

THE BY-LAWS AND RULES OF PROCEDURE
OF THE BUTLER CITY PLAN COMMISSION

ARTICLE ONE - NAME, PURPOSE, POWERS, DUTIES, AND JURISDICTION

A. Name

The name of the Commission shall be the Butler City Plan Commission. Its office shall be located in the City Utility Office at 201 South Broadway, Butler Indiana 46721.

B. Purpose

The purpose of the Commission is prepare, adopt, and maintain a Comprehensive Plan that promotes orderly development, improves the health, safety, convenience, and welfare of its citizens, and plans for the future development of the community to the end:

1. That highway systems be carefully planned;
2. That the community grows only with adequate public ways, utility, health, educational, and recreational facilities;
3. That the needs of agriculture, industry, and business be recognized in future growth;
4. That residential areas provide healthful surroundings for family life; and
5. That the growth of the community is commensurate with and promotes the efficient and economical use of public funds (Indiana Code §36-7-4-201).

C. Powers and Duties

1. The powers and duties of the Butler City Plan Commission are specific and set out in Indiana Code §36-7-4-401 through §36-7-4-411 as amended from time to time.
2. The Butler Plan Commission is an advisory plan commission (Indiana Code §36-7-4-202[a]). The Commission acts in an advisory capacity to the Butler City Council regarding:
 - a. The adoption of a Comprehensive Plan and amendments thereto;
 - b. The adoption of a zoning ordinance, zoning maps, and amendments thereto;
 - c. Any other matter, within the jurisdiction of the Commission, authorized by advisory planning law.
3. The Commission renders final decisions concerning and approves
 - a. Plats or replats of subdivisions
 - b. Development Plans

D. Jurisdiction

The jurisdiction of the Commission shall be the City of Butler corporate limits, as well as the established extra-territorial jurisdictional area.

ARTICLE TWO - MEETINGS

A. Regular Meetings

The Butler City Plan Commission shall meet six times a year on the second Monday of every odd numbered month: January, March, May, July, September, and November (Indiana Code §36-7-4-306). The Plan Commission shall elect officers at its first meeting in January. Regular meetings may be canceled if there is no business.

B. Special Meetings

All other meetings of the Butler City Plan Commission, which are not regular meetings, shall be designated as special meetings. All notices required by the Open Door Law of the State of Indiana shall be complied with in calling a special meeting.

1. The President, Plan Commission Staff, or two members of the Plan Commission upon written request to the Secretary may call special meetings. The Secretary shall then send to all members, at least three days before the special meeting, a written notice fixing the time and place of the meeting and specifying the subject matter of the meeting. A written notice of a special meeting is not required if the date, time, and place of the special meeting have been fixed at a regular meeting.
2. An applicant/petitioner may request a special meeting. An applicant/petitioner-requested special meeting may only be held on the second Monday of an even-numbered month (February, April, June, August, October, or December). The applicant/petitioner shall pay the fee established in the City of Butler fee schedule for calling a special meeting.

C. Place of Meeting

The Butler City Plan Commission shall meet in the Butler City Hall Council Chambers at 7 PM. The President can change the place of the meeting provided that notice of said change shall be given to all members, all interested parties, and the public.

D. Notice of Meetings

Notice of meetings shall be given to all members of the Plan Commission in person, by telephone, by fax, or by regular United States mail. News media entitled to notice shall be notified by United States mail, fax, telephone, or e-mail. All notices that are required to be posted shall be posted in the City Hall, Post Office, and City Utility Building. The Secretary shall be responsible for publishing meeting notices (NOT hearing notices) in the newspaper as required.

E. Minutes of Meetings

The Commission shall keep minutes of each meeting. These minutes shall be presented to the Commission at the next regular succeeding meeting for approval. When approved, the minutes shall be signed by the Secretary and kept in the office of the Plan Commission in a minute book.

F. Order of Business

The following order of business shall be followed at all meetings of the Plan Commission.

1. President Shall Call Meeting to Order
2. Secretary Shall Take Roll
3. Approval of Minutes from Previous Meeting
4. Budget Items
5. Applications/Petitions/Public Hearings
6. Old Business
7. New Business
8. Adjournment

G. Quorum and Official Action

A majority of the Butler City Plan Commission that is qualified to vote, 5 members, shall constitute a quorum (Indiana Code §36-7-4-301). Action of the Butler City Plan Commission is not official unless authorized at a regular or special meeting by a majority of the entire membership of the Butler City Plan Commission (Indiana Code §36-7-4-302).

H. Late Night Meeting Policy

It shall be the policy of the Commission to conclude all Commission meetings at or before 10:00 pm. In the event that agenda items or other Commission matters have not been acted on by 10:00 pm on any meeting day, the meeting shall be recessed and reconvened the following evening, in the same location at 7:00 pm, unless otherwise announced. All items or matters not acted on during the recessed meeting may be acted on during the reconvened meeting without further advertisement. The above notwithstanding, the Commission may extend any meeting beyond the hour of 10:00 pm with a vote of at least $\frac{3}{4}$ of all members present provided a quorum of the Commission exists.

ARTICLE THREE - MEMBERSHIP AND OFFICERS

A. Membership

The Plan Commission membership shall be consistent with the provisions of Indiana Code §36-7-4-207(B), §36-7-4-214(A), and §36-7-4-213 as amended from time to time.

1. The City Council shall appoint three persons who must be elected or appointed municipal officials or employees in the municipal government.
2. The Mayor shall appoint four citizen members, of whom no more than two may be of the same political party.
3. Since the Commission exercises jurisdiction over unincorporated areas, the executive of DeKalb County shall appoint two additional citizen members. Each must reside in the unincorporated area over which the Commission has jurisdiction; the two must be of different political parties.
4. The DeKalb County Plan Commission shall designate a representative from the DeKalb County Plan Commission to serve as an advisory member of the Butler City Plan Commission. This member has all the privileges of membership, except the right to vote.

B. Terms & Removal

Terms of Plan Commission members shall be consistent with the provisions of Indiana Code §36-7-4-217 and §36-7-4-218.

1. The term of office of a member who is appointed from the membership of a legislative body is coextensive 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.
2. When an initial term of office of a citizen member expires, each new appointment of a citizen member is for a term of four years.
3. The appointing authority may remove a member from the Plan Commission for cause. The appointing authority must mail notice of the removal, along with written reason for removal, to the member at his or her residence address. A member who is removed may, within thirty (30) days after receiving notice of the removal, appeal the removal to the circuit or superior court of DeKalb County. The court may, pending the outcome of the appeal, order the removal or stay the removal of the member.

C. Officers

The Butler Plan Commission shall have the following officers:

1. President
2. Vice-President
3. Secretary-Treasurer

The officers shall be elected from the members of the Plan Commission at its first regular meeting of each year. The Plan Commission may appoint and fix the duties of a Secretary, who is not required to be a member of the Commission (Indiana Code §36-7-4-303 and Indiana Code §36-7-4-304).

D. Duties of the Officers

The President shall preside over each regular or special meeting of the Butler City Plan Commission. The Vice-President shall preside over and assume the duties and responsibilities of the President at any meetings at which the President is absent. The Secretary-Treasurer shall keep records of all meetings, applications, petitions, and other items of the Butler City Plan Commission. In addition, the Secretary-Treasurer shall keep track of all money received and disbursed by the Butler City Plan Commission (Indiana Code §36-7-4-303 and Indiana Code §36-7-4-304).

E. Conflict of Interest of Member and President

1. No member of the Butler City Plan Commission shall participate in the hearing or decision of the Commission, other than the preparation and enactment of a comprehensive plan, in which he or she is directly or indirectly interested in a financial sense or is aware of circumstances that would prevent the member from considering an application/petition in a fair and unbiased manner. In the event of such disqualification, such fact shall be entered into the records of the Commission and the member shall take no part in the discussion or decision.
2. If the President disqualifies himself or herself for any reason whatsoever and the Vice-President is absent or unavailable, the President shall have the power to appoint another member of the Commission as temporary president for the purpose of conducting the meeting. However, the temporary president does retain his or her right to vote. The regular President shall be counted in determining whether or not a quorum is present (Indiana Code §36-7-4-223).

F. Voting

1. Each member of the Butler City Plan Commission, except the President, shall have one vote. The President may only vote in the event of a tie or to make a quorum.
2. Decisions of the Commission shall be by voice vote. If the voice vote is not decipherable or any Commission member desires a more specific count, a roll call vote shall be taken upon request. Roll call votes shall be called in alphabetical order by the member's last name.
3. All members present shall vote on every question unless prevented by conflict.

G. Vacancies

If a vacancy occurs by resignation or otherwise among the citizen members, the Mayor shall appoint a member for the un-expired term of the member so removed (Indiana Code §36-7-4-220).

ARTICLE FOUR HEARINGS, AGENDA PLACEMENT, AND CONDUCT OF HEARINGS

A. Hearings

1. Public hearings shall be held as required by Indiana Code and Butler City Zoning Code for the adoption or amendment of a Comprehensive Plan, the adoption or amendment of a Zoning Ordinance (text or map), the approval of a preliminary subdivision plat, and other petitions as necessary.
2. An applicant/petitioner who seeks a recommendation from or the approval of the Commission shall file the appropriate application/petition with the Commission. Upon the receipt of such application/petition, payment of filing fees, and confirmation that all necessary information is included, the Secretary shall place the application/petition on the agenda of the next eligible Plan Commission meeting. Administrative rules and deadlines are established by the Butler City Zoning Code for procedures such as filing applications/petitions and are available upon request

3. In order for an application/petition to be heard at a public hearing, the petitioner or an agent for the petitioner, shall be in attendance to present the application/petition, evidence and support thereof, and answer questions about the application/petition. Plan Commission Staff will not represent an applicant/petitioner. If no one is present to represent the application/petition, then the Commission shall dispose of the application/petition in accordance with Article Five.

B. Conduct of Hearings

1. Public hearings shall be conducted according to the following procedure. Please note the time limitations for each hearing segment. To maintain orderly procedure, each side should proceed without interruption by the other side. After being recognized by the President, each speaker will stand up, state his/her name and address for the record and state whether they support or oppose the application/petition.
 - a. For any application/petition for which a public hearing is required, the President shall introduce the application/petition.
 - b. The President shall request the applicant/petitioner present the application/petition. The applicant/petitioner shall first present the facts and arguments in support of the case. (15 minutes) Comments and questions from the Commission concerning the initial presentation shall be held until the end of the initial presentation.
 - c. The President shall ask for Plan Commission Staff comments on the application/petition.
 - d. The President shall ask for comments and questions from the Commission.
 - e. The hearing shall then be opened for comments from others.
 - i. Supporting comments from organized groups, committees, and individuals, other than the applicant/petitioner, shall then follow. Speakers should try to present new points and not repeat previous speakers. (5 minutes)
 - ii. Opposing comments shall then be heard. Speakers should try to present new points and not repeat previous speakers. (15 minutes)
 - iii. The Plan Commission reserves the right to question any speaker at the end of his or her presentation.
 - f. The applicant/petitioner shall then receive time for rebuttal. (5 minutes) In its discretion or upon request, the Plan Commission may permit the opposition to address new information presented in the rebuttal. (5 minutes)
 - g. Once the Plan Commission has no final questions, the public hearing shall be closed.
 - h. After the hearing is closed, the Plan Commission shall deliberate the application/petition and shall have the right to ask questions to clarify information.
2. In the presentation of a case:
 - a. The burden shall be upon the applicant/petitioner to supply all information, including charts, diagrams and other exhibits necessary for a clear understanding of the request.

- b. Statements to the Commission made by the applicant/petitioner at the meeting regarding anticipated methods of operation, siting or other details relevant to the decision shall be binding agreements between the applicant/petitioner and Commission and shall be reflected in the minutes of that meeting.
 - c. Drawings, displays, or documents presented at the meeting by the applicant/petitioner illustrating details shall also be binding as to their contents and representation on the applicant/petitioner if the application/petition receives approval. Said documentation shall become part of the public record, and shall be maintained with the case file.
- 3. Every person appearing before the Commission shall abide by the orders 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 President directs.
- 4. The Commission may continue or postpone any hearing when it needs more time to deliberate. The Commission, at its discretion and on an affirmative vote of a majority of the Commission, may continue or postpone a hearing upon request of any party.
- 5. Postponement/continuation of hearings to a date more than six (6) months beyond the initial public hearing shall not be granted. The Commission shall dismiss such pending requests. The right of applicants/petitioners to re-file such applications shall be preserved, providing no final disposition of the prior request was granted. Such applications/petitions shall again be subject to the payment of filing fees.

ARTICLE FIVE - FINAL DISPOSITION OF CASES

A. Final Disposition

- 1. The disposition of cases requiring final approval from the Butler City Council (“Council”) shall be in the form of a recommendation to the Council.
- 2. The final disposition of cases requiring only Commission approval shall set forth the findings and determinations of the Commission, together with any modification, specification, or limitation it makes in the Plan Commission minutes.

B. “No Show”

The Commission may dismiss an application/petition if no one shows up to present the request. If an application/petition is dismissed for this reason, the applicant/petitioner may re-file. Such application/petition shall again be subject to the payment of filing fees.

C. Withdraw of Petitions

- 1. An applicant/petitioner may not withdraw a case after a motion has been made concerning the application/petition.
- 2. An applicant/petitioner that has received an adverse decision may re-file the application/petition 12 months after the date of the decision and only if there has been a change of circumstances. Said change of circumstances must be specified in the re-filed application/petition.

ARTICLE SIX - NOTICE

A. Requests by Property Owners

In the event that a request for action by the Commission is being made by 100 percent of the property owners in the proposed action, the following requirements for notice must be met:

1. Applicants/petitioners shall inform interested parties (as defined below) of the proposal by sending a copy of the legal notice by certified mail, return receipt requested, to the residence or the last known address of the interested party, with such notice being postmarked at least 21 days before the public hearing date. (Development Plan Review procedure allows notification to be delivered in person as long as the interested parties signs as proof of receipt.)
2. Interested parties shall be defined as all contiguous properties with the assumption that railroad rights-of-way and public rights-of-way do not exist.
3. Such notice shall state:
 - a. The name of the applicant/petitioner.
 - b. The location by address or other identifiable geographic description of the subject property or area.
 - c. A summary of the subject matter contained in the proposal and/or a description of the proposed change in the zoning maps, where the proposal involves a change to the zoning maps.
 - d. The time and place that the application/petition has been set for hearing.
 - e. That the application/petition and file may be examined in the office of the Plan Commission.
 - f. That the addressee may voice an opinion at the hearing and/or file written comments with the Commission.
 - g. That the hearing may be continued from time to time as necessary.
4. In order to determine the names and addresses of interested parties the applicant/petitioner shall consult the most current records of the Transfer Office of the DeKalb County Auditor.
5. Proof that notice has been mailed shall be filed in the office of the Plan Commission three (3) days prior to the public hearing. Failure to provide proof of notice 3 days prior to the hearing will result in the hearing being cancelled. Proof shall consist of the original US Postal Service Certified Mail Receipts stamped by the US Post Office with the postmark, any return receipts (green cards) received, and/or any envelopes that were returned to sender as “undeliverable.” Please note, the postmarked certified mail receipts shall be sufficient proof of notice under these rules regardless of actual receipt by the intended recipient.
6. Appearance by any person at any hearing on an application/petition, in person or by representative, shall waive any defect in notice unless the alleged defect is raised at the beginning of the hearing.
7. The applicant/petitioner shall cause a legal notice to be published in the Butler Bulletin at least ten (10) days before the public hearing. Said legal notice shall be at the expense of the applicant/petitioner. Plan Commission Staff must approve said legal notice before publication.

B. Requests by less than 100% of Property Owners or Commission

In the event of a request for action by the Commission is being made by less than 100 percent of the property owners in the proposed action, or in the event that Commission or the Council is the proponent of the action, the following requirements for notice must be met:

1. The applicant/petitioner shall inform affected property owners (as defined below) and interested parties (also defined below) of the proposal by sending a copy of the legal notice by certified mail, return receipt requested, to the residence or the last known address of the affected property owner/interested party, with such notice being postmarked at least 21 days before the public hearing date. (Development Plan Review procedure allows notification to be delivered in person as long as the interested parties signs as proof of receipt.) Those who have signed the application/petition or are acting as the applicant/petitioner need not be notified.
2. In any case where a proposal to change the zone maps is initiated by the Commission or the Council (other than a proposal to repeal and replace the Zoning Ordinance and/or the Zone Maps for the entire planning jurisdiction and/or the Comprehensive Plan or to amend the text of the Zoning Ordinance or the Comprehensive Plan) notice shall be given to affected property owners and interested parties by the Commission. Such notice shall be sent by certified mail, return receipt requested, and postmarked at least 21 days before the public hearing date.
3. Affected property owners shall be defined as those that own land involved in the application/petition.
4. Interested parties shall be defined as all contiguous properties with the assumption that railroad rights-of-way and public rights-of-way do not exist.
5. In order to determine the names and addresses of affected property owners and interested parties, the applicant/petitioner or the applicant/petitioner's agent shall consult the current records of the Transfer Office of the DeKalb County Auditor.
6. Such notice shall state:
 - a. The name of the applicant/petitioner.
 - b. The location by address or other identifiable geographic description of the subject property or area.
 - c. A summary of the subject matter contained in the proposal and/or a description of the proposed change in the zone maps, where the proposal involves a change to the zone maps.
 - d. The time and place the application/petition has been set for hearing.
 - e. That the application/petition and file may be examined in the office of the Commission.
 - f. That the addressee may voice an opinion at the hearing and/or file written comments with the Commission.
 - g. That the hearing may be continued from time to time as may be found necessary.
7. Appearance at any hearing on an application/petition, in person or by representative, shall waive any defect in notice unless the alleged defect is raised at the beginning of the hearing.
8. Proof that notice has been mailed shall be filed in the office of the Plan Commission three (3) days prior to the public hearing. Failure to provide proof of notice 3 days prior to the hearing will result in the hearing being cancelled. Proof shall consist of the original US Postal Service Certified Mail Receipts stamped by the US Post Office with the postmark,

any return receipts (green cards) received, and/or any envelopes that were returned to sender as “undeliverable.” Please note, the postmarked certified mail receipts shall be sufficient proof of notice under these rules regardless of actual receipt by the intended recipient.

9. The applicant/petitioner shall cause a legal notice to be published in the Butler Bulletin at least ten (10) days before the public hearing. Said legal notice shall be at the expense of the applicant/petitioner. Plan Commission Staff must approve said legal notice before publication.

B. Notice for the Repealing, Replacement, or Amendment of text of Zoning Ordinance or Comprehensive Plan

In the event that a proposal would repeal and replace the Zoning Ordinance or amend the text of the Zoning Ordinance, the Commission shall publish notice of the proposal in the Butler Bulletin at least ten (10) days before the public hearing on the proposal.

C. Notice for All Other Meetings

1. For all meetings, other than public hearings, of the Commission or any of its standing committees, a notice shall be posted at the entrance of the building where the meeting will occur giving the meeting time and location. This notice shall be posted at least 48 hours before the meeting occurs. No other notice shall be required.
2. The Commission shall bear the cost of and responsibility for newspaper notice and posting the notice at the meeting location. The applicant/petitioner requesting the hearing shall bear the cost of and responsibility for newspaper notice and notice to interested parties.

**ARTICLE SEVEN
COMMITTEES**

Committees may be created for purposes and terms, which the Commission approves, and in accordance with the following:

- A. Each committee shall be composed of not more than four (4) Commission members.
- B. The President shall appoint a chair for each committee who shall be responsible for all official business.
- C. Non-member citizens and special resource people may be appointed serve on committees.

**ARTICLE EIGHT
BUDGET**

The Butler City Plan Commission shall prepare its budget annually and submit the same to the City Council at budget time.

**ARTICLE NINE
AMENDMENT**

A. Amendment

These By-Laws may be amended by a majority of the membership at any regular meeting or special meeting called for the purpose of amending these By-Laws of the Butler City Plan Commission. Any amendment of these By-Laws shall be attached hereto and made a part hereof by the Secretary.

**ARTICLE TEN
CONFLICTING STATUTES**

A. Powers and Duties

The powers and duties of the Butler City Plan Commission and the Board of Zoning Appeals are contained in State Statutes enacted and promulgated by the State of Indiana. If any statute of the State of Indiana conflicts with these By-Laws then the provisions of said statute shall control unless said By-Laws create stricter notice provision than those contained in said statutes. If any statutes, which are incorporated in these By-Laws, are amended by the legislature, then these By-Laws shall be automatically amended to conform with the provisions of said statutes. The President of the Plan Commission shall have the By-Laws reviewed annually by legal counsel in order to keep these By-Laws current.

B. Incorporation by Reference

All statutes of the State of Indiana and amendments concerning plan commissions, which are not specifically incorporated in these By-Laws, are hereby incorporated by reference as part of the By-Laws of the Butler City Plan Commission.

Adopted by the Butler City Plan Commission on the _____ day of _____, 2002.

Amy Schweitzer, Secretary