

ARTICLE 2

ADVISORY PLAN COMMISSION

SECTION 200 – Advisory Plan Commission

In accordance with the provisions of Indiana Code Sections 36-7-4-200 et seq., the Dearborn County Plan Commission shall consist of nine (9) members who shall be appointed and serve in accordance with the above statutory authority. All citizen members shall serve four (4) year terms and all required members shall be appointed for one-year terms.

(1) Members shall be appointed as follows:

- a. One (1) member selected by the Board of County Commissioners from its membership;
- b. One (1) member selected by the County Council from its membership;
- c. The County Surveyor or the County Surveyor's designee;
- d. The County Agricultural Extension Educator;
- e. Five (5) members appointed in accordance with one (1) of the following:
 - i. Five (5) citizen members appointed by the Board of Commissioners, of whom not more than three (3) may be of the same political party. Each of the five (5) members must be:
 1. A resident of an unincorporated area of the county; or
 2. A resident of the county who is also an owner of real property in whole or part in an unincorporated area of the county. In this scenario, at least a majority of the total number of citizen members appointed to the plan commission must be residents of the unincorporated area of the county.

A citizen member of the Plan Commission may not hold:

1. An elected office (as defined in IC 3-5-2-17); or
 2. Any other appointed office in municipal, county, or state government; except for membership on the Board of Zoning Appeals as required by IC 36-7-4-902.
- f. In accordance with IC 36-7-4-220, if a vacancy occurs among the plan commission members who are appointed, then the appointing authority shall appoint a member for the unexpired term of the vacating member. The appointing authority may also appoint an alternate member to participate with the commission in a hearing or decision if the regular member appointed by the appointing authority has a disqualification under IC 36-7-4-223(c) or is otherwise unavailable to participate in the hearing or decision. An alternate member has all the powers and duties of a regular member while participating in the hearing or decision.

(2) **Duties of Plan Commission** - The Plan Commission shall establish the procedures and responsibilities for the administration and enforcement of this Ordinance in accordance with this paragraph's provisions and State legislation. For the purposes of this ordinance the Plan Commission shall have the following duties:

- a. Make recommendation to the County Commissioners concerning the adoption of or initiate amendments to the Comprehensive Plan, Zoning and Subdivision Ordinance, and Official Zoning Map.
- b. Review and make findings on development plans for subdivisions, commercial structures, industrial structures, planned unit developments, and other similar plans for all proposed developments within the Commission's jurisdiction.
- c. Administer the Subdivision Regulations as outlined in the Subdivision Ordinance.
- d. Establish a schedule of fees, charges and expenses, and approve annual department budget proposal to County Council.
- e. Review recommendation of Planning Director for new uses or uses not specifically identified in this Ordinance to determine which existing zoning district the use is permitted in based on similar uses permitted within the district and the intent of the zoning district. The determination of the Plan Commission shall not constitute a text amendment as describe in Article 5 of this Ordinance.
- f. Delegate any tasks as specified in this order relative to its administration and the operation of the Planning Department including hiring, termination of employment, supervision, performance review, and establishing compensation of the Planning Director.
- g. Perform any task and follow any procedure, including those pertaining to committees of the Plan Commission, that is specified in or provided for through the Commission's adopted Rules of Procedure.

(3) **Rules of Procedure** - The Plan Commission shall adopt rules for the administration of the affairs of the Plan Commission and for the conducting of public hearings, recording of minutes, and for the retaining and administration of public records. The following include minimum procedures:

- a. At the first meeting of each year the Commission shall elect a President and a Vice-President from its members.
- b. Appoint a Secretary, who is not required to be a member of the Commission, and establish the Secretary's duties.
- c. All meetings shall be open to the public.
- d. The Commission shall keep minutes of its proceedings showing the vote of each member for each question, or if absent, or failing to vote indicating such.
- e. The Commission shall also keep records of its examinations and other official actions, all of which shall be of public record, and be immediately filed in the office of the Plan Commission.

- (4) **Disqualifications and Conflicts of Interest** - A member of the plan commission is disqualified and may not participate in a hearing of the board concerning a zoning decision, as described in IC 36-7-4-1016, 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 zoning decision.

In the event of a disqualification, the appointing authority may select or designate an alternate member to participate with the board in a hearing or decision. An alternate member has the same powers and duties of a regular member while participating in a zoning decision or hearing.

The plan commission shall enter in its records:

- a. The fact that a regular member has a disqualification that qualifies under IC 36-7-4-223; and
- b. The name of the alternate member, if any, who participates in the hearing in place of the regular plan commission member.

A member of the plan commission or legislative body may not directly or personally represent another person in a hearing before that commission or body concerning a zoning decision or a legislative act.

A member of the plan commission may not receive any mileage or compensation for attendance at a meeting if the member is disqualified under this section from participating in the entire meeting.

- (5) **Findings and Decisions** - All decisions of the Board on all matters within their jurisdiction and authority shall be in writing, supported by specific findings of fact on each material element pertaining to the matter under consideration.
- (6) **Quorum** - A majority of members of the Plan Commission shall constitute a quorum, which shall mean a minimum of five (5) members. The action of the Plan Commission is not official unless it is authorized by a majority of the entire membership, which shall mean a minimum of five (5) votes from the members present at the properly called meeting.

SECTION 210 – Duties of Planning Director

The provision of this ordinance shall be administered and enforced by the Planning Director. The Director may designate other Staff within the Department to assist. The Director shall have authority on all matters of administration and enforcement subject to the guidance of the Plan Commission and Board of Zoning Appeals (BZA). An appeal of the decisions of the Director or designated staff can be made to the BZA. For the purpose of this order, the Director shall have the following duties:

1. Perform the administrative duties of the department, including hiring, termination of employment, and supervision of all department staff and contractual employees, reviewing performance, establishing compensation, and preparing and administering the department budget;
2. Upon finding that any of the provisions of this order are being violated, the Planning Director shall notify, in writing, the person responsible for such violation(s), ordering the action(s) necessary to correct such violation;
3. Determine the classification of a use of land, buildings or structures as a permitted, accessory, or conditional use in a specific zoning district, as well as determine the applicability and substance of development performance standards, based on interpretation of the stated and implied requirements of the zoning regulations. Make recommendations to the Plan Commission for new uses, or uses not specifically identified in this Ordinance, to determine in which existing zoning district the use is permitted based on similar uses permitted within the district and the intent of the zoning district;
4. Take any other action authorized by this order or ordinance to ensure compliance with or to prevent violation(s) of these regulations;
5. Provide an interpretation of the Zoning Ordinance and Zoning Maps, Comprehensive Plan, Subdivision Ordinance or any other properly enacted ordinance or plan;
6. Review all development applications per Ordinance and all applications for public hearings for the Board of Zoning Appeals and Plan Commission per Ordinance;
7. Delegate any portion or portions of his duties to Staff of the Planning and Zoning Department. Duties may include, but are not limited to: site inspections regarding complaints of violations of this order; site inspections of developments for compliance with plans approved under this order; issuance of “Notice of Violations” citations; review of development plans for compliance with the rules, regulations and standards of this order.