

Clear Lake Plan Commission

Rules of Procedure

Article 1 Name, Purpose, Powers, and Jurisdiction

- 1.1 Name: The name of the Commission shall be the Clear Lake Plan Commission. Its office shall be located in the Town Hall at 111 Gecowets Drive, Clear Lake, Fremont Indiana 46737.
- 1.2 Purpose: The purpose of the Commission is to prepare, adopt, and maintain a Comprehensive Plan that promotes orderly development, improves the health, safety, convenience, and welfare of its residents, and plans for the future development of the community. [IC 36-7-4-201]
- 1.3 Powers and Duties: The powers and duties of the Clear Lake Plan Commission are specific and set out in Indiana Code 36-7-4-401 through Indiana Code 36-7-4-411 as amended from time to time.
- A. The Clear Lake Plan Commission is an advisory plan commission [IC 36-7-4-202(a)]. The Commission acts in an advisory capacity to the Clear Lake Town Council regarding:
- i. The adoption of a Comprehensive Plan and amendments thereto;
 - ii. The adoption of development ordinances, zoning ordinances, subdivision control ordinances, zoning maps, and amendments thereto; and
 - iii. Any other matter, within the jurisdiction of the Commission, authorized by advisory planning law.
- B. The Commission renders final decisions concerning
- i. Plats or replats of subdivisions; and
 - ii. Development Plans.
- 1.4 Jurisdiction: The jurisdiction of the Commission shall be the Town of Clear Lake corporate limits.
- 1.5 Seal: The Plan Commission adopts a seal with the caption “Clear Lake Plan Commission.”

Article 2 Meetings

- 2.1 Regular Meetings: The Clear Lake Plan Commission shall meet four (4) times per year on the first Monday of February, May, August, and November [IC 36-7-4-306]. The Plan Commission shall elect officers at its first regularly scheduled meeting of each year in February. Regular meetings may be canceled if there is no business.
- 2.2 Special Meetings: All other meetings of the Clear Lake 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.
- A. The President, Plan Commission Staff, or two (2) 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 (3) days before the special meeting, notice fixing the time and place of the meeting and specifying the subject matter of the meeting. This notice shall not be required if the date, time, and place of the special meeting have been fixed at a regular meeting.
- B. An applicant may request a special meeting. An applicant-requested special meeting may only be held on the first Monday of a month without a regular meeting (i.e. January, March, April, June, July, September, October, or December). The applicant shall pay the fee established in the Town of Clear Lake fee schedule for calling a special meeting.
- 2.3 Place of Meeting: Clear Lake Plan Commission meetings shall take place in the Clear Lake Town Hall at 7:00 PM. The President may change the date, time, or place of a regular meeting provided that notice of said change is given to all members, interested parties, and the public.
- 2.4 Notice of Meetings: Notice of meetings shall be given to all members of the Plan Commission in person, by telephone, by e-mail, 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 Town Hall, the Clear Lake General Store, and the Clear Lake Marina. The Secretary shall be responsible for providing meeting notices to the Clear Lake Clerk-Treasurer in a timely manner for publication in the newspaper and/or posting as required.
- 2.5 Minutes of Meetings: The Plan Commission shall keep minutes of each meeting. These minutes shall be presented to the Plan Commission at the next regular succeeding meeting for approval. When approved, the minutes shall be signed by the Secretary and kept in the Plan Commission minute book in the Town Hall.

2.6 Order of Business: The following order of business shall be followed at all meetings of the Plan Commission.

- A. President shall call meeting to order
- B. Secretary shall take roll and determine if a quorum is present
- C. Approval of minutes from previous meetings
- D. Budget items
- E. Applications, petitions, and/or public hearings
- F. Old business
- G. New business
- H. Adjournment

2.7 Quorum and Official Action: A majority of the Clear Lake Plan Commission that is qualified to vote, four (4) members, shall constitute a quorum [IC 36-7-4-301]. Action of the Clear Lake Plan Commission is not official unless authorized at a regular or special meeting by a majority of the entire membership of the Clear Lake Plan Commission [IC 36-7-4-302].

2.8 Late Night Meeting Policy: It shall be the policy of the Clear Lake Plan Commission to conclude all 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 Plan Commission may extend any meeting beyond the hour of 10:00 PM with a vote of at least three-fourths ($\frac{3}{4}$) of all members present provided a quorum of the Commission exists.

Article 3 Membership and Officers

- 3.1 Membership: The Plan Commission membership shall be consistent with the provisions of Indiana Code 36-7-4-207(B) and 36-7-4-213 as amended from time to time.
- A. The Town Council shall appoint three (3) persons who must be elected or appointed municipal officials or employees in the municipal government.
 - B. The Town Council President shall appoint four (4) citizen members, of which no more than two (2) may be of the same political party.
 - C. The Steuben County Plan Commission shall designate a representative from the Steuben County Plan Commission to serve as an advisory member of the Clear Lake Plan Commission. The member has all of the privileges of membership, except the right to vote.
 - D. 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 [IC 36-7-4-220].
- 3.2 Terms and Removal: Terms of Plan Commission members shall be consistent with the provisions of Indiana Code 36-7-4-217 and 36-7-4-218.
- A. 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.
 - B. When an initial term of office of a citizen member expires, each new appointment of a citizen member is for a term of four (4) years.
 - C. 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. 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 Steuben County. The court may, pending the outcome of the appeal, order the removal or stay the removal of the member.
- 3.3 Officers:
- A. Election of Officers: The Clear Lake Plan Commission shall elect a President and Vice-President from the members of the Plan Commission at the end of 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 [IC 36-7-4-303 and IC 36-7-4-303].
 - i. The person serving as the President at the last meeting of the preceding year shall entertain nominations for each office specified in these Rules of Procedure.
 - ii. Whenever a candidate receives a majority of the vote of the entire membership of the Commission, that person shall be declared elected.
 - iii. Each officer elected under these rules shall enter into office immediately upon being declared elected and shall serve until the successor is declared elected at the first meeting of the following year, or until the officer is no longer a member of the Commission.
 - B. Vacancy: Whenever any office becomes vacant, the Commission shall elect a successor at its next regular meeting to complete the remainder of the unexpired term.

C. Duties of Each Officer:

- i. The President shall preside over each regular or special meeting of the Clear Lake Plan Commission, shall perform duties normally performed by a presiding officer including the appointment of committees, ruling on all points of procedure, signing all official documents on behalf of the Plan Commission, and serving on the Executive Committee.
- ii. 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 Vice-President shall serve on the Executive Committee. The Plan Commission shall elect a temporary president from among its members if both the President and Vice-President are absent.
- iii. The Secretary shall keep records of all meetings, applications, and other items of the Clear Lake Plan Commission. The Secretary, in conjunction with the Clear Lake Clerk-Treasurer, shall keep track of all money received and disbursed by the Clear Lake Plan Commission [IC 36-7-4-303 and IC 36-7-4-304].

3.4 Conflict of Interest:

- A. No member of the Clear Lake Plan Commission shall participate in the hearing or decision of the Commission, other than the preparation and enactment of a comprehensive plan, concerning a legislative act or zoning decision in which he or she has a direct or indirect financial interest or is aware of circumstances that would prevent the member from considering an application in a fair and unbiased manner. In the event of such disqualification, such fact shall be entered into the records of the Plan Commission along with name of the alternate member, if any, who participates in the hearing in place of the regular member.
- B. If the President disqualifies himself or herself for any reason 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. The temporary president retains his or her right to vote, and the regular President shall be counted in determining whether or not a quorum is present [IC 36-7-4-223].

3.5 Voting:

- A. Each member of the Clear Lake Plan Commission shall have one (1) vote.
- B. Decisions of the Plan Commission shall be by voice vote unless a paper ballot is requested by a member of the Plan Commission. In the case of a paper ballot vote, the President shall disclose the vote of each member when announcing the decision.
- C. All members present shall vote on every matter unless prevented by conflict.

- 3.6 Vacancies: 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. [IC 36-7-4-220]

Article 4 Hearings

- 4.1 Required Hearings: Public hearings shall be held as required by Indiana Code and the Town of Clear Lake Unified Development Ordinance for the adoption or amendment of a Comprehensive Plan, the adoption or amendment of the Unified Development Ordinance, the adoption or amendment of the Zoning Map, the approval of a preliminary subdivision plat, and other applications as necessary.
- 4.2 Agenda Placement: An applicant who seeks a recommendation from or the approval of the Plan Commission shall file the appropriate application with the Plan Commission. Upon receipt of such an application, payment of filing fees, and confirmation that all the necessary information is included, the Secretary shall place the application on the agenda of the next eligible Plan Commission meeting. Administrative rules and deadlines are established by the Town of Clear Lake Unified Development Ordinance for procedures such as filing an application and are available upon request.
- 4.3 Meeting Attendance: In order for an application to be heard at a public hearing, the application or agent for the applicant shall be in attendance to present the application, evidence and support thereof, and answer questions about the application. If no one is present to represent the applicant, then the Commission shall dispose of the application in accordance with *Article 5: Final Disposition of Cases*.
- 4.4 Conduct of Hearings:
- A. 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 giving testimony to the Commission shall complete a “record of Public Hearing Appearance and Presentation of Evidence” form before stating his/her name and address for the record and state whether they support or oppose the application.
 - i. For any application for which a public hearing is required, the President shall introduce the application.
 - ii. The President shall request the applicant present the application. The applicant shall first present the facts and arguments in support of the case (15 minutes). Comments and questions from the Plan Commission concerning the initial presentation shall be held until the end of the initial presentation.
 - iii. The President shall ask for Plan Commission Staff comments on the application.
 - iv. The President shall ask for comments and questions from the Plan Commission.
 - v. The hearing shall then be opened for comments from others.
 - (a) Supporting comments from organized groups, committees, and individuals, other than the applicant shall then follow. Speakers should try to present new points and not repeat previous speakers (5 minutes).
 - (b) Opposing comments shall then be heard. Speakers should try to present new points and not repeat previous speakers (15 minutes).
 - (c) The Plan Commission reserves the right to question any speaker at the end of his/her presentation.

- vi. The applicant 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).
 - vii. Once the Plan Commission has no final questions, the public hearing shall be closed.
 - viii. After the hearing is closed, the Plan Commission shall discuss and deliberate the application and shall have the right to ask questions to clarify information.
- B. In the presentation of a case:
- i. The burden shall be on the applicant to supply all information, including charts, diagrams, and other exhibits necessary for a clear understanding of the request.
 - ii. Statements to the Plan Commission made by the applicant at the meeting regarding anticipated methods of operation, siting, or other details relevant to the decision shall be binding agreements between the applicant and the Plan Commission and shall be reflected in the minutes of the meeting.
 - iii. Drawings, displays, or documents presented at the meeting by the applicant illustrating details shall also be binding as to their content and representation if the application receives approval. Said documentation shall become part of the public record, and shall be maintained with the case file.
- C. Every person appearing before the Plan 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 Plan Commission and shall be dealt with as the President directs.
- D. The Plan Commission may continue or postpone any hearing when it needs more time to deliberate. The Plan Commission, at its discretion and on an affirmative vote of a majority of the Plan Commission, may continue or postpone a hearing upon request of any party.
- E. Postponement/continuation of hearings to a date more than six (6) months beyond the initial public hearing shall not be granted. The Plan Commission shall dismiss such pending requests. The right of applicants to re-file such applications shall be preserved, providing no final disposition of the prior request was granted. Such applications shall again be subject to the payment of filing fees.

Article 5 Final Disposition of Cases

5.1 Final Disposition:

- A. The disposition of cases requiring final approval from the Town of Clear Lake Town Council shall be in the form of a recommendation to the Town Council.
- B. 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.

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

5.3 Withdraw of Application: An Applicant may not withdraw a case after a motion has been made concerning the application.

5.4 Re-file: An applicant that has received an adverse decision may re-file the application twelve (12) months after the date of the decision and only if there has been a change of circumstances. The change of circumstances must be specified in the re-filed application.

Article 6 Notice

6.1 Notice for Repealing, Replacing, or Amending the Text of the Unified Development Ordinance or Comprehensive Plan: In the event that a proposal would repeal and replace or amend the text of the Unified Development Ordinance, the Plan Commission shall publish notice of the proposal in the Herald Republican ten (10) days or more before the public hearing on the proposal.

6.2 Notice for Repealing and Replacing the Entire Zoning Map: In the event that a proposal would repeal and replace the entire Zoning Map, the Plan Commission shall publish notice of the proposal in the Herald Republican ten (10) days or more before the public hearing on the proposal.

6.3 Request by 100% of the Property Owners: In the event that a request for action by the Plan Commission is made by 100% of the property owners in the proposed action, the following requirements for notice shall be met:

- A. The applicant shall inform *adjacent property owners* of the proposal by sending a copy of the legal notice with the US Post Office's Certificate of Mailing Service with such notice being postmarked at least fourteen (14) days before the public hearing date. *Adjacent properties owners* shall be defined as all contiguous properties with the assumption that public rights-of-way do not exist. Addresses for adjacent property owners shall be obtained through the Steuben County property owner records.

- B. The applicant shall inform *interested property owners*, which are not adjacent property owners, of the proposal by sending a copy of the legal notice by regular mail with such notice being postmarked at least ten (10) days before the public hearing date. *Interested property owners* shall be defined as those within a 300 foot buffer of the subject property. Interested property owners shall be determined by creating a 300 foot buffer around the subject property using the Steuben County GIS system. Addresses for interested property owners shall be obtained by using the Clear Lake Directory.
- C. Such notice shall state:
 - i. The name of the applicant.
 - ii. The location by address or other identifiable geographic description of the subject property.
 - iii. A summary of the subject matter contained in the proposal and/or a description of the proposed change in the zoning maps (if applicable).
 - iv. The time and place that the application has been set for hearing.
 - v. That the application and file may be examined in the Town Hall.
 - vi. That the addressee may voice an opinion at the hearing and/or file written comments with the Plan Commission.
 - vii. That the hearing may be continued from time to time as necessary.
- D. Appearance at any hearing on an application, in person or by representative, shall waive any defect in notice unless the alleged defect is raised at the beginning of the hearing.
- E. Proof of notice shall be filed in the case file. Proof shall consist of the original US Postal Service Certificate of Mailing receipts stamped by the US Post Office with the postmark, and/or any envelopes that were returned to sender as “undeliverable.” The postmarked receipts shall be sufficient proof of notice under these rules regardless of actual receipt by the intended recipient.
- F. Plan Commission Staff, in conjunction with the Clear Lake Clerk-Treasurer, shall cause a legal notice to be published in the Herald Republican ten (10) days or more before the public hearing.
- G. The applicant requesting a Public Hearing shall post one “public hearing” yard sign at least fourteen (14) days before the Public Hearing. The sign shall be placed in a visible location (street side) on the property for which a public hearing is to be held. These signs are available from the Town, but require a \$25 deposit which will be refunded when the sign is returned to the Town. The applicant is encouraged to return the sign at the meeting where his/her application will be heard.

6.4 Requests by Less than 100% of the Property Owners: In the event of a request for action by the Plan Commission is made by less than 100% of the property owners in the proposed action, the following requirements for notice shall be met:

- A. The applicant shall inform *affected property owners* and *adjacent property owners* of the proposal by sending a copy of the legal notice with the US Post Office’s Certificate of Mailing Service with such notice being postmarked at least fourteen (14) days before the public hearing date. Those who have signed the application or are acting as the applicant need not be notified. *Affected property owners* shall be defined as those that own land involved in the application. *Adjacent property owners* shall be defined as all contiguous properties with the assumption that public rights-of-way do not exist. Addresses for affected

property owners and adjacent property owners shall be obtained through the Steuben County property owner records.

- B. The applicant shall inform *interested property owners*, which are not affected property owners or adjacent property owners, of the proposal by sending a copy of the legal notice by regular mail with such notice being postmarked at least ten (10) days before the public hearing date. *Interested property owners* shall be defined as those within a 300 foot buffer of the subject property. Interested property owners shall be determined by creating a 300 foot buffer around the subject property using the Steuben County GIS system. Addresses for interested property owners shall be obtained by using the Clear Lake Directory.
- C. Such notice shall state:
 - i. The name of the applicant.
 - ii. The location by address or other identifiable geographic description of the subject property.
 - iii. A summary of the subject matter contained in the proposal and/or a description of the proposed change in the zoning maps (if applicable).
 - iv. The time and place that the application has been set for hearing.
 - v. That the application and file may be examined in the Town Hall.
 - vi. That the addressee may voice an opinion at the hearing and/or file written comments with the Plan Commission.
 - vii. That the hearing may be continued from time to time as necessary.
- D. Appearance at any hearing on an application, in person or by representative, shall waive any defect in notice unless the alleged defect is raised at the beginning of the hearing.
- E. Proof of notice shall be filed in the case file. Proof shall consist of the original US Postal Service Certificate of Mailing receipts stamped by the US Post Office with the postmark and/or any envelopes that were returned to sender as “undeliverable.” The postmarked receipts shall be sufficient proof of notice under these rules regardless of actual receipt by the intended recipient.
- F. Plan Commission Staff, in conjunction with the Clear Lake Clerk-Treasurer, shall cause a legal notice to be published in the Herald Republican ten (10) days or more before the public hearing.
- G. The applicant requesting a Public Hearing shall post one “public hearing” yard sign at least fourteen (14) days before the Public Hearing. The sign shall be placed in a visible location (street side) on the property for which a public hearing is to be held. These signs are available from the Town, but require a \$30 deposit which will be refunded when the sign is returned to the Town. The applicant is encouraged to return the sign at the meeting where his/her application will be heard.

6.5 Notice for Other Meetings: For all other meetings of the Plan Commission, 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 forty-eight (48) hours before the meeting occurs. No other notice shall be required.

6.6 Cost of Notice: The applicant requesting a public hearing shall bear the cost of the newspaper notice and notice to all neighboring property owners by paying the fee established in the Town’s fee schedule. Additionally, a separate \$30 deposit shall be required for each “public hearing” yard sign. The deposit shall be refunded when the sign is returned to the Town.

Article 7 Staff and Committees

- 7.1 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 three (3) members of the Clear Lake Plan Commission.
 - B. The President shall appoint a chair for each committee who shall be responsible for all official business of the committee.
 - C. Non-member residents and special resource people may be appointed to serve on committees.
- 7.2 Executive Committee: The Executive Committee shall be a standing committee of the Plan Commission. The members of the Executive Committee shall be the President, Vice-President, and one (1) additional member of the Plan Commission who shall be appointed at the first regular meeting of each year. The Executive Committee shall be responsible for determining any special projects and/or areas of focus for the Plan Commission.
- 7.3 Staff: The Plan Commission Staff shall be the Zoning Administrator for the Town of Clear Lake.

Article 8 Budget

- 8.1 Budget: The Clear Lake Plan Commission shall work with the Clear Lake Clerk-Treasurer to prepare an annual budget and submit the same to the Town Council at budget time.

Article 9 Amendment and Conflicting Statutes

9.1 Amendment: These Rules of Procedure shall be amended by two-thirds (2/3) of the membership at any regular meeting or special meeting called for the purpose of amending the Rules of Procedure of the Clear Lake Plan Commission.

9.2 Powers and Duties: The powers and duties of the Clear Lake Plan Commission are contained in State Statutes enacted and promulgated by the State of Indiana. If any statute of the State of Indiana conflicts with these Rules of Procedure, then the provisions of said statute shall control unless said Rules of Procedure create a stricter notice provision than those contained in said statutes. If the State Statutes, which are incorporated in these Rules of Procedure, are amended by the legislature, then these Rules of Procedure shall be automatically amended to conform to the provisions of said statutes. The President of the Plan Commission shall have the Rules of Procedure reviewed regularly by legal counsel in order to keep them current.

9.3 Incorporation by Reference: All statutes of the State of Indiana and amendments concerning plan commissions, which are not specifically incorporate in these Rules of Procedure are hereby incorporated by reference as part of the Rules of Procedure of the Clear Lake Plan Commission.

Adopted by the Clear Lake Plan Commission on this 2nd day of May, 2011.

**Clear Lake Plan Commission - Rules of Procedure
Table of Amendments**

PC Approval Date	Article Affected	Brief Description of Changes
May 2, 2011		Initial Adoption
May 9, 2012	1, 3, 4, 6	Per changes to Indiana Code, address changes, public notice sign
April 25, 2016	3, 6	Any PC Member may request vote by paper ballot; Certificate of Mailing Service replaces Certified Mail, Return Receipt Requested as method for giving notice to adjacent property owners