

Title XXI.

RULES OF PRACTICE AND PROCEDURE

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Section A: Membership of the plan commission.

1. The membership of the Lake Station Advisory Plan Commission shall consist of nine (9) members. The public works board shall appoint one (1) member from its membership or a designee. The municipal legislative body shall appoint one (1) member from its membership. The municipal executive shall appoint five (5) citizens as members, of whom no more than three (3) may be of the same political party. The park board shall appoint one (1) member from the board, and the city engineer or his qualified appointee shall serve as a member on the planning commission.

2. A citizen member may not hold other elective or appointive office in municipal, county or state government, except in the case of an area plan commission membership on the school board or park board. A citizen member must be a resident of the jurisdictional area of the plan commission.

3. Upon the establishment of a nine (9) member municipal plan commission, one (1) citizen member shall initially be appointed for a term of two (2) years, two (2) citizen members shall initially be appointed for a term of three (3) years and two (2) shall initially be appointed for a term of four (4) years. Each member's term expires on the first Monday of January of the second, third, or fourth year, respectively, after the year of the member's appointment. The term of office of a member (who is appointed from the membership of a legislative or executive board or park board) is co-extensive with the member's term of office on that body, board or council, unless that body, board or council appoints, at its first regular meeting in any year, another to serve as its representative.

4. A member serves until his or her successor is appointed and qualified. A member is eligible for reappointment.

5. The plan commission may appoint and fix the duties of a secretary who is required to be a member of the commission.

6. The plan commission shall send to the state planning service agency a list of the names and addresses of the commission members before March 1 of each year.

Section B: Jurisdiction.

1. Applications involving the construction of public facilities also require review and approval by the board of public works and safety.

2. The plan commission, proceeding in accordance with IC 36-7-3, has exclusive jurisdiction over the vacation of plats or parts of plats.

3. The plan commission, pursuant to IC 36-7-4-405, shall make recommendations to the common council regarding the adoption of the comprehensive plan, ordinances and amendments.

4. The plan commission, pursuant to IC 36-7-4-405, shall approve the assignment of street numbers to lots and structures and the naming of streets.

5. The plan commission, pursuant to IC 36-7-4-405, shall render decisions and approve plats and replats of subdivisions.

6. The plan commission, pursuant to IC 36-7-4-405, shall develop plans for residential, commercial and industrial uses.

7. Prior to exercising any rights, powers or duties under this chapter or the laws of the State of Indiana, the plan commission shall cause to be filed in the Office of the Recorder of Lake County, Indiana, a description or map defining the limits of the area over which it claims jurisdiction and revise said description or map whenever such limits are modified.

8. Site plan review. Prior to the issuance of an improvement location permit (also known as a "zoning permit" or a "building permit") pursuant to Lake Station Zoning Code Title XX, § C, the city building commissioner or his deputy shall review and approve or reject all site plan proposals except the following, which shall be required to undergo site plan review by the plan commission prior to issuance of preliminary subdivision approval, or in the case of a parcel already subdivided, prior to issuance of a building permit:

- a. Single-family residential subdivision containing more than five (5) lots.
- b. Multifamily residential developments greater than two (2) acres.
- c. Industrially zoned property of any size.
- d. Highway-oriented business zoned property of any size.
- e. General business zoned property of any size.
- f. Planned unit development of any size.

(Ord. No. 95-20, § 41, 9-21-95; Ord. No. 2000-19, § 1, 8-25-2000)

Section C: Statement of intent.

1. It shall be the intention of the City of Lake Station that the plan commission utilize its powers herein consistent with the laws of the State of Indiana and to improve the health, safety, convenience and welfare of the Citizens of Lake Station, Indiana. To that end, all actions of the plan commission shall be undertaken consistent with the following broad policy guidelines; to wit:

- a. That all public streets and rights-of-way of the city be carefully planned and adequate;
- b. That all projects and improvements be undertaken only with adequate public ways, utilities, health, education and recreational facilities;
- c. That the needs of industry and business be recognized;
- d. That residential areas provide healthful surroundings for family life; and
- e. That all growth within the city be commensurate with and promotion of the efficient and economical use of public funds.

Section D: Duties of plan commission.

1. The duties and responsibilities of the Lake Station Plan Commission shall be as set forth in Indiana Law and shall include, but not be limited to, the following; to wit:

- a. Supervise and make rules for the administration of the affairs of the commission;
- b. Prescribe uniform rules pertaining to investigations and hearings;
- c. Keep complete records of all proceedings;
- d. Record and file all bonds and contracts and assume responsibility for the custody and preservation of all papers and documents of the commission;
- e. Prepare, publish and distribute reports, ordinances and other matters relating to activities authorized under the laws of the State of Indiana;
- f. Adopt a seal; and
- g. Certify to all official acts.

Section E: Meetings.

1. The regular meetings of the Lake Station Plan Commission shall be on the fourth (4th) Wednesday of each month at 7:30 p.m. unless otherwise announced by the president at the last regular meeting.

2. A majority of the members shall constitute a quorum. No action of the commission is official, however, unless authorized by a majority of the commission at a regular or properly called special meeting.

3. Decisions of the commission shall be by voice vote of the members. All members present shall vote on every question unless they disqualify themselves or are excused from voting by a majority of the members present.

4. The secretary of the commission shall record and keep the official minutes of all proceedings, showing the vote of each member on each question presented, or indicating that the member is absent or not voting.

5. The secretary of the commission shall keep a record of all proceedings of the commission which shall be presented to the commission at the next succeeding meeting for approval. When approved, the record shall be signed by the president and attested to by the secretary.

Section F: Officers and employees.

1. At its first regular meeting following the first day of January, the commission shall elect from its members a president and a vice president.

2. The vice president shall have the authority to act as president of the commission during the absence, disability or resignation of the president.

3. The commission may appoint employees necessary to the discharge of the duties and responsibilities of the commission and shall, within its budgetary allowance, fix the compensation for each employee.

Section G: Applications.

1. All applications to the plan commission shall be filed in triplicate to the office of the building commissioner at least ten (10) days prior to the hearing at which said application is to be reviewed; public notice shall not be required at that time except as otherwise provided by law. Applications filed too late to comply with this section shall be heard at the next succeeding regular meeting of the commission; however, the commission may waive the requirements of this section by a unanimous vote of the members present, upon a showing that an emergency exists. The purpose of this section is to enable the members to examine and study the pending application and to conduct any investigation deemed advisable.

2. All applications not initiated by the commission itself shall be accompanied by a filing fee of twenty-five dollars (\$25.00) to help defray the administrative and investigative expense of the commission.

3. All applications shall include, but are not necessarily limited to, the following information; to wit:

- a. The true and complete legal description of the property.
- b. Legal evidence of right, title and interest in said property in and to the applicant and the notarized consent of any and all additional legal entities or persons having any right, title or interest to said property to said application.
- c. A site plan, as defined and described below, showing the nature of the structure, improvement or use of land which is intended to be altered, changed, placed, erected or placed with reference to said application.
- d. True and accurate copies of all permits from other agencies of government regarding for the project intended.
- e. Such dedications of right-of-way as may be required by law.
- f. Proof of consent from all adjoining land owners.

4. All site plans submitted herein shall include and conform to the following minimum standards; to wit:

- a. Be drawn to a scale sufficient to show the required details of the project with clarity; a scale of 1:20 is recommended.
- b. Show all property lines, lot dimensions and right-of-way locations and dimensions.
- c. Show the location, purpose and dimensions of all existing and proposed improvements, the front, side and rear yard set backs, and the purposes and dimensions of all existing and proposed easements.

- d. Show provisions for drainage, surface water run-off, retention and detention (as applicable); including, but not limited to, an arrow showing the existing flow of water, another arrow showing the proposed direction of flow and calculations regarding the 100-year rain.
- e. Show three dimensional views (including dimensions) regarding any structures requested over twenty-five (25) feet above the lowest elevation on the lot.
- f. Show proposed connections to sanitary sewers and the location, size and depth of said sewers (if any).
- g. Show the proposed means of access to and from public streets.
- h. Land use:
 - 1. The plan shall comply with the city's comprehensive plan.
 - 2. The plan should be consistent with area development trends.
 - 3. The plan shall be properly zoned for the intended use.
 - 4. Natural features of the property to be developed should be maintained and accentuated.
 - 5. The plan should be consistent with adjacent land use.
 - 6. Compatible uses shall be located adjacent to each other while incompatible uses shall be buffered from each other.
 - 7. Uses shall be located in direct proximity to that portion of the transportation system best suited to accommodate those uses.
 - 8. The owner or developer shall locate uses so as to continue areas containing such uses.
 - 9. Uses should be located in such a manner as to minimize material changes to topography and vegetation.
 - 10. The plan should organize density to locate the largest number of people in closest proximity to their everyday destinations.
 - 11. Sidewalks shall be a minimum of forty-eight (48) inches in width.
- i. Traffic impact:
 - 1. The plan should contain an appropriate level of accessibility.
 - 2. The thoroughfare system which the plan depends on should have sufficient capacity.
 - 3. The residual impact to adjacent roadways and intersections should be minimized.
 - 4. Functional and alignment continuity between developments should be maintained.
 - 5. Adequately sized and paved off-street parking shall be a part of each development.

6. Pedestrian/bicycle routes shall be required in residential zoning districts, maintaining safe separation from vehicular movements.
 7. All industrial, highway oriented businesses, and high-density multifamily uses shall be provided principal access via an arterial.
 8. All neighborhood and general businesses and offices shall be provided principle access via an arterial or collector.
 9. All single-family and low density multi-family shall be provided principal access via a local road.
 10. Other factors being equal, the amount of pavement shall be minimized.
 11. Parking shall be separated from access drives.
 12. Delivery and loading areas shall be separated from customer/pedestrian areas.
 13. Pedestrian and vehicular movement areas shall be separated to the extent possible.
 14. The distance between parking areas and structures which they serve shall be minimized.
 15. Parking, when possible, shall be obscure from the roadway system; rather the structure and accompanying landscaping shall dominate the line of sight.
 16. Access roads shall align with other roadways to result in four-way intersections, rather than off-set.
 17. "T" or off-set intersections shall be discouraged, but if unavoidable, shall be a minimum of two hundred fifty (250) feet apart, measured at their centerlines.
 18. Roadways shall intersect with other at or near ninety (90) degrees.
 19. Developments, or phases of developments, shall not result in dead end streets.
 20. The number and length of cul-de-sacs shall be minimized, and in no case shall the length exceed six hundred (600) feet.
 21. Frontage roads paralleling arterials shall intersect with adjacent roadways a minimum of five hundred (500) feet from the arterial.
 22. One-way diagonal parking areas are preferable to two-way ninety (90) degree parking.
- j. Utilities:
1. The utilities servicing the development shall have sufficient current and potential capacity.
 2. The potential benefits of oversizing for future use shall be weighed against cost.

3. The development shall not have an adverse effect of the downstream stormwater outlet.
 4. The off-site utilities should be installed consistent with the capital improvements program.
 5. All developments shall result in a stormwater management system which stimulated the pre-developed condition, or better.
 6. Pond design and placement shall be regionalized when possible, but otherwise shall result in an aesthetically pleasing architectural amenity.
 7. Utility location shall result in maximizing maintenance access and avoiding backyard or side yard location.
 8. No large scale development shall occur which is reliant on individual septic systems.
 9. When developments are phased, each phase should be viewed as the last phase, and shall therefore not rely on any future phase in order to satisfy the provisions of this policy.
- k. Urban design principles:
1. The plan should be compatible as to form with neighboring developments.
 2. Each plan should become a part of a larger neighborhood, and therefore cannot be an island unto itself.
 3. Each plan should be well defined, and shall be large enough to avoid piecemeal approach.
 4. Improvements in the plan shall be adequately screened and buffered to minimize the ill effects to the surrounding development, and to provide identity definition to the development.
 5. Open space, trees and shrubs, fences, earth berms, or compatible transitional land uses may all serve as buffers.
 6. Adequate landscaping shall be placed around the perimeter of the site, near the buildings, and internal to any parking lot to minimize the ill effect of excessive paved areas.
 7. Unique natural features on a site shall be preserved.
 8. [Reserved.]
 9. Changes to the natural terrain shall be minimized, including stands of mature trees.
 10. Open space proposed by a developer shall be accessible, and where possible linked to an overall city-wide system.
 11. The development should result in a separation of residential areas from major noise-producing sources.
 12. Development shall be restricted on lands with steep slopes, wetlands, unstable soil, fill areas, or areas of unique vegetation.

1. Capital services:

1. The proposed development shall not pose an undue burden on the delivery of police or fire services.
2. If the development results in a significant increase for park, school, or public services, property dedicated for these purposes shall be required as a condition of development.
3. Appropriate right-of-way and easement dedications shall occur in order to provide necessary access for proper utility maintenance.
4. Streets internal to a development may be dedicated or private, depending on their design and function.

5. No application shall be accepted unless accompanied with all information, data, statistics and/or plats above stated or deemed necessary for an intelligent determination by the commission.

6. All site plans on larger than five (5) acres must be prepared and signed by either a registered professional engineer or land surveyor licensed within the State of Indiana.

7. All site plans for projects located in or adjacent to a flood plain or an area determined by the plan commission to be flood prone must be prepared and signed by either a registered professional engineer or land surveyor licensed within the State of Indiana. Such plans must specify information regarding "flood proofing."

(Ord. No. 2000-19, § 2, 8-25-2000)

Section H: Hearings.

1. Subject to the provisions of IC 36-7-4, public hearings shall be held on the adoption or amendment of any master plan, the adoption or amendment of a zoning ordinance, or the preliminary approval of a plat subdivision.

2. A petitioner who seeks to amend the zoning or other master plan element shall file such a petition in the office of the secretary and city clerk in the Municipal Building of the City of Lake Station, Indiana.

3. Such a petition must be filed with the secretary and the city clerk at least ten (10) days prior to the next regular meeting of the commission. Petitions filed too late to comply with this section shall be heard at the next succeeding regular meeting of the commission. However, the commission may waive the requirements of this section by a unanimous vote upon a showing that an emergency exists. The purpose of this section is to enable the members to examine and study the pending petition and to conduct any investigation deemed advisable.

4. All such petitions not initiated by the commission itself shall be accompanied by a filing fee of twenty-five dollars (\$25.00) to help defray the administrative and investigative expenses of the commission.

5. No petition shall be accepted by the secretary unless accompanied by and included with all information, data, statistics and/or plats which may be required by statute, ordinance and/or law and/or regulation.

6. If the commission determines that a petition is in good order with sufficient information, it will set a time and a place for holding a public hearing and announce same publicly.

7. *Publication of hearing notice.* The applicant or petitioner shall be responsible for the costs and expense of the advertised publication of required legal notices. Publication of notice of public hearings shall be in conformance with IC 5-3-1. Proof of such required advertised publications shall be made by publisher's affidavit tendered to the city clerk/treasurer's office prior to the public hearing.

8. A. *Methods of public notice.* At least twenty-one (21) days prior to the date of the public hearing, the applicant or petitioner shall post a sign on his property, which sign shall clearly indicate the relief or change sought by the applicant or petitioner, and the date, time, and place of the public hearing thereon. The applicant or petitioner shall be required to use a frame for the sign as provided by the city, and shall first deposit the sum of thirty dollars (\$30.00) as an additional fee and security deposit for the said sign frame. The sign shall be no smaller than twenty-two (22) inches by twenty-eight (28) inches, and shall be printed in letters and words prominently and conspicuously displayed to the end that neighbors, adjacent property owners, and passers-by are able to readily see and read it. The building commissioner shall designate the location and placement of such signs. The plan commission shall purchase the necessary materials for such signs, and shall make the same available for use to applicants and petitioners. At least one (1) sign shall be so posted every five hundred (500) feet of frontage, as that term is defined at Lake Station Code, Title II, Section B. When the sign frame is returned to the city in reasonably good condition, normal wear and tear excepted, the sum of twenty dollars (\$20.00) shall be refunded to the applicant or petitioner.

B. *Additional required notice.* In addition to any other requirement, the applicant or petitioner shall give notice of any public hearing requiring notification by one (1) or both of the following methods, to wit:

- (1) *By certified mail.* Deposit in the United States Mail, postage prepaid, by certified mail, return receipt requested, a written notice of the petition or application, no less than twenty-one (21) days prior to the date of the public hearing, addressed to each owner of record of real property whose real property abuts, or is adjacent to, or is contiguous to the subject property.
- (2) *By petition.* Circulate a petition to all owners of record of real property whose real property abuts, or is adjacent to, or is contiguous to the subject property. Such abutting, adjacent, or contiguous property shall include, without limitation, all property which abuts, is adjacent to, or is contiguous to any public street, road, or alley which abuts, is adjacent to, or is contiguous with the subject property. The term "subject property" shall mean and refer to the property described in the petition or application seeking a zone map change, variance, special use, and

special exception before the advisory plan commission or the advisory board of zoning appeals; provided, however, that if the applicant shall be the owner of record of property abutting, adjacent to, or contiguous to the subject property, then, for purposes of giving notice, the subject property shall include all property owned by the applicant or petitioner which abuts, is adjacent to, or is contiguous to the subject property. The term, "owner" shall mean and refer to ownership in fee simple, jointly, by the entireties, in common, equitable interest in a trust, or purchase interest in a land contract. Such petition must be in a form approved by the city legal department, and shall be notarized, among other things.

- C. *Notification of surrounding property owners.* Along with any and all other requirements, each applicant or petitioner shall submit to the secretary of the plan commission, at any time prior to the public hearing on the petition or application, a list of all owners of record of real property whose real property abuts, or is adjacent to, or is contiguous to the subject property. Said list shall contain the names and addresses of all such owners of real property who are the last grantees of record thereof, as indicated in the records of the Lake County Auditor, and said list shall be certified as accurate to a date no earlier than thirty (30) days prior to the date of filing of said application or petition. Such certification shall be made, at the election and expense of

the applicant or petitioner, by the Lake County Auditor, or by any bona fide land title insurance company with a business office located in Lake County, Indiana. Such certification shall appear on the official letterhead of the public agency or land title insurance company rendering the same.

(Ord. No. 99-11, §§ 1, 2, 10-7-99)

Section I: Agenda.

1. Each such case to be presented before the commission shall be filed in proper form with the required data, shall be numbered serially, and placed on the docket of the commission. The docket numbers shall include the year and begin anew January 1st of each year.

2. As soon as the case receives a docket number, it shall be placed upon the agenda of the commission and a date set for preliminary hearing.

3. Cases shall come before the commission in the regular order of their consecutive numbers unless otherwise ordered by the commission, or hereinafter otherwise provided.

4. Those cases which, in the discretion of the commission, seek what is known as "spot zoning," shall be placed last on the agenda of commission meetings and, if more than one (1) such petition shall be scheduled for hearing at one (1) meeting, such petitions shall be grouped last on the agenda and heard by the commission in numerical order.

5. For determination of whether or not a petition shall be subject to the provision of section 4 of this Article, "spot zoning" is hereby defined as "the zoning or attempted rezoning" of any property by the reclassification thereof in a new zoning district where the specific property involved does not abut on at least one (1) side of another piece of property of exactly the same class, as determined by classification letters and numbers of the Zoning Ordinance.

Section J: Conduct of hearings.

1. At a public hearing before the commission, the petitioner shall first present the facts and arguments in support of the case and those whom oppose. The petition shall follow. To maintain orderly procedure, each side shall proceed without interruption by the other. Each speaker shall address the chair and be recognized before speaking.

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

3. 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.

4. The commission, at its discretion, may continue or postpone the hearings of any case upon an affirmative vote of a majority of the members present at said hearing.

5. All petitioners must bear the burden of proving one (1) or more of the following points to the satisfaction of a majority of the commission:

- a. That there was an error in the original zoning of the property when the ordinance was adopted.
- b. That the character of the area under consideration has changed, either through technological advances or developmental changes.
- c. That a change of zone will not be injurious or detrimental to surrounding property values.
- d. That, if the changes were granted, it would promote orderly community growth.

6. Upon having satisfied itself that the petitioner has met the requirements of section five (5) above, the commission shall then consider the following factors:

- a. That the proposed change will not adversely affect the community.
- b. That the comprehensive plan will not be disrupted or destroyed.
- c. That the land involved is suitable for the proposed zone change.
- d. That the topography is suitable for the proposed land use without adverse affect upon the surrounding land.
- e. That the land values of adjacent property would be increased.
- f. For purposes of this Article or any other article of these rules, "unanimous vote" or "unanimous vote of the commission" shall mean the unanimous vote of the members present at a regular or properly called special meeting of the plan commission.

Section K: Final disposition of cases.

1. The final disposition of any case shall be in the form of an order setting forth the findings and determinations of the commission, together with any modification, specification which it makes.

2. The commission may dismiss a case for want of prosecution and shall dismiss for lack of jurisdiction

3. A petitioner may not withdraw a case after a roll call vote has been ordered by the president.

4. A case which has been withdrawn by the petitioner shall not be again placed on the docket within a period of six (6) months after the date of withdrawal.

5. A case which has been decided adversely to the petitioner shall not be again placed upon the docket for consideration until one (1) year after the date of decision previously rendered, except upon the unanimous vote of those members present at a regular or properly called special meeting of the commission.

Section L: Amendments.

1. 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.
2. The suspension of any rule of the commission may be ordered at any meeting by a unanimous vote.

Section M: Possible action on petition after leaving plan commission.

1. If an ordinance or amendment is passed with a favorable recommendation by the plan commission, it will only take simple majority vote by the city council to pass or defeat the ordinance or amendment. The city council has one hundred twenty (120) days in which to act. If the council defeats or amends the ordinance, it must be returned to the plan commission for its reconsideration, with a written statement of the reason for its rejection or amendment. The plan commission has forty-five (45) days in which to consider the rejection or amendment and report to the city council. If the plan commission does not accept the rejection or amendment by the council, they can reaffirm their original recommendations and send it back to the council.
2. To finally defeat the ordinance or amendment, it requires a two-thirds ($\frac{2}{3}$) vote by the city council.

