

# RULES AND PROCEDURES

## Article 1: Authority and Duties

### 1. Statutory Authority.

- a. The Clark County Plan Commission (PC) exists as an advisory plan commission under the authority of IC 36-7-4-100 et seq. The PC shall have jurisdiction over all land within the unincorporated areas of Clark County and the Town of Borden
- b. These Rules and Procedures are adopted in accordance with the requirements of IC 36-7-4-401.

### 2. PC Powers and Duties.

- a. The PC shall have those powers and duties as set forth in Indiana Code and the Clark County Unified Development Ordinance (UDO) with regards to, but not limited to, the Comprehensive Plan, UDO, zoning amendments, plats, and development plans.

### 3. Delegation of Authority to Administrator.

- a. The PC shall delegate ministerial authority to the Administrator pursuant to IC 36-7-4-402.
- b. The commission shall delegate authority to its employees to perform ministerial acts in all cases except where final action of the PC or BZA is required by law.

## Article 2: Membership and Duties

### 1. PC Membership.

- a. **Composition.** The PC shall consist of nine (9) members as prescribed by IC 36-7-4-208(a).
- b. **Terms.** In accordance with IC 36-7-4-218, each member shall be appointed for a term of four (4) years, expiring on the first Monday of January of the fourth year. In addition, a member of the PC serves until their successor is appointed.
- c. **Election of Officers.** Pursuant to IC 36-7-4-303 and IC 36-7-4-304, the PC shall, at its first meeting in each year, elect from among its members a President, Vice President and Secretary. Vacancies in offices shall be filled immediately by regular election procedure.
- d. **Qualifications for Citizen Members.**
  - i. All citizen members appointed to the PC shall meet the qualification set forth by IC 36-7-4-216 as amended.
  - ii. Qualification Statement.
    - (a) The Administrator shall be responsible for providing the qualification statement form to citizen members as required.

- (b) Each citizen member, newly appointed or reappointed, shall complete and sign a qualification statement form prior to serving as a member of the PC.
  - (c) A qualification statement must be completed and signed annually prior to the first PC meeting or PC action.
  - (d) If any changes occur or was inaccurate, each citizen member is responsible for providing an updated statement immediately.
  - (e) Failure of a citizen member to provide a qualification statement shall not disqualify said member from the PC or affect any participation or vote of the member in the official action of the PC.
- e. **Certification.** The respective appointing authorities shall certify their appointments. The certifications shall be sent to and made a part of the records of the PC.
  - f. **Alternate Members.** In accordance with IC 36-7-4-220(a), the appointing authority may appoint an alternate member (who meets the same requirements as the disqualified member, including residency) to participate with the PC in any hearing or decision if the regular member has a disqualification or is otherwise unable to participate in the hearing or decision. An alternate member shall have all of the powers and duties of a regular member while participating in the hearing or decision.
  - g. **Removal of Members.** In accordance with IC 36-7-4-220(c), an appointed member may be removed from the PC by the respective appointing authority prior to the end of their term for failure to appear at three (3) consecutive, regularly scheduled PC meetings.

## 2. Member and Staff Duties.

- a. **President.** The President shall preside over PC meetings, supervise over the determination of points of order and procedure, and be responsible for the signing of all official documents. The President shall have the privilege of discussing all matters before the PC and of voting thereon. The President may make or second a motion before the PC.
- b. **Vice President.** The Vice President shall have authority to act as President of the PC during the absence or disqualification of the President.
- c. **Secretary.** The Secretary shall be responsible for conducting roll call and attesting to all official documents. In the event that both the President and Vice President are absent or disqualified from a meeting or a public hearing, the Secretary shall serve as President for that meeting or public hearing.
- d. **Recording Secretary.** A Recording Secretary may be used for keeping and transcribing minutes of regular or special meetings of the PC.
- e. **Administrator.** The Administrator shall have the principal responsibility for the administration and enforcement of the UDO except where final action of the PC is required by law. These duties shall include, but not be limited to:
  - i. Clerical & Technical Assistance. Providing clerical and technical assistance as may be required by the PC, Checkpoint Agencies, Committees, County Commissioners, or other body in the execution of its duties as established by the UDO and Indiana Code.
  - ii. Improvement Location Permits (ILP). Receiving, approving, or disapproving all ILPs and keeping permanent records of applications made and actions taken.

- iii. Inspections. Conducting inspections of structures and properties to determine compliance with the requirements of the UDO and all approvals granted by the PC, County Commissioners, Committees, or other body in the execution of its duties as established by the UDO and Indiana Code.
- iv. PC Applications. Receiving, processing docketing, and referring all appropriate applications to the PC.
- v. Record Keeping. The Administrator shall be responsible for supervising the management and maintenance of an accurate and complete record of all proceedings, petitions, hearings, and meetings of the PC, including the keeping of records and minutes, findings of fact, and preservation of all papers and documents of the PC and the maintenance of a current roster with the qualifications of members. Copies of such record of any hearing may be ordered by any party, and the cost thereof, shall be paid by the party ordering such copy(ies) in accordance with the adopted fees.
  - (a) The Administrator shall prepare a detailed report of all PC hearing proceedings; setting forth in writing a record of the PC's final decisions and a record of voting of individual members.
- f. **Attendance of Meetings.** PC members are expected to attend all meetings of the PC. To ensure a quorum, members shall notify the Administrator at their earliest convenience if they are not able to attend a scheduled meeting either entirely or in part. Members who fail to appear at meetings may be subject to removal from the PC (see Article 2: Removal of Members)

## Article 3: Committees and Checkpoint Agencies.

### 1. PC Committees.

- a. **Minor Plat Committee.** Pursuant to IC 36-7-4-701 and the UDO, the PC shall establish a Minor Plat Committee composed of three (3) voting, statutory members including: Administrator; County Surveyor; and one (1) member of the PC who is appointed by the PC as the chairperson of the committee. The Minor Plat Committee shall review and decide on petitions for primary and secondary plat approval of minor residential subdivisions.
- b. **Executive Committee.** Pursuant to IC 36-7-4-408, the PC may establish an Executive Committee, if desired, that is composed of three (3) members of the PC. Membership of the Executive Committee must be confirmed by a two-thirds (2/3) vote of the entire membership of the PC. A majority vote of the Executive Committee may act in the name of the PC and any decisions of the Executive Committee may be appealed to the PC.

### 2. Checkpoint Agency Review.

- a. **Purpose.** The role of the Checkpoint Agencies is to review the technical aspects of an application before the public hearing occurs. The various Checkpoint Agencies assist the Administrator, PC, and BZA by providing technical and expert advice with regard to proposed development within the jurisdiction. However, the PC is not bound by the comments or review of the Checkpoint Agencies as outlined in the UDO.
- b. **Reviews.** The Administrator will provide digital copies of the application and pertinent files to the Checkpoint Agencies for review. Written comments collected from the Checkpoint Agencies are included in petition files and are made part of the public record, regardless if an in-person review meeting has occurred or not.

- c. **Membership.** The Checkpoint Agency review is overseen by the Administrator and may include a representative from the following agencies:
  - i. County Engineer
  - ii. County Surveyor
  - iii. Clark County Drainage Board
  - iv. Clark County Health Department
  - v. Fire District
  - vi. Public School District(s)
  - vii. Sewer Utility
  - viii. Water Utility

## Article 4: Meetings and Hearings, General.

### 1. Meetings and Hearings.

- a. **Meeting Schedule.** Regular meetings of the PC shall be published annually, including the date, time, and location.
- b. **Special Meetings.** Special meetings of the PC may be called by the President or by two (2) members of the PC upon request (written or electronic) to the Administrator.
  - i. **Notice to PC Members.** The Administrator shall send to all members, at least three (3) days before the special meeting, a notice (written or electronic) fixing the time and place of the meeting. Notice of a special meeting is not required to be provided to all PC members if:
    - (a) the date, time, and place of a special meeting are fixed in a regular meeting; and
    - (b) all members of the PC are present at that regular meeting.
- c. **Open Door Law.** All meetings, as set forth in IC 5-14-1.5-2, will comply with Indiana Open Door Law as required.
- d. **Public Records.** All minutes of the proceedings, findings of fact, recordings of the hearings, plans, maps and all other exhibits submitted by the petitioners, remonstrators, and Administrator shall be public records and shall be filed in the Administrator's office. These materials shall become a part of the case and all such materials shall be held by the Administrator for a period of at least one year. At the end of the one-year time period, all materials held by the PC may be placed in a 'back filing' system for preservation of records, all in accordance with the Indiana Access to Public Records Act.

## 2. Actions and Decisions.

Application Type	Staff	Checkpoint Agencies	PC	County Commissioners
<b>Zoning Map Amendment</b>	Review and Make Staff Recommendations to PC	N/A	Recommendation to County Commissioners: <ul style="list-style-type: none"> <li>Favorable Recommendation (with or without conditions)</li> <li>Unfavorable Recommendation (with or without conditions)</li> <li>No Recommendation (with or without conditions)</li> </ul>	Final Decision: <ul style="list-style-type: none"> <li>Deny (Must wait one year before refiling)</li> <li>Approve</li> <li>Modify (requires PC review)</li> </ul>
<b>Zoning Text Amendment</b>	Review and Make Staff Recommendations to PC	N/A	Recommendation to County Commissioners: <ul style="list-style-type: none"> <li>Favorable Recommendation (with or without conditions)</li> <li>Unfavorable Recommendation (with or without conditions)</li> <li>No Recommendation (with or without conditions)</li> </ul>	Final Decision: <ul style="list-style-type: none"> <li>Deny</li> <li>Approve</li> </ul>
<b>PUD</b>	Review and Make Staff Recommendations to PC	Review	Recommendation to County Commissioners: <ul style="list-style-type: none"> <li>Favorable Recommendation (with or without conditions)</li> <li>Unfavorable Recommendation (with or without conditions)</li> <li>No Recommendation (with or without conditions)</li> </ul>	Final Decision: <ul style="list-style-type: none"> <li>Deny (Must wait one year before refiling)</li> <li>Approve</li> <li>Modify (requires PC review)</li> </ul>
<b>Primary Plat</b>	Review and Make Staff Recommendations to PC	Review	Final Decision: <ul style="list-style-type: none"> <li>Approve (with or without conditions)</li> <li>Disapprove with specified reason(s)</li> </ul>	N/A
<b>Secondary Plat</b>	Review and Final Decision:* <ul style="list-style-type: none"> <li>Approve</li> <li>Disapprove</li> </ul> Administrator reports approved secondary plats to PC monthly	Review	Applicant may appeal decision of Administrator to PC	N/A
<b>Development Plan</b>	Review and Final Decision:* <ul style="list-style-type: none"> <li>Approve</li> <li>Disapprove</li> </ul>	Review	Applicant may appeal decision of Administrator to PC	N/A

\* PC delegates decision-making authority for Secondary Plats and Development Plans to Administrator. May be appealed by application to PC.

- a. **Official Action.** Action of the PC is only considered official when taken by a majority of the full membership of the PC at a regular or special meeting.
- b. **Voting.**
  - i. A quorum is a majority of the full membership of the PC who are qualified to vote.
  - ii. All decisions shall be by voice vote unless the President deems it necessary for a roll call vote. The vote of each member of the PC shall be recorded in the minutes of the meeting.

- iii. A majority vote of the full membership of the PC who are qualified to vote, whether present or not, shall be required to pass a motion.
- iv. When a vote of the PC results in a tie or where a vote of the PC does not result in official action, the matter may be resolved by:
  - (a) A different motion to reconsider the matter and followed by a re-vote; or
  - (b) Re-docketing the matter for the next regularly scheduled meeting of the PC.

### 3. Petitions.

- a. **Commitments.** Pursuant to IC 36-7-4-1015, the PC may permit or require the owner of a parcel of property to make a written commitment concerning use or development of that parcel. Such commitment shall be binding upon the owner and all successors and shall be recorded in the Office of the Clark County Recorder by the petitioner. Any such commitment shall be subject to the approval of the PC and its counsel as to form and terms with a template that can be provided by the Administrator.
- b. **Prior Code Violation Resolution.** A permit application may not be filed for a property that has a previously documented and unresolved code violation until the violation has been resolved. However, the Administrator may allow the filing of a permit application if it is shown that it will directly contribute to the resolution of the violation.
- c. **Continuance/Tabling.** A continuance may be requested for sufficient cause by the petitioner, an interested party, or a member of the PC. It shall be within the discretion of the PC to grant or deny any request for continuance. Re-notification shall not be required if a petition is continued at a properly noticed public hearing/meeting to a specified future hearing/meeting date of the PC.
  - i. **Continuance Request by the Petitioner.** A request for continuance by the petitioner may be filed in writing prior to the PC's hearing/meeting or made orally at the beginning of the PC meeting when the agenda is considered. A continuance shall be granted if the full PC membership, who are qualified to vote, is not present. However, the petitioner shall be prepared to move forward with their petition until the continuance request is granted by the PC.
  - ii. **Continuance Request by an Interested Party.** A request for continuance by an interested party may be filed in writing prior to the PC's hearing/meeting or made orally at the beginning of the PC meeting when the agenda is considered. The interested party shall be prepared for the petition to move forward until the continuance request is granted by the PC.
  - iii. **Continuance Request by a Member of the PC.** A member of the PC may make a motion of continuance for consideration by the PC.
- d. **Withdrawal of Petitions.** No petition may be withdrawn by the petitioner after a vote has been ordered by the President presiding at the meeting. The filing fee for a withdrawn petition shall not be refunded.
- e. **Dismissal of Petitions.** The PC may dismiss a case for want of prosecution or for lack of jurisdiction.

## Article 5: Meetings and Hearings, Conduct and Procedures

### 1. Orderly Conduct.

- a. Every person appearing before the PC shall abide by the order and direction of the President. Discourteous, disorderly, or contemptuous conduct shall be regarded as a breach of the privileges and the President (or presiding member) may remove any person from the meeting who disrupts the meeting, displays discourtesies, or displays disorderly or contemptuous conduct towards the members or any other person in attendance.
- b. The President (or presiding member) may terminate any repetitious or irrelevant presentation. Every person appearing before the PC shall abide by the order and directions of the President.

**2. Contacting Members.** No person (including applicants, remonstrators, and others) may communicate with any citizen member of the PC (who is not an elected official) before a hearing with the intent to influence the member's action on a matter pending before the PC. All communication about a petition must go through the Administrator so that it can be made a part of the public record and be distributed to the membership.

**3. Time Periods.** The PC, by majority vote at any meeting, shall have the authority to extend the time periods specified in these Rules and Procedures.

### 4. Agenda and Minutes.

- a. The Administrator shall prepare an agenda for each meeting and may limit petitions to a reasonable number as determined by the Administrator.
- b. The Administrator shall provide (mail or electronically transmitted) the agenda, and all supporting materials, to all PC members at least five (5) days prior to the meeting.
- c. A summary of minutes of the proceedings shall be made available to each member of the PC before the next scheduled regular meeting.

### 5. Filing Petitions.

- a. Any person who wishes to file a petition that requires a public hearing before the PC must file the petition with the Administrator, unless the PC is the sponsor of the petition.
- b. All petitions must be received by the deadlines outlined in the PC Application Packet. The Administrator shall review the petition for technical conformity with the UDO and state law prior to assigning a case number and placing the petition on the agenda.

**6. Site Visit.** Members shall have the right to inspect land involved in any petition to be heard by the PC either individually or jointly. No more than three (3) members shall inspect the subject land at any one (1) time.

### 7. Order of Business.

- a. The order of business at regular meetings shall be as follows:
  - i. Call to order;
  - ii. Consideration and signing of minutes of previous meeting;
  - iii. Hearing of agenda items;
  - iv. Old business, including re-docketed or continued petitions;

- v. New business, grouped by similar petitions or by consecutive case numbers;
- vi. Reports, Resolutions, and Communications; and
- vii. Adjournment.

## **8. Presentations on Petitions.**

- a. The order of presentations on any petition or application heard by the PC shall be as follows:
  - i. Presentation of staff report, if any, by Administrator;
  - ii. Presentation by Petitioner, limited to fifteen (15) minutes;
  - iii. Questions, if any, by PC members;
  - iv. Presentation by Interested Parties, limited to three (3) minutes per Interested Party;
  - v. Questions, if any, by PC members;
  - vi. Presentation by others at discretion of President, limited to one (1) minute per person at the discretion of the President;
  - vii. Additional questions, if any, by PC members of all speakers; and
  - viii. Official action by PC on petition.
- b. Any person or party speaking shall state his/her name and address prior to making a presentation.
- c. Any party may appear in person or by representative (person, agent, attorney, etc.) at PC meetings. A representative may testify to the facts that he has particular knowledge of that relate to the issues of the petition. In so testifying, the representative shall be subject to cross-examination and questions by the PC.
- d. Written comments submitted to the PC prior to a meeting or hearing shall be read or outlined to the PC by the Administrator prior to official action.
- e. No rebuttal time shall be allotted to the Petitioner, Interested Party(ies)/Person(s), and said person(s) cannot reserve any unused presentation time for rebuttal.

## **9. Conflict of Interest.** During presentation and discussion of the subject petition, a member who has a conflict of interest shall not sit as a member of the PC, nor vote on the particular petition. In accordance with IC 36-7-4-223, a member of the PC shall have a conflict of interest with regard to a petition if:

- a. The member is biased or prejudiced or otherwise unable to be impartial; or
- b. The member has a direct or indirect financial interest in the outcome of the decision.

## **Article 6: Complaints**

- 1. Filing Complaints.** A citizen, property owner, or any Federal, State, or County Office may file a complaint to be investigated. A complaint may be filed by phone, by office visit, or by electronic means. Complaints can be filed anonymously.
- 2. Information.** The following information shall be provided for all complaints:



- a. Address of the property in question;
  - b. Type of violation;
  - c. Action requested by the PC; and
  - d. Property owner's name, mailing address, property cards, or other information regarding the complaint (optional).
- 3. Investigation.** The complaint will be investigated by a code enforcement officer, Administrator, or their designee. After investigating the complaint, a decision will be rendered that includes action that should be taken and if any state or local offices should be involved.
  - 4. Decisions.** All decisions shall be in writing. A letter informing the property owner of the violation, if any, shall be mailed to the property owner's mailing address of record in the Auditor's office. The letter shall state the violation(s) with a time limit for correcting the violation(s). If action is not taken by the property owner, the code enforcement officer or Administrator shall refer the complaint to the PC attorney for enforcement action.
  - 5. Public Record Requests.** Complaints can be provided as part of a public records request if filed anonymously or with all identifying information redacted. All information, including the initial complaint, investigation, and decisions, must be provided through a public records request and cannot be provided verbally (all information must be provided in printed form or electronically).

## Article 7: Interested Parties and Public Notice

- 1. Interested Parties.** Interested parties shall include all abutting properties. If there are less than five (5) abutting properties, the petitioner must notify the five (5) closest property owners. If the subject property abuts a county roadway along a County line, the petitioner must notify two (2) properties in depth or one-eighth (1/8) of a mile (whichever is less), in the adjoining county in addition to the abutting property owners in Clark County.
- 2. Notice.**
  - a. Except for a petition initiated by the PC or County Commissioners to repeal, amend, or replace all or part of the UDO, all petitioners shall serve notice to interested parties at their own expense by the following methods as outlined in the PC Application Packet:
    - i. Publish one (1) legal notice in the newspaper(s) at least ten (10) days prior to the Hearing;
    - ii. Send legal notice via Certified Mail or Certificate of Mailing to all Interested Parties and postmarked at least ten (10) days prior to the hearing; and
    - iii. Post on-site notification sign(s) in a conspicuous place on the subject property (at least every five hundred (500) feet) and at least ten (10) days prior to the date of the public hearing.
    - iv. The petitioner must submit proof of notice as outlined in the PC Application Packet.

## Article 8: Amendments and Suspension of Rules and Procedures

- 1. Amendment of Rules and Procedures.** Amendment to these Rules and Procedures may be made by the PC only upon the affirmative vote of a majority of the full membership of the PC.
- 2. Proposed Amendments.** Any amendment to these Rules and Procedures must be provided to all PC members (mailed or electronically transmitted) at least fourteen (14) days prior to voting on the amendment.
- 3. Suspension of Rules or Procedure.** The suspension of any rule or procedure may be ordered at any meeting of the PC by a majority vote of the quorum present.
- 4. Severability.** If any article, section, subsection, sentence, clause, phrase, or portion of these Rules shall for any reason be held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereunder.
- 5. Priority of Laws.** These Rules may be used as a guide by the PC and all interested parties. However, applicable state laws and county ordinances should be consulted if necessary. In the event that any provisions of these Rules conflict with applicable state law or county ordinance, the state law and county ordinance shall supersede these Rules. State law shall have priority, then county ordinance, and finally, these Rules.

## Article 9: Adoption and Amendment History for Rules and Procedures

1. The PC Application Packet, as amended, is hereby incorporated into the Rules and Procedures by reference.
2. The official record of these Rules and Procedures for the PC shall be kept on file at the Clark County Planning Office.
3. All previous rules and regulations heretofore adopted by the Clark County Plan Commission are hereby expressly repealed as of the effective date of these Rules.
4. Adopted and Effective as of:
  - a. December 9, 2020
5. Amended.
  - a. Reserved.

### Attest:

\_\_\_\_\_, President: \_\_\_\_\_ Date

\_\_\_\_\_, Vice Pres: \_\_\_\_\_ Date

\_\_\_\_\_, Secretary: \_\_\_\_\_ Date