

ARTICLE 20. HISTORIC PRESERVATION REVIEW BOARD

Rule 1. Application and Administration

312 IAC 20-1-1 Applicability of review board article

Authority: IC 14-21-1-31

Affected: IC 14-9; IC 14-21-1

Sec. 1. This article governs the functions of the review board. (*Natural Resources Commission; 312 IAC 20-1-1; filed Jun 21, 2001, 3:06 p.m.: 24 IR 3399; readopted filed May 29, 2007, 9:45 a.m.: 20070613-IR-312070140RFA*)

312 IAC 20-1-2 Agency determinations and administrative review

Authority: IC 14-21-1-31

Affected: IC 4-21.5; IC 14-9; IC 14-21-1

Sec. 2. (a) Unless otherwise specified in this title, the review board (or a delegate of the review board) makes the initial determination for any license, sanction, or other order that is subject to IC 4-21.5.

(b) The mailing address for the review board is the division of historic preservation and archaeology. The address for the division is as follows:

Division of Historic Preservation and Archaeology
Department of Natural Resources
Indiana Government Center-South
402 West Washington Street, Room W274
Indianapolis, Indiana 46204.

(c) The commission is the ultimate authority under this article. A request to the commission for administrative review of an initial determination under subsection (b) must be addressed as follows:

Division of Hearings
Natural Resources Commission
Indiana Government Center-South
402 West Washington Street, Room W272
Indianapolis, Indiana 46204.

(*Natural Resources Commission; 312 IAC 20-1-2; filed Jun 21, 2001, 3:06 p.m.: 24 IR 3399; readopted filed May 29, 2007, 9:45 a.m.: 20070613-IR-312070140RFA*)

Rule 2. Definitions

312 IAC 20-2-1 Applicability

Authority: IC 14-21-1-31

Affected: IC 14-9; IC 14-21-1

Sec. 1. The definitions in this rule are in addition to those in IC 14 and 312 IAC 1 and apply throughout this article. (*Natural Resources Commission; 312 IAC 20-2-1; filed Jun 21, 2001, 3:06 p.m.: 24 IR 3399; readopted filed May 29, 2007, 9:45 a.m.: 20070613-IR-312070140RFA*)

312 IAC 20-2-1.7 "Certificate" defined

Authority: IC 14-21-1-31

Affected: IC 14-9; IC 14-21-1-18

Sec. 1.7. "Certificate" refers to a certificate of approval under IC 14-21-1-18. (*Natural Resources Commission; 312 IAC 20-2-1.7; filed Sep 18, 2003, 5:30 p.m.: 27 IR 454, eff Dec 1, 2003; readopted filed May 29, 2007, 9:45 a.m.: 20070613-IR-312070140RFA*)

312 IAC 20-2-2 "Chair" defined

Authority: IC 14-21-1-31

Affected: IC 14-9-1-1; IC 14-9-4-1; IC 14-21-1

Sec. 2. "Chair" means the chair of the review board. *(Natural Resources Commission; 312 IAC 20-2-2; filed Jun 21, 2001, 3:06 p.m.: 24 IR 3399; readopted filed May 29, 2007, 9:45 a.m.: 20070613-IR-312070140RFA)*

312 IAC 20-2-3 "Division" defined

Authority: IC 14-21-1-31

Affected: IC 14-9-1-1; IC 14-9-4-1

Sec. 3. "Division" refers to the division of historic preservation and archaeology established by IC 14-21-1-6 *[IC 14-21-1-6 was repealed by P.L.85-2008, SECTION 6, effective July 1, 2008.]*. *(Natural Resources Commission; 312 IAC 20-2-3; filed Jun 21, 2001, 3:06 p.m.: 24 IR 3399; readopted filed May 29, 2007, 9:45 a.m.: 20070613-IR-312070140RFA)*

312 IAC 20-2-4 "Division director" defined

Authority: IC 14-21-1-31

Affected: IC 14-9-1-1; IC 14-9-4-1; IC 14-21

Sec. 4. "Division director" means the director of the division. *(Natural Resources Commission; 312 IAC 20-2-4; filed Jun 21, 2001, 3:06 p.m.: 24 IR 3399; readopted filed May 29, 2007, 9:45 a.m.: 20070613-IR-312070140RFA)*

312 IAC 20-2-4.3 "Indiana register" defined

Authority: IC 14-21-1-31

Affected: IC 14-9; IC 14-21-1-9

Sec. 4.3. "Indiana register" means the Indiana register of historic sites and historic structures established under IC 14-21-1-9. *(Natural Resources Commission; 312 IAC 20-2-4.3; filed Sep 18, 2003, 5:30 p.m.: 27 IR 454, eff Dec 1, 2003; readopted filed May 29, 2007, 9:45 a.m.: 20070613-IR-312070140RFA)*

312 IAC 20-2-4.7 "National Register" defined

Authority: IC 14-21-1-31

Affected: IC 14-9; IC 14-21-1-15

Sec. 4.7. "National Register" means the National Register of Historic Places established under 16 U.S.C. 470 et seq. and identified at IC 14-21-1-15. *(Natural Resources Commission; 312 IAC 20-2-4.7; filed Sep 18, 2003, 5:30 p.m.: 27 IR 454, eff Dec 1, 2003; readopted filed May 29, 2007, 9:45 a.m.: 20070613-IR-312070140RFA)*

312 IAC 20-2-5 "Review board" defined

Authority: IC 14-21-1-31

Affected: IC 14-9-1-1; IC 14-9-4-1; IC 14-21-1

Sec. 5. "Review board" means the historic preservation review board as established by IC 14-21-1. *(Natural Resources Commission; 312 IAC 20-2-5; filed Jun 21, 2001, 3:06 p.m.: 24 IR 3399; readopted filed May 29, 2007, 9:45 a.m.: 20070613-IR-312070140RFA)*

312 IAC 20-2-6 "State historic preservation officer" or "SHPO" defined

Authority: IC 14-21-1-31

Affected: IC 14-9-1-1; IC 14-9-4-1; IC 14-21-1

Sec. 6. "State historic preservation officer" or "SHPO" means the director of the department. *(Natural Resources Commission;*

312 IAC 20-2-6; filed Jun 21, 2001, 3:06 p.m.: 24 IR 3400; readopted filed May 29, 2007, 9:45 a.m.: 20070613-IR-312070140RFA)

Rule 3. Membership and Meetings

312 IAC 20-3-1 Membership

Authority: IC 14-21-1-31

Affected: IC 14-21-1-20

Sec. 1. (a) The review board shall be appointed as provided in IC 14-21-1-20.

(b) If a vacancy occurs in the review board, the SHPO shall appoint a successor to serve for the remainder of the vacated term.

(c) At the end of the term of a member, the SHPO may reappoint the person whose term has expired or appoint a new member of a full three (3) year term.

(d) The staggered terms established under 310 IAC 10-1-3, before its repeal, shall continue in the same sequence under this section. (*Natural Resources Commission; 312 IAC 20-3-1; filed Jun 21, 2001, 3:06 p.m.: 24 IR 3400; readopted filed May 29, 2007, 9:45 a.m.: 20070613-IR-312070140RFA*)

312 IAC 20-3-2 Officers

Authority: IC 14-21-1-31

Affected: IC 14-21-1

Sec. 2. (a) The state historic preservation officer is the chair of the review board.

(b) The review board shall elect officers, other than the chair, from the membership of the review board during the first meeting of a calendar year. The descriptions and designations of these officers are as determined by the review board. (*Natural Resources Commission; 312 IAC 20-3-2; filed Jun 21, 2001, 3:06 p.m.: 24 IR 3400; readopted filed May 29, 2007, 9:45 a.m.: 20070613-IR-312070140RFA*)

312 IAC 20-3-3 Submission of application before review board meeting

Authority: IC 14-21-1-31

Affected: IC 14-9; IC 14-21-1

Sec. 3. (a) A person who seeks a certificate must file a completed application, on a division form, at least forty (40) days before the meeting of the review board during which the application is to be considered.

(b) The completed application and any analysis and recommendations by the division shall be mailed to members of the review board at least five (5) working days before the meeting. (*Natural Resources Commission; 312 IAC 20-3-3; filed Sep 18, 2003, 5:30 p.m.: 27 IR 454, eff Dec 1, 2003; readopted filed May 29, 2007, 9:45 a.m.: 20070613-IR-312070140RFA*)

Rule 4. (Reserved)

Rule 5. Indiana Register

312 IAC 20-5-1 Applicability of rule for Indiana register of historic sites and structures

Authority: IC 14-21-1-31

Affected: IC 14-9; IC 14-21-1-9

Sec. 1. This rule governs matters pertaining to the register of Indiana historic sites and historic structures established under IC 14-21-1-9. (*Natural Resources Commission; 312 IAC 20-5-1; filed Sep 19, 2003, 8:17 a.m.: 27 IR 452; readopted filed May 29, 2007, 9:45 a.m.: 20070613-IR-312070140RFA*)

312 IAC 20-5-2 Criteria for eligibility on the register

Authority: IC 14-21-1-31

Affected: IC 14-9; IC 14-21-1

Sec. 2. A site, district, building, structure, or object is eligible for inclusion in the Indiana register if it does each of the following:

- (1) Possesses local, state, or national significance in Indiana history, architecture, archaeology, engineering, or culture.
- (2) Demonstrates sufficient integrity of location, setting, design, workmanship, and materials. Feeling and association are factors that may be considered.
- (3) Satisfies at least one (1) of the following:
 - (A) Is associated with events who have made a significant contribution to national, state, or local history.
 - (B) Is associated with individuals who have made significant contribution to the nation, state, or local community.
 - (C) Embodies distinctive characteristics of a type, period, or method of construction.
 - (D) Represents the work of a master.
 - (E) Possesses high artistic values.
 - (F) Has yielded, or will likely yield, information important in the archaeological knowledge of the prehistory or history of the state or nation.

(Natural Resources Commission; 312 IAC 20-5-2; filed Sep 19, 2003, 8:17 a.m.: 27 IR 452; readopted filed May 29, 2007, 9:45 a.m.: 20070613-IR-312070140RFA)

312 IAC 20-5-3 Eligibility exemptions

Authority: IC 14-21-1-31

Affected: IC 14-9; IC 14-21-1

Sec. 3. (a) Except as provided in subsection (b), a structure or site cannot be included in the Indiana register if the structure is any of the following:

- (1) Moved from its original location.
- (2) A reconstructed historic building.
- (3) Primarily commemorative in nature.
- (4) An archaeological site where the contextual integrity is significantly altered.
- (5) A structure or site where the significance was achieved within the past fifty (50) years.
- (b) A structure or site otherwise disqualified under subsection (a) may be included in the Indiana register if it is either of the following:

- (1) An integral part of a district that meets the criteria described in section 2 of this rule.
- (2) Falls into at least one (1) of the following categories:
 - (A) A building or structure removed from its original location but that is a rare surviving resource associated with an historical person or event.
 - (B) A reconstructed building that is accurately executed in a suitable environment and presented in a dignified manner.
 - (C) A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own historical significance.
 - (D) A property that has achieved significance within the past fifty (50) years if it is of exceptional significance in the historic, architectural, archaeological, or cultural development of the state or nation.
 - (E) An archaeological site where the contextual integrity has been altered by natural forces or human activity but which may yield pertinent or quality cultural, biological, fauna, and floral data regarding cultural patterns, processes, or activities significant in our past.

(Natural Resources Commission; 312 IAC 20-5-3; filed Sep 19, 2003, 8:17 a.m.: 27 IR 453; readopted filed May 29, 2007, 9:45 a.m.: 20070613-IR-312070140RFA)

312 IAC 20-5-4 Listing and removal of properties from the Indiana register

Authority: IC 14-21-1-31

Affected: IC 4-21.5; IC 14-9; IC 14-21-1-17

Sec. 4. (a) Additions and removals from the Indiana register are governed by IC 14-21-1-17, 312 IAC 2-3-1, and this section.

(b) The Indiana register includes any site listed by the board:

- (1) on the effective date of this rule; or

(2) under this section.

(c) A property included on the National Register after the effective date of this rule is also automatically listed on the Indiana register unless:

(1) the board or division otherwise specifies; or

(2) the listing is made unilaterally by the federal government without approval by the board.

(d) This subsection governs petitions to list a property on the Indiana register, including the following:

(1) A person may, in writing, petition the division to list a site on the Indiana register. The petition must include adequate photographic and written documentation to support listing, including the significance of the property and its current physical condition.

(2) If the division determines the property meets the minimum criteria for listing, the division will issue a letter to indicate the property is being considered for listing and providing at least thirty (30) days for comment or objections to the following persons:

(A) The property owner.

(B) The chief elected official.

(C) The board of county commissioners.

(D) Any other person who requests notification.

(3) If an objection is not received within the comment period, without intervention of the board, the division shall list the property on the Indiana register and notify the persons described in subdivision (2).

(4) If timely objections are received, a designated member or members of the board will conduct a hearing under 312 IAC 2-3-1 to consider the objections. The board shall consider the recommendations of any hearing officer before determining whether to list the property.

(e) A property may be removed from the Indiana register if it either:

(1) ceases to demonstrate the characteristics that originally made the property eligible for the Indiana register; or

(2) was listed as a result of a procedural error during the listing process.

(f) Administrative review of a determination under subsection (b) is governed by IC 4-21.5 and 312 IAC 3-1. (*Natural Resources Commission; 312 IAC 20-5-4; filed Sep 19, 2003, 8:17 a.m.: 27 IR 453; readopted filed May 29, 2007, 9:45 a.m.: 20070613-IR-312070140RFA*)

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