

Area Planning Commission By-Laws

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Randolph County APC

Article I – Objectives

The objectives, purposes, powers and duties of the Area Plan Commission of Randolph County are those as set forth in Title 36, Article 7 of the Indiana Code and all amendments thereto.

Article II - Officers and Their Duties

Section 1. Officers:

The officers of the Area Plan Commission shall consist of a President, Vice President, and Secretary.

Section 2. President:

The President shall preside at all meetings and hearings of the Plan Commission. The President shall have the privilege of discussing all matters before the Commission and of voting thereon. The President shall sign all claims for monies for the Plan Commission or its employees, shall sign all preliminary plats and final plats which have been approved by the Area Plan Commission under the subdivision ordinance of Randolph County, Indiana, shall sign all minutes of the Area Plan Commission which have been approved by the Area Plan Commission and shall sign all recommendations made by the Area Plan Commission to legislative bodies on amendments to the Unified Zoning Ordinance of Randolph County, Indiana.

Section 3. Vice-President:

The Vice-President shall perform all duties of the President in the President's absence.

Section 4. Secretary:

The Secretary shall sign all claims for monies for the Area Plan Commission or its employees in the absence of the President and Vice-President, and the Secretary shall attest to the signature of the President and/or Vice-President on any minutes of the Area Plan Commission which have been approved by the Area Plan Commission, on any preliminary plats or final plats which have been approved by the Area Plan Commission under the subdivision ordinance of Randolph County and on any recommendations made by the Area Plan Commission to the legislative bodies on amendments to the Unified Zoning Ordinance of Randolph County, Indiana.

Article III – Election of Officers

Section 1. Nominations:

At its first regular meeting in each year, the membership of the Area Plan Commission shall make nominations for the offices of President, Vice-President, and Secretary. The person so nominated shall be from the membership of the Area Plan Commission.

Section 2. Voting:

A candidate receiving a majority vote of the entire membership of the Area Plan Commission shall be declared elected and shall serve for one year.

Section 3. Vacancies:

Vacancies in offices shall be filled at a regular meeting or specially called meeting by regular election procedure.

Article IV – MeetingsSection 1. Regular Meetings:

Shall be amended and shall now read as follows:

Regular Meetings of the Area Planning Commission, as are necessary, will be held as follows:

January through November: The regular meeting will be scheduled on the Wednesday following the third Monday of the month.

December: There will not be a regular meeting scheduled for the month of December.

It is the intent of the Area Planning Commission that the regular meeting be scheduled on the Wednesday following the regularly scheduled meeting of the Board of Zoning Appeals.

The meeting will be conducted at the Commissioner's Room on the 2nd Floor of the Randolph County Family Center of Opportunity, 325 S. Oak St., Winchester, Indiana 47394.

(This amendment shall become effective as of the 1st day of January, 2018).

Section 2. Special Meetings:

Special meetings of the Plan Commission may be called by the President or by two 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 of a special meeting is not required if:

- A) The date, time and place of a special meeting are fixed in a regular meeting; and
- B) All members of the Commission are present at that regular meeting.

Section 3. Public Meetings and Executive Sessions:

All meetings of the Area Plan Commission will comply with IC 5-14-1.5-1 through IC 5-14-1.5-7 and notice of the meeting shall comply with these statutes as well as IC 5-3-1-1 through IC 5-3-1-9. Executive sessions of the Area Plan Commission shall be held pursuant to IC 5-14-1.5-6.

Section 4. Action of the Plan Commission:

Any action of the Area Plan Commission is not official, unless it is authorized, at a regular or special meeting, by a majority of the entire membership of the Area Plan Commission.

Section 5. Notice to surrounding Property Owners:

In addition to required statutory notice, notice shall be given to all property owners within a 250 foot radius of the boundary lines of any property upon which the Area Plan Commission is being asked to recommend to the respective legislative body to rezone or upon any application which falls under the subdivision ordinance of Randolph County, Indiana. Such notice to said surrounding property owners shall be given by certified mail, return receipt requested, at least ten days prior to the meeting upon which such application will be heard by the Area Plan Commission. All costs of giving notice, either statutory or otherwise, shall be incurred by the applicant.

Section 6. Order of Business:

The order of business at the meetings of the Area Plan Commission shall be:

- A) Call to order
- B) Approval of minutes of prior meeting
- C) New business
- D) Old business
- E) Communication, bills, and expenditures
- F) Report of officers, committees, and the staff
- G) Citizen comments
- H) Adjournment

Section 7. Conduct of Hearings:

1. All written exhibits and other physical evidence shall be filed with the Office of the Randolph County Area Planning at least (7) days prior to the scheduled hearing. Any documents, maps or other written or physical evidence which is not filed at least seven (7) days prior to the scheduled hearing may only be presented at the hearing, and considered by the Board, upon a Motion to Consider the same by a Board member, made at the hearing, a proper second of the Motion, and an affirmative vote of at least seven (7) members of the Board which are present at the hearing. The term "written exhibits" shall include the following:
 - A) written letters of support to be presented to the Board for consideration;
 - B) demonstrative exhibits;
 - C) written testimony from experts, including appraisers;
 - D) research materials (with citation of source.); and
 - E) any slides or other visual aids.
2. At a public hearing before the Area Planning Commission for a proposed action, including an amendment to the zoning map or text of the Unified Zoning Ordinance, or any hearing under the Randolph County Subdivision Ordinance, the hearing shall be conducted as follows:
 - A) The Executive Director, or President, shall provide a summary of the proposed action or other matter to come before the Commission for hearing. In addition, the Executive Director, or President, shall inquire as to (1) whether each member has received a copy of Article VII, pertaining to a conflict of interest, and (2) whether any member should be disqualified due to a conflict of interest. In the event of a disqualification, the Presiding Officer shall follow the rules of procedure as set out in Article VII.
 - B) The Petitioner(s), or proponent of the proposed action, shall come forward, sit at the table, which is equipped to audibly record the testimony, and state the name and address of each Petitioner. The Petitioner(s) shall present the facts and arguments in support of the proposed action. This may include the following:
 - i. oral argument and testimony from the Petitioner(s);

- ii. oral testimony from any witness in support of the proposed action;
 - iii. A summary of information contained on written exhibits, if timely filed.
- C) The Petitioner(s) shall have a maximum of fifteen (15) minutes to present the case in favor of the Petition or other proposed action.
- D) The members of the Board may ask questions of the Petitioner(s) at the conclusion of the Petitioner(s) presentation.
- E) The members of the audience may not ask questions directly of the Petitioner(s) during the initial presentation of the Petitioner(s). In order to maintain orderly procedure, the Petitioner(s) shall proceed without interruption by the audience members.
- F) At the conclusion of the Petitioner(s) presentation, the Petitioner(s) shall leave the recording table and return to a seat in the audience.
- G) When the Petitioner(s) has returned to a seat in the audience, the chairman shall ask if any member of the audience would like to speak in opposition to the proposed amendment or other proposed action.
- H) Any person who would like speak in opposition to the proposed amendment, upon recognition from the Chairman, should come forward to the recording table, sit down and state their name and address. Each person who speaks in opposition to the proposed action shall have a maximum of three (3) minutes to speak. Any person who speaks in opposition to the pending proposed amendment may present the following: oral argument and testimony.
- I) Any person who appears in opposition to the proposed action shall file any written objection or any other "written exhibit" with the Randolph County Area Planning Office at least Seven (7) days prior to the scheduled hearing, including the following:
 - i. written letters in opposition to the proposed action;
 - ii. demonstrative exhibits, including maps;
 - iii. oral or written testimony from experts, including appraisers; and
 - iv. relevant research (with citation of the source).

Any documents, maps or other written or physical evidence which is not filed at least seven (7) days prior to the scheduled hearing may only be presented at the hearing, and considered by the Board, upon a Motion to Consider the same by a Board member which is made at the hearing, a proper second of the Motion, and an affirmative vote of at least Four (4) members of the Board which are present at the hearing.
- J) Each person who speaks in opposition to the proposed action shall return to his or her seat following the presentation.
- K) Upon the conclusion of citizen comments in opposition to the proposed action, the Petitioner(s) shall return to the table with recording capability. The Petitioner(s) may have a maximum time period of Five (5) minutes to present testimony or evidence as rebuttal to statements and/or evidence presented in opposition to the proposed action.
- L) At the conclusion of the Petitioner's presentation, the Members of the Area Planning Commission may ask questions of the Petitioner and have discussion regarding the proposed action. In addition, the members of the Area Planning Commission may recall any person to the presentation table and ask questions directly of the person. Upon the conclusion, each person shall return to a seat in the audience.
- M) Following the presentation of the Petition or other proposed action, any member of the Area Planning Commission may make a motion for a roll call, and, upon a proper second, the membership shall vote on whether to proceed to a vote. Upon the affirmative vote of at least Seven (7) members, a roll call vote shall be taken. The name of each member, eligible to vote on the proposed action, shall be read aloud by the Recording secretary. In the event that the proposed action is a favorable recommendation, the Commission shall first take a roll call vote on a favorable recommendation. If the proposed action receives a positive vote of at least seven (7) votes, the proposed action shall be certified with a favorable recommendation. If the vote does not receive a positive vote from a majority of the full membership, the Chairman

shall proceed to call for a vote on an unfavorable recommendation. If at least seven members vote in favor of the unfavorable recommendation, the proposed action shall be certified with an unfavorable recommendation. If the vote for an unfavorable recommendation does not receive a positive vote from a majority of the full membership, the proposed action shall be certified with no recommendation.

- N) No person shall, under any circumstances, be permitted to make any inquiries into the personal life of any board member during a public hearing.
- 3. Every person appearing before the Board shall abide by the order and directions of the Chairman. Discourtesy, disorderly or contemptuous behavior will not be permitted and may result in expulsion from the hearing.
- 4. A copy of Article IV. Section 7. Conduct of Hearing shall be distributed with each APC information packet to each Petitioner.
- 5. The Board, at its discretion, may continue or postpone the hearing of any case on an affirmative vote of a majority of the members present.
- 6. The maximum time period for any meeting shall be Ninety (90) minutes. Therefore, in the event that the meeting has been convened for Ninety (90) minutes, and all business has not been completed, all unfinished business shall be continued to the next regular meeting of the Area Planning Commission, subject to the following: Upon the expiration of the Ninety (90) minute time limit, upon an affirmative vote of a majority of the members present at the meeting, the Board may suspend the rules and extend the meeting beyond the Ninety (90) minute maximum time limit.
- 7. In as much as the deliberations, opinions and findings of the Board in all matters which may come before it for action are similar to that of a Court, and the minds of its members should be unbiased and free to act upon the evidence and arguments submitted to the Board for consideration at the hearing. No member of the Board shall hold conversation with any person, except a person connected with the Board in an official capacity, concerning the merits of any matter pending before it, at any time before final action thereon, except in open meetings of said Board and shall so advise any person attempting to engage in such conversation.

Section 8. Applicant Representation:

The applicant may present his application in person or by counsel and any one opposing said application may present their case in person or by counsel.

Section 9. Continuance:

For a good cause shown, and upon a majority vote of the entire membership of the Area Plan Commission, any hearing may be continued to the next regular meeting date of the Area Plan Commission.

Section 10. Failure to Appear:

In the event that the Petitioner does not appear at the scheduled time and place for hearing on the Petitioner's petition, the Area Plan Commission shall consider said petition be withdrawn.

Article V – Committees

The Area Plan Commission may establish such committees, the size thereof, and the length of terms of committee members for the purposes which the Commission deems necessary. The President shall appoint the membership of the committee from the membership of the Area Plan Commission or from such citizens living within the jurisdictional area of the Commission who are interested in planning and zoning. Vacancies upon the committee shall be immediately filled by the President of the Area Plan Commission, or in his absence, the Vice-President.

Article VI – Employees

Section 1. Executive Director:

The Executive Director of the Area Plan Commission is hereby given the authority to appoint, subject to the approval of the Commission, a recording secretary for the Area Plan Commission, said recording secretary to be an employee of the Area Plan Commission. The recording secretary shall have the following responsibilities:

- A) Preparation of the minutes for all meetings of the Area Plan Commission
- B) Preparation of the agenda of all meetings of the Area Plan Commission
- C) Providing notice of all meetings of the Area Plan Commission to its members
- D) Insuring that all statutory notice requirements of the meetings of the Area Plan Commission have been met

The individual hired as recording secretary shall have adequate typing abilities and be a responsible individual. A recording secretary shall be appointed without regard to political affiliation.

Section 2. Other Employees:

The Executive Director of the Area Plan Commission, prior to the appointing of any employees for the Planning Department shall first consult with the Area Plan Commission in order that the Area Plan Commission may prescribe the qualifications of and fix the compensation of said employees.

Section 3. Removal of Employees:

Prior to the removal of any employees of the Planning Department, the Executive Director shall consult with the Area Plan Commission.

Article VII – Conflict of Interest

Section 1. Direct or Indirect Financial Interest:

A member of the Plan Commission may not participate in a hearing or decision of the Commission concerning a zoning matter in which such member has a direct or indirect financial interest. The Commission shall enter in its records the fact that its member has such a disqualification.

Section 2. Exparte Communication:

A member of the Area Plan Commission shall not discuss any zoning matter which may come before the Area Plan Commission with the general public except for other members of the Area Plan Commission and the Area Plan Commission employees.

Article VIII – Vacation of Plats - Hearing Procedure and Notices

Section 1. Hearing:

Whenever the owner(s) of land in a platted subdivision files with the Area Plan Commission, a petition to vacate all or part of a plat pertaining to the land owned by said owner(s), the Executive Director of the Area Plan Commission shall within thirty (30) days of filing said petition, assign a date for hearing of such petition, which date shall be at least thirty (30) days after the date of filing of such petition, but not more than sixty (60) days after such filing. Petitioner(s) must be the owner of the lot or lots for which vacation is sought. No partial lot may be vacated. The hearing shall be assigned for either a regular meeting or special meeting of the Area Plan Commission, and for this purpose, the Executive Director of the Area Plan Commission shall be authorized to call a special meeting. After the Executive Director has assigned a date for hearing on a petition to vacate a plat or part thereof, the Executive Director shall

- A) Notify the petitioner in writing of the date
- B) Inform the petitioner of the requirements and provisions for notice, as hereinafter provided, to plat owners and interested parties. Delivery of a copy of *Article VIII* of the Bylaws of the Area Plan Commission to the petitioner or his representative shall be deemed compliance with this provision
- C) Give notice of the hearing by publication in accordance with IC 5-3-1

Section 2. Petition-Contents; Exhibits/Filings and Costs:

- A) Petition-Contents: A petition to vacate a platted subdivision or part thereof shall be filed in duplicate and shall include the following, to-wit (that is to say):
 - 1. The reasons for and circumstances prompting the request;
 - 2. Specifically describe the property in the plat proposed to be vacated;
 - 3. The name and address of each owner of land in the plat;
 - 4. Any request of petitioner to vacate any recorded covenants or commitments filed as part of the plat. For purposes of this provision, petitioner shall be deemed to have complied if a copy of the recorded covenants or commitments as the same appear of record in the Office of the Randolph County Recorder and which petitioner seeks to be vacated is attached as an exhibit to the petition; and petitioner, by reference, states in his petition which covenants or commitments are sought to be vacated.
- B) Exhibits/Filings: Petitioner shall attach as an exhibit to its petition copies of a previously recorded final plat indicating the area petitioned for vacation and all covenants and commitments to which the land included in the petition is subject as the date of filing of the petition. Petition shall designate those covenants and commitments which are sought to be vacated as hereinbefore provided. Petitioner shall furnish on the date of filing two (2) notices of public hearing. Additionally, at the time of filing, petitioner or his counsel shall sign two newspaper release forms. Release forms shall be furnished by the Area Plan Commission.
- C) Costs: A fee of ten dollars (\$10.00) plus fifty (\$.50) cents for each lot sought subject to the petition. These costs shall be paid on date of filing.

Section 3. Notice to Owners in Platted Subdivision:

Petitioner shall, by certified United States mail, return receipt requested, give written notice of the request to all owners of real estate in the subdivision in which petitioner is requesting any vacation of a lot. Said notice shall be forwarded at least ten (10) days prior to the date set for the hearing. Said notice shall set forth and state the following, to-wit:

- A) The date and time of hearing;
- B) The location of the hearing;
- C) That owners of land in such subdivision shall have an opportunity to comment in favor of, or in opposition to, the petition;
- D) If such petition includes a request to vacate covenants or commitments, the specific wording of the covenants or commitments to be vacated shall be set forth. Petitioner shall be deemed to have complied with this provision, if a copy of the recorded covenants or commitments as the same appear of record in the Office of the Randolph County Recorder and which petitioner seeks to be vacated is attached as an exhibit to such notice; and, petitioner, by reference, states in such notice which covenants or commitments are sought to be vacated; and
- E) The matters to be determined by the Area Plan Commission as stated in IC 36-7-3-11(e) as the same now provides, or as is hereinafter amended. Petitioner shall be deemed to have complied with this provision by setting forth verbatim IC 36-7-3-11(e) in such notice.

Section 4. Notice to Interested Parties:

Petitioner shall give written notice of his request to all land owners within a two hundred fifty (250) foot radius of any boundary line of the lot or lots subject to petitioner's petition to vacate. That said notice provided herein shall be forwarded by certified United States mail, return receipt requested, at least ten (10) days prior to the date set for the hearing, to each owner of land who is entitled to notice under this Section. Such notice shall be the same as set forth in *Section 3 of this Article VIII*.

Section 5. Costs:

All costs and expenses of giving notice, statutory, by this Article or otherwise, shall be paid by the petitioner(s).

Section 6. Hearings:

The hearing on any petition for vacation of plat shall be conducted in the following manner, to-wit:

- A) Summary of the petition by the Area Plan Commission President or its Executive Director
- B) Statement of petitioner
- C) Statement of any owner of land in the plat in favor of the petition to vacate
- D) Questions by the members of the Area Plan Commission
- E) Statement of opposition
- F) Statement of any owner of land in the plat objecting to the petition
- G) Questions by the members of the Area Plan Commission
- H) Rebuttal by petitioner
- I) Rebuttal by opposition
- J) Questions by the members of the Area Plan Commission

Section 7. Petitioner Representation:

Petitioner may present his petition in person or by counsel; and, any owner in favor of, or in opposition to, said petition may present his case in person or by counsel; and, any interested party may present his case in person or by counsel.

Section 8: Right to Speak:

Any person attending a hearing before the Area Plan Commission shall be given the opportunity to be heard subject to the above order of presentation.

Section 9. Continuance:

For good cause, and upon a majority vote of the entire membership of the Area Plan Commission, any hearing on a petition to vacate a plat may be continued to the next regular meeting date of the Area Plan Commission; or, such earlier time as may be set by a special meeting of the Area Plan Commission as provided *by Article IV, Section 2* of these bylaws.

Section 10. Failure to Appear:

In the event that petitioner does not appear at the scheduled time and place for hearing on his petition, the Area Plan Commission may, upon a majority vote thereof, consider said petition withdrawn, or, may continue the same to the next regular meeting date of the Area Plan Commission.

Section 11. Approval; Denial; Review:

The Area Plan Commission shall approve or deny the petition for vacation.

A) Approval: The Area Plan Commission shall approve the petition for vacation of all or part of a plat only upon a determination that:

- 1) Conditions of the platted area have changed so as to defeat the original purpose of the plat;
- 2) It is in the public interest to vacate all or part of the plat; and
- 3) The value of that part of the land in the plat not owned by the petitioner shall not be diminished by the vacation.

If the Area Plan Commission determines that the plat or part thereof should be vacated, it shall make written findings and a decision approving the petition. The Area Plan Commission may impose reasonable conditions as part of its approval.

A decision shall be signed by an official designated in the subdivision control ordinance. The Area Plan Commission shall furnish a copy of its decision to the Recorder of Randolph County for recording.

B) Denial: If the Plan Commission denies the petition for vacation, it shall make written findings that set forth its reasons in the decision denying the petition and shall provide petitioner with a copy thereof. The decision shall be signed by the official designated in the subdivision control ordinance.

C) Review final decision: The approval, disapproval, or imposition of a condition on the approval of the vacation of all or part of a plat is a final decision of the Area Plan Commission. Petitioner or an aggrieved party may seek review of the decision of the Area Plan Commission as provided by IC 36-7-4-1016.

Section XII. Refile:

No vacation proceeding affecting the same property and seeking the same relief may be initiated for a period of two (2) years following the termination of a vacation proceeding under this Article.

Amendments

These bylaws may be amended by a majority vote of the entire membership of the Area Plan Commission.

History

These bylaws were adopted January, 1982 and amended April 1982, November 1997, June 1989 and March 2016, January 2018, February 2026.