

RULES OF PROCEDURE

ADVISORY PLAN COMMISSION TOWN OF MOORES HILL, INDIANA

ARTICLE I ADMINISTRATION

- A. Definitions. As used in this document, the terms "Plan Commission" and "Commission" shall mean the Advisory Plan Commission of the Town of Moores Hill, Indiana.
- B. Authority. These Rules have been adopted pursuant to IC 36-7-4 et seq.
- C. Application. These Rules shall govern the actions of the Commission at all meetings and hearings of the Commission.
- D. Official Action/Authorizing Signatures. All documents to be signed by the Commission shall be signed by the President and the Secretary, or by the Acting President and/or Acting Secretary in their absence.
- E. Suspension of the Rules. These Rules may be temporarily suspended by a majority vote of the voting members of the Commission who are present at a meeting.
- F. Amendment of The Rules. Amendments to these Rules may be made at any regular or special meeting of the Commission upon the affirmative vote of a quorum of the entire voting membership of the Commission.
- G. Appeal. Decisions of the Plan Commission are subject to review by certiorari pursuant to IC 36-7-4-1016 and IC 36-7-4-1003.

ARTICLE II OFFICERS OF THE COMMISSION

- A. Annual Election of Officers. At the first meeting in each year the first order of business will be the election of a President and Vice President from among the members of the Commission, and the election of a Secretary who does not have to be a member of the Commission, for the remainder of the calendar year.
- B. Presiding Officer. The President of the Commission, or the Acting President, shall:
 1. Preside over meetings of the Commission as the presiding officer.
 2. Determine points of order at each meeting.
 3. Determine when to limit discussion on each matter brought before the Commission.
 4. Determine when to request a motion and a vote on each matter.
- C. Secretary. The Secretary of the Commission, or the Acting Secretary, shall:
 1. Keep an accurate and complete record of all proceedings at meetings and hearings, including the substance of each case heard by the Commission and the vote on each case. Minutes of each meeting shall be made available for public review as soon as possible after the conclusion of the meeting.
 2. Record, transmit, file and store financial instruments, contracts and documents on behalf of the Commission.
 3. Maintain all records of the Commission at Town Hall.
 4. Post agendas and notices of meetings and hearings.
 5. Provide forms and assist petitioners in the filing of petitions.
 6. Provide notification to the media concerning pending meetings and hearings.

D. Absence of Officers. At each meeting or hearing there shall be present a President, a Vice President and a Secretary or a person temporarily elected to act for each vacant position. The absence of one or more officers from a meeting shall be addressed as follows:

1. In the absence of any officer of the Commission, the first order of business shall be the election of a person from the Commission to temporarily fill each vacant position, which shall be completed prior to the conduct of any other business.
2. In the absence of both the President and the Vice President from any meeting, that member in attendance with the most time served as a member of the Commission shall preside; provided, however, that the first and only item of business by such presiding officer shall be to preside over the election of a President and Vice President pro tempore.

ARTICLE III MEETINGS

- A. Meeting Schedule. Except when the Commission promulgates a schedule of regular meetings, all meetings will be special meetings held on an as-required basis with the date, time and location provided by a public notice pursuant to IC 5-14-1.5-5.
- B. Executive Sessions. Executive sessions may be conducted only as permitted under Indiana law and after notice pursuant to IC 5-14-1.5-6.1. The Commission may not recess into executive session during a meeting or hearing unless the required notice has been provided.
- C. Conflict of Interest. A member of the Commission may not participate in a meeting or hearing if there is a conflict of interest as defined at IC 36-7-4-223. An alternate member may not be appointed to temporarily replace a disqualified regular member of the Commission.
- D. Recess. During the course of any meeting or hearing a recess may be declared by the affirmative vote of a majority of the voting members present. No member of the Commission may discuss or otherwise conduct business during a recess.

ARTICLE IV PUBLIC HEARINGS

- A. Petitions for Hearings. Hearings shall be requested in writing specifying in detail what is being requested, including relevant sections of local, state and federal regulations. The petition shall be in the form requested by the Commission, shall be complete in every detail, shall be signed by the petitioner, and shall be submitted to the Secretary.
- B. The Petitioner. The petitioner shall be all owners of the property that is the subject of the request, or the owners' designated representative. Designation of a representative shall be in writing signed by the owners.
- C. Scheduling of Public Hearings. The Secretary shall schedule all petitions for hearings on the next available regular meeting date, or on a special meeting date if necessary; provided, however, that the hearing shall not be earlier than twenty-eight (28) days after the date on which the Secretary received the completed petition for a hearing, and provided that a petition may not be placed on the agenda whenever the Secretary determines that the petitioner has failed to comply with the requirements for filing a petition. The Secretary shall inform the petitioner of the scheduled date for a public hearing.
- D. Presence of Petitioner. The petitioner or the petitioner's designated representative shall attend scheduled hearings and meetings during which the matter in the petition is discussed.
- E. Notice of Public Hearings.
 1. Legal Notice. Notice of a pending public hearings shall be provided to the media by the petitioner at their expense in accordance with IC 5-3-1-2(b), IC 5-3-1-4(c) and (d), IC 5-3-4, and in accordance with these Rules of Procedure. At least fifteen (15) days before the date of the hearing the petitioner shall provide to the Secretary of the Commission a copy of the legal notice that will be published and the Secretary shall post the notice at Town Hall.

2. **Notice to Interested Parties.** Notice of each public hearing shall be provided by the petitioner at their expense by First Class U.S. Mail service directly to all persons who are "interested parties" as defined herein. This notice shall be placed in the U.S. Mail system fifteen (15) to thirty (30) days before the date of the hearing. The notice shall include: the date, time and location of the hearing; a copy of the petition that was filed with the Plan Commission; a map showing the general and the specific location of the property; and details of the specific subject matter in the request. Interested parties shall include:

- a. All owners of property whose property is contiguous to the property that is the subject of the public hearings.
- b. Where the property that is the subject of the hearing is bounded on any side by a street, railroad, stream, ditch or other right-of-way or waterway, all property on the other side of that right-of-way or waterway that would be contiguous in the absence of the right-of-way or waterway shall be considered contiguous, and the owner(s) thereof shall be notified as interested parties.
- c. The owner of the intervening right-of-way or waterway shall also be notified as an interested party.
- d. Where the Town of Moores Hill is the owner of any land that is contiguous to the land in the petition, the Town shall not be notified. However, all property on the other side of the Town's property that would be contiguous in the absence of the Town's property shall be considered contiguous, and the owner(s) thereof shall be notified as interested parties.
- e. Where the petitioner is an owner or part-owner of land that is contiguous to the land in the petition, the petitioner shall not be notified. However, all property on the other side of the petitioner's property that would be contiguous in the absence of the petitioner's property shall be considered contiguous, and the owner(s) thereof shall be notified as interested parties.
- f. Any persons who are co-owners of the petitioner's property and who did not sign the petition shall be notified as interested parties.
- g. The names and addresses to which notices shall be mailed are the names and addresses on file in the *most recent property records in the office of the Auditor of Dearborn County*.

3. **Proof of Notice.** Five days or more before the date of the public hearing the petitioner shall deliver to the Secretary of the Commission:

- a. A copy of the signed affidavit of publication from the newspaper that published the legal notice;
- b. A copy of the plat map for the area showing the properties that were provided notice by First Class U.S. Mail as interested parties, together with a list of the names and addresses to which the notices to interested parties were mailed. The map and list must be marked so that lots on the map can be matched to the names on the list.
- c. A notarized affidavit stating that all interested parties have been notified as required herein.
- d. Any notice to an interested party that was returned as undeliverable by the U.S. Postal Service to the petitioner shall be delivered to the Secretary of the Commission upon receipt.

F. Public Participation. During a public hearing each person who wishes to speak or present evidence concerning the issue that is the subject of the hearing shall be given the opportunity to do so. The format for each hearing shall be:

1. Presentation of a report by the Plan Commission or its staff (if any presentation is available).
2. Presentation by Proponents – 15 minutes.
3. Presentation by Opponents – 15 minutes.
4. Summary by Proponents – 5 minutes.
5. Summary by Opponents – 5 minutes.

G. Time Limits. In order to maintain the above schedule, the presiding officer may limit the amount of time that each speaker may speak and/or may require that persons with similar interests combine their interests for presentation by one speaker.

H. Close of the Hearing. After all testimony has been heard the presiding officer shall close the hearing and shall at their sole discretion determine whether or not to permit further public discussion and inquiry by the Commission, unless these Rules are modified by a majority vote.

I. Disposition of Cases.

1. Final Decision. A final decision on any request, petition or resolution shall be made at the hearing or meeting at which that matter is first presented or at the conclusion of the hearing or meeting if the case is continued to another date or if it is tabled.
2. Motion. The call for a decision on an issue shall be in the form of a motion by any member of the Commission other than the presiding officer, to approve, disapprove, continue to another specific date, or table to an unspecified future date, the petitioner's request. A tabling of the request shall mean that the matter shall not be reconsidered until a vote has been made by the Commission to again place the issue on the docket, and all legal notices have again been made.
3. Second. A second is required for each motion in order for the matter to proceed to a vote. Where there is a motion but no second the matter is neither approved nor disapproved, and the motion may be made again.
4. Vote. A final decision on an issue requires the affirmative vote of a quorum of the Commission. The presiding officer shall order the vote only after a motion and a second have been received.

J. Rejected Petitions. No petition which has been finally disapproved by the Commission, or in the case of a rezoning request which has been finally disapproved by the Town Council, shall again be placed on the docket for a hearing for at least six (6) months from the date of final disapproval, unless a quorum of the entire Commission votes to re-docket the request.

K. Dismissal of Petitions. A case may be dismissed by the Commission under the following circumstances:

1. Lack of jurisdiction.
2. Incomplete application.
3. The petitioner or the petitioner's representative has failed to appear at two (2) consecutive meetings of the Commission when the matter was on the agenda.

L. Request to Continue or Table a Petition. No case may be continued or tabled at the request of the petitioner unless the request has been made ten (10) days or more before the scheduled hearing date. However, the Plan Commission may, at its discretion, continue or table a hearing on the basis of new information or concerns brought to their attention less than ten days before the hearing.

ARTICLE V APPROVALS OF PETITIONS

A. Primary Plat Approvals. In all cases involving the platting of land or any form of subdivision of land, both a primary and secondary approval shall be required. Except as discussed in the following section, a public hearing is only required for the primary approval. Furthermore, the Plan Commission may immediately following the primary plat hearing and at the same meeting grant secondary plat approval provided that all requirements for the secondary approval have been satisfied at the primary plat hearing.

B. Secondary Plat Approvals. The granting of secondary plat approval may be done at a public meeting (not a public hearing) when the secondary plat conforms with the primary plat approval; that is, when secondary plat approval is essentially administrative in nature. However, if any of the terms of the primary approval have not be satisfied and/or there have been substantial changes (as determined by the Commission) to the primary plat, a public hearing shall be required for the secondary approval in the same manner as for the primary plat.

C. Other Approvals. Except where specified otherwise, all approvals other than plat approvals shall be granted at the meeting or hearing at which the matter was introduced unless the matter is continued to a future date by the affirmative vote of a quorum of the Commission.

D. Recorded Commitments. As part of any approval, the petitioner and/or owner of a parcel of property may be required to make written commitments concerning the use or development of the property in the petition, and the Commission may require that said commitments be recorded with the Dearborn County Recorder before the approval becomes effective.

E. Voting. Except as otherwise provided by law, voting procedures shall be as follows:

1. A majority of the voting members constitutes a quorum. Official action on a matter shall be authorized only by the affirmative vote of four (4) or more of the voting members of the Commission, regardless of the number of members present at a meeting.
2. The vote for each member shall be recorded by the Secretary with the name of the member and their vote as either yes, no, abstain, or absent.
3. Each member except the presiding officer shall have the right at all meetings to one (1) vote on any matter presented for a vote except when there is a conflict of interest as that term is defined at IC 36-7-4-223.
4. The presiding officer shall not vote and his/her vote shall be recorded as an abstaining vote, except that the presiding officer shall vote or abstain from voting when:
 - a. The presiding officer's vote is required for a quorum; or
 - b. There is a tie vote.
5. All voting shall be by voice vote.
6. Voting in secret or by ballot shall be prohibited.
7. Assignment of voting rights by a member to another person shall be prohibited.
8. Voting by proxy shall be prohibited.

ARTICLE VI FEES

A. Filing Fees. The filing fee for each public hearing for a primary plat, a development plan, an administrative appeal, a use variance, a standards variance, a special use, a special exception, a conditional use or a contingent use shall be forty dollars (\$40) payable to the Town of Moores Hill, and shall be paid at the time of the filing of the petition. When more than one hearing is to be held on one date for one project, the total fee shall be forty dollars (\$40). No filing fee shall be required for any petition filed by a unit of government.

B. Notification Fees. All expenses of providing notice of any type including but not limited to legal notice and notice to interested parties shall be paid by the petitioner.

C. Refunds. No refunds shall be permitted after a petition has received a hearing whether or not official action has been authorized on the petition.

APPROVED AND ADOPTED by the Advisory Plan Commission of the Town of Moores Hill, Indiana, this 19 day of June, 2003.

by: Charles W. Morgan
Wayne Morgan, President

by: Kim Sporleder
Kim Sporleder, Secretary

