

DANVILLE PLAN COMMISSION



Rules of Procedure

Adopted 7/13/98
Amended 4/13/22

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RULES OF PROCEDURE
DANVILLE ADVISORY PLAN COMMISSION
DANVILLE, INDIANA

Article I. Law Applicable to the Plan Commission

Section 1. The Danville Advisory Plan Commission (hereinafter called "Commission") exists as an advisory plan commission under the authority of IC 36-7-4-202 and Ordinance No. 14-1991 of the Town of Danville, Indiana, and those ordinances that preceded Ordinance No. 14-1991 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 al., and such other responsibilities as may be required by state statute or town ordinance.

Section 3. 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 a two-thirds (2/3) vote of the quorum or by a majority of the members of the Commission, whichever is less.

Article II. Officers, Members and Staff of the Plan Commission

Section 1. The Commission shall consist of seven (7) voting members, appointed in accordance with IC 36-7-4-204.

Section 2. At its first regularly scheduled meeting in each calendar year, the Commission shall elect from its voting membership a president and 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 a president of the Commission during the absence or disability of the president.

Section 4. Upon resignation or replacement of the president or vice president as a member of the Commission, the commission shall elect a successor at its next regularly scheduled 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 ordinances, and these rules.

Section 6. 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. Members of the committees shall be appointed by the president.

Section 7. 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 shall be notified in writing by the secretary 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 36-7-4-218(f).

Article III. Meetings

Section 1. The regular meetings of the Commission shall be the second Wednesday of each month at 7:00 PM. The location of the meeting shall be in the Council Chambers of the Danville Town Hall, 49 North Wayne Street, Danville, Indiana 46122, unless members are notified in advance of the meeting that the meeting will be held at an alternate site. If the date of a regular meeting falls on a legal holiday, or if it is not feasible 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 with the consent of a majority of the members of the Commission, provided that the secretary complies with the notice requirements of IC 5-14-1.5 and all the members are individually notified of the meeting change.

Section 2. Special meetings may be called by the president or two (2) members of the Commission upon written request to the secretary. The secretary shall send to all members, at least three (3) days before the special meeting, a written notice fixing the time and place of the meeting. Written notice is not required if:

- (a) the date, time, and place of the special meeting are fixed in a regular meeting;
- (b) all members of the Commission are present at that regular meeting; and
- (c) the secretary complies with the notice requirements of IC 5-14-1.5.

Section 3. Electronic meetings in accordance with IC 5-14-1.5-3.5 (a) Subject to subsections (b) through (j) below, a member may participate in a Meeting by any electronic means of communication that (1) allows all participating members to simultaneously communicate with each other, and (2) allows the public to simultaneously attend and observe the Meeting.

(b) A member who participates in a Meeting by an electronic means of communication (i) shall be considered present for the purposes of establishing a quorum, and (ii) may participate in any final action taken at the Meeting only if the member can be seen and heard.

(c) A technological failure, as defined in Ind. Code 5-14-1.5-3.5(c), does not prevent the Plan Commission or committee from conducting a Meeting or affect the validity of actions taken if the sum of the members physically present at the Meeting and the members participating by electronic communication without technological failure satisfy the quorum and (if final action is taken) the applicable voting requirements.

(d) The memoranda prepared under Ind. Code 5-14-1.5-4 must include the information required by Ind. Code 5-14-1.5-3.5(e).

(e) All votes taken during a Meeting conducted under the Electronic Meeting Policy must be taken by roll call vote.

(f) At least 50% of the members must be physically present at each Meeting.

(g) A member may not attend more than four (4) Plan Commission Meetings in a calendar year by means of electronic communication, unless such 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.

(h) A member may not attend more than four (4) Meetings of any specific committee in a calendar year by means of electronic communication, unless such 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.

(i) A member may attend two consecutive Meetings by electronic communication, and shall physically attend at least one Meeting between each set of two Meetings that he or she attends by electronic communication, unless the 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.

(j) A member who plans to attend a Meeting by any electronic means of communication must, except in the case of a Meeting called to deal with an emergency, notify the Plan Commission President (if a Plan Commission Meeting) or the relevant committee chair at least seven (7) days before the Meeting so that arrangements may be made for such participation.

Section 4. The order of business at regular meetings shall be:

- (a) Call to order;
- (b) Determination of Quorum;
- (c) Consideration of Minutes of Previous Meeting;
- (d) Old Business;
- (e) New Business;
- (f) Report of Officers, Committees and Staff (*amended 4/9/01*); and
- (g) Adjournment.

Section 5. The president of the Plan Commission shall reside over meetings, decide questions of order, subject to appeal by Commission members, and preserve decorum in the meeting room. The president shall pronounce the decisions of the Commission for purposes of recording in the minutes.

Section 6. No one who is not a member of the Commission shall be permitted to address the Commission except by request to and consent of the President.

Article IV. Voting

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 properly-called special meeting by a majority of the entire membership of the Commission.

Section 2. All members present shall vote on every question unless they are permitted to abstain by the presiding officer, or, in the case of a zoning matter, have disqualified themselves because of conflict of interest as defined by state statute or under Section 3 of this Article.

Section 3. Members shall refrain from discussing the details or merits of any petition with the petitioner or other interested parties prior to any public hearing or Commission deliberation on the petition, except in situations when the member is participating in a staff review of the petition (*amended 4/9/01*). No member of the Commission shall participate in a hearing, discussion, or decision of the Commission upon any zoning matter in which the member has a direct or indirect financial interest. A “zoning matter” does not include the preparation or adoption of a comprehensive plan. A member shall declare his or her known conflict of interest. The Commission shall enter into its records the fact that the member has such a disqualification.

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 at the request of any Commission member, a petitioner, or a remonstrator.

Section 5. Any member of the Commission who voted with the majority may call for a reconsideration of any vote at the same meeting of the Commission at which it passed, and, if sustained by a majority of the votes, the reconsideration shall be ordered.

Article V. Minutes

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 number 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 Commission and are public records, as defined by IC 5-14-3.

Section 3. The 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.

Article VI. Petitions for Commission Consideration and Public Hearings

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

Section 2. A petitioner who seeks to vacate a plat, amend the zoning ordinance, subdivision ordinance, comprehensive plan, or official action on other matters under the jurisdiction of the Plan Commission shall file a petition or application for this purpose with the Commission staff. Five (5) copies of the petition or application, accompanied by any needed

additional information or exhibits, must be filed at least twenty (20) days prior to the Commission meeting if a public hearing is required. If a public hearing is not required, a petition or application for Commission consideration of a matter, accompanied by all necessary supporting information or exhibits, must be filed at least ten (10) days prior to the Commission meeting. Documents that are required to be reviewed by the Town's consulting engineering firm, pursuant to Town ordinance, these rules or by directive of the Commission staff, shall be submitted in accordance with the requirements of Article X. If the Commission staff determines that submissions made after the deadlines established in this Article and Article X would not compromise their ability or that of the Commission or consulting engineering firm to fully and fairly consider the matter it may allow submissions to be made after these deadlines.

Section 3. All petitions not initiated by the Plan Commission itself shall be accompanied by a nonrefundable filing fee in an amount established by the Town of Danville's fee ordinance.

Section 4. The Plan Commission staff may require additional information, data, statistics, or plats beyond those required by statute or ordinance whenever it deems necessary for intelligent determination by the Commission.

Section 5. If the Plan Commission staff finds that the petition is in good order with sufficient information, it shall schedule the matter on the Commission's meeting agenda and, if a public hearing is required, it shall set a time for a public hearing on the matter.

Article VII. 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) Substance of the matter to be heard and nature of the action requested;
- (b) General location by address or other identifiable geographical characteristics of the property;
- (c) Name of the person, agency, or entity initiating the matter to be heard;
- (d) Time and place of the hearing;
- (e) Statement that the petition may be examined at the Plan Commission office at the Danville Town Hall;
- (f) Statement that any person may offer verbal comments at the hearing or may file written comments prior to or at the hearing; and
- (g) Any other information which may be required by state statute or Town ordinances to be contained in such notice.

Section 2. The Plan Commission staff shall prepare the legal advertisement of the public hearing for newspaper publication, or staff shall approve the advertisement if it is prepared by the petitioner. The publication must appear in newspapers, qualified under I.C. 5-3-1-4 to publish Town of Danville legal notices, at least ten (10) days before the date of the public hearing. In addition, the petitioner must notify by letter sent by certificate of mailing to all persons deemed

by state statute and the Commission to be interested in parties at least ten (10) days before the date of the public hearing. The petitioner shall bear all public hearing notice expenses.

Section 3. For the purpose of initial or replacement zoning ordinance or a subdivision control ordinance, the Commission shall provide for the publication of notice pursuant to IC 36-7-4-604 and post copies of the notice in at least two (2) public places in the town at least ten (10) days prior to the public hearing.

Section 4. For the purpose of an initial or replacement zoning ordinance or a subdivision control ordinance, the Commission shall provide for the publication of notice pursuant to IC 36-7-4-604 and post copies of the notice in at least two (2) public places in the town at least ten (10) days prior to the public hearing.

Section 5. For the purposes of an amendment to the zoning map, interested parties are determined to be all persons with a legal interest in the property and all owners of real property within a distance of six hundred sixty (660) feet or to a depth of two (2) ownerships, whichever is less.

Section 6. For the purposes of approving or vacating a plat, all owners of land in the plat and all owners of real property within a distance of six hundred sixty (660) feet or to a depth of two (2) ownerships of the property to be platted, whichever is less, are interested parties.

Section 7. The names of property owners to be notified are to be ascertained from the real estate tax assessment lists as they appear in the office of the Center Township Assessor of Hendricks County.

Section 8. If petitioner is unable to meet all the notice requirements for a matter that has been scheduled for public hearing, or if information or exhibits needed by the Plan Commission for its determination will not have received all necessary review and approval by the Commission staff and the Town's Consulting engineering firm in advance of the hearing, the petitioner must notify the Commission staff as soon as the petitioner has determined such a situation exists. The Commission may delay the rescheduling of a public hearing if it determines that the petitioner did not timely notify the Commission staff of any situations that could reasonably be expected to prevent the public hearing from being held as scheduled.

Section 9. At the public hearing, the petitioner shall provide proof that he or she has complied with the requirements for giving notice to interested parties. An affidavit signed by the petitioner or his or her attorney indicating the text of the notice and listing the names and addresses of persons to whom the notice was sent by certificate of mailing, and the date of such mailing, shall serve as sufficient proof of compliance with this requirement. A copy of the notice along with certificate of mailing receipts for all interested parties shall also be considered evidence that notice has been given. The personal appearance of an interested party at the hearing shall also constitute evidence of notice.

Article VIII. Conduct of Public Hearings

Section 1. 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 petition. Persons in opposition to the petition may present their facts and arguments against

it. Comments and questions from the Commission members may be interjected during the presentations for clarification. Each of those persons who wishes to comment on the petition must state his or her name and address.

Section 2. The president may limit the petitioner, property owner, or agent for the petitioner or property owner to a total of ten (10) minutes to present the facts and arguments in support of the petition. Any portion of this time (ten [10] minutes) may be reserved for a rebuttal. The total presentation including both presentation and rebuttal will be subject to the ten (10) minute limitation. Persons in opposition to the petition shall as a group be subject to the same time limitations as those testifying in support of the petition.

Section 3. 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 matter received by the Commission.

Section 4. The petitioner may summarize arguments and the Commission may question further. The Commission shall then consider a petition.

Section 5. In the presentation of a petition, the burden shall be upon the petitioner to supply all information, including charts, diagrams, and other exhibits necessary for a clear understanding of the matter. The Commission may continue the hearing when in its judgment the petitioner has not provided sufficient evidence on which to make a determination.

Section 6. 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. The president shall have the authority to prohibit repetitious, immaterial, and irrelevant testimony.

Section 7. The Commission, at its discretion, may continue a hearing or postpone its consideration of any matter on an affirmative vote of a majority of the Commission. The petition shall be entitled to one continuance only.

Article IX. Disposition of Matters before the Commission

Section 1. The final disposition of any matter shall be by a vote of the Commission, which may be in the form of a recommendation to the Town Council setting forth its findings and determinations, together with any modification, specification, or limitation which it makes.

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

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

Section 4. A matter which has been withdrawn by the petitioner or dismissed for lack of prosecution shall not be again be placed on the Commission's agenda for consideration within a period of six (6) months after the date of withdrawal.

Section 5. A matter which has been decided adversely to the petitioner shall not again be placed on the Commission's agenda for a consideration until six (6) months after the date of decision previously rendered.

Section 6. The commission may not further consider for six (6) months a petition to amend the zoning map which has been rejected by the Town Council or upon which the Town Council has failed to act.

Section 7. If the Plan Commission staff determines that a subsequent petition to amend the zoning map or take other action on a matter for the same property is sufficiently different from prior petition so as to create a reasonable expectation that it would receive a favorable recommendation from the Plan Commission or approval by the Town Council, Commission action on the subsequent petition would not represent further consideration of the same matter.

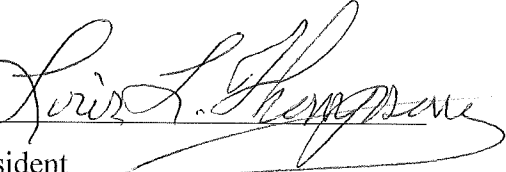
Article X. Document Submissions and Review

All documents, exhibits, plans, plats and other items required for Plan Commissions action under the Town's zoning code, subdivision regulations or other ordinances or state statutes, must be submitted in the form and pursuant to the process required by the Town's ordinances and state statutes. Preliminary plats shall be submitted to the Commission staff at least forty-five (45) days in advance of the Plan Commission meeting at which petitioner seeks Commission approval of the plat. Subject to any greater filing requirement imposed by the Town's ordinances or state statutes, all other documents, exhibits, plans, plats and other items for which Town ordinance, these rules or Commission staff require review by the Town's consulting engineering firm shall be submitted to the Commission staff at least thirty (30) days in advance of the Plan Commission meeting at which petitioner seeks Commission action.

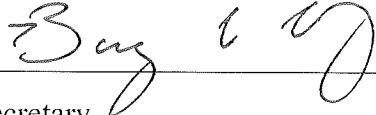
Article XI. Effective Date of Rules

These rules shall be effective immediately upon their adoption by the Danville Advisory Plan Commission at which time all previous rules and regulations heretofore adopted by the Plan Commission are hereby expressly repealed.

These Rules of Procedure of the Danville Advisory Plan Commission of Hendricks County, Indiana, approved by the affirmative vote of members of said Commission at the regular meeting of the Commission held on the 13th day of April, 2022

By: 
President

Attest:


Secretary