

**STARKE COUNTY,
Indiana
Plan Commission
Rules of Procedure**

Amended July 15, 2015

ARTICLE I: THE COMMISSION

1.1. Commission Establishment and Function

The Starke County, Indiana Plan Commission (also referred to in these Rules of Procedure as the "Commission" was established by the Board of Commissioners of Starke County, Indiana, June 7, 1954, in accordance with the provisions of Chapter 174 of the Acts of the 1947 Indiana General Assembly and all amendments thereto.

1.2 Authority

- A. The Commission shall have the authority to review and approve petitions before it as set forth in the Indiana Code 36-7-4 series.
- B. The Commission delegates to the Planning and Zoning Administrator the authority to review and approve plans and specifications, and to grant Improvement Location Permits.
- C. The Planning and Zoning Administrator may refer any matter before him/her to the Commission for review and approval.

1.3 Commission Jurisdiction

The jurisdiction of the Commission consists of lands within Starke County, Indiana, which are not incorporated as a separate municipality. Further, the Commission shall not have jurisdiction to enforce any aspect of the Starke County Zoning Ordinance in any unincorporated area for which jurisdiction has been established by a municipality consistent with the requirements of Indiana law.

ARTICLE II: MEMBERSHIP, OFFICERS, STAFF AND COMMITTEES

2.1 Membership

- A. The Commission shall consist of nine (9) members consistent with the provisions of Indiana Code 36-7-4-208.
- B. After the initial establishment of the Commission, each member shall serve a four (4) year term, consistent with the provisions of Indiana law. The terms for all Commission members shall expire on the first Monday in January of the appropriate year, based on their individual date of appointment and the requirements of Indiana law.
- C. There shall be no limit to the number of terms, including consecutive terms, which members may serve.
- D. A member must be a resident of the jurisdictional area of the Commission.

- E. The Commission shall elect from its membership, representatives to serve on the City and Town Plan Commissions within the County, in advisory capacities as set forth in: IC-36-7-4-213.

2.2 Officers

At its first meeting of the year, the Commission shall elect from its membership a President and Vice President. A person receiving a quorum vote of entire membership of the Commission shall be declared elected and shall serve until a new person is declared elected at the annual election the following year. When an office becomes vacant, the Commission shall elect a successor to complete the remainder of the unexpired term at its next regular meeting.

A. President

1. The President shall preside at all meetings and perform the duties of a presiding officer, including the appointment of committees, ruling on all points of procedure and to exercise his right to vote in order to break a tie vote or to provide a uniform quorum vote.
2. The President shall sign all official documents on behalf of the Commission, or otherwise delegate this duty to the Vice President or the Planning and Zoning Administrator.
3. The President shall have the authority to call special meetings or to cancel any meeting if required. Special meetings may be called as provided by IC 36-7-4-307.

B. Vice President

The Vice President shall have full authority to act as the President during the absence or disability of the President.

C. Secretary

The Planning and Zoning Administrator shall be permanently appointed as Secretary of the Commission. In the event of a vacancy in the position of the Planning and Zoning Administrator, the office of Secretary shall be transferred to an Interim Administrator as appointed by the Commission. If both the President and the Vice President are temporarily absent or disabled, the Secretary shall appoint a President pro tempore from among the members of the Commission.

2.3 Seal

The Commission adopts a seal with the caption "Planning Commission Starke County, Indiana." The Planning and Zoning Administrator shall employ the seal to certify all official acts of the Commission.

2.4 Planning and Zoning Administrator

The Planning and Zoning Administrator and/or his/her assignee, and other employees of the Plan Commission shall serve as the Plan Commission staff, and shall provide technical and analytical assistance to the Commission.

- A. The Planning and Zoning Administrator shall keep and maintain the official seal and records of the Commission, carry out all duties pertaining to the daily affairs of the Commission, administer and interpret Zoning and Subdivision Control Ordinances, implement the Comprehensive Plan and any other adopted plan for policy, execute duties involving planning and growth management, and perform other activities deemed necessary by the Commission.

2.5 Staff

- A. The Commission may hire staff necessary to discharge the duties of the Commission.
- B. Staff shall be hired by the Planning and Zoning Administrator under the direction of the Commission.

2.6 Attorney

- A. An Attorney at Law shall be employed for legal advice and services as agreed upon at the time of appointment within reasonable limitations of the budgetary allowances of the County Council. He shall be qualified by his interest in planning and zoning purposes and interests in improvement of public services. The routine responsibilities should include:
 - 1. Attendance at all regular Commission meetings in order to provide legal advice and counsel and interpretation of procedure as required
 - 2. Assist the Administrator with occasional difficult usage decisions and interpretations, and represent the Plan Commission in all matters of litigation, at their request.

2.7 Committees

- A. Advisory Citizen's Committee. The Commission may establish advisory committees of citizens interested in matters of planning and zoning under Indiana Code 36-7-4-407.
- B. Executive Committee. The Commission may establish an executive committee under Indiana Code 36-7-4-408.
- C. Administrative and Plat Committee. The Commission may establish an Administrative and Plat Committee to act on certain cases on behalf of the Commission. The Committee is constituted and operates according to its Rules of Procedure adopted by the Commission. The Committee also operates under Indiana Code 36-7-4-402(d), 36-7-4-701(e) and 36-7-4-710(a).
- D. Technical Committee. The Commission shall establish a Technical Committee that shall consist of less than five (5) members who are appointed for one year terms at the first meeting of the year. The Technical Committee shall meet regularly and review and discuss topics that require more in depth discussion than can be addressed efficiently in a regular meeting of the Commission. The Technical Committee will provide monthly reports to the Commission, and will provided drafts of requested revisions or updates to Commission documents for review and approval as appropriate.

ARTICLE III: MEETINGS

The Commission shall conduct regular meetings on the third Wednesday of each month at 5:30 p.m., local time, at the Starke County Government Complex.

3.1 Applicability

These rules apply to all meetings (including public hearings) required by state law, the Zoning Ordinance, the Subdivision Control Ordinance, or to any other special or regular Meeting of the Commission.

3.2 Meetings Open to the Public

Except for executive sessions as permitted by law, all regular and special meetings of the Commission shall be open to the public in compliance with the Indiana Open Door Law, Indiana Code 5-14-1.5-1 et seq.

3.3 General Rules

- A.
- B. All meetings at which official action is taken shall be open to the general public.

- B. An agenda shall list all items to be considered by the Commission at a regular or special meeting.
- C. An agenda shall be distributed to members of the Commission in a manner acceptable to them at least three (3) days before any regular meeting. The agenda shall be available for public inspection at the Plan Commission office at least two (2) days before any regular meeting.
- D. No action shall be taken, decision made, or opinion expressed by the Commission unless a quorum of members are present at a properly scheduled and advertised regular or special meeting.
- E. No action of the Commission is official unless approved by a quorum of the Commission.

3.4 Quorum and Voting

- A. A quorum consists of a majority of the entire membership of the Commission members who are qualified to vote.
- B. Any member who has a conflict of interest, as defined in Indiana Code 36-7-4-223, shall, prior to any discussion on a matter in which he or she has a conflict, announce the existence of the conflict and refrain from participating in any discussion or vote on the matter.
- C. Voting shall be by voice or by a show a hands, unless an alternative method is deemed appropriate by the Commission.
- D. A record of the vote shall be kept in the minutes.

3.5 Regular Meetings

- A. The Commission shall conduct its regular meeting on the third Wednesday of each month.
- B. If it is impossible to conduct a meeting at its regularly scheduled time, the President may set an alternative time, date or place. The President may also cancel or postpone the meeting if necessary because of circumstances related to lack of quorum, insufficient business or other extenuating circumstances. Notice of the rescheduled, relocated, or canceled meeting shall be given as required by Indiana Code 36-7-4-920(b) and the meeting shall be subject to the Indiana Open Door Law.

- C. The order of business at a regular meeting shall be established by the Commission.

3.6 Special Meetings

Special meetings of the Commission may be called by the President, upon written request to the Planning and Zoning Administrator by two (2) Commission members, or as determined by a majority of the Commission members at a regular meeting.

- A. All members shall be notified in writing of the time and place of a special meeting by the Planning and Zoning Administrator a minimum of three (3) business days prior to the date of the special meeting. Written notice of a special meeting shall not be required if (1) the date, time, and place of a special meeting is fixed at a regular meeting and (2) all members of the Commission are present at the regular meeting.
- B. Only matters included in the call for a special meeting shall be considered at that meeting.
- C. Public notice of the special meeting shall be given in the same manner as required for regular meetings.

3.7 Executive Sessions

The Commission may meet in executive session consistent with the provisions of IC 5-14-1.5-6.1.

3.8 Public Hearings and Notice

- A. The Commission may conduct a public hearing as part of any meeting, or at any other place or time if proper notice is given.
- B. In addition to those required by law, the Commission may hold public hearings when it decides that hearings will be in the public interest.
- C. Notice of public hearings shall comply with Indiana Code 5-3-1.
- D. If the Planning and Zoning Administrator determines that the application meets all requirements for submission, a date shall be set for its public hearing. Notice by publication and additional written notice shall be made as follows:
 - 1. Notice by publication. The Planning and Zoning Administrator shall publish a notice one (1) time at least ten (10) days prior to the public hearing in a newspaper of general circulation within Starke County. The notice shall contain the following information:

- a. Date, time and place of the hearing.
 - b. Name of the applicant.
 - c. Reason for the public hearing.
 - d. Name of Township; and Section, Township, and Range numbers.
 - e. Key and Parcel Number.
 - f. That the proposal is on file and available for inspection in the Plan Commission office.
 - g. The general location of the property described in the application.
 - h. That public input will be accepted at the hearing. Otherwise, comments regarding the proposal may be made in writing and filed with the Plan Commission Office, but must be filed at least two (2) days prior to the public hearing in order to be considered by the Commission.
2. Additional written notice. Upon a form acceptable to the Commission, the applicant shall provide additional written notice by registered or certified mail at least ten (10) calendar days prior to the public hearing. The persons so notified shall be the owners of all adjoining land of the subject property in Starke County, except as qualified in these Rules. The owners' name(s) and mailing address(es) of such owners are determined according to the most recent information on file in the real estate assessment list on file in the office of the County Assessor. Notification will also be sent to the appropriate Township trustee via first class mail for informational purposes only.
- a. For purposes of giving notice as required by this section, the land described in the application shall be deemed to include any adjoining or adjacent land owned by the applicant, with the exception however, that if the applicant is a railway, or other utility, the land described in the application shall not be deemed to include the entire right-of-way, but shall be limited to the particular parcel involved.
 - b. Any land separated from land described in the application by streets, alleys, easements, channel waters, or any other natural or artificial barrier, shall be deemed to be adjoining or adjacent to that described in the application.
 - c. The written notice shall include the following information:

- i. The general location of the property and a general description of the land as stated in the application.
 - ii. That the proposal is on file and may be examined in the office of the Plan Commission.
 - iii. That the addressee may file written comments concerning the proposal with the Plan Commission Office. The comments must be received prior to the public hearing in order to be considered by the Commission.
3. Affidavit of written notice.
 - a. The applicant shall furnish evidence of compliance with 3.8(D)(2) of these Rules by filing an affidavit with the Planning and Zoning Administrator at least ten (10) days prior to the public hearing. If the tenth day should fall on a weekend or legal holiday, the affidavit may be filed the first day following which is not a weekend or legal holiday.
 - b. The affidavit shall list the name(s) and mailing addresses of all owners of all parcels of ground within the notification boundary to whom notice was sent.
4. Purpose of written notice. Written notice is not required by state law. It serves to supplement the legally required public notice for persons in the vicinity of a proposal before the Commission. Written notice shall be considered helpful in disseminating information, but not necessary to meet legally required public notice. Having complied with the provisions of Section 3.8(D)(3) of these Rules, the applicant shall be considered to have met the intent of written notice and adequate notice to have been served.

ARTICLE IV: APPLICATION AND CASE NUMBERS

4.1 Applications

- A. Application shall be made on forms provided at the Plan Commission Office.
- B. The applicant shall meet the application submission requirements of the Zoning Ordinance and the Subdivision Control Ordinance. Staff may require additional information if the proposal warrants it.
- C. The Planning and Zoning Administrator shall review the application and determine whether or not it is complete and accurate, and shall set a date for the applications' hearing. If not complete and/or inaccurate, the Planning and Zoning Administrator may return the application to the applicant and not set a date for the application's hearing.

- D. All application fees are due at the time of application and are not refundable once a hearing date for the application is set.
- E. The deadline for filing an application is 3:30 p.m. on the date established as a filing deadline on the Commission's hearing schedule.
- F. The Planning and Zoning Administrator may limit the number of proposals to be heard at a regularly scheduled meeting if adjournment at a reasonable time would not be possible otherwise. The President shall be informed when this occurs. Those proposals not scheduled may be heard at a special meeting.

4.2 Case Numbers

- A. Each case heard by the Commission shall have a case number assigned to it.
- B. The case number shall be in a form established by the Commission.

ARTICLE V: CONDUCT OF HEARINGS

5.1 Conduct

- A. Discourteous, disorderly conduct, or comments or testimony irrelevant to the proceeding shall be regarded as a breach of courtesy.
- B. The President shall preserve order and may warn any person present that particular conduct is a breach of courtesy. If a Commission member persists in this conduct following a warning, the Commission may vote to censure the offending member. If any other person persists in this conduct following a warning, the President may order the person expelled from the meeting.
- C. Every person appearing before the Commission shall abide by the directions of the President.
- D. The President shall determine the admissibility of any evidence.

5.2 Presentations

- A. Applicant
 - 1. The applicant or the applicant's representative must appear before the Commission for the case to be heard.

2. The applicant shall first present the facts and arguments in support of the case. The burden shall be on the applicant to supply all information necessary for a clear understanding of the proposal.
3. Information to be displayed to the Commission is preferred to be in an electronic format suitable for video projection on the Commission's projection system along with printed copies that can be distributed to the Commission members.
4. The Commission and staff may interject during the applicant's presentation with comments or questions.

B. Public Comment

1. Following applicant's presentation, comments from the public shall be taken.
2. Any person may appear in person or by representative to participate in a discussion of an item before the Commission.
3. Any person wishing to speak must register with the Secretary and state their name and address.
4. Comments shall be directed to the Commission and not to the applicant or any other person.
5. The Commission and staff may not query any person speaking or clarify that person's position.

C. Rebuttal

1. The applicant shall have time for rebuttal and to answer questions raised by the public.
2. The applicant shall direct comments to the Commission and not to any person.

D. Public portion of the hearing closed.

1. Once all testimony is taken, the public portion of the hearing is closed. No further testimony will be taken once the public portion of the hearing is closed. After the public portion of a hearing is closed, the Commission may address questions or comments to the applicant or other persons if, in the Commission's opinion, the information is necessary to make an informed decision. The Commission may discuss the proposal with staff or among its members for any length of time deemed necessary.

E. Conclusion

1. The President shall conclude that public hearing and call for a motion on the item before the Commission.

5.3 Time Limits

A. Discussion of any item shall be limited as follows:

1. The petitioner shall have fifteen (15) minutes to present his or her case.
2. Remonstrators and those in support:
 - a. Remonstrators and those in support shall have three (3) minutes per person for the presentation of evidence in opposition or support. However, multiple individuals may defer his or her comment time to a spokesperson who shall accrue the time of those who defer, subject to a limit of ten (10) minutes.
3. The petitioner shall then have five (5) minutes for rebuttal and to answer questions raised by the public.
4. In the event that the issue before the Commission is more complicated than ordinary, the presiding officer shall have the discretion to grant additional time to present their case.

B. No limit shall be place on the amount of time the Commission takes to discuss a proposal.

C. The president may grant additional time for discussion if it deems it necessary to make an informed decision. The additional time should be allocated equally between the applicant and the public.

5.4 Continuance

A. The Commission may continue the hearing of any case subject to the following provisions:

1. Applicant. The applicant may request to be granted a continuance if the Commission deems it necessary to make an informed decision.
2. The Commission. The Commission may, on its own, continue any item from one meeting to another.
3. Planning and Zoning Administrator. The Planning and Zoning Administrator may administratively approve an initial continuance request subject to section 5.4 (B)(1) of these Rules.
4. Staff. Staff may recommend continuance of any item, subject to Commission approval.

B. Procedure for applicant-initiated continuances

1. Initial applicant-initiated continuance request

a. Administrative continuance

- i. A request for an administrative continuance shall be filed with the Planning and Zoning Administrator no less than five (5) calendar days prior to the Commission's hearing.
- ii. A request for an administrative continuance shall be made in writing. It shall describe in adequate detail the need for the continuance.
- iii. The Planning and Zoning Administrator shall evaluate the request and determine if it meets the requirements for granting an administrative continuance, and then grant or deny it.
- iv. The President shall be notified of any administrative continuances prior to the hearing.

b. Requesting a continuance at a public hearing

- i. An applicant may request a continuance directly from the Commission at a public hearing.
- ii. Unless expressly authorized otherwise by the Commission, the continuance shall be until the next regular hearing of the Commission.

2. Subsequent applicant-initiated continuance requests

Any continuance request after the initial request shall be made by the applicant directly to the Commission at a public hearing.

3. Maximum number and total time of applicant-initiated continuances

- a. The maximum number of applicant initiated continuances granted any particular agenda item shall be limited to one (1).
- b. In no case shall a particular agenda item be continued by an applicant more than ninety (90) days total time.
- c. The Commission may agree to applicant-initiated continuances in excess of the maximum number permitted, or for more than the total time

permitted, or both, if the Commission finds that unusual circumstances warrant it.

C. Applicant's continuance fee

A fee of \$100 shall be collected by the Planning Commission for each applicant-initiated continuance granted after the initial one (1). This fee is in addition to any other fee that is required.

D. Dismissal of continued items

1. Any agenda item that is unable to proceed to hearing and which has already received the maximum number of continuances and which has not received a further continuance, may have that item dismissed by affirmative vote of the Commission.
2. Any agenda item that is unable to proceed to hearing and which has already been continued the maximum number of days and which has not received a further continuance may have that item dismissed by affirmative vote of the Commission.
3. A dismissal by the Commission does not constitute a denial of the agenda item.
4. Any item dismissed under Section 5.4(D)(1) or 5.4(D)(2) of these Rules shall be eligible for rehearing as a new case with a new case number only after a new application is submitted and all applicable fees have been paid.

E. Withdrawal or denial of continued items

Nothing in these Rules prevents the Commission from accepting a withdrawal or denying, an agenda item subject to Section 5.4 in lieu of a dismissal if the Commission deems it appropriate under the circumstances.

F. Re-notification

1. For any continuance, the Commission may require re-notification of property owners within the written notification boundary established under these Rules if doing so serves the public interest.
2. Any continuance granted for more than sixty (60) days shall require re-notification of property owners within the written notification boundary established under these Rules.

5.5 Hearing Limited to a Reasonable Length of Time

The Commission may cease hearing new cases after 9:30 p.m. Cases not heard shall be placed at the beginning of the agenda of the next regular session of the Commission.

ARTICLE VI: FINAL DISPOSITION OF CASES

6.1 Action by the Commission

- A. Zoning map amendments, text changes to the Zoning and Subdivision Control Ordinances, and replacement ordinances. Action by the Commission shall be in the form of a recommendation on the proposal to the Board of Commissioners. The proposal may be voted on as submitted or as modified by the Commission. Modifications to the proposal as submitted shall be made part of the motion. The following recommendations are possible:
 1. Recommend adoption of the proposal.
 2. Recommend the proposal not be adopted.
 3. Make no recommendation.
- B. Plats, development plats, vacations, appeals of decisions of the Administrative and Plat Committee, any other action not requiring adoption by the Board of Commissioners. Action by the Commission shall be in the form of an approval or denial. The proposal may be voted on as submitted or as modified by the Commission. Modifications of the proposal as submitted shall be made part of the motion.
- C. Adverse decisions
 1. Commission decision. An application receiving a recommendation from the Commission to not adopt or deny shall be heard at any time up to one (1) year after the date of the decision by the Commission.
 2. Board of Commissioners decision. An application transmitted by the Commission and receiving a denial from the Board of Commissioners shall be heard again by the Commission at any time up to one (1) year after the date of the decision by the Board of Commissioners.
 3. A proposal that is subject to an adverse decision shall be considered for hearing before one (1) year if it is substantially changed from the original. Before the proposal can be placed again on the docket, the Planning and Zoning Administrator shall determine if a change sufficient enough to warrant hearing before one (1) year has been made to the proposal.

6.2 Findings of Fact

Where appropriate, the Commission shall set forth its determinations, recommendations, and conditions of approval in written findings of fact.

6.3 Dismissal

- A. The Commission may dismiss a case for lack of representation or lack of jurisdiction when an applicant fails to appear at two (2) consecutive meetings.
- B. A case so dismissed may be heard at any time up to one (1) year after the date of the decision by the Commission.
- C. A proposal so dismissed may be considered for hearing at any time up to one (1) year if it is substantially changed from the original. To qualify for a hearing at any time up to one (1) year, the Planning and Zoning Administrator shall determine if a change sufficient enough to warrant hearing at any time up to one (1) year has been made to the proposal.

6.4 Withdrawal

- A. An applicant may withdraw a case by requesting it in writing no less than five (5) business days prior to the hearing. A withdrawal so made shall be removed from the Commission agenda by the Planning and Zoning Administrator. The President shall be notified of the withdrawal prior to the hearing.
- B. An applicant may appear at a hearing and request the case be withdrawn.
- C. An applicant may not withdraw a case after a vote has been ordered by the President.
- D. A case that is withdrawn shall not be heard again until three (3) months after the date of the decision by the Commission.
- E. A proposal that is withdrawn may be considered for hearing before three (3) months if it is substantially changed from the original. Before the withdrawn proposal can be placed again on the docket, the Planning and Zoning Administrator shall determine if a change sufficient enough to warrant hearing before three (3) months has been made to the proposal.

ARTICLE VII: MISCELLANEOUS

7.1 Amendments to These Rules

- A. Amendments to these Rules may be made by the Commission at any regular or special meeting upon affirmative vote by a majority of the members.
- B. The suspension of any rule may be ordered at any meeting by an affirmative vote of three-quarters of the members present.

7.2 Remanding Cases

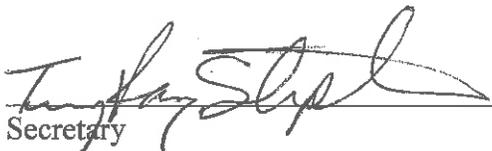
- A. Unless specified otherwise by the Commission, review and hearing authority shall be given to the Administrative and Plat Committee, where such committee has been designated.
- B. The types of cases the Administrative and Plat Committee is authorized to review and hear for the Commission shall be specified in the Committee's Rules of Procedure.

EFFECTIVE DATE

These Rules and Procedures are hereby adopted on the 15 day of July, 2015
by the Starke County, Indiana Plan Commission



President



Secretary

