended and Restated Agreement for the Establishment of the Joint City-County Planning Commission of Warren County and the Joint City-County Board of Adjustment can be requested from the City-County Planning Commission of Warren County, 270-842-1953.

A full copy of Ordinance 2021-004 is available upon request at City Hall, 146 S. Main Street, Smiths Grove, KY , 270-563-4014 or by email request to smithsgrovecityhall@smithsgrove.org.

ADOPTED: June 28, 2021

ATTEST:


City Clerk, City of Smiths Grove

APPROVED:


Mayor, City of Smiths Grove

AMENDED AND RESTATED AGREEMENT FOR THE ESTABLISHMENT OF THE JOINT CITY-COUNTY PLANNING COMMISSION OF WARREN COUNTY AND THE JOINT CITY-COUNTY BOARD OF ADJUSTMENT

THIS AGREEMENT made and entered into this _____ day of _____, _____, by the Cities of Bowling Green, Plum Springs, Smiths Grove, Woodburn and Oakland, Kentucky and the Fiscal Court of Warren County, Kentucky.

WITNESSETH:

WHEREAS, the Cities of Bowling Green, Plum Springs, Smiths Grove, Oakland and Woodburn, Kentucky, and Warren County, Kentucky, have in the past participated in a joint planning program to assist and promote the orderly development of their cities and county; and,

WHEREAS, the Kentucky Revised Statutes provide that the incorporated cities and their county may continue to participate in a joint planning program; and,

WHEREAS, the Cities of Bowling Green, Plum Springs, Smiths Grove, Oakland and Woodburn, Kentucky, and Warren County, Kentucky have in the past formed a joint planning unit known as the City-County Planning Commission of Warren County, Kentucky; and

WHEREAS, the Kentucky Revised Statutes provide that the legislative bodies of incorporated cities and the Fiscal Court of the County containing those cities must enter and maintain in writing the Agreement to form a joint planning unit; and,

WHEREAS, the Kentucky Revised Statutes provide that said Agreement describes the boundaries of the area involved and contain all details for establishment and administration of the planning unit in regard to planning commission organization, preparation of plans, and aids to plan implementation, method of appropriation of financial support; and, that the Agreement

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shall be by regulation and the Agreement shall be executed by the parties of the Agreement and filed in Office of the Warren County clerk; and,

WHEREAS, it is necessary to amend the original Agreement to provide for certain changes in the organization and administration of the joint planning unit, and,

NOW, THEREFORE, BE IT RESOLVED, THAT the legislative bodies of the Cities of Bowling Green, Plum Springs, Smiths Grove, Woodburn and Oakland, and Warren County, acting by and through its Judge Executive, do hereby make this their amendment to the Agreement creating a Joint City-County Planning Unit and a Joint City-County Planning Commission and do hereby make this their amendment to the Agreement creating a Joint City-County Board of Adjustment (~~except Smiths Grove~~) dated August 24, 1966 and recorded in Deed Book 366, page 197; dated August 18, 1975 and recorded in Deed Book 585, page 209; dated February 8, 1978 and recorded in Deed Book 463, page 559; dated August 10, 1987 and recorded in Deed Book 585, page 216; dated December 1, 1998, and recorded in Deed Book 778, page 252; and dated January 9, 2001 and recorded in Deed Book 816, page 119 in the Office of the Warren County Clerk; and,

FURTHER, BE IT RESOLVED, THAT the Agreement by and between these parties is as follows:

A. Planning Unit

1. The Cities of Bowling Green, Plum Springs, Smiths Grove, Woodburn, and Oakland, Kentucky, and the County of Warren do hereby continue the joint planning unit and joint planning program as provided in this Agreement and by the Kentucky Revised Statutes.

2. The area of jurisdiction of the joint planning operation of the Planning Commission shall include all land within the unincorporated areas of Warren County and all land within the corporate limits of the Cities of Bowling Green, Plum Springs, Smiths Grove, Woodburn, and Oakland. The area of zoning enforcement, the planning program, and subdivision regulation control shall include all land within the unincorporated areas of Warren County and all land within the corporate limits of the Cities of Bowling Green, Plum Springs, Smiths Grove, Woodburn, and Oakland.

B. City-County Planning Commission of Warren County, Kentucky

1. The joint planning commission known as the City-County Planning Commission of Warren County, Kentucky is hereby reconstituted. The Commission shall have the powers, duties, and responsibilities set forth in Kentucky Revised Statutes Chapter 100.
2. The Planning Commission, pursuant to Kentucky Revised Statutes 100.141, shall consist of a total of twelve (12) members. These members shall not include elected officials. Members shall be appointed as follows:
 - (a) Warren County - Four (4) members appointed by the County Judge Executive with the approval of the Fiscal Court;
 - (b) City of Bowling Green - Four (4) members appointed by the Mayor with the approval of the Board of Commissioners;
 - (c) City of Plum Springs - One (1) member appointed by the Mayor with the approval of their respective legislative body;

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- (d) City of Smiths Grove - One (1) member appointed by the Mayor with the approval of their respective legislative body;
 - (e) City of Woodburn - One (1) member appointed by the Mayor with the approval of their respective legislative body; and,
 - (f) City of Oakland - One (1) member appointed by the Mayor with the approval of their respective legislative body.
3. Pursuant to Kentucky Revised Statutes 100.143 the member term shall be four (4) years ending June 30 of the designated year. The term of all present citizen members shall continue to be staggered as presently appointed. Appointments to fill vacancies shall be made so that a staggered pattern of terms may be maintained.
4. As set forth in Kentucky Revised Statutes 100.153, citizen members may be reimbursed for expenses or may receive compensation.
5. Voting makeup for public hearings based on location for certain land use applications. It is the belief of the six (6) governmental entities who are signatory to this agreement that the Planning Commissioners who vote on land use management issues should, as much as possible, reflect the proportionate population ratios which each Commissioner's appointing government entity bears to the entire population of Warren County. In other words, if the Warren Fiscal Court has a constituency which comprises forty-five percent (45%) of the entire population of Warren County (excluding incorporated cities), then its appointed Planning Commissioners voting on land use management issues should reflect

approximately the same “voting power” as its constituency bears to the entire population of Warren County. Likewise, if the “small cities” comprise individually less than one percent (1%) of the entire population of Warren County, then their “voting power” should more closely reflect the population of the constituency which they represent. Finally, efforts of this paragraph to achieve proportionate representation should be reviewed periodically, relying on U.S. Census Bureau results, to ensure that these provisions make reasonable efforts at achieving proportionate representation.

- (a) On any matter concerning the operations of the planning unit, the establishment or amendment of the comprehensive plan including the future land use map, establishment or amendment of the zoning regulation, establishment or amendment of the subdivision regulation, or other similar plan or item, the Commissioners who shall vote on the issue shall be the entire twelve (12) member body of commissioners as outlined in paragraph (B) 2 above.
- (b) On any land use management matter including, without limitation, zoning map amendments, Planned Unit Developments, Development Plans, Development Plan Amendments, variances, waivers, conditional use permits, telecommunications tower approvals, subdivision approvals, site plan reviews and right-of-way closings which shall come before the Planning Commission for a public hearing and vote, the Commissioners who shall hear and vote on the issue shall be as follows:

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- (1) In unincorporated areas of Warren County excluding areas as described in paragraph (2) below, and/or within the incorporated city limits of Bowling Green not encumbered by areas as described in paragraph (2) below, the four (4) members appointed by the County Judge/Executive under paragraph (B) 2 (a) above, and the four (4) members appointed by the Mayor of Bowling Green, under paragraph (B) 2 (b) above shall hear and vote on the recommendation to the appropriate legislative body.
- (2) Within the incorporated city limits of Smiths Grove, Oakland, Plum Springs, or Woodburn and up to ~~one~~ three quarters ($3/4$) of a mile of the city limits boundary, as amended, of the small cities ~~but not including the jurisdiction of any other incorporated boundary~~ – the one (1) member appointed by the Mayor of the jurisdiction, under paragraph (B) 2 (c), (d), (e), or (f), and the four (4) Planning Commissioners appointed by the Judge Executive shall hear and vote on the recommendation to the appropriate legislative body.
- ~~(2)~~(3) In instances where boundaries described in paragraph one (1) or two (2) above overlap any portion of a parcel subject to an application as described in paragraph (b) above, then the appropriate city representative shall be an additional participating voting member in the public hearing.
- (c) In the event any Commissioner is absent, recused, or if the seat is vacant, a simple majority of the members described above shall constitute a quorum.

C. City-County Board of Adjustment

1. The Board of Adjustment, known as the City-County Board of Adjustment of Warren County, Kentucky, is hereby continued. The Board shall have the powers, duties and responsibilities set forth in Kentucky Revised Statutes Chapter 100.
2. The Board of Adjustment shall consist of seven (7) citizen members, all of whom must be citizen members and no more than two (2) of whom may be citizen members of the Planning Commission. The membership, including citizen members, of the Board of Adjustment shall be appointed as follows:
 - (a) Warren County - Three (3) members appointed by the County Judge/Executive with the approval of the Fiscal Court, and
 - (b) City of Bowling Green - Four (4) members appointed by the Mayor with the approval of the Board of Commissioners.
3. The terms of office shall be four (4) years ending on June 30 of the designated year. The term of all present members shall continue to be staggered as presently appointed. The Board of Adjustment shall otherwise be organized and operated in accordance with Kentucky Revised Statutes 100.217.
4. As set forth in Kentucky Revised Statutes 100.217, citizen members may be reimbursed for expenses or may receive compensation.
5. The area of jurisdiction of the Board of Adjustment shall include all land within the unincorporated areas of Warren County and all land within the corporate limits of the

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Cities of Bowling Green, Plum Springs, Woodburn, Smiths Grove and Oakland, provided, however, that each ~~fifth or sixth class city~~ may have ~~an additional separate~~ Board of Adjustment as provided in Kentucky revised Statutes Chapter 100.217 or such city may assign this function to the City-County Board of Adjustment.

D. Financing the Joint Planning Operation

1. Prior to the beginning of the Commission's Fiscal Year (July 1), the Commission shall adopt a budget outlining the expected expenditures and needed revenues. This budget shall then jointly be presented to the Mayor and Board of Commissioners of the City of Bowling Green and the County Judge/Executive and Fiscal Court of Warren County.
2. This budget shall contain funds for the basic administration of the program, pursuant to Kentucky Revised Statutes 100.177, and of that part of the budget, the City of Bowling Green shall pay fifty percent (50%) of such budget and the County of Warren shall pay fifty percent (50%) of such budget. However, any party may provide additional funding for the staffing, planning, administration, or enforcement of any jurisdiction-specific project or program.
3. The Cities of Smiths Grove, Plum Springs, Oakland, and Woodburn shall make a minimum annual contribution of \$1,200.00. Said contributions may be made by the Warren Fiscal Court on behalf of the 5th and 6th class cities of Smiths Grove, Oakland, Plum Springs, and Woodburn.

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4. Notwithstanding the provisions of Section D-2 and D-3 above, regarding the cities' contributions to the Joint Planning Operation, the budget of the City-County Planning Commission may be amended at any time, or from time to time, to request additional contributions to the planning program.

E. Approval of Amendments to the Zoning Ordinance/Resolution and Comprehensive Plan

Amendments to the Zoning Ordinance/Resolution and Comprehensive Plan may be proposed by any participant to this Agreement or by the Planning Commission. As required by Kentucky Revised Statutes 100.211(2), amendments to the text of the Zoning Ordinance/Resolution shall be first referred to the Planning Commission for recommendation. Following the recommendation of the Planning Commission the proposed amendment shall be submitted to the appropriate legislative body. "Appropriate Legislative Body" as used in this section shall be defined as those member legislative bodies whose geographic limits are affected by the said amendment. It is agreed that the appropriate legislative body shall either adopt or reject the proposed amendment within ninety (90) days of the Planning Commission's recommendation. The failure of the appropriate legislative body to act on the recommendation of the Planning Commission within ninety (90) days of the date upon which the Planning Commission makes such recommendation shall be deemed, pursuant to this agreement, to constitute an affirmative vote of the majority of the appropriate legislative body, by operation of law.

F. Enforcement Officers

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1. The enforcement officers for the joint City-County Planning Commission shall be the following:
 - (a) Executive Director of the City-County Planning Commission or their designee;
 - (b) Codes Enforcement Officer(s) of the City-County Planning Commission;
 - (c) Building Inspector(s) and Code Enforcement Officer(s) of the City of Bowling Green, whose area of enforcement shall be limited to the corporate limits of the City of Bowling Green, Kentucky;
 - (d) The Building Inspector of the City of Smiths Grove, whose area of enforcement shall be limited to the corporate limits of the City of Smiths Grove, or their designee;
 - (e) The Building Inspector(s) of Warren County, whose area of enforcement shall include all that portion of Warren County not included in the corporate limits of the City of Bowling Green, Kentucky.

G. Ratification of Existing Laws

1. This Agreement hereby ratifies, adopts, and promulgates all existing rules, regulations, ordinances, orders, and resolutions either adopted by the Cities of Bowling Green, Smiths Grove, Oakland, Woodburn, and Plum Springs, Warren County, and the existing City-County Planning Commission of Warren County until otherwise amended.
2. The parties agree to be bound by this Agreement, the Zoning Ordinance/Resolution, the Comprehensive Plan, and Kentucky Revised Statutes Chapter 100. The parties also agree that any statutes, rules, regulations, ordinances, orders, and resolutions, hereto passed

or hereafter passed which is contrary to any of the statutes, rules, regulations, ordinances, orders, and resolutions described in the preceding sentence shall be void and controlled by said statutes, rules, regulations, ordinances, orders and resolutions.

H. Effective Date

This Agreement shall be in full force and effect upon execution of the last party to execute this Agreement.

I. Modification of Agreement

This Agreement represents the entire Agreement between the parties. Any modifications of this Agreement or additional obligation assumed by any party in connection with this Agreement shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.

J. Assignability

This Agreement is assignable.

K. Partial Invalidity

The invalidity of any portion of this Agreement will not and shall not be deemed to affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement of the invalid provision

L. Choice of Law

It is the intention of the parties of this Agreement that this Agreement and the performance under this Agreement, and all suits and special proceedings under this Agreement, be construed in accordance with and under and pursuant to the laws of the Commonwealth of Kentucky and that, in any action, special proceeding or other proceeding that may be brought arising out of, in connection with, or by reason of this Agreement, the laws of the Commonwealth of Kentucky shall be applicable and shall govern to the exclusion of the law of any other forum, without regard to the jurisdiction in which any action or special proceeding may be instituted.

M. No Waiver

The failure of any party to this Agreement to insist upon the performance of any of the terms and conditions of this Agreement, or the waiver of any breach of any of the terms and conditions of this Agreement, shall not be construed as thereafter waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

N. Paragraph Headings

The titles to the paragraphs of this Agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this Agreement.

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IN WITNESS WHEREOF, the undersigned parties, acting by and through their Chief Executive, have caused this Agreement to be executed and their seals herein to be affixed as of the day and the year first above written.

ATTEST:

CITY OF BOWLING GREEN

BY: _____

My Notary Expires: _____

MAYOR; Dated: _____

ATTEST:

CITY OF SMITHS GROVE

BY: David L. Hickey

My Notary Expires: _____

MAYOR; Dated: 6-28-21

ATTEST:

CITY OF PLUM SPRINGS

BY: _____

My Notary Expires: _____

MAYOR; Dated: _____

ATTEST:

CITY OF WOODBURN

BY: _____

My Notary Expires: _____

MAYOR; Dated: _____

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ATTEST:

CITY OF OAKLAND

BY: _____

My Notary Expires: _____

MAYOR; Dated: _____

ATTEST:

WARREN COUNTY FISCAL COURT

BY: _____

My Notary Expires: _____

MAYOR; Dated: _____