RULES OF PROCEDURE ADVISORY PLAN COMMISSION PITTSBORO, INDIANA

ADOPTED BY RESOLUTION
BY THE
PITTSBORO ADVISORY PLAN COMMISSION
ON
April 22, 2025

RULES OF PROCEDURE

ADVISORY PLAN COMMISSION PITTSBORO, INDIANA

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RULES OF PROCEDURE

ADVISORY PLAN COMMISSION PITTSBORO, INDIANA

Pursuant to the requirement of I.C. 36-7-4-401, the Advisory Plan Commission of Pittsboro, Indiana, does hereby adopt the following rules, subject to the amendments from time to time of the state statutes referenced and incorporated herein:

ARTICLE I – PLAN COMMISSION MEMBERSHIP

Section 1. Membership of Plan Commission.

The state statute defining the membership of the Plan Commission is I.C. 36-7-4-207(B).

The state statute limiting the appointment of citizen members of the Plan Commission is I.C. 36-7-4-216.

Section 2. Additional Members Required for Unincorporated Area (I.C. 36-7-4-205(F)).

The state statute defining the additional members of the Plan Commission required for the commission to exercise its jurisdiction outside the Town's incorporated area is I.C. 35-7-4-214.

ARTICLE II - OFFICERS

Section 1. Election of Officers.

At its first regular meeting each year, the Commission shall, from its membership, elect a president and vice president, and may elect a secretary. Each officer is to serve in such capacities during the period of their membership on the Commission for the balance of the calendar year. Upon resignation or replacement of any officer, as a member of the Plan Commission, the Commission shall elect a successor at its next regularly scheduled meeting.

Section 2. Duties of Officers.

A. <u>President</u>. The president shall preside over the Commission meetings and on behalf of the Commission shall exercise general supervision over the affairs of the Commission, including the execution of contracts and agreements, the appointment of committees and representatives (except at otherwise provided by statute, ordinance, or these rules), the determination of points of order and procedure, and the signing of all official documents.

- B. <u>Vice President.</u> The vice president shall have authority to act as president of the Commission during the absence or disability of the president.
- C. Secretary. The secretary shall certify all official acts of the Commission, including the written votes of the Commission on any and all matters for which such vote is required. In the event of the absence or disability of both the president and vice president, the Secretary shall preside, provided, however, the first and only item of business to be presented by such presiding officer shall be the election of a president pro tempore. In the event of the absence or disability of the secretary, the president of the Commission shall select a secretary pro tempore.

Section 3. Term of Officers and Entire Plan Commission.

- A. <u>Term of Office</u>. The state statute defining the term of office of the members of the Plan Commission is I.C. 36-7-4-217, for certain members and I.C. 36-7-4-218 for citizen members.
- B. Removal of Plan Commission Members. The state statute defining the process for removing Plan Commission members is I.C. 36-7-4-218, except that an appointed member that misses three consecutive regular meetings of the Plan Commission may be treated as if the member has resigned at the discretion of the appointing authority pursuant to I.C. 36-7-4-220.
- C. <u>Vacancies on the Plan Commission</u>. The state statute defining the process for appointing a vacancy on the Plan Commission is I.C. 36-7-4-220.
- D. <u>Alternate Member of the Plan Commission</u>. The state statute defining the process for appointing an alternate member of the Plan Commission to serve upon the disqualification of a regular member of the Plan Commission is I.C. 36-7-4-220.

ARTICLE III - MEETINGS

Section 1. Date and Place of Meetings.

All meetings shall be conducted in accordance with I.C. 5-14-1.5, the Indiana Open Door Law, and any amendments thereto. On-site inspections of property involved in petitions before the Commission shall not be considered meetings.

A. Regular Meetings. Whenever the regular meeting date falls on an official holiday of the Town, another date shall be selected. A schedule of all regular meetings shall be published each year by the Commission Secretary. All regular meetings shall be held at the Pittsboro Town Hall unless another location is published.

- B. <u>Special Meetings</u>. The Commission may hold special meetings in accordance with I.C. 36-7-4-307 and any amendments thereto.
- Cancellations. Whenever there is a lack of business for Commission C. consideration, the president may dispense with a regular meeting. In such cases, the secretary of the Commission shall give written notice to all members, and the news media shall be notified of such cancellation. Whenever it is determined that a quorum is not available for a regular or special meeting, the president may dispense with such meeting, and all business scheduled for such meeting will be automatically continued to the next regular or special meeting. In such cases, the Secretary of the Commission shall give written or oral notice to the Commission members, those having business before the Commission, and to the news media. The president of the Commission also may dispense with a scheduled regular or special meeting in the event of natural disaster, snow emergency or similar causes. In such cases, the Secretary of the Commission shall give written or oral notice to the Commission members and to those having business before the Commission, if possible, and the Secretary of the Commission shall notify the news media of the cancellation. In the event of cancellation for any reason, the president may require renotification to interested parties, with such notice to be paid for by the petitioner or by the Commission, as the president deems appropriate.

Section 2. Conduct of Meetings.

A. <u>Majority</u>. In accordance with I.C. 36-7-4-302, no action of the Commission is official unless it is authorized at a regular or special meeting by a majority, including any appointed alternate member, of the entire membership of the Plan Commission.

B. <u>Voting</u>.

- (1) Quorum. A quorum shall be required for a vote. A majority of the members of the Commission who are qualified to vote, including any appointed alternate member shall constitute a quorum. No business may be transacted and no public hearing may be opened at any meeting of the Commission unless a quorum is in attendance.
- (2) Method. All votes of the Commission shall be decided by voice vote. If the outcome of a particular vote is unclear, the president or any member may request a roll call vote or a ballot vote. In the case of a ballot vote, each ballot shall bear the signature of the member voting by such ballot. Secret ballot votes shall not be permitted.
- (3) <u>Disqualification of Member</u>. The state statute defining when a Plan Commission member shall be disqualified, record keeping

requirements regarding disqualification, limitations on Plan Commission member representation at hearings, and limitation on disqualified member compensation and mileage is I.C. 36-7-4-223. The state statute defining the process for appointment of an alternate member of the Plan Commission to serve upon the disqualification of a regular member of the Plan Commission is I.C. 36-7-4-220.

- (4) Required vote. Except a provided in (3) above, all Commission members present shall vote on each matter for which a public hearing is held. An abstention for any other reason shall have the same effect as a negative vote.
- (5) <u>Absentee</u>. Absentee or proxy voting shall not be permitted. Members shall be present for the public hearing in order to be eligible to vote on any matter. In the event that a member is absent for part of a public hearing, such member's eligibility to vote on the matter shall be at the discretion of the presiding officer.

C. Commission Records

- (1) Responsibility. It shall be the duty of the Secretary of the Commission to maintain all Commission files and records, including the official minutes of all meetings.
- (2) <u>Minutes</u>. The Secretary of the Commission shall prepare an accurate record of all hearings and official actions of the Commission, and the minutes representing such record shall be made available within a reasonable time after such hearing or action to all members of the Commission. Upon approval by the Commission, copies of such minutes shall be made available to interested parties.
- (3) Public records. The records and files of the Commission shall be made available to the public under the provisions of I.C. 5-14-3, the Indiana Access to Public Records Law, and any amendments thereto. All records and minutes shall be filed in the office of the Clerk/Treasurer.

Section 3 Electronic Meetings.

A. Electronic Meetings During an Emergency

(1) During the time of (i) a declared disaster emergency declared by the Governor of the state of Indiana pursuant IC §10-14-3-12; or, (ii) a local disaster emergency declared by Town Council pursuant to IC §10-14-3-12, the member of the Plan

Commission are not required to be physically present and may meet by electronic communication if:

- (a) at least a quorum of the members of the Commission participate in the meeting by means of electronic communication or in person;
- (b) the public is able to simultaneously attend and observe the meeting, provided this subdivision does not apply to a meeting held in executive session; and
- (c) a memorandum of the meeting is prepared that contains the following:
 - (i) state the name of each member of the Commission who:
 - (A) participated in the meeting by using any electronic means of communication; and
 - (B) was absent; and
 - (ii) identify the electronic means of communication by which:
 - (A) members of the Commission participated in the meeting; and
 - (B) the public attended and observed the meeting, if the meeting was not held in executive session.
- (2) All votes taken during a meeting under this section must be taken by roll call vote.
- B. Electronic Meetings Without a Declared Emergency.
 - (1) Attendance and access to these meetings by the members of the Commission and members of the public may be limited to and accomplished by electronic means or videoconferencing as established by the following meeting protocol:
 - (a) A Commission member who is not physically present at a meeting of the Commission may participate in a meeting by any electronic means of communication that allows: (i) all participating members of the Commission to simultaneously communicate with each other, and (ii) the public to simultaneously attend and observe the meeting, except this subpart shall not apply to executive sessions.
 - (b) A Commission member who participates in the meeting by electronic means of communication shall be considered present for purposes of establishing a quorum, but may participate in any final action taken at the meeting only if the member can be seen and heard.

- (c) A technological failure in an electronic means of communication that disrupts or prevents: (i) the simultaneous communication between a member who is not physically present at the meeting and the Commission; or (ii) a member of the public who is not present at the meeting from attending and observing the meeting; does not prevent the Commission from conducting the meeting or affect the validity of an action taken by the Commission at the meeting if the sum of the Commission members physically present at the meeting and the Commission members participating by electronic communication without technological failure satisfy the quorum and (if a final action is taken) the voting requirements of the Commission.
- (2) All votes taken during an electronic meeting must be taken by roll call vote and at least 50% of the Commission must be physically present at a meeting.
- (3) A member of the Commission may not attend more than fifty percent (50%) of the Commission's meetings in a calendar year by means of electronic communication, unless the member's electronic participation is due to: (i) military service; (ii) illness or other medical condition; (iii) death of a relative; or (iv) an emergency involving actual or threatened injury to persons or property.
- (4) A Commission member may not participate in public meetings by electronic means if the Commission is attempting to take final action to establish or increase a fee or establish or increase a penalty.
 - (5) The Commission may not prohibit a member of the Commission from attending consecutive meetings by electronic communication.
 - (6) A Commission member may attend two (2) consecutive meetings (a set of meetings) by electronic communication. A Commission member shall physically attend at least one (1) meeting between sets of meetings that the member attends by electronic communication, unless the member's absence is due to: (i) military service; (ii) illness or other medical condition; (iii) death of a relative; or (iv) an emergency involving actual or threatened injury to persons or property.
 - (7) A memorandum of the meeting is prepared that contains the following: (i) the name of each member of the Commission who: (A) participated in the meeting by using any electronic means of communication; and (B) was absent; and (ii) identify the electronic means of communication by which: (A) members of the Commission

participated in the meeting; and (B) the public attended and observed the meeting, if the meeting was <u>not</u> held in executive session.

(8) A member must notify the Plan Commission President no later than 24 hours before the meeting that they will be attending the meeting electronically.

ARTICLE IV - PUBLIC HEARINGS

Section 1. Procedure.

A. Opening the Hearing.

The presiding officer shall call the item scheduled for public hearing and declare the public hearing open.

B. Testimony.

Before the commencement of public and for a period of 10 minutes after commencement, any person who wishes to speak at a public hearing shall sign in and provide their name and full address on a form provided by the Commission. A person will be called to speak in the same order for which they signed in. The order of testimony shall be as follows:

- 1. Background
- 2. Presentation of request by petitioner
- 3. Comments and questions by members of the public and Commission
- 4. Rebuttal by petitioner
- 5. Summations by presiding officer

C. Closing the Hearing.

After all the public comments have been heard under the rules of this section, the presiding officer shall declare the hearing closed and shall call for a motion. Additional public comment shall not be permitted after the close of the hearing. Any motion which has been made and seconded is open for discussion by the Commission members, but such motion is closed to discussion by the public unless the presiding officer specifically allows such discussion. The presiding officer shall have the authority to limit such discussion by the public or the Commission members.

D. Voting.

Each motion on a matter requiring a public hearing shall be made in accordance with the provisions of Article III, Section 2, B, of these rules.

Section 2. Conduct.

A. Representation.

The petitioner may appear in person, by agent or attorney, and present any supporting witnesses, evidence, statements and arguments in favor of the request. Remonstrators and persons in favor of the request may appear in person, by agent or by attorney, and present witnesses, evidence, statements and arguments. Any person interested in any petition shall have the right but shall not be required to enter a written appearance in the hearing.

B. Commission Questions.

The Commission members shall be provided adequate opportunity to examine witnesses and question any evidence, statements and arguments in the interest of a fair hearing.

C. <u>Identification</u>.

All persons wishing to be heard on any matter in a public hearing must stand before the Commission and provide their names and addresses for the record.

D. Commentary Addressed to Commission.

All commentary at a public hearing shall be addressed to the Commission through its presiding officer. Such commentary shall not be permitted between opposing parties without the consent of said officer.

E. <u>Authority of Presiding Officer</u>.

The presiding officer shall have the authority to prohibit repetitious and irrelevant testimony. Either before or during the public hearing, the president may set reasonable time limits on the time allowed for presentation by each interested person in a manner that is reasonable and fair to all concerned.

F. Orderly Conduct.

Every person appearing before the Commission shall abide by the order and direction of the presiding officer. Discourteous, disorderly or contemptuous conduct shall not be tolerated, and the presiding officer may take such action

as is deemed necessary to prevent such conduct. To maintain orderly procedure, each side shall proceed without interruption.

G. Continuance.

The Commission may, at their sole discretion, continue or postpone the public hearing in any case.

ARTICLE V – DISPOSITION OF PETITIONS

Section 1. Motions.

The final disposition of any petition duly filed and brought before the Commission shall be in the form of a motion, properly adopted, specifically setting forth such disposition. If no "second" is received on the disposition, there shall be no discussion and the disposition is rejected.

Section 2. Dismissal.

A. Want of Prosecution.

The Commission may dismiss a petition if the petitioner or authorized representative does not appear to present and speak in favor of a petition or if such petition has been improperly filed.

B. Lack of Jurisdiction.

The Commission shall dismiss a petition if it finds it has no jurisdiction over such matter.

Section 3. Withdrawal.

A. <u>Without Prejudice</u>.

Any petition may be withdrawn without prejudice provided a written request for withdrawal signed by the petitioner or an authorized representative is received by the Commission's staff at least seven days before the scheduled hearing.

B. With Prejudice.

Any request for withdrawal made less than seven days before the scheduled hearing may be granted or denied by the Commission. Such request may be in writing or oral and must state the reasons for the request. If the Commission votes to permit withdrawal, the petition shall not again be placed on the agenda for hearing within a period of three months from the date of the originally scheduled hearing, except upon a motion duly adopted by a majority of the members of the Commission to permit such rescheduling.

C. Not Permitted.

No petition may be withdrawn after a motion has been made and seconded and a vote has been ordered by the presiding officer.

Section 4. Amendment.

A. <u>Increased Density or Intensity</u>.

No petition can be amended in a manner which increases the intensity of use (e.g., adds additional lots or land, changes to a zoning district permitting more uses or more intensive uses) after the filing deadline. Any such amendment request will result in postponing the scheduling of the petition for one month. If notice in accordance with Article VI has already been given, the item as amended shall be re-advertised and new notice given to interested parties. The petitioner shall be required to pay the costs of such readvertising and renotification.

B. <u>Decreased Density or Intensity</u>.

It shall be within the discretion of the Commission to approve a petitioner's request to amend the petition in a manner which decreases the intensity of use (e.g., removes lots or land, changes to a zoning district which are more restrictive). Any interested parties may be heard on the subject of such amendment. The Commission may require such amended petition to be continued and may require re-advertising and renotification in the interest of providing a fair and adequate hearing.

Section 5. Continuance.

A. Requests by Interested Party.

Any interested party may request a continuance in writing prior to the hearing and/or orally at the beginning of the hearing. The party requesting such continuance shall be required to show good and sufficient cause for such continuance, and it shall be within the discretion of the Commission to grant or deny any such request.

B. Motion by Commission.

Any member of the Commission may at any time move to continue the hearing of any petition. Such a motion duly seconded and adopted shall continue the hearing to the time specified in the motion. The Commission may include in the motion specific instructions for re-advertising and/or renotification of interested parties. If such renotification is required, the petitioner may be required to pay the costs associated therewith.

Section 6. Approval.

A. <u>Development Plans</u>.

The Commission has the authority to approve development plans under the terms of the Zoning Ordinance. Such approval may be with or without conditions.

- With Conditions. A motion to approve a petition may be conditional upon a petitioner's compliance with a requirement or requirements imposed by the Commission. Such condition(s) of approval shall be specifically stated and recited to the petitioner. The Commission may impose a time limit upon the fulfillment of any such requirement(s). The petitioner shall be required to notify the Commission of fulfillment of each requirement. In the event any condition of the decision has not been fulfilled or the time for compliance has expired, the Commission shall issue a request to the petitioner to show cause why the decision should not be revoked and rescinded. The Commission may investigate the matter and take such remedy as it deems appropriate.
- (2) <u>Without Conditions</u>. If there are no conditions imposed upon the approval of a petition, the president and secretary shall sign the permanent drawing(s) and shall direct the Secretary to affix the Commission's seal thereon.

B. Zoning Ordinance Amendments.

If the Commission recommends favorably upon a petition for amendment to the Zoning Ordinance, the president and secretary shall sign the certification recommending such amendment and direct the staff to forward it together with a report describing the Commission's action to the Town Council for consideration.

C. Vacation of Plats.

The Commission has the authority to approve the vacation of plats in the manner prescribed in I.C. 36-7-3-10 and 36-7-4-711.

(1) If 100% of the owners of land in a plat submit a written instrument declaring the plat, or portion of a plat, vacated, the Commission may approve the vacation of plat without notice and hearing pursuant to I.C. 36-7-3-10.

The approval of a vacation of plat may include the vacation of covenants in accordance with I.C. 36-7-4-714.

(2) If less than 100% of the owners of land in a plat file a petition to vacate the plat with the Commission, approval of the vacation must be in accordance with I.C. 36-7-4-711. A hearing shall be granted not more than 30 days after receiving the petition to vacate, and hearing and notice procedures shall be as set forth in Article IV and VII.

The approval of a vacation of plat may include the vacation of covenants in accordance with I.C. 36-7-4-714.

Section 7 Disapproval.

A. Development Plans.

If the Commission finds that a petition does not meet the criteria and standards established by ordinance(s) for approval, it shall deny the request.

B. Zoning Ordinance Amendments.

If the Commission disapproves of a Zoning Ordinance amendment which has been referred to it for recommendation, the Commission shall direct the Secretary to forward its recommendation together with a report describing the Commission's action to the Town Council for consideration.

C. <u>Vacation of Plat by Less than 100% of Landowners</u>.

The Commission may disapprove a petition to vacate a plat filed by less than 100% of landowners in the plat in accordance with I.C. 36-7-4-711. A hearing shall be granted not more than 30 days after receiving the petition to vacate, and hearing and notice procedures shall be as set forth in Article IV and VII.

D. <u>Refiling</u>.

No petition for any amendment to the Zoning Ordinance which has been denied by the Town Council shall again be placed on the agenda for hearing within a period of one year from the date of such disapproval, unless the Commission finds that there is a substantial change in the petition or circumstances affecting the petition, in which case the matter may again be placed on the agenda only if a motion to permit rescheduling is duly adopted by the Commission.

ARTICLE VI - FILING PROCEDURES

Section 1. <u>Subject Jurisdiction</u>.

Any party requesting approval of a development plan, vacation of a street or alley, change in zoning or any other matter for consideration by the Commission shall file an application, petition or appeal with the Plan Commission within the time period allowed by law or these rules.

Section 2. Filing Application.

Petitions shall be filed with the Commission in legible form at least twenty eight days prior to the date of the hearing to be held by the Commission and shall be accompanied by such information as required by applicable ordinances.

Section 3. Eligible Applicants.

The owner(s) of property included in any petition before the Commission must consent to the filing of the application. Such consent may be evidenced by the owner's notarized signature on said application or by signature of a person having power of attorney authorizing such signature. In the case of property which is being purchased under a land contract, the signatures of both the contractor purchasers and the contract sellers or their duly authorized agent shall be required.

ARTICLE VII – NOTICE REQUIREMENTS

Section 1. Published Notice.

After a petition has been duly filed, a published notice of public hearing shall be given at least ten days prior to the public hearing by one insertion of legal advertisement in a newspaper of general circulation in Pittsboro or Hendricks County, Indiana. Proof of publication of the notice shall be furnished to the Commission prior to the public hearing. Notice of hearing shall contain the following information:

- A. Substance of the matter to be heard and description of proposed change in zone maps.
- B. General location by address or other identifiable geographic characteristic of the property.
- C. Name of the person or agency initiating the matter to be heard.
- D. Time and place of the hearing.

- E. Statement that the petition may be examined at the office of the Clerk/Treasurer for the Town of Pittsboro.
- F. Statement that interested parties may offer an oral opinion at the hearing or may file written comments concerning the matter to be heard prior to or at the hearing, along with the address where such written comments may be filed prior to the hearing.
- G. That the hearing may be continued from time to time as may be found necessary.
- H. Any such information which may be required by law to be contained in such notice.

Section 2. Mailed Notice.

At least ten days prior to the public hearing, written notice containing the same information described in Article VII, Section 1, A-H above, shall be mailed by certified mail, return receipt requested, or Certificate of Mailing, and postage prepaid, to the owners of all real property to a depth of two (2) ownerships or one-eight (1/8) of a mile, whichever is less, as determined by the transfer records of the Hendricks County Auditor's Office as of the date of filing the application. Other notices may be required by the Commission, or its designee, in particular circumstances.

Section 3. Evidence of Notice.

Proof of publications, certified mail receipts and personal appearance at the public hearing shall be considered evidence that notice has been given. Evidence of notice shall be provided to the Commission before the public hearing.

ARTICLE VIII - COMMITTEES

Section 1. Authority.

The president is hereby authorized to appoint standing and ad hoc committees to facilitate the work of or advise the Commission. Such committees may be comprised of Commission members only, or they may include other interested parties. A chairman shall be appointed for each committee by the committee, and reports on their assignments shall be made to the Commission. The president shall be an ex-officio member of any committee so appointed.

Section 2. Standing Committees.

The Commission may appoint standing committees from time to time.

Section 3. Ad Hoc Committees.

Ad hoc committees may be appointed from time to time to accomplish specific assignments. Once the assignment(s) has been completed or the time limit for the completion of such assignment(s) has expired, such committee shall be discontinued. Such committees may be appointed for the purpose of master plan revisions, zoning ordinance amendments, and other business of the Commission.

ARTICLE IX - GENERAL

Section 1. Amendments and Suspensions.

Amendments to these rules of procedure may be made by the Plan Commission at any meeting upon the affirmative vote of a quorum. The suspension of any rule or procedure may be ordered at any meeting by the affirmative vote of a quorum when circumstances or justice warrant.

Section 2. Calculation of Time.

The calculation of any time specified in any section, clause, or provision of these rules shall be calculated pursuant to I.C. 36-7-4-1111.

Section 3. Substantial Compliance.

If there is substantial compliance with these rules, any technical, non-material, or minor violation shall not void nor vacate the proceedings or actions of the Commission.

Section 4. Severability.

If any section, clause, provision, or portion of these rules shall be held invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of any other section, clause, provision or portion of these rules.

Section 5. Applicability.

These rules of procedure shall be applicable to all pending and future matters before the Commission.

ARTICLE X - ADOPTION

The foregoing Rules of Procedure of the Pittsboro, Indiana, Advisory Plan Commission are hereby adopted by the affirmative vote of the Commission this 22nd day of April, 2025.

AYES:

NAYS:

ATTEST:

Staff Planner to APC

ARTICLE X – ADOPTION

The foregoing Rules of Procedure of the Pittsboro, Indiana, Advisory Plan Commission are hereby adopted by the affirmative vote of the Commission this 22nd day of April, 2025.

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