

OFFICIAL OPINION NO. 34

May 5, 1949.

Mr. P. E. Middleton,  
Director Indiana Economic Council,  
610 Board of Trade Building ,  
Indianapolis, Indiana.

Dear Mr. Middleton:

Your letter of April 16, 1949 has been received requesting an official opinion on the following:

Is it necessary for a City to publish the ordinance establishing a City Plan Commission under the provision of Chapter 174 of the Acts of 1947?

Chapter 174 of the Acts of 1947 is a statute authorizing the establishment of City and County Plan Commissions and is section 55-701 *et seq.* Burns 1947 Supplement.

Under the various sections of this statute it is required that a city enact an ordinance creating such commission. Then said commission is appointed as outlined therein with broad powers regarding health, educational, recreational facilities, etc., within such municipality. After the commission is organized provision is made among other things for the adoption of ordinances, resolutions, and the making of orders concerning a great number of activities including zoning and authorizes the adoption of a Master Plan to help facilitate the functions of said commission.

Section 92 of said act, same being 53-793 Burns 1947 Re-  
placement, provides that:

“A person who violates a provision of this act or an ordinance of regulation enacted under its authority shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than ten (\$10.00) dollars and not more than three hundred (\$300.00) dollars.”

Therefore, there is a penalty provided for the violation of any ordinance enacted pursuant to this Act and such an ordinance would be penal in nature.

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It is well recognized that any ordinance of a penal nature must be published.

Section 48-1406 Burns 1933; Bartlet v. Chicago & E. I. Co. (1940), 216 Ind. 512, 528.

I am therefore, of the opinion any ordinance adopted by a City Council establishing a City Plan Commission pursuant to provisions of Chapter 174 of the Acts of 1947, must publish such ordinance as required by the provisions of Sec. 48-1406 in Burns 1933.

TLW :man

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OFFICIAL OPINION NO. 35

May 9, 1949.

Hon. Charles F. Fleming, Secretary of State,  
Bureau of Motor Vehicles,  
State House,  
Indianapolis, Indiana.

Dear Sir:

I have your letter received on April 25, 1949, requesting an official opinion in reference to certain phases of House Bill No. 393 being Chapter 258 of the Acts of 1949 and particularly you wish an opinion in reference to the statement about the fees of semi-trailers.

This office has heretofore advised your office to the effect that Section 1 of House Bill number 393 is void because that section had already been amended in another Act effective date of which precedes the effective date of House Bill No. 393, however, attention is called to the fact that Senate Bill No. 182 which made this section void contained ample authority for your office to obtain all the necessary information with respect to motor vehicles to be registered and licensed under the other sections of House Bill No. 393 and you must therefore look to the language of Section 1 of Senate Enrolled Act No. 182 instead of Section 1 of this Act.

Each of the Acts undertake to amend Section 25 of the Acts of 1945. On the application which the owner or operator of a motor vehicle makes in order to procure registration, you