

# ***RULES AND PROCEDURES PLAN COMMISSION TOWN OF PORTER, INDIANA***

## **Article I. Authority and Duties**

Section 1. The Town of Porter Plan Commission (hereinafter called "Commission") exists as an advisory plan commission under the authority of IC 36-7-4-202 and Section 12.43 of the Zoning Ordinance of the Town of Porter, and any amendments thereto. These rules are adopted in accordance with the requirements of IC 36-7-4-401.

Section 2. The duties of the Commission shall be those set forth in IC 36-7-4-400 et seq., and such other responsibilities as may be required by state statute or Town of Porter ordinance.

## **Article II. Officers, Members and Employees**

Section 1. The Commission shall consist of seven voting members, appointed in accordance with IC 36-7-4-207.

Section 2. At its first meeting in each calendar year, the Commission shall elect from its voting membership a President and a Vice President. Each shall serve during the period of their membership on the Commission for the balance of the calendar year.

Section 3. The Vice President shall have authority to act as President of the Commission during the absence or disability of the President.

Section 4. Upon resignation, death or removal of the President or Vice President, the Commission shall elect a successor at its next meeting.

Section 5. The Commission shall appoint and fix the duties of a secretary, who is not required to be a member of the Commission. The secretary shall be charged with such duties as required under state statutes, town ordinance, and these rules.

Section 6. If a vacancy occurs among the members of the Commission, the appointing authority shall appoint a member for the unexpired term of the vacating member. The appointing authority may remove a member from the Plan Commission for cause under IC 36-7-4-218 (f). Additionally, the secretary shall notify the appointing authority in writing when a member has been absent for three (3) consecutive meetings of the Commission. Such absences may constitute cause for removal from the Commission by the appointing authority under IC 36-7-4-220(c).

Section 7. The Commission may appoint such employees as are necessary to the discharge of the duties of the Commission. Within its budget allotment, the Commission may fix the compensation of such employees in conformity with salaries and compensation fixed up to that time by the Town Council.

## **Article III. Seal**

The Commission adopts a seal with the caption "The Seal of the Town of Porter Plan Commission." The Secretary shall employ the seal to certify to all official acts of the Commission.

## **Article IV. Meetings**

Section 1. The regular meetings of the Commission shall be the third Wednesday of each month at 6:30 p.m. The location of the meeting shall be in the Town Hall, 303 Franklin Street, Porter, Indiana. If the date of a regular meeting falls on a legal holiday, or if it is impossible to conduct the meeting at that time or place, the President may set an alternate date, time or place for the regular meeting, or may cancel the meeting at a prior meeting with the unanimous consent of the members of the Commission who are present, provided that the notice requirements of IC 5.14.-1.5 are complied with.

Section 2. Each case to be publicly heard before the Porter Plan Commission shall be filed in proper form; shall be numbered sequentially, and placed on the docket of the Commission. The docket numbers shall begin on January 1st of each year. The Clerk-Treasurer shall receive the application and fee, and assign a docket number. The identification of docket numbers shall be as follows: 21-01 shall represent the first petition heard in 2021. The President of the Plan Commission shall review the docket prior to setting an agenda.

Section 3. The President shall determine the agenda for regular meetings. The agenda shall list all items to be considered by the Commission at the meeting. The items shall be listed on the agenda in the order in which the petition or other document was filed with the Town Clerk. The Commission shall consider no item unless it appears on the agenda. Without exception, cases on a regular meeting agenda must have met all time, documentation and docket requirements. Any petitioner may withdraw any petition or document prior to the meeting at which it was to be considered.

At the direction of the President, the agenda shall be sent by either email or first-class mail to all members of the Commission and its attorney, and shall be available for public inspection at the Office of the Town Clerk no less than three (3) business days prior to the scheduled meeting. The President may accept changes to the agenda not later than three (3) calendar days prior to the meeting.

Section 4. The President or two (2) members of the Commission upon written request to the secretary may call special meetings. The secretary shall send to all members and its attorney, at least three (3) calendar days before the special meeting, a written notice fixing the time, place, and purpose of the meeting. Written notice is not required if:

- (a) the date, time, place, and purpose of the special meeting are fixed at a regular meeting;  
and
- (b) all members of the Commission are present at that regular meeting.

Section 5. The order of business at regular meetings shall be:

- (a) Call to Order
- (b) Pledge of Allegiance
- (c) Roll Call
- (d) Consideration of Minutes of Previous Meeting
- (e) Audience Participation
- (f) Final Approvals
- (g) Preliminary Hearings
- (h) Public Hearings
- (i) Findings of Fact
- (j) Other Business
- (k) Adjournment

Section 6. The President of the Commission shall preside over meetings, decide questions of order, and preserve decorum in the meeting room. The Commission shall use Robert's Rules of Order as a reference only in its methods of conducting a meeting. The President shall pronounce the decisions of the Commission for purposes of recording in the minutes.

Section 7. No one who is not a member of the Commission shall be permitted to address the Commission except by request and consent of the President.

Section 8. In all odd numbered years, the Commission Shall review and revise as needed, the Town of Porter Comprehensive Plan, with the associated public hearing, as the Commission deems necessary. The meeting for the review of the Comprehensive Plan shall be held during January of the aforementioned year.

## **Article V. Official Action**

Section 1. A majority of the members of the Commission who are qualified to vote shall constitute a quorum. Action of the Commission shall not be official unless it is authorized at a regular or special meeting by a majority of the entire membership of the Commission.

Section 2. Decisions of the Commission shall be by roll call vote of the members. All members present shall vote on every question unless they are permitted to abstain by the presiding officer; or in the case of a matter requiring official action of the Plan Commission, have disqualified themselves because of a conflict of interest as defined under Section 3 of the Article.

Section 3. No member of the Commission shall participate in a hearing, discussion or decision of the Commission upon any matter requiring official action of the Plan Commission, in which the member has a direct or indirect financial interest.

Section 4. In the event a majority vote of the Commission cannot be achieved due to absences, permitted abstentions, or disqualifications, the matter shall be rescheduled for the next regular meeting.

## **Article VI. Minutes and Records**

Section 1. The secretary of the Commission shall prepare and maintain minutes of its meetings. The minutes shall include the vote of each member on each question presented or indicate that the member is absent, abstaining with permission, or not voting because of a disqualification.

Section 2. The minutes of Commission meetings and all records shall be filed in the office of the Town Clerk and are public records, as defined by IC 5-14-3.

Section 3. The minutes shall be available in draft form no later than fifteen (15) days after the regular Plan Commission meeting.

Section 4. The draft minutes shall be presented to the Commission for approval at the next succeeding regular meeting. When approved, the minutes shall be signed by the President and attested by the secretary.

Section 5. Recommendations from the Commission to the Town Council, which require Town Council action, shall be requested to be placed on the Council agenda for the third regular meeting after the Commission meeting. The Plan Commission President or his designee shall provide all relevant information concerning the recommendation, to the Town Council members, along with a copy of the approved and signed final minutes, and approved and signed Findings of Fact.

## **Article VII. Filing of Petitions**

Section 1. A petitioner who seeks to approve a plat; to vacate a plat; amend a plat; amend the zoning ordinance, subdivision ordinance, comprehensive plan or other matter under the jurisdiction of the Commission shall file a petition with the Office of the Clerk-Treasurer on behalf of the Commission. Ten (10) copies of the petition, application, or plats must be filed at least ten (10) calendar days prior to the next regular Commission meeting, at which it is to be considered.

Section 2. A non-refundable filing fee in an amount established by the following schedule shall accompany all petitions not initiated by the Commission itself:

<u>Subdivision</u>	<u>\$250 + \$75 per lot</u>
<u>Vacation of Plat</u>	<u>\$200</u>
<u>Rezoning</u>	<u>\$250</u>
<u>Comprehensive Plan Change</u>	<u>\$250</u>
<u>Site Plan Review</u>	<u>\$100</u>
<u>Special Meeting</u>	<u>\$500 per petition</u>
<u>Public Notice Sign</u>	<u>\$30 (\$20 refundable deposit)</u>
<u>Plan Unit Development (PUD)</u>	<u>\$250</u>
<u>Certification of Adjacent Property Owners</u>	<u>\$20</u>

Section 3. The petition shall clearly identify the owner or owners of record of the property which is the subject of the petition, the street address of the property, and the tax parcel identification number, if known. If the petitioner is not the owner of the property, which is the subject of the petition, he or she must submit a signed affidavit from said property owner authorizing the petitioner to file the petition on their behalf.

Section 4. At the time that the petition is filed with the Office of the Clerk-Treasurer, the petitioner shall also file proposed Findings of Fact and Decision on such form as is prescribed by the Commission, as applicable, for consideration by the Commission.

Section 5. The Commission may require additional information, data, statistics or plats beyond those established by statute or ordinance, which are deemed necessary for intelligent determination by the Commission.

Section 6. If the Commission finds that the petition is in good order with sufficient information, it shall set a time for a public hearing on the matter and shall provide public notice in accordance with IC 5.3.1.

Section 7. The petitioner shall prepare the legal advertisement of the public hearing for the approval of the Commission and shall bear the expense of the advertising costs.

Section 8. The petitioner shall notify by certified mail, return receipt requested, all persons deemed by state statute and the Commission to be interested parties, pursuant to Article VIII. Prior to the commencement of the public hearing, the petitioner shall provide proof that he or she has complied with this requirement.

## **Article VIII. Notice Requirements**

Section 1. A notice of a public hearing required by state statute or town ordinance shall contain as a minimum the following information:

- (a) Docket number and the substance of the matter to be heard.
- (b) General location by address or other identifiable geographic characteristic of the property.
- (c) Name of the person, agency or entity initiating the matter to be heard.
- (d) Time, date, and place of the hearing.
- (e) Statement that the petition may be examined at the Office of the Town Clerk.
- (f) Statement that any person may offer verbal comments at the hearing or may file written comments prior to or at the hearing.
- (g) Any other information, which may be required by law to be contained in such notice.

Section 2. For the purposes of an initial or replacement zoning ordinance and/or zoning map initiated by the Commission, an initial or replacement subdivision control ordinance, amendment to the text of the zoning

ordinance, amendment to the subdivision ordinance, or amendment to the comprehensive plan, all citizens of the Town of Porter are interested parties. The Commission is required to provide for the publication of notice pursuant to IC 36-7-4-604 at least ten (10) days prior to public hearing by posting copies of the notice in at least two public places in the Town of Porter. These notices shall be placed in the Clerk's Office at the Town Hall and the First Bank of Porter, as well as published notice in a newspaper designated by the Town Council. The petitioner shall also submit an electronic copy of the public notice to post on the Town of Porter website.

Section 3. For the purposes of an amendment to the zoning map which is initiated by the property owner, interested parties are determined to be all persons with a legal interest in the property and all owners of record of real property contiguous to the property which is the subject of the petition, including the property across the street or alley from it. Such parties are to be given written notice mailed by certified mail at least ten (10) days prior to the public hearing.

Section 4. For the purposes of approving or vacating a plat, all owners of record of land in the plat and all owners of record of property contiguous to the property or across the street or alley from it, are interested parties and shall be given written notice mailed by certified mail at least ten (10) days prior to the public hearing.

Section 5. The Commission secretary shall prepare a list of the owners of record of real property contiguous to the property which is the subject of the petition and which constitute interested parties to be notified pursuant to Sections 3 and 4 of Article VIII, above, and shall make the list available to the petitioner not less than fifteen (15) days prior to the public hearing date. The Commission secretary shall also provide a copy of the list to the Commission and the Town Attorney prior to the public hearing.

Section 6. Certified mail receipts (white tickets), or signatures of all interested parties on a form approved by the Commission shall be considered evidence that notice has been given. Personal appearance at the hearing also shall constitute evidence of notice.

Section 7. In addition to the notification requirements above, the petitioner is required to post a sign, supplied by the town, which announces the date, time, place, and purpose of a public hearing. Said sign must be continuously posted for at least ten (10) days immediately prior to the public hearing, in a prominent place on the property, legible from the street fronting said property. The petitioner shall also submit an electronic copy of the public notice to post on the Town of Porter website.

Section 8. An affidavit, supplied by the town, must be submitted as part of the application process, which affirms that the petitioner has complied with the notification requirements stipulated in Sections 3, 4 and 7.

## **Article IX. Conduct of Public Hearings**

Section 1. The Commission shall hold such public hearings as are required by state statute and Town of Porter ordinances. The Commission may hold additional hearings at such times and places upon such notice as it considers necessary.

Section 2. The Town Attorney shall determine if the petitioner has complied with the proper notification requirements, and the Town Planner shall determine if proper petition filing has occurred, including that all fees have been paid, before the commencement of the public hearing on a petition.

Section 3. At a public hearing before the Commission, the petitioner, property owner, or agent for the petitioner or property owner shall first present the facts and arguments in support of the case. Comments and questions from the Commission members may be interjected during the presentation for clarification of the subject matter. The President shall then call for proponents of the petition followed by opponents to the petition. Each of those persons who wish to comment on the petition must address the President and be recognized before speaking. Each person must state his or her name and address. The President may limit a speaker's time to assure an opportunity for all speakers to comment.

Section 4. The President shall close the public hearing after the Commission has adequately heard from all interested persons. The President shall then read all written comments on the petition received by the Commission.

Section 5. The petitioner, property owner of record, or agent for the petitioner may give rebuttal, or summarize arguments and the Commission may question further. The Commission shall then consider the petition.

Section 6. In the presentation of a case, the burden shall be upon the petitioner to supply all information, including charts, diagrams and other exhibits necessary for a clear understanding of the problem. The Commission may continue the hearing when in its judgment the petitioner has not provided sufficient evidence on which to make a determination.

Section 7. The petitioner has the burden of proof to demonstrate that all required criteria established by State law and the ordinances of the Town of Porter for the grant of the request set forth in the petition have been satisfied. As applicable, the facts supporting the petitioner's burden shall be stated by him or her in the proposed Findings of Fact and Decision on the applicable form.

Section 8. Every person appearing before the Commission shall abide by the order and directions of the President. Discourteous, disorderly or contemptuous conduct shall be regarded as a breach of the privileges of the Commission and shall be dealt with as the Commission directs.

Section 9. The Commission, at its discretion, may continue or postpone the hearings of any case on an affirmative vote of a majority of the Commission.

## **Article X. Final Disposition of Cases**

Section 1. Except for matters under the subdivision control ordinance, the final disposition of any case shall be in the form of a recommendation setting forth findings and determinations of the Commission, together with any modification, specification or limitation, which it makes. In the case of subdivisions, the Plan Commission shall render a decision rather than make a recommendation.

Section 2. The Commission may dismiss a case for lack of prosecution or lack of jurisdiction. When a petitioner has failed to appear at two consecutive public meetings, the petition may be dismissed for lack of prosecution.

Section 3. Following any public hearing, a petitioner may not withdraw the matter to come before the public hearing without the approval of the Commission.

Section 4. A case that is withdrawn by the petitioner shall not be again placed on the docket for consideration within a period of six (6) months after date of withdrawal.

## **Article XI. Reconsideration**

The Commission may not consider for one year from the date of rejection or removal of a petition to amend the zoning map, which has been rejected by the Town Council, or on which the Town Council has failed to act, and the matter has been removed from its agenda.

## **Article XII. Plat Approval**

Section 1. Upon petition for sketch plat approval, the President, shall cause a review by the Technical Advisory Committee. The Technical Advisory Committee determination shall be reported to the Commission prior to sketch plat approval.



Section 2. Pursuant to IC 36-7-4-709, the Town Engineer and Town Planner shall determine if all improvements and installations have either been constructed, completed, and inspection fees paid, as required by the Subdivision Control Ordinance and shall report that determination to the Commission before it grants secondary approval to any plat. The petitioner may provide a bond or approved financial instrument in lieu of completing the improvements.

### **Article XIII. Standing, Formal, and Ad Hoc Committees**

Section 1. The President, with the approval of the Commission, may establish such committees as deemed to be necessary and desirable. The purposes and terms of such committees shall be specified at the time of their establishment.

Section 2. Members of committees shall be appointed by the President.

### **Article XIV. Amendments**

Amendments to these rules of procedure may be made by the Commission at any regular or special meeting upon the affirmative vote of a majority of the members of the Commission. The suspension of any rule may be ordered at any meeting by the unanimous vote of the members present.


### **Article XV. Repeal**

All previous rules and regulations heretofore adopted by the Town of Porter Plan Commission are hereby expressly repealed, as of the effective date of these rules.

Rules of Procedure of the Town of Porter Plan Commission of Porter County, Indiana, approved by the affirmative vote of all members of said Plan Commission at the regular meeting of the Commission held on the 21<sup>st</sup> day of APRIL, 2021

  
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President

Attest:

  
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Secretary