



**POSITION DESCRIPTION
CITY OF BLOOMINGTON, INDIANA**

POSITION: ~~Council Attorney and Director of the Common Council Office~~ **Council Administrator/Attorney**
DEPARTMENT: **Council**
JOB GRADE: **12**
FLSA: **Exempt**

The incumbent serves as the principal legal advisor to the Common Council while directing the operations of the Common Council Office. This position provides strategic leadership and administrative oversight to ensure effective governance, continuity, and the efficient functioning of Council activities. The role operates in both legal counsel and executive leadership capacities in support of the Council. ~~The incumbent serves as the principal legal advisor to the Common Council and provides direction and executive oversight of Council administrative operations, ensuring effective governance, continuity, and the smooth functioning of the Council Office.~~

1. DUTIES

This job description is illustrative only and is not a comprehensive listing of all job functions performed. The following are essential duties for this position, performed with or without reasonable accommodation:

~~Essential (primary)~~ **Primary**

Advises Common Council regarding federal, state and local laws, anticipated or threatened litigation, potential liability and risks, and various legal circumstances and situations.

Reviews all legislation before the Common Council to ensure that the Council remains within its legal authority and that the legislation complies with applicable law; advises council members on whether legislation appropriately reflects policy intent.

Assists the Council in reviewing the proposed city budget for legal, procedural, and institutional implications. Keeps Council members informed of significant changes in local, state, and federal law and legislative developments affecting the City and the Council's work.

Oversees and, as necessary, contributes to the drafting of ordinances, resolutions, contracts, and other legal documents for action by the Common Council, including conducting or directing legal research as requested by the Council.

Oversees the preparation and distribution of legal documents, legislation, agendas, and related legislative materials for Common Council meetings, and ensures that Council meetings are conducted in accordance with applicable federal, state, and local law, including public notice and accessibility requirements. Attends Council meetings, advises on legal and procedural matters as required. Communicates and meets with City departments and other stakeholders as needed to resolve issues, facilitate legislative work, and support Council operations.

Supervises, and when necessary, conducts legal research, prepares court cases, and represents the Council in litigation and in various legal proceedings.

Ensures adequate staffing at Council committee meetings and ensures posting of agendas and information packets for such meetings. Serves on the City's collective bargaining team when directed by the Council.

Ensures appropriate response to resident and media inquiries concerning Council business.

Oversees processes for receiving, referring, tracking, and following up on constituent concerns to help ensure that matters raised with the Council are directed appropriately and addressed in a timely manner.

Oversees the development, submission, administration, and monitoring of the Council department budget in coordination with appropriate staff and consistent with Council priorities.

Directs the annual review of department activities, services, and operational effectiveness, and oversees the preparation and submission of related reports.

Serves as ~~Director of the Council Office~~ the Council Administrator/Attorney for the Common Council, providing strategic leadership, vision, and continuity of operations across Council terms, and supervises and directs the Deputy Administrator/Attorney, Assistant Administrator/Legal Research Assistant, interns, and other Council staff as assigned, including setting priorities, reviewing work, and supporting professional development.

Non-Essential (secondary)

Answers telephone, greets office visitors, determines nature of call, responds to inquiries and/or routes caller to appropriate person or department.

Performs related duties as assigned.

Takes all reasonable steps to maintain a safe work environment.

2. JOB REQUIREMENTS:

J.D. degree, licensed attorney in the State of Indiana with a minimum of 5 years of prior experience.

Knowledge of local, state and federal laws, regulations, and codes and ability to apply that knowledge to various circumstances that pertain to the City.

Ability to direct and supervise others and provide guidance for Council members.

~~Working Knowledge~~ knowledge of public budget development, administration, and oversight sufficient to supervise the Council department budget and advise on related institutional issues

3. LEVEL OF SUPERVISION AND RESPONSIBILITY:

Received

Consults regularly with the Common Council regarding major legal, policy, governance, and administrative matters. Reports directly to the Council, and work is reviewed primarily for alignment with Council objectives, legal sufficiency, and overall effectiveness.

Exercised

Works with substantial independence and exercises a high degree of professional judgment in carrying out the responsibilities of the position. Provides executive oversight of the Council office within general policy direction and supervisory boundaries established by the Common Council.

Directs work of Council Deputy Administrator/Attorney and Council Assistant Administrator/Legal Research Assistant and any Council Interns.

In conference with the Council President, and consistent with applicable City policies and Human Resources procedures, exercises supervisory authority over Council staff, including recruitment, interviewing, selection, work assignment, performance management, professional development, discipline, and, where appropriate, decisions concerning termination.

4. DIFFICULTY OF WORK:

The work is highly complex and requires the application of advanced legal knowledge, policy judgment, and administrative leadership to address novel, sensitive, and high-impact issues facing the Common Council and the City of Bloomington and its residents. The incumbent must interpret and apply a broad range of laws, regulations, and procedures while simultaneously managing competing priorities, and operational constraints; upholding the Council's role as legislative body and final fiscal authority. The role regularly involves time-sensitive decision-making with significant legal, institutional, and public consequences, often in situations where guidance may be limited or precedents are unclear.

Provides balanced, well-reasoned, and objective legal and strategic advice to Council members, particularly where legal risk, policy disagreement, or competing institutional interests are present. Often provides legal opinions during public Council meetings.

Incumbent should expect irregular hours given the Council's schedule. This will include evenings and on occasion weekends as necessary for time sensitive completion of tasks and to address unforeseen complications. The Common Council generally holds regular session meetings on Wednesday evenings.

Work environment is a modern office with no unusual physical demands.

5. PERSONAL WORK RELATIONSHIPS:

Maintains frequent contact with officials, petitioners, local, state and federal agencies, and the general public in often unpredictable circumstances, making significant policy and legal recommendations. Must maintain professional working relationships with all department heads.

Contacts often require incumbent to utilize tact and the use of persuasion to gain cooperation in the face of differences of opinion.

MEMORANDUM

TO: City of Bloomington, City Council
FROM: Clark Kirkman and Kelly Shaw, Clark Quinn Moses Scott & Grahn, LLP
DATE: March 31, 2026
RE: Reasonable Conditions for a Planned Unit Development

This memo addresses the scope of authority of an Indiana city council to impose reasonable conditions on a Planned Unit Development (“PUD”), the potential limitations to reasonable conditions, and how reasonable conditions may differ from written commitments.

I. The Council May Impose Reasonable Conditions in Adopting a PUD

- A. IC 36-7-4-1512 expressly allows a legislative body to impose reasonable conditions when adopting or amending a PUD district ordinance.
- B. The authority granted to a legislative body by Section 1512 is specific and distinct from a legislative body’s authority to generally “adopt or reject” a proposed proposal to rezone a parcel under IC 36-7-4-602(c)(1)(B) and IC 36-7-4-1505.
- C. The plan commission conducts the review of the PUD district ordinance in accordance with IC 36-7-4-1511 before sending the PUD to the legislative body for adoption pursuant to IC 36-7-4-1512.

II. Limitations on Reasonable Conditions

- A. Neither statute nor caselaw specifically defines or limits the “Reasonable Conditions” that the legislative body can impose under IC 36-7-4-1512.¹
- B. To the extent that a court may review the decision of a legislative body to impose such Reasonable Conditions, it would apply an arbitrary and capricious standard, asking whether “the legislative body has taken a willful and unreasonable action without consideration and in disregard of the facts or circumstances of the case,” in which the court would not “intervene in the local legislative process as long as it is supported by some rational basis.” *City of Crown Point v. Misty Woods Properties*, 864 N.E.2d 1069, 1075-1076 (Ind. Ct. App. 2007); *see also Borsuk v. Town of St. John*, 820 N.E.2d 118, 122 (Ind. 2005) (holding that “the Town’s balancing suggested a permissible deviation

¹ To the extent that City Legal stated in their recent staff memorandum that “[p]er the American Planning Association’s guidance on PUDs, reasonable conditions may be imposed, as deemed necessary to ensure that a planned unit development is compatible with adjacent uses of land, will not overburden public services and facilities, and will not be detrimental to the public health, safety and welfare,” that language is contained in the APA guidance under the “State Summaries of PUD Legislation” section and references language in the relevant Nebraska statute. *See American Planning Association, Planning Advisory Service Report Number 545, Planned Unit Developments*, at p.130 (2007) (discussing Nebraska Revised Statutes, Section 19-4401 (subsequently recodified at NEB. REV. STAT. § 18-3001(4))). There is no similar provision contained in Indiana law.

from the comprehensive plan” and that “[t]hese concerns provide a rational basis for the Town’s decision, and therefore, it is not arbitrary and capricious”).

- C. The remainder of limitations in creating and approving the PUD District Ordinance come from the rest of the 1500 Series of IC 36-7-4. Therefore, as long as the Council meets the rest of the 1500 Series requirements, then they do not exceed their scope of authority.
- “In 1996, Indiana Code section 36–7–4–1504 was enacted and expressly authorized local regulations for PUDs in general as long as they meet the requirements of the 1500 Series—Planned Unit Development.” *Story Bed & Breakfast, LLP v. Brown County Area Plan Comm’n*, 819 N.E.2d 55, 62 (Ind. 2004).

III. Analysis of Relevant Caselaw:

- A. In *City of Crown Point v. Misty Woods*, 864 N.E.2d 1069 (Ind. Ct. App. 2007), there was an application for a rezone from zone A-1 to R-1 and R-2. 864 N.E.2d at 1071. The Crown Point Common Council agreed to move forward with rezoning the parcels, but would only allow the entirety to be rezoned to R-1, rather than some R-1 and some R-2. *Id.* at 1072-1073. The Indiana Court of Appeals observed that “the 600 series” of Indiana’s zoning laws limits the legislative body’s ability to “unilaterally amend a recommended proposal to change a zone map” and that the body “must either adopt the proposal as certified in its entirety or reject it in its entirety.” *Id.* at 1077. In so holding, the court upheld the amendment, observing that the developer acquiesced to the changes, which effectively amended the petition, which was allowable. *Id.* at 1080
- B. *Crown Point* is distinguishable from the PUD ordinance because the 600 Series does not give the legislative body the authority to impose Reasonable Conditions when adopting the ordinance.
- C. In *Story Bed & Breakfast, LLP v. Brown Cnty. Area Plan Comm’n*, 819 N.E.2d 55 (Ind. 2004), the Indiana Supreme Court provided analysis of the 1500 Series. The facts of *Story Bed & Breakfast* involve the Brown County Plan Commission’s designation of over seven (7) acres as a PUD to permit the operation of a bed and breakfast.² *Id.* at 57. The PUD contained sixteen (16) proposed restrictions on the property. The case focused on whether those restrictions were “conditions” or “commitments”, in which the latter required being recorded in order to be enforceable. *Id.* at 59. The Court noted that “if a legislative body imposes the restriction, it is a condition” and that “recording of conditions is not required.” *Id.* at 62. It held that “statutes governing PUDs do not require that conditions attached to approval of a PUD be recorded in the recorder’s

² The PUD was initially established in 1986, ten years prior to passage of the 1500 Series and subsequently amended in 1992, and the Indiana Supreme Court observed that “[a]ll parties agree that the . . . PUD approval was governed by the Brown County PUD ordinance and the subsequently enacted 1500 Series.” 819 N.E.2d at 62.

office to be effective against subsequent purchasers as long as the conditions are available as public records.” *Id.* at 64.

- The Court also observed that PUDs are “a device used to permit amendment of an existing zoning ordinance for a designated property” which “are designed to allow municipalities to adopt ‘a flexible approach to zoning’” *Id.* at 60.
- D. The proposed ordinance is to Amend the City of Bloomington Zoning Maps by Rezoning a 6.3 acre property from R4 and RM within the Transform Redevelopment overlay to a PUD; *and* Approving a PUD District Ordinance.
- When adopting a PUD District Ordinance, the statute specifically allows the Council (legislative body) to impose reasonable conditions (See Section I of this memo).

IV. Written Commitments

A. Explained in IC 36-7-4-1015:

- The owner of a parcel may be required/ allowed to make a commitment concerning the use or development of a parcel. Commitments must be in writing, are binding, and shall be recorded.
- Unless the commitment expires automatically or by terms that are in the commitment, a commitment may only be modified or terminated by a decision of the plan commission or board of zoning appeals or by legislative body if it’s made as part of a rezoning proposal being considered by the legislative body under the 1500 Series.
- During the time a rezoning proposal is being considered by the legislative body under the 600 or 1500 Series of this chapter, the owner may make a new commitment to the legislative body or modify the terms of a commitment that was made when the proposal was being considered by the plan commission.
 - If an existing commitment is modified and the modification is to make the commitment less stringent, the modified commitment shall be referred to the plan commission and the plan commission has forty-five (45) days to ratify it or make additional recommendations for further modification. If the commitment is modified and the modification is not to make the commitment less stringent, no further action of the plan commission is required.
- The plan commission or board of zoning appeals may adopt rules governing commitments
- There are restrictions on what is considered a commitment listed in sections (g) and (h) of IC 36-7-4-1015.
 - Specifically, “A condition imposed upon an approval relative to any other development requirement that must be met before any other secondary

approval may be granted or building permit may be issued under this chapter” is not considered a commitment.

- Additionally, easements and other land use restrictions are not considered commitments.
 - A written commitment may not abrogate the authority of a legislative body to modify or terminate a commitment under this section
- B. Written Commitments differ from Reasonable Conditions mainly because they are given by and binding on the owner of the parcel (not the Council) and they are recorded and therefore run with the land unless modified or terminated.

V. Sources:

- [IC 36-7-4-1512](#)
- [IC 36-7-4-1500 Series](#)
- [City of Crown Point v. Misty Woods Properties, LLC, 864 N.E.2d 106 \(Ind. Ct. App 2007\)](#)
- [Story Bed & Breakfast, LLP v. Brown County Area Plan Com'n December 16, 2004, 819 N.E.2d 55](#)
- [36-7-4-1015](#)