

AN ORDINANCE PROVIDING FOR A PLANNING PERIOD FOR ADOPTING NEW ZONING CLASSIFICATIONS AND STANDARDS WITHIN THE CITY OF CHARLESTOWN ZONING JURISDICTION

WHEREAS, in June 2000, the Plan Commission of the City of Charlestown, Indiana (the "Plan Commission") elected to exercise zoning jurisdiction over territory outside the municipal limits of the City of Charlestown, Indiana (hereinafter the "City"), know as the Charlestown Two Mile Fringe (the "Fringe Area"); and

WHEREAS, a legal controversy unexpectedly erupted when some officials and representatives of the Clark County government (hereinafter "Clark County") unilaterally decreed that the County would cease to recognize the exclusive and unconditional zoning jurisdiction previously exercised by Charlestown in the Fringe Area (the "Decree"); and

WHEREAS, because of the confusion among the public and potential injury to owners and developers of land resulting from the County's Decree, the City filed a *Petition for Declaratory Judgment* in the Clark Circuit court, requesting confirmation of Charlestown's exclusive authority to exercise zoning jurisdiction in the Fringe Area; and

WHEREAS, on October 22, 2002, the Clark Circuit court issued a Preliminary Injunction designating Charlestown as the sole and proper legal authority to consider zoning matters and issue approvals and permits for houses, subdivisions, zoning changes, variances, and the like within the Fringe Area; causing the cloud of doubt and confusion created by the County's Decree to begin dissipating; and

WHEREAS, certain residents of the unincorporated areas within the Fringe Area have unexpectedly petitioned the City for voluntary annexation, and the Common Council of Charlestown (the "Common Council") has engaged in the process of adopting two (2) ordinances that will annex a portion of the territory located in the Two Mile Fringe into the City; and

WHEREAS, the Common Council has previously discussed and passed resolutions indicating the Council's willingness to legislate more precise standards for land development, and has discussed the need to make amendments to the Subdivision Control Ordinance; actions that will affect future development and meet challenges in all the territory within the zoning jurisdiction of the City of Charlestown that were previously unanticipated; and

WHEREAS, the Common Council desires to establish a *Planning Period* within which it can evaluate and refine the current zoning of all of the areas over which the City exercises zoning jurisdiction, inside the City and out, to consider changing standards previously enacted by the Common Council and Clark County officials that might not have envisioned the current circumstances in the City and Fringe Areas. Such a review is necessary and desirable to protect and meet the needs of residents and future developers; and

WHEREAS, the Plan Commission has recommended that the Common Council enact an

ordinance postponing consideration or approval of new or pending petitions for preliminary subdivision plats until such time that the Common Council reviews and possibly updates the City's comprehensive plan, Subdivision Control Ordinance, and other zoning regulations, taking into account certain recent developments; and

WHEREAS, a temporary postponement of approval of preliminary subdivision plats would provide short-term and long-term benefits to the residents and developers under the zoning jurisdiction of the City of Charlestown Plan Commission, including but not limited to the following, to wit:

- a. It will provide an increased and renewed opportunity for public input and debate concerning improvements to the City's comprehensive plan, zoning ordinances, Subdivision Control ordinances, and pertinent zoning classifications;
- b. It will provide time for thoughtful consideration and eliminate the need for hasty regulatory planning by the Plan Commission and Common Council;
- c. It will insure the temporary preservation of the *status quo* of land usages during the planning process, thereby protecting owners of land; and
- d. It will lessen the incentive and ability of opportunistic developers to seek hurried approval of poorly planned developments in order to take advantage of outdated and/or inappropriate zoning classifications, zoning ordinances and Subdivision Control ordinances that might not be in the best interest of the communities.

WHEREAS, it would be unduly harsh to delay final plat approval for developments that have already been properly applied for, preliminarily approved, and whose developers have taken substantive steps toward completion of those developments;

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Charlestown, Indiana, that effective immediately, and for a period of six (6) months from the effective date of this ordinance, that no petitions for preliminary subdivision plat approval or land rezoning for any territory or real property within the zoning jurisdiction of the City of Charlestown shall be received, considered, or approved by the City of Charlestown Plan Commission. This *Planning Period* may be extended by the Common Council from time to time, upon good cause shown and after a public hearing.

BE IT FURTHER ORDAINED that any owner of an interest in land that wishes to proceed with application for rezoning or subdivision of land may request that a special exception be granted by the Common Council. However, such a special exception may be granted only upon a showing that the applicant has a unique circumstance that would cause undue hardship to wait until the end of the Planning Period, and requires a two thirds (2/3) majority vote of the Common Council after an advertised public hearing in order to be excepted from the effects of this ordinance.

BE IT FURTHER ORDAINED that notwithstanding the provision above, it shall be clear that any pending Petitions for *final* subdivision plat approvals properly before the Charlestown Plan Commission (where the Plan Commission had already granted approval of a preliminary

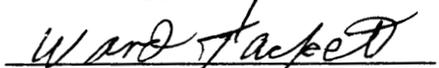
subdivision plat before the enactment of this ordinance) may be considered and approved or denied, as appropriate, by said Plan Commission.

BE IT FURTHER ORDAINED that to the extent any existing ordinance conflicts with this ordinance, that this ordinance shall take precedence over prior legislative action.

Each provision of this ordinance is deemed adopted separately. In the event that any provision of this ordinance is shall be declared to be invalid or illegal for any reason, the remaining provisions of this ordinance shall remain in effect.

This ordinance shall take affect immediately after its adoption by the Charlestown City Council and subsequent publication as required by law.

ALL OF WHICH IS ORDAINED BY THE COMMON COUNCIL OF THE CITY OF CHARLESTOWN ON THIS 11th DAY OF NOVEMBER 2002.

	Voted In Favor	Voted Against	Abstained
 Michael Anthony Jackson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Ward Tackett	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Terry Pierce	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Ed Bolly	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Bruce Bottoff	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

SEEN AND APPROVED THIS 11th DAY OF NOVEMBER 2002, BY:



Mayor G. Robert Hall

ATTEST:

11-11-02

Date



Donna Coomer, Clerk Treasurer