

Johnson County Plan Commission

RULES OF PROCEDURE

Adopted: November 25, 2002
Revised: August 27, 2007
August 24, 2015

TABLE OF CONTENTS

ARTICLE I

AUTHORITY, DUTIES	1
Section 1. Authority	1
Section 2. Duties	1
Section 3. Membership	1
Section 4. Meetings	1

ARTICLE II

OFFICERS AND STAFF	2
Section 1. Commission Officers	2
Section 2. Duties of Commission Officers	2
Section 3. Commission Staff	3
Section 4. Variance Hearing Officer	3

ARTICLE III

CONDUCT OF MEETINGS	6
Section 1. Quorum	6
Section 2. Voting	6
Section 3. Order of Business	7

ARTICLE IV

PUBLIC HEARINGS	7
Section 1. Procedure	7
Section 2. Conduct	8

ARTICLE V

DISPOSITION OF PETITIONS	9
Section 1. Motions	9
Section 2. Dismissals	9
Section 3. Withdrawals	10
Section 4. Amendments	10
Section 5. Continuance	10
Section 6. Approval	11
Section 7. Disapproval	12

ARTICLE VI

FILING PROCEDURES	12
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Section 1.	Application	12
Section 2.	Filing Deadlines	13
Section 3.	Eligible Applicants	13
ARTICLE VII		
NOTICE REQUIREMENTS		13
Section 1.	Contents	13
Section 2.	Publication	14
Section 3.	Mailed Notice	14
Section 4.	Evidence of Notice.....	15
Section 5.	Notice on Subject Property	15
ARTICLE VIII		
COMMITTEES		15
Section 1.	Authority	15
Section 2.	Standing Committees.....	15
Section 3.	Committee Meetings.....	16
ARTICLE IX		
COMMISSION RECORDS		16
Section 1.	Responsibility	16
Section 2.	Minutes	16
Section 3.	Tape Recordings	17
Section 4.	Commission Case Files.....	17
Section 5.	Public Records	17
ARTICLE X		
FEES		17
Section 1.	Schedule of Fees	17
Section 2.	Payment Required.....	18
Section 3.	Waivers	18
ARTICLE XI		
AMENDMENTS		18
ARTICLE XII		
SEPARABILITY		18
ARTICLE XIII		
CERTIFICATION OF ADOPTION		18

RULES OF PROCEDURE JOHNSON COUNTY PLAN COMMISSION

ARTICLE I AUTHORITY, DUTIES

Section 1. Authority

The Johnson County Plan Commission (hereinafter called "Commission") exists as an advisory plan commission under authority of IC 36-7-4-202, and all acts supplemental and amendatory thereto, and the Subdivision Control Ordinance of Johnson County, Indiana.

Section 2. Duties

The duties of the Johnson County Plan Commission shall be those set forth in IC 36-7-4-400, COMMISSION DUTIES AND POWERS, and such other responsibilities as may be assigned to it by the Commissioners of Johnson County.

Section 3. Membership

The Commission shall consist of nine (9) voting members, appointed in accordance with IC 36-7-4-208.

Section 4. Meetings

All meetings of the Commission shall be conducted in accordance with IC 5-14-1.5, The Indiana Open Door Law, and any amendments thereto. On-site inspections of property involved in petitions before the Commission shall not be considered meetings.

- a. Regular meetings - The Commission shall hold regular monthly meetings. A schedule of all regular meetings shall be published each year by the staff of the Commission. All regular meetings shall be held in the auditorium of the Courthouse Annex at the times designated on the schedule of meetings, unless otherwise designated by the Commission.
- b. Special meetings - In accordance with the provision of IC 36-7-4-307, special meetings of the Commission may be called at any time by the Chairman or by two (2) members of the Commission upon written request to the Commission's staff. The staff shall notify Commission members of such special meeting at least three (3) days in advance of such meeting. Written notice of a special meeting shall not be required if the time and place of the special meeting has been fixed in a regular meeting of the Commission, provided that all members of the Commission are present at the regular meeting.

- c. Cancellation - Whenever there is a lack of business for Commission consideration, the Chairman may dispense with a regular meeting. In such case, the staff of the Commission shall give written notice of all members.. Whenever it is determined that a quorum is not available for a regular or special meeting, the Chairman of the Commission shall dispense with such meeting, and all business scheduled for such meeting will be automatically continued to the next regular or special meeting. In such cases, the staff of the Commission shall give written or oral notice to the Commission members and those having business before the Commission. The Chairman of the Commission also may dispense with a scheduled regular or special meeting in the event of a natural disaster, snow emergency, or similar cause. In such case, the staff of the Commission shall give written or oral notice to the Commission members and those having business before the Commission. In the event of cancellation for any reason, the Chairman may require renotification to interested parties, with such notice to be paid for by the petitioner or by the Commission as the Chairman deems appropriate.

ARTICLE II

OFFICERS AND STAFF

Section 1. Commission Officers

At its first regular meeting of each year, the Commission shall elect from its members a Chairman, Vice Chairman, and Secretary. The Commission shall appoint a Recording Secretary and an attorney.

Section 2. Duties of Commission Officers

- a. Chairman - The Chairman shall preside over Commission meetings and on behalf of the Commission shall exercise general supervision over the affairs of the Commission, including the execution of contracts and agreements, the appointment of committees and representatives (except as otherwise provided by statute, ordinance, or these rules), the determination of points of order and procedure, and the signing of all official documents.
- b. Vice Chairman - The Vice Chairman shall have authority to act as Chairman of the Commission during the absence or disability of the Chairman.
- c. Secretary - The Secretary shall certify all official acts of the Commission. In the event of the absence or disability of both the Chairman and the Vice Chairman, the Secretary shall preside, provided, however, the first and only item of business to be presented by such presiding officer shall be the election of a Chairman pro tempore. In the event of the absence or disability of the Secretary, the Chairman of the Commission shall select a Secretary pro tempore.

Section 3. Commission Staff

- a. Duties - The Johnson County Department of Planning and Zoning shall serve as staff to the Commission, and the Planning Director shall be the designated executive of the staff. All Commission requests for information or technical advice shall be made to the Director who will be responsible for assigning staff members to gather such information or provide such advice and for conveying such information or advice to the Commission. The Director shall be responsible for the administration of the Commission's office, the employment and compensation of the employees, and the administration of any funds allocated to the Commission by the County Council or County Commissioners. The Director shall be delegated authority to perform administrative acts in all cases except where final action of the Commission is necessary. The Director also shall employ the Commission's Recording Secretary and shall be responsible for the keeping of an accurate record of all Commission proceedings, including the keeping of records and minutes, the custody and preservation of all papers and documents of the Commission, the maintenance of a current roster and qualification of members, and records of attendance.
- b. Directives - Any policies or assignments to the staff not covered by these regulations shall be by resolution of the Commission or Johnson County Commissioners.

Section 4. Variance Hearing Officer

Pursuant to Indiana Code 36-7-4-923 and 36-7-4-924, an alternate procedure for dimensional variance review is hereby established.

- a. Establishment and Appointment of Variance Hearing Officer
 - i. There is hereby established the position of Variance Hearing Officer whose responsibility shall be to conduct public hearings for review of dimensional variance petitions, those petitions to alleviate dimensional limitations presented by the physical characteristics of a parcel of land. The Hearing Officer may not hear petitions for variances of use, petitions for Special Exceptions, or appeals of any decision of the Department of Planning. The Hearing Officer may not place any conditions on an approval, and may not modify or terminate any condition previously imposed on a property by the Board of Zoning Appeals.
 - ii. The Plan Commission shall appoint two Hearing Officers. One of the Hearing Officers shall generally fulfill the duties of the Hearing Officer, and the other Hearing Officer shall serve as an alternate in the event that the first is not available or has a conflict of interest. A Hearing Officer may be a Plan Commission member, staff member, or any other person. The Plan Commission may remove a Hearing Officer from his/her responsibilities at any time.

b. Hearings Before the Variance Hearing Officer - Conduct and Procedure

- i. At its initial meeting of the calendar year, the Commission shall adopt a schedule of dates for public hearings before the Variance Hearing Officer for the succeeding year.
- ii. All rules adopted by the Board of Zoning Appeals for the conduct of public hearings, which are not inconsistent with State law, the Zoning Ordinance, and these rules, shall apply to hearings and proceedings before the Variance Hearing Officer.
- iii. Rules adopted by the Board of Zoning Appeals regarding notice requirements for public hearings (including legal ad publication) shall apply to hearings before the Variance Hearing Officer, with the following exceptions:
 - (A). Individual notice need be given only to an owner of a parcel immediately adjoining the petitioned parcel, and need not necessarily be accomplished by certified mail. The petitioner may, as an alternative, present a list of all such owners, signed by such owners and acknowledging notice of the petition and hearing, said list having affidavit affixed attesting to the veracity of the list, with the petitioner's signature being notarized. Said list shall be considered evidence of notice. (Land separated from the petitioned parcel by streets, railways, easements, and the like shall be deemed to be land adjoining the petitioned parcel.)
 - (B). Posting of a public hearing sign on the subject property shall not be required.
- iv. The Department of Planning staff may file a written objection to a petition if there is reason to believe that:
 - (A). Approval would be injurious to the public health, safety, morals, and general welfare of the community; or
 - (B). The use or value of the area adjacent to the property included would be affected in a substantially adverse manner.
- v. If a written objection is filed by the Department of Planning staff, the petition shall:
 - (A). Be considered withdrawn; or
 - (B). Be transferred to the Board of Zoning Appeals if requested by the petitioner.
- vi. The Hearing Officer may not participate in a hearing or decision of a matter in which he or she has a direct or indirect personal or financial interest. In the event of such a conflict, the Hearing Officer shall enter his or her disqualification of record and

request assignment of the alternate Hearing Officer to the matter.

- vii. A person may not communicate with the Hearing Officer before the hearing with the intent to influence the Hearing Officer's action on a pending matter.
 - viii. In the event the Hearing Officer is unable, for any reason, to conduct a scheduled public hearing, the alternate Hearing Officer shall preside. In case the alternate Hearing Officer is also unable to conduct said hearing, the case shall be transferred to the Board of Zoning Appeals.
 - ix. Staff shall prepare and maintain a record of all proceedings conducted.
 - x. Within five (5) calendar days of the decision of the Hearing Officer, staff shall cause notice of such decision to be furnished in writing to the petitioner and remonstrators of record. For purposes of this paragraph, remonstrators of record shall be limited to those individuals or entities who testify at the public hearing or have filed written objections to the petition prior to or at the public hearing; provided, however, that if a group of individuals is named on a written remonstrance, notice need only be furnished to their attorney, if they had been represented at the public hearing, or to the first three (3) individuals named on the written remonstrance. Notice shall be deemed given as of the date of mailing to said parties at their addresses of record, by first-class United States mail.
- c. Transfer of Proceedings from Variance Hearing Officer to Board of Zoning Appeals
- i. Once a petition has been filed for consideration before the Hearing Officer, the proceedings may not be transferred to the Board of Zoning Appeals for public hearing upon request by either the remonstrator(s) or petitioner(s), unless otherwise allowed by law.
 - ii. The Hearing Officer may transfer a petition currently scheduled under the Hearing Officer procedure to the Board of Zoning Appeals without first conducting a public hearing or making a decision, when the Hearing Officer determines it would be in the best interest of all parties and/or the public for the Board of Zoning Appeals to hear, consider, and act upon such petition.
 - iii. In the event the Hearing Officer determines that a pending proceeding should be transferred to the Board of Zoning Appeals, there shall be written notification provided to the petitioner of such determination, if made prior to the issuance of public notice for the hearing. If the Hearing Officer makes a determination to transfer at any time after notice of the public hearing has been issued, the Hearing Officer shall make an oral announcement, at the scheduled public hearing, of the determination to transfer the proceedings and the date and time the public hearing

will be held before the Board of Zoning Appeals. Except for notice by publication under IC 5-3-1, no other notice of the transfer or scheduling of the public hearing before the Board need be given by the Hearing Officer.

- d. Appeals from Decision of Variance Hearing Officer
 - i. Any interested person who is aggrieved by a decision of the Hearing Officer may request an appeal there from to the Board of Zoning Appeals. Such an appeal must be made within fourteen (14) days after the decision of the Hearing Officer is made. If a timely appeal is not filed, the decision of the Hearing Officer shall be final.
 - ii. The interested person so aggrieved shall file in the office of the County Department of Planning a written request for a public hearing upon such an appeal. Such written request shall contain a concise statement of the nature of the matter involved and describe the reasons why such a decision is believed to have been arbitrary and capricious, illegal, or contrary to the law or the provision of the Zoning Ordinance or these Rules, as the case may be. Such written request shall be signed by the aggrieved party. The appeal will be scheduled for the next available Board of Zoning Appeals meeting. The party filing such appeal shall be required to follow all procedures associated with a regular filing before the Board, including public notification and the payment of filing fees.

ARTICLE III

CONDUCT OF MEETINGS

Section 1. Quorum

Five (5) members of the Commission shall constitute a quorum. No business may be conducted and no public hearing may be opened at any meeting of the Commission unless a quorum is in attendance.

Section 2. Voting

- a. Majority - In accordance with IC 36-7-4-302, no action of the Commission is official unless it is authorized at a regular or special meeting by a majority of the entire membership of the Commission.
- b. Conflict of interest - In accordance with IC 36-7-4-223, a Commission member may not participate in a hearing or decision concerning a matter in which he/she has direct or indirect financial interest. A member shall declare his/her known conflict of interest. Questions as to whether such conflict exists may be determined by the Chairman. When there is uncertainty as to the applicability of this section, the member shall be disqualified. The Commission shall enter in its records the fact that its member has a disqualification. Members are

expected to disclose any personal, non-financial interest in any matter before the Commission, and may abstain from participation and voting on such matter. A member who has a conflict of interest shall leave the Commission table. Such member may join the audience but may not give testimony on the matter before the Commission. Nothing in this section shall prevent a member of the Commission from presenting a petition on his/her own behalf, but members shall not appear before the Commission on behalf of others.

- c. Required - Except as provided in "b" above, all Commission members present shall vote on each matter for which a public hearing is held. An abstention for any other reason shall have the same effect as a negative vote.
- d. Absentee - Absentee or proxy voting shall not be permitted. Members must be present for the public hearing in order to be eligible to vote on any matter. In the event that a member is absent for part of a public hearing, such member's eligibility to vote on the matter shall be at the discretion of the Chairman.

Section 3. Order of Business

The order of business shall be as listed below, except that said order of business may be changed by the Chairman upon the consenting vote of a majority of those members.

- 1. Call meeting to order
- 2. Roll call of members
- 3. Approval of Minutes
- 4. Public Hearings
- 5. Old Business
- 6. New Business
- 7. Reports and Recommendations
- 8. Adjournment

ARTICLE IV PUBLIC HEARINGS

Section 1. Procedure

- a. Opening the hearing - The Chairman shall call the docket number of the item scheduled for public hearing and declare the public hearing open.
- b. Order of testimony - The order of testimony shall be as follows:
 - i. Background and comments by the Commission's staff
 - ii. Swearing in witnesses
 - iii. Presentation of request by petitioner

- iv. Comments and questions by members of the audience
 - v. Rebuttals
 - vi. Summation
- c. Procedure for presentation and debate - Petitioner(s) and remonstrator(s), respectively, may be permitted a maximum of twenty (20) minutes for the presentation of evidence, statements, and argument at the public hearings of every case at the discretion of the Chairman:
- i. Petitioner(s) and persons appearing in support of the case being heard by the Commission may have fifteen (15) minutes for the presentation of evidence, statements and argument in support of the matter being considered. A reasonable additional time may then be allowed for cross examination and redirect examination of petitioner's witness by the Commission members.
 - ii. Remonstrator(s) and persons appearing in opposition to the case may then be given twenty (20) minutes for the presentation of evidence, statements, and argument in opposition to the matter being considered. A reasonable additional time may then be allowed for cross examination and redirect examination of remonstrator's witnesses by the Commission members.
 - iii. The petitioner(s) may then have five (5) minutes for rebuttal, which shall include only evidence, statements, and arguments in rebuttal of remonstrator's evidence and a brief closing statement.
 - iv. The Chairman may, unless otherwise directed by a majority of the Commission in session at the time, have authority to extend or reduce the total of twenty (20) minute periods specified above, where appropriate in the interest of affording to all interested parties a fair hearing.
- d. Closing the hearing - After all public comments have been heard under the rules of this section, the Chairman shall declare the hearing closed and shall call for a motion. Additional public comment shall not be permitted after the close of the hearing. Any motion which has been made and seconded is open for discussion by the Commission members, but such motion is closed to discussion by the public unless the Chairman specifically allows such discussion. The Chairman shall have the authority to limit such discussion by the public or the Commission members.
- e. Voting - Each motion on a matter requiring a public hearing shall be voted upon, in accordance with the provisions of Article III, Section 2 of these rules. The vote of each member shall become a part of the record on the petition, and the vote of each member shall be disclosed by any Commission officer or the staff to anyone requesting such information.

Section 2. Conduct

- a. Representation - The petitioner may appear in person, by agent, or attorney, and present any supporting witnesses, evidence, statements, and arguments in favor of the request. Remonstrators and persons in favor of the request may appear in person, by agent or by attorney and present witnesses, evidence, statements, and arguments. Any person interested in any petition shall have the right but shall not be required to enter a written appearance in the hearing.
- b. Commission participation - The Commission members shall be provided adequate opportunity to examine witnesses and question any evidence, statements and arguments in the interest of a fair hearing.
- c. Identification - All persons wishing to be heard on any matter in a public hearing must stand before the Commission and provide their names and addresses for the record.
- d. Commentary addressed to Commission - All commentary at a public hearing shall be addressed to the Commission through its Chairman. Such commentary shall not be permitted between opposing parties without the consent of said officer.
- e. Authority of Chairman - The Chairman shall have the authority to prohibit repetitious and irrelevant testimony and shall have authority to limit the length of testimony by each speaker deemed appropriate to a fair public hearing.
- f. Orderly conduct - Every person appearing before the Commission shall abide by the order and direction of the Chairman. Discourteous, disorderly, or contemptuous conduct shall not be tolerated, and the Chairman may take such action as is deemed necessary to prevent such conduct.

ARTICLE V

DISPOSITION OF PETITIONS

Section 1. Motions

The final disposition of any petition duly filed and brought before the Commission shall be in the form of a motion, properly adopted, specifically setting forth such disposition.

Section 2. Dismissals

- a. Want of prosecution - The Commission may dismiss a petition if the petitioner or authorized representative does not appear to present and speak in favor of such petition or if such petition has been improperly filed as determined by the Commission.
- b. Lack of jurisdiction - The Commission shall dismiss a petition if it finds it has no jurisdiction

over such matter.

Section 3. Withdrawals

- a. Without prejudice - Any petition may be withdrawn without prejudice provided a written request for withdrawal signed by the petitioner or an authorized representative is received by the Commission's staff at least seven (7) calendar days before the scheduled hearing.
- b. With prejudice - Any request for withdrawal made less than seven (7) calendar days before the scheduled hearing may be granted or denied by the Commission. Such request may be in writing or oral and must state the reasons for the request. If the Commission votes to permit withdrawal, the petition shall not again be placed on the docket for a hearing within a period of one hundred eighty (180) calendar days from the date of the originally scheduled hearing, except upon a motion duly adopted by a majority of the membership of the Commission to permit such redocketing.
- c. Not permitted - No petition may be withdrawn after a motion has been made and seconded and a vote has been ordered by the Chairman.

Section 4. Amendments

- a. Increased density or intensity - No petition can be amended in a manner which increases the intensity of use (e.g., adds additional lots or land or results in changes to a zoning district permitting more uses or more intensive uses) after the filing deadline without permission of a majority of the membership of the Commission. The granting of such amendment will result in continuing the petition for one month. If notice in accordance with Article VII already has been given, the item as amended shall be re-advertised and new notice given to interested parties. The petitioner shall be required to pay the costs of such re-advertising and re-notification.
- b. Decreased density or intensity - It shall be within the discretion of the Commission to approve a petitioner's request to amend the petition in a manner which decreases the intensity of use (e.g., removes lots or land or results in changes to a zoning district which is more restrictive). Any interested parties may be heard on the subject of such amendment. The Commission may require such amended petition to be continued and may require re-advertising and re-notification in the interest of providing a fair and adequate hearing.

Section 5. Continuance

- a. Requests by interested party - One continuance for either petitioner(s) or remonstrator(s), if requested in writing and filed with the Director of the Department of Planning and Zoning no later than three (3) business days immediately preceding the day of the scheduled hearing, will be allowed as a matter of right and without cause shown. The

request shall indicate whether it is the first request for continuance. The party requesting the continuance shall give notice to all parties required to be served with notice and to attorneys who have entered their appearance or are known to represent the petitioner(s) or remonstrator(s). The term "business day" shall mean any day the office of the Johnson County Department of Planning and Zoning is actually open for business and in computing the period of "three (3) business days", neither the day of the filing of the written continuance request with the Plan Director or the day of the scheduled hearing will be included. No continuance shall be granted at the hearing to the petitioner(s) or remonstrator(s) except for good cause shown. In determining good cause, consideration will be given to the inconvenience to persons present at the hearing, whether or not the cause could or should have been foreseen and whether the requesting party had the opportunity to request a continuance in advance of the hearing, as provided herein.

- b. Motion by Commission - Any membership of the Commission may at any time move to continue the hearing of any petition. Such a motion duly seconded and adopted shall continue the hearing to the time specified in the motion. The Commission may include in the motion specific instructions for re-advertising and/or re-notification of interested parties.
- c. Automatic - In the event that the Commission does not achieve the required five (5) votes to approve or deny a petition, such vote shall be declared indecisive, and the petition shall be continued automatically. Before declaring a petition continued on this basis, the Chairman shall call for another motion.
- d. Improper - If proper notice under applicable laws and Article VII of these rules has not been given, the Commission may continue the petition to allow time for proper notice to be given or dismiss the petition.

Section 6. Approval

- a. Subdivisions and final Planned Unit Developments - The Commission has the authority to approve subdivisions of land under the terms of the Subdivision Control Ordinance and final Planned Unit Developments under the terms of the Zoning Ordinance and any other duties or responsibilities of the Johnson County Plan Commission. Such approval may be conditional or unconditional.
 - i. Conditional approval - A motion to approve a petition may be conditional upon a petitioner's compliance with a requirement or requirements imposed by the Commission. Such condition(s) of approval shall be specifically stated and recited to the petitioner. The Commission may impose a time limit upon the fulfillment of any such requirement(s). The petitioner shall be required to notify the Commission's staff of the fulfillment of such requirements. In the event any condition of the decision has not been fulfilled or the time for compliance has expired, the decision shall be

revoked and rescinded.

- ii. Unconditional approval - If there are no conditions imposed upon the approval of a petition, the Chairman and Secretary shall sign the permanent drawing(s).
- b. Preliminary Planned Unit Developments - As provided in the Zoning Ordinance, the Commission may approve a preliminary Planned Unit Development application conditionally or unconditionally as described above. After approval by the Commission, the approved plan shall be certified to the Johnson County Commissioners for consideration as an amendment to the Zoning Ordinance.
- c. Zoning Ordinance amendments - If the Commission recommends favorably upon a petition for amendment to the Zoning Ordinance, the Chairman and Secretary shall sign the resolution recommending such amendment and direct the staff to forward it together with a report describing the Commissioner's action to the Johnson County Commissioners for consideration.
- d. Waivers of the Subdivision Control Ordinance - The Commission may approve a waiver conditionally or unconditionally as described above. After approval by the Commission, the Chairman shall sign Findings of Order prepared by Staff.

Section 7. Disapproval

- a. Subdivisions(preliminary), waivers, and final P.U.D.s - If the Commission finds that a petition does not meet the criteria established by ordinance(s) for approval, it shall deny the request.
- b. Zoning Ordinance amendments - If the Commission disapproves of a Zoning Ordinance amendment which has been referred to it for recommendation, the Commission shall direct the staff to forward its recommendation together with a report describing the Commission's action to the Johnson County Commissioners for consideration.
- c. Refiling - No petition for subdivision of land or waiver of the Subdivision Control Ordinance which has been denied or dismissed by the Commission and no petition for amendment to the Zoning Ordinance which has been denied by the Johnson County Commissioners shall again be placed on the docket for hearing within a period of one hundred and eighty (180) calendar days from the date of disapproval, except upon a motion duly adopted by a majority of the membership of the Commission to permit the redocketing.

ARTICLE VI FILING PROCEDURES

Section 1. Application

Each petition to the Commission shall be on application forms prescribed by the staff and shall be accompanied by such information and exhibits as specified on such forms and/or required by applicable ordinances. Any communication purporting to be a petition not on the prescribed forms or not containing the information required shall be considered incomplete and not be docketed.

Section 2. Filing Deadlines

The staff shall prepare, no later than the fifteenth (15) day of November of each year, a schedule of the filing deadlines for the ensuing year. Such schedule shall provide for adequate time for the staff to review the proposal and offer technical advice to the Commission and shall provide adequate time for issuances of required notices. Any application which is incomplete at the time of the filing deadline shall not be docketed.

Section 3. Eligible Applicants

The owner(s) of the property included in any petition before the Commission must consent to the filing of the application. Such consent may be evidenced by the owner's notarized signature on said application or by signature of a person having power of attorney authorizing such signature. In the case of property which is being purchased under a land contract, the consent of both the contract purchasers and the contract sellers or their duly authorized agents shall be required.

ARTICLE VII NOTICE REQUIREMENTS

Section 1. Contents

Any notice of public hearing by state or local law and notice for waivers of the Subdivision Control Ordinance shall contain as a minimum the following information:

- a. Docket number and the substance of the matter to be heard.
- b. General location by mailing address, township, and recorded legal description of the property.
- c. Name of the person or agency initiating the matter to be heard.
- d. Time, date, and place of the hearing.
- e. Statement that the petition may be examined at the office of the Department of Planning and Zoning.
- f. Statement that interested parties may offer an oral opinion at the hearing or may file written

comments concerning the matter to be heard prior to or at the hearing.

- g. Any other information which may be required by law to be contained in such notice.

Section 2. Publication

Notice by publication containing all necessary information shall be given by the petitioner(s) in a newspaper of general circulation in Johnson County, at least twenty-one (21) calendar days before the hearing, and proof of publication shall be made by an affidavit of the publisher attached to a copy of the notice taken from the newspaper in which it was taken and filed with the Commission. Such affidavit shall specify the county, the time of publication, and the paper in which the notice was published. The petitioner(s) shall assume the cost of said publication. Proof of such publication shall be provided to staff by petitioner no later than noon Friday preceding the meeting and shall be kept in the appropriate file. This section does not apply to waivers of the Subdivision Control Ordinance.

Section 3. Mailed Notice

- a. Method of notice - Notice shall be given to owners of all property within a distance of six hundred (600) feet, from the boundaries of the affected property. Notification by mail with certificate of mailing, shall be not less than twenty-one (21) calendar days prior to the hearing, with said notice containing the following information:
 - i. Docket number and the substance of the matter to be heard.
 - ii. General location by mailing address, township, and recorded legal description of the property.
 - iii. Name of the person or agency initiating the matter to be heard.
 - iv. Time, date, and place of the hearing.
 - v. Statement that the petition may be examined at the office of the Department of Planning and Zoning.
 - vi. Statement that interested parties may offer an oral opinion at the hearing or may file written comments concerning the matter to be heard prior to or at the hearing.
 - vii. Any other information which may be required by law to be contained in such notice.

In the alternative, the petitioner(s) may present a list of all such owners, signed by such owners and acknowledging notice of the petition and hearing, said list having affidavit affixed attesting to the veracity of the list, with the petitioner(s) signature being notarized.

- b. Determination of owners - Unless the applicable ordinance states otherwise, the names and addresses of the property owners to be notified are to be determined from the records of the Auditor of Johnson County. They shall be deemed to be the true names and addresses of the persons entitled to notice. For the purpose of determining adjoining parcels of land, the land described in said petition shall be deemed to include any adjoining land owned by the applicant, provided, however, such ownership shall not be deemed to include the entire length of the right-of-way of a street, railway or similar feature, but shall be limited to the particular parcel involved. Land separated from petitioned property by streets, railways, easements and the like shall be deemed to be land adjoining the petitioned land.

Section 4. Evidence of Notice

Certificates of mailing and notarized affidavits listing the names and addresses of the property owners and proof of service of said notice shall be considered evidence that notice has been given, copies of which shall be submitted to the Plan Commission office by the Friday before the hearing date. Personal appearance at the hearing shall constitute evidence of notice.

Section 5. Notice on Subject Property

Notice, on a sign or form prescribed by the Department of Planning & Zoning, shall be posted on the subject site at least twenty-one (21) calendar days before the date of hearing. Said notice shall be located in a conspicuous place on the property along each public street frontage; except Interstate highways, and shall remain posted until resolution of the petition. Said notice shall not be located within any public street right-of-way, unless authorized by the Director. The Director may require a nominal, refundable deposit for said on-site notice. This section does not apply to waivers of the Subdivision Control Ordinance.

ARTICLE VIII COMMITTEES

Section 1. Authority

The Chairman is hereby authorized to appoint permanent and temporary committees to facilitate the work of, or advise, the Commission. Such committees may be comprised of Commission members and other interested parties. A chairman shall be appointed for each committee, and reports on their assignments shall be made a part of the record. The Chairman shall be an ex officio member of any committee.

Section 2. Standing Committees

The following shall be a standing committee:

Technical Review Committee - A Technical Review Committee shall be a permanent committee consisting of the following members: The Planning Director, Highway Director, Agricultural Extension Agent, Surveyor, Health Department Director, Planning Engineer, and one Plan Commission member from both the Democratic and Republican parties, as well as such other representatives as the planning director may invite to aid in the review of scheduled petitions. Members may designate representatives to participate in any and all meetings of the committee. The Planning Director or her/his designee shall serve as chairman of the committee. The Technical Review Committee is established for the purposes listed below. In no way is the existence of this committee to be construed to limit the scope of discussion or findings of fact on any matter of the committee from raising additional issues which may come to light after the committee meeting.

- a. To review petitions filed with the Commission for compliance with the technical requirements of the Subdivision Control Ordinance and Zoning Ordinance.
- b. To enhance the coordination of efforts to evaluate proposed land development.
- c. To encourage cooperation between the Commission, staff and petitioners by resolving problems at the staff level where possible.
- d. To provide non-binding findings of fact and recommendations on subdivision petitions or zoning development plans before the Commission.

Section 3. Committee Meetings

The staff shall assist any and all committees established under this section in scheduling the times and places for meetings. In the case of the Technical Review Committee, the staff shall prepare, no later than the fifteenth (15) day of December each year, a schedule of the meetings for the ensuing year and shall make schedule available to committee members and interested parties.

ARTICLE IX COMMISSION RECORDS

Section 1. Responsibility

It shall be the duty of the staff of the Commission to maintain all Commission files and records, including the official minutes of all meetings.

Section 2. Minutes

The staff shall prepare an accurate record of all hearings and official actions of the Commission, and the minutes representing such record shall be made available one week prior to the next scheduled regular Commission meeting. Approved minutes shall be made available for inspection by the public.

Section 3. Tape Recordings

The recording secretary may make audio recordings of the Commission's proceedings. Such recording products shall remain on file in the Commission's office for a period not less than one (1) year from the date of the hearing or determination, whichever is later. Such recordings shall not be removed from the Commission's office other than by order of a court of competent jurisdiction. Interested parties may listen to such recordings in the Commission's office and may copy (at their cost) such recordings, under the supervision of the Commission's staff.

Section 4. Commission Case Files

A file shall be maintained for each item placed on the docket of the Commission. Such files shall contain, as a minimum, the application form and supporting materials and any exhibits pertinent to the decision, conditions, or safeguards or other material related to the binding effects of the Commission's actions.

Section 5. Public Records

The records and files for the Commission shall be made available to the public under the provisions of IC 5-14-3, the Indiana Access to Public Records Law, and any amendments thereto. The Planning Director is hereby designated as the officer responsible for determining which documents of the staff and Commission are public records. Any person may file a written objection to a decision of the Director under this section. Upon receipt of such objection, the Director shall consult the Commission Chairman and the Commission attorney who shall decide whether a requested document is public record.

ARTICLE X FEES

Section 1. Schedule of Fees

The Commission shall, in accordance with the requirements of IC 36-7-4-411 and IC 36-7-4-704, establish a uniform schedule of fees to defray the administrative costs connected with processing and hearing petitions for rezoning, major subdivisions, minor subdivisions, waivers, and Planned Unit Developments, and for other official acts taken under provisions of the 400 Series, COMMISSION DUTIES AND POWERS, of the Indiana Code. Such fees shall not exceed the actual costs of providing such services. Fees established shall include fees for copying documents under the provisions of IC 5-14-3-8(d).

Section 2. Payment Required

In no case shall the Commission take action on any petition for which applicable fees have not been

paid in full. No part of any fee paid pursuant to this section shall be returnable to the petitioner.

Section 3. Waivers

Nothing herein shall be construed to require a fee for actions initiated in the public interest by the Commission.

ARTICLE XI AMENDMENTS

Amendments to the Rules of Procedure may be made by the Commission at any regular or special meeting upon the affirmative vote of a majority of the membership of the Commission, provided, however, that the proposed amendment shall have been presented in writing at a previous regular meeting of the Commission.

ARTICLE XII SEPARABILITY

If any section, clause, provision, or portion of these rules shall be held invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of any other section, clause, provision, or portion of these rules.

ARTICLE XIII CERTIFICATE OF ADOPTION

The foregoing Rules of Procedure of the Johnson County Plan Commission specifically repeal the Rules of Procedure adopted by the Commission on October 25, 1999, and any amendments thereto. These rules are hereby adopted by the affirmative vote of the Commission this 27th day of August, 2007.


Douglas Lechner, Chairman


Pat Vercauteren, Secretary

