OFFICIAL OPINION NO. 13

February 27, 1964

Hon. Leland Callaway
State Representative
3620 South Franklin Street
Michigan City, Indiana

Dear Representative Callaway:

This will acknowledge your request for an Official Opinion in relation to Chapter 174 of the Acts of 1947.

Your letter raises the following question concerning the Starke County Planning Commission which has drafted an Ordinance which is supplementary to and amends the Starke County Master Plan:

"* * * They are faced with the following problem:
Is it necessary under said Act to publish in toto the entire proposed supplementary amendment, or is only a notice of a hearing on such proposed supplementary amendment to the Master Plan necessary.

"The Acts of 1947 appear to only require notice of the hearing to be published; however Zoning Ordinances and the proposed supplementary amendment to the Master Plan of the Starke County Planning Commission contain penal sanctions imposed for violations, and as such, publication could be a condition precedent to such an ordinance or supplementary amendment to a Master Plan.

"In the Official Opinion of the Attorney General's Office, Opinion No. 72 to be found on Page 445 of the 1948 Opinions, at Page 447 thereof, this problem is treated, and the following statement is made:

"‘1. That publication of a County Zoning Ordinance is not required, but that the County Plan Commission may in its discretion (assuming a proper appropriation therefor) publish the same.’"

The letter closes as follows:

"Therefore, I respectfully request a new official opinion of your office which definitely takes a stand on this
problem and states either, (1) That the publication of supplementary amendments to County Master Plans do not have to be published in their entirety, and that only a notice of hearing on same is required to be published, or (2) That it is necessary to publish in their entirety all supplementary amendments to County Master Plans, together with a notice of hearing on same."

A review of 1948 O. A. G., page 445, No. 72, reveals that such Opinion comes to a definite conclusion. The statement which you have quoted is quite specific in stating that a publication of a county zoning ordinance is not required. Acts of 1947, Ch. 174, Sec. 1, as found in Burns' (1951 Repl. and 1963 Supp.), Sections 53-701 et seq. As stated in the above mentioned Attorney General's Opinions, Acts of 1947, Ch. 174, Sec. 28, as found in Burns' (1951 Repl.), Section 53-728, permits the publication, assuming a proper appropriation has been made therefor. There is not, however, any mandatory requirement that such ordinances be published.

A review of the statutes and decisions indicates no amendments to the statutes or new statutes relating to the point, nor is there any case law since the above Attorney General's Opinion. Therefore, I find no compelling reason to change or modify the 1948 Opinion.

In conclusion therefore, it is my opinion (1) that publication of supplementary amendments to county master plans do not have to be published in their entirety, and that only a notice of hearing on the same is required to be published, and (2) that it is not necessary to publish in their entirety all supplementary amendments to county master plans.

OFFICIAL OPINION NO. 14

March 6, 1964

Hon. William Herring
State Representative
Linton, Indiana

Dear Representative Herring:

This is in response to your letter of February 21, 1964, wherein you request an Official Opinion.