

TOWN OF PENDLETON HISTORIC PRESERVATION COMMISSION

RULES OF PROCEDURE

I. Membership, Organization and Meetings

A. Membership of the Historic Preservation Commission ("Commission")

1. The Commission shall be made up of five voting members. The voting members shall be appointed by the Town Council President subject to the approval of the Town Council and shall be residents of the Town who are interested in the preservation and development of historic areas. The members of the Commission should include professionals in the disciplines of architectural history, planning, and other disciplines related to historic preservation, to the extent that those professionals are available in the community and willing to serve.
2. The Commission may also have other nonvoting, advisory members appointed by the Town Council President with approval by the Town Council.
3. Voting and nonvoting Commission members shall serve without compensation, except for reasonable expenses incurred in the performance of their duties.

B. Term

Voting members shall serve for a term of three years; however, the initial terms of members shall be for one year (one member), two years (one member), and three years (one member) in order for the terms to be staggered. The term for nonvoting, advisory members shall be for three years. A vacancy shall be filled within 90 days for the duration of the term.

C. Commission Administrator

1. A Town administrator designated by the Town Council President subject to the approval of the Town Council shall serve as the ex-officio administrator of the Commission. The administrator shall provide staff assistance to the Commission, act as or provide the Commission's secretary, and issue Certificates of Appropriateness, except in the following situations:

- a) The demolition of a building, structure, or site.
- b) The moving of a building or structure.
- c) The construction of an addition to a building or structure.
- d) The construction of a new building or structure.
- e) Any change that is not addressed by the Historic Preservation District Design Guidelines.

D. Officers

1. At their first regularly scheduled meeting of each calendar year, the Commission shall elect from its membership a Chairperson, Vice-Chairperson, and Treasurer who shall serve for one year and who may be reelected.
2. The Chairperson shall preside at all meetings and, in his or her absence or disability, the Vice-Chairperson shall preside. The Commission shall elect a Chairman Pro Tempore from among its members if both the Chairman and Vice Chairman are absent or disabled.
3. The Treasurer shall report the status of Commission funds as requested by the Commission.
4. If any office becomes vacant, the Commission shall elect a successor at its next regular meeting to complete the remainder of the unexpired term.

E. Points of Order

The presiding officer of the Commission shall, subject to these Rules of Procedure, decide all points of order or procedure, unless otherwise directed by a majority of the members of the Commission present.

F. Quorum and Official Vote

1. A majority of the entire voting membership of the Commission constitutes a quorum. A majority vote by the quorum present constitutes official action of the Commission.
2. All voting shall be by roll call, except in the case of a unanimous vote.

G. Vacancies

If a vacancy occurs among the membership of the Commission, the Town Council President, subject to the approval of the Town Council, shall appoint a member for the unexpired term of the vacating member.

H. Secretary

1. The Commission may appoint a Secretary and such employees as are necessary for the discharge of the Commission's duties.
2. The Secretary shall:
 - a) Keep a complete and accurate record of all proceedings and votes of the Commission;
 - b) Prepare the agenda of all meetings following consultation with the Chairperson;
 - c) Provide notices of meetings to the Commission members;
 - d) Arrange for all required legal notices for hearings of the Commission;
 - e) Attend to the correspondence of the Commission;
 - f) Record, file, and assume all responsibility for custody and preservation of all papers and documents of the Commission;

- g) Prepare, publish, and distribute reports, ordinances and other material relating to Commission activities; and,
- h) Perform other duties normally carried out by a Secretary.

3. If the Secretary is absent at any meeting, the Chairperson shall appoint a temporary Secretary.

I. Regular Meetings

The Commission shall hold its regular meeting on the 2nd Tuesday of each month at 6:00 PM in the Pendleton Town Hall, Pendleton, Indiana, except when no business is pending. If the 2nd Tuesday of the month is a holiday as recognized by the Town of Pendleton, or if it is impossible to conduct the meeting at that time or place, the regular monthly meeting shall be scheduled for the 4th Tuesday of the month.

J. Special Meetings

Special meetings of the Commission may be called by the Chairman or by two members of the Commission upon written request to the Secretary. The Secretary shall send to all members, at least three days before the special meeting, a written notice fixing the time and place of the meeting.

Written notice of a special meeting shall not be required if (i) the date, time and place of a special meeting is fixed at a regular meeting; and (ii) all members of the Commission are present at the regular meeting.

K. Executive Session

The Commission may meet in Executive Session pursuant to I.C. 5-14-1.5-6.1.

L. Public Meetings

All meetings of the Commission, except legally constituted executive sessions, shall be open to the public who shall have the right to give testimony during the public hearing portion of the meeting, in accordance with these Rules of Procedure.

M. Minutes

The Commission shall maintain minutes of all meetings, including the record of the vote on all actions taken. The minutes of any Commission meeting shall be filed with the Pendleton Town Council and maintained as public records.

II. **Filing of Requests for Historic Designation**

A. Who May File

Requests for the creation of a historic district (which may be a single building) may be initiated by the building owner or a property owner within the proposed historic

district. The request must be signed by at least one of the owners of the building(s) involved in the request.

B. Filing Deadline

Requests for the creation of a historic district must be submitted to the Commission at least 14 days before its regular meeting.

III. **Request for Certificate of Appropriateness ("CoA")**

A. Who May File

Requests for a CoA may be initiated by the building owner within a historic district. The request must be signed by the owner of the building(s) involved in the request.

B. Filing Deadline

Requests for a CoA must be submitted to the Commission at least 14 days before its regular meeting.

C. Forms

Requests for a CoA must be submitted on the form(s) provided by the Commission.

D. Staff Approval

Should the Planning Staff deem the CoA application request fitting and/or minor, Staff can approve the CoA per their discretion.

E. Public Hearing

The Commission may hold a public hearing to consider the request for a CoA.

F. Action of Commission

Unless mutually agreed upon by the Commission and the person requesting the CoA, the Commission will take action on a request within 30 days of the date the request was submitted. Such action may include continuing a meeting to discuss the request for a CoA for a period of not more than 30 days.

G. Written Determination

The Commission shall, in all cases heard by the Commission, make a written determination in support of the Commission's decision on the applicants CoA request.

H. Time Limits on CoA's

Certificates of Appropriateness are valid for 24 months after the Commission or Staff approves the application. Should the construction pertaining to the CoA not begin

within the 24 month period, the applicant must seek reapproval from the Commission in the aforementioned application and hearing process. If the design has not significantly changed, then Planning Staff has the right to Staff approve applicants, but can send the re-application to the Commission if Staff sees fit.

IV. Docketing of Requests, Order of Hearings, Investigation of Requests

A. Docketing by Chairperson

Each Request filed in proper form pursuant to the guidelines established by the Commission shall, within 15 days of filing, be numbered and docketed by the Chairperson for an initial hearing by the Commission, which shall be held not later than 30 days after the date on which the request is submitted, unless mutually agreed upon by the Commission and the Requesting Party. Such requests shall be numbered consecutively in the order of their filing according to the type of request.

B. Order of Hearing

On the date of the public hearing, the Commission shall hear Requests in the order of their numbers.

V. Conduct of Public Hearings

A. Time Allowed and Procedure for Hearing of Requests

1. In order to provide all interested parties with a fair hearing, Requesting Party(ies) and remonstrators shall be afforded a reasonable amount of time for the presentation of evidence, statements and argument at the public hearing of every Request before the Commission. The order of the presentation of evidence, statements and arguments shall be as follows:

- a) Staff of the Commission (if any) shall be given a reasonable time by the Commission to introduce the matter being considered and for the presentation of evidence, statements regarding the matter being considered.
- b) Requesting Party shall be allotted a total of 15 minutes to present evidence, statements and arguments in support of the matter being considered. The petitioner, the property owner, or agent for the petitioner or property owner, must appear in person or via teleconference (when available) before the Commission for the case to be considered.
- c) Persons appearing in support of a Request shall be allotted a total of 15 minutes to present evidence, statements and arguments in support of the matter being considered. Any person may appear in person, by counsel, or via teleconference (when available) to participate in a discussion.
- d) Remonstrators and persons appearing in opposition to a Request shall then be allotted a total of 15 minutes to present evidence, statements and arguments in opposition to the matter being considered. Any person may appear in person, by counsel, or via teleconference (when available) to participate in a discussion.
- e) The Requesting Party shall then have a total of five minutes for rebuttal, which shall include only evidence, statements and argument in rebuttal of remonstrators' or the Staff's evidence, and a brief closing statement.

2. At the conclusion of remarks by any party, the Commission shall have the right to ask questions pertaining to the evidence, statements and argument presented. Time involved in responding to questions by the Commission by either the Requesting Party or remonstrators shall not be considered for purposes of calculating equal time for presentation.

3. The presiding officer shall have authority to cut off repetitious and irrelevant testimony and shall make reasonable efforts to allow equal time for Requesting Party and remonstrators.

B. Testimony

Any person giving testimony to the Commission regarding any pending Request shall be placed under oath and shall first state their name and address for the record prior to beginning testimony.

C. Orderly Conduct

All persons appearing at a public hearing shall act in an orderly and courteous manner. Discourteous, disorderly or contemptuous conduct shall be regarded as a breach of the privileges extended by the Commission and shall be dealt with by the presiding officer as is deemed fair and proper.

D. Continuances

1. Requests for continuances by Requesting Party or remonstrators shall be considered at the beginning of each public hearing agenda prior to calling the first Request for public hearing listed on the agenda.

2. A continuance request may be made in person or in writing and shall:

- a) specify the date to which the continuance is requested; and
- b) indicate whether it is the first request made by the party for a continuance of the hearing on the subject Request.

3. Continuances may be granted by motion of the Commission at the hearing upon a showing of good cause (e.g., the need for additional time for negotiation between Requesting Party and remonstrators which will reasonably increase the likelihood of agreement between the parties; the unforeseeable need for additional information; or, the unforeseeable absence of a key witness) and provided that the non-requesting party does not suffer a significant hardship because of the grant of a continuance (e.g., presence of remonstrators at the hearing who would be inconvenienced by having to reappear; or, additional expense incurred by Requesting Party as a result of time delay).

4. The Commission may, at any time, in its discretion, continue the hearing of any Request.

E. Contacting Commission Members Regarding Pending Request Prohibited

1. No person shall contact any member of the Commission in advance of a public hearing on any pending Request with intent to influence the Commission member's action on such Request.
2. A written request for continuance as provided for by these rules shall not be construed to be a prohibited contact of a Commission member.
3. Contact with a Commission member who is also a member of the Town Council, shall not be construed to be a prohibited contact provided that: (i) all contact is limited to that member's official duties as a Town Council member; and (ii) the Commission member who is also a member of the Town Council reports on the substance of such contact to the other members of the Commission during the public hearing.

F. Disqualification of Commission Member in Case of Personal or Financial Interest

1. A member of the Commission who has some personal, direct or indirect financial interest in any Request presented shall: disqualify himself or herself insofar as the particular Request is concerned; not sit as a member of the Commission during the hearing of the particular Request; and, not participate as a member in the Commission's hearing or decision in such Request.
2. In the case of a conflict of interest, the Commission shall enter into its records the fact that a regular member has such a disqualification and the name of the alternate member, if any, who participates in the decision or hearing in place of the regular member.

G. Amendments

Requests to amend any Request may be filed in writing prior to or at the beginning of any hearing, or may be made orally at the hearing. Any remonstrators present shall have the right to be heard on any objections they may have to such proposed amendment and may request a continuance of the hearing to allow time to study the proposed amendments. It shall be within the discretion of the Commission to grant or deny requests for such continuances and to require re-notification. In making this determination, consideration shall be given to whether or not the Staff (if applicable) and any remonstrators have had sufficient time to adequately review these new amendments or supporting documents.

VI. Withdrawal and Reapplication

A. Withdrawal of Requests

1. No Request may be withdrawn by the Requesting Party after a vote has been ordered by the presiding officer. A Request which has been properly withdrawn by the Requesting Party may be heard at the next regular meeting of the Commission upon providing all proper legal notice.

2. Any Request which has been withdrawn by the Requesting Party, and which has not been set for hearing at the next regular meeting as described above, shall not be re-filed for consideration within a period of three months from the date of said withdrawal, except upon motion to permit re-filing adopted by a majority vote of all members of the Commission at a regular or special meeting, for good cause shown.

B. Re-Filing Following Adverse Decision

1. No building or other structure which has been the subject of an adverse decision of a Request for designation as historic or for a CoA, shall again be included in a substantially similar Request for either a historic designation or a CoA within one year from the date of the adverse decision, unless the body making the adverse decision, by an official vote at a public hearing, decides for good cause shown, to allow the re-filing.

2. Written notice of a special request to include a building or structure subject to an adverse decision in another Request shall be provided to adjoining property owners at least 10 days prior to the date of consideration of the special request by the Commission inside of the one-year waiting period.

3. No Request which has been the subject of a prior denial by the Commission shall be granted consideration by the Commission before the passing of the six-month waiting period except upon adoption of an additional finding that a substantial change in the particular circumstances which induced the prior denial has occurred. It shall be the responsibility of the Requesting Party to prepare and submit, at the time of filing, a detailed written finding of fact reflecting the substantial change in circumstances. Any such Request filed without the additional finding shall be deemed incomplete and shall not be considered.

VII. National Register Review Procedures

A. Notification Procedures

1. The following procedures shall be followed upon the receipt of a National Register of Historic Places nomination.

a) The Commission shall review a nomination for a property or properties located entirely within the jurisdiction of the Town of Pendleton. Review and notification procedures shall be in accordance with Federal Regulation, 36 CFR 60, and the Indiana Certified Local Government Regulations.

b) The Commission shall establish a permanent record of each National Register nomination filed.

c) The Commission shall forward a copy of the application to the Division of Historic Preservation and Archaeology within five (5) working days of receipt, unless the application has been transmitted from the Division to the Commission.

- d) The Commission's Administrator, or his/her designee, shall be responsible for revising any applications that are submitted and not complete.
- e) The Commission shall have 60 (sixty) working days for the date of receipt of a complete application to revise and complete the application for an individual property.
- f) The Commission shall have 120 (one-hundred twenty) working days from the date of a complete application to revise and complete the application for a contiguous district.
- g) If the Historic Preservation Commission staff does not revise and complete the review of an application and schedule it for Public Meeting within the above deadlines, the applicant, property owner, or any other interested party may appeal to the Division of Historic Preservation and Archaeology for review of the application.
- h) The Commission, within 60 (sixty) working days of receipt of the complete application, shall hold a public hearing on the application. The hearing shall be conducted in accordance with these Rules of Procedure. Public comments on the application shall be heard.
- i) Notice of the public hearing shall be prepared by the Administrator, and sent to the following no more than 75 (seventy-five) days and no less than 30 (thirty) days in advance of the public hearing:
 - (1) Owner of an individual property not located in a historic district;
 - (2) Owner of property located in a historic district;
 - (3) Town Council President of the Town of Pendleton, Indiana;
 - (4) County Commissioners of Madison County, Indiana;
 - (5) If there are more than 50 (fifty) property owners within a district, a legal notice shall be published in a newspaper of general local circulation; and
 - (6) Any town departments, the Madison County Commissioners, and any and all departments of the State of Indiana, owning public lands within the historic district or abutting an individual site.
- j) After providing notice, holding a public hearing, and allowing a reasonable opportunity for public comment, the Commission shall prepare a report as to whether or not such property, in its opinion, meets the criteria of the National Register of Historic Places. The Town Council President of the Town of Pendleton shall transmit the report of the Commission and his/her recommendation to the State Historic Preservation Officer within 30 (thirty) days of the public hearing. Copies of notification records, including letters, legal notices, written comment on the application, shall be forward to the Division.

k) If the property or district has been listed in the National Register of Historic Places, a letter of notification shall be provided to those individuals provided under Section VII (1) (i) (1 through 6) above.

VIII. Waiver of Rules

The Commission shall have the right to waive any portion of these Rules of Procedure upon their own motion, or upon request of any interested party, for good cause shown, provided, however, the Commission may not waive any portion of these Rules beyond the minimum requirements established by Statute.

IX. Amendments

Amendments to these Rules of Procedure may be made by the Commission upon the affirmative vote of a majority of the members of the Commission.

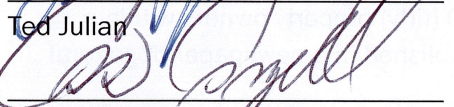
The foregoing Rules of Procedure of the Town of Pendleton Historic Preservation Commission were adopted by the affirmative vote of the undersigned members of the Commission on the 12th day of April 2023 with an effective date of the 12th day of April 2023.

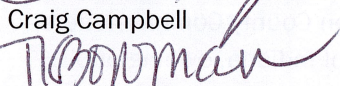
Town of Pendleton

Historic Preservation Commission


George Harris


Ted Julian


Craig Campbell


Tammy Bowman


Sandi Butler

ATTEST: _____