

Town of Brownsburg Advisory Plan Commission Rules and Procedures

ARTICLE I. GENERAL PROVISIONS

1. These Rules and Procedures are established in conformity with Indiana Code 36-7- 4 *et seq.* and all acts amendatory thereof and are supplementary to the provisions of the Town of Brownsburg Code of Ordinances as they relate to procedures of the Town of Brownsburg Advisory Plan Commission (hereinafter called “Plan Commission” or “Commission”).
2. In all matters not otherwise provided for by statute, ordinance, or these rules, the most recent edition of Robert’s Rules of Order, as interpreted by the Commission’s presiding officer, shall govern the conduct of the Plan Commission meetings.
3. The Plan Commission shall keep records of its proceedings and record the vote on all actions taken. All minutes and records shall be filed in the Office of the Department of Development Services and are public record.
4. Every person appearing before the Plan Commission or Committee shall abide by the order and direction of the President. Discourtesy, disorderly or contemptuous conduct shall be regarded as a breach of the privileges of the Plan Commission or Committee and shall be dealt with as the Plan Commission or Committee directs.
5. Amendments or suspension to these rules and procedures may be made by the Plan Commission at any regular or special meeting upon the affirmative vote of a majority of the members of the Plan Commission. No suspension shall continue beyond the adjournment of the meeting at which the motion to suspend was passed.
6. All of the applications and time periods set forth hereunder shall be completed by the Applicant in accordance with the applications and Schedule of Deadlines provided by the Department of Development Services.
7. The seal of the Town of Brownsburg Plan Commission shall be used in all matters relating to the Plan Commission’s activities.

ARTICLE II. POWERS AND DUTIES OF THE PLAN COMMISSION

1. Major responsibilities of the Commission
 - (a) To review and make recommendations to the Town Council for supplementing and/or amending the comprehensive plan and associated plans/documents, other community plans, and the Unified Development Ordinance;
 - (b) To review and approve or disapprove all subdivision plats proposed for recording;
 - (c) To review and make recommendations on rezoning applications; and,
 - (d) Such other duties or responsibilities as may be required by state statute or town ordinance.
2. The Plan Commission may utilize the Town’s administrative staff to discharge the duties and responsibilities of the Commission.
3. The Town Attorney shall be consulted in cases where the powers of the Commission are not clearly defined.
4. The Plan Commission President may appoint such committees as determined necessary from time to time. Any appointed committee shall consist of at least three (3) members. The term of each Committee member shall expire not later than December 31 of the year of appointment. The President shall fill any vacancy immediately and announce the appointment at the following meeting of the Plan Commission. The President may also appoint special committees for any purpose and for any term subject to the approval of the Plan Commission.
5. The Plan Commission hereby delegates to the Administrator the duties of rendering decisions concerning the approval or denial of Secondary Plats and Re-plats of Subdivisions, the assignment of street numbers to lots and structures and the naming of streets within the jurisdiction of Plan Commission, and other duties as specified in the Unified Development Ordinance.

ARTICLE III: PLAN COMMISSION MEMBERS, OFFICERS, AND STAFF

1. **Plan Commission Members.** The Plan Commission is governed by Indiana Code No. 36-7-4-200 series and shall consist of a total of seven (7) voting members.
 - (a) **Citizen Members.** The President of the Town Council appoints four (4) citizen members. No more than two of these appointed citizen members may be from the same political party and each citizen member must reside or hold real property in the jurisdictional area of the Plan Commission. In accordance with I.C. 36-7-4216, citizen members of the Plan Commission shall be appointed because of the member's knowledge and experience in community affairs, the member's awareness of the social, economic, agricultural, and industrial problems of the area, and the member's interest in the development and integration of the area. A citizen member may not hold an elected office, or any other appointed office in municipal, county, or state government except for membership on the Town of Brownsburg Board of Zoning Appeals. Each citizen member serves a term of four (4) years.
 - (b) **Government Members.** The Town Council appoints the remaining three (3) members of the Plan Commission. These three members must be elected or appointed Town officials or employees, and their terms are coextensive with each member's term of office in their elected or appointed positions.
 - (c) **Alternate Member.** The Commission may also consist of an Alternate Member, appointed in accordance with state statute, to serve in the place of any member disqualified from a hearing under the terms of IC 36-7-4-223 *et al.*
2. **Conduct of Plan Commission Members.**
 - (a) Plan Commission Members shall adequately prepare before each meeting to be informed about the matters and issues on the meeting's agenda.
 - (b) A member of the Plan Commission may not directly or personally represent another person or entity in a hearing before the Plan Commission concerning a zoning decision.
 - (c) A member of the Plan Commission is disqualified and may not participate as a member of the Plan Commission in a hearing concerning a zoning decision such as subdivision control, an appeal from a commitment or modification, a termination of a rezoning or planned development, a rezoning, development plans, and/or a planned development if any of the following apply.
 - i. **Financial or Personal Interest.** Any matter in which the member has: (a) a direct or indirect financial interest in the outcome; (b) an interest in any property close enough to receive written notice of the matter before the Commission (this particular subsection applies to both members of the Plan Commission as well as to members of the Plan Commission Staff); or (c) a familial relationship with the Applicant, or any other person who stands to gain a measurable financial benefit from the matter before the Commission. A "familial relationship" includes the Plan Commission Member's spouse, parent, aunt/uncle, grandparent, child, grandchild, sibling, or niece/nephew.
 - ii. **Impartiality.** A member of the Plan Commission is disqualified and may not participate as a member of the Plan Commission if the member is biased, prejudiced, or otherwise unable to be impartial.
 - iii. **Conflict of Interest.** If a Plan Commission Member believes he or she may have a conflict of interest in any matter before the Commission, he or she must recuse himself or herself from voting. The member shall declare the reason for abstention for the record and state their intent to abstain from the matter. The Plan Commission Member shall also abstain from any vote on any document that results from the conflict of interest matter such as the Report of Determination, etc. The affected Plan Commission Member shall be disqualified from participating in the matter and shall voluntarily remove himself or herself from the chamber while the matter is being deliberated by the remaining members of the Commission.
 - iv. **Ex parte contacts.** No person, firm, corporation, other entity, Applicant, or remonstrator shall contact any Plan Commission Member, orally or in writing, in advance of a public hearing, on a matter pending before the Plan Commission, for the purpose of attempting to influence any Plan Commission Member's decision; provided, however, the Plan Commission understands that communications may be permitted when a Plan Commission Member also serves in a

<p>staff/employee role of the Town, so long as such communications are related solely to that role.</p> <p>v. In accordance with I.C. 36-74-223(f), Plan Commission members who are disqualified from an entire meeting may not receive mileage or any other compensation for attendance at the meeting. Upon disqualification, the Commission member shall enter his or her reason for the record. The record shall reflect the abstention and the name of the alternate member, if any, who participates in the hearing and decision in place of the regular member.</p>
<p>(d) Plan Commission Members must be physically present at the public meeting to vote on any matter before the Plan Commission. If a member of the Plan Commission misses three consecutive regular meetings, or a total of six meetings of the Plan Commission in any calendar year, that may be considered cause for removal as the member may become disenfranchised and may be terminated in accordance with the provisions of I.C. 36-74-218 and shall no longer be considered a viable member of the Plan Commission.</p>
<p>(e) The appointing authority may remove any Board member for cause. The appointing authority must mail such notice of removal to the member at the member's residence. Such removed member may appeal to the Hendricks County Circuit or Superior Court within 30 days after the notice.</p>
<p>3. Election of Officers.</p>
<p>(a) The officers of the Plan Commission shall be elected at the first regular meeting of the Plan Commission in January of each year. The person serving as presiding officer of the Plan Commission at the last meeting of the preceding year shall entertain nominations for each office chosen under these rules. Whenever a candidate receives a majority vote of the entire membership of the Plan Commission, that person shall be declared elected. Each officer elected under these rules shall enter into office immediately upon being declared elected and shall serve until his or her successor is declared elected at the first meeting of the following year, or until the officer is no longer a member of the Plan Commission. Whenever any office becomes vacant, the Plan Commission shall elect a successor at its next regular meeting to complete the remainder of the unexpired term.</p>
<p>(b) The President shall preside over all regular and special meetings of the Plan Commission. The President shall perform the duties normally performed by a presiding officer, including the appointment of Committees and ruling on all points of procedure. The President may participate in the discussion of all matters before the Plan Commission and vote on any question before the Plan Commission. The President shall sign all official documents on behalf of the Commission.</p>
<p>(c) The Vice-President shall act as President during the absence or disability of that officer. The Plan Commission shall elect a President pro tempore from among its members if both the President Vice-President are absent, disabled, or otherwise disqualified.</p>
<p>4. Plan Commission Staff.</p>
<p>(a) Recording Secretary. The Plan Commission shall appoint a Recording Secretary who shall serve at its pleasure. The Recording Secretary shall:</p> <ul style="list-style-type: none"> i. keep a complete and accurate record of all proceedings and votes of the Plan Commission; ii. provide notice of meeting(s) to Plan Commission Members as directed by the Administrator; and iii. perform all other duties normally carried out by a recording secretary or as specifically assigned by the Administrator or Plan Commission.
<p>(b) Administrator. The Director of Development Services shall serve as the Plan Commission Administrator. The Administrator shall supervise the Plan Commission staff, administer the daily affairs of the Plan Commission and conduct all investigations required to administer the UDO. The Administrator shall establish personnel policies and office procedures including the following tasks:</p> <ul style="list-style-type: none"> i. prepare the agenda of all regular and special meetings; ii. arrange for all required legal notices(s) for public hearing(s) of the Plan Commission; iii. date stamp and attend to all correspondence directed to the Plan Commission; iv. record and file all bonds and contracts and assume all responsibility for custody and preservation of all papers and documents of the Plan Commission by filing the same with the Department of Development Services; v. create such committees as determined necessary from time to time to as may be created by statute or

- as otherwise determined necessary;
- vi. under I.C. 36-7-4-405 and unless otherwise directed by the Plan Commission, assign the street numbers to lots and structures and renumbers lots and structures; and
- vii. all other duties as may be directed or assigned by the Plan Commission.

ARTICLE IV. REGULAR MEETINGS

1. Regular meetings of the Plan Commission shall be held on the fourth Monday of every month at 6:00 p.m., local time, in the Town Hall of the Town of Brownsburg located at 61 N. Green Street. The Commission shall adopt a Schedule of Meeting Dates and Filing Deadlines for the following year. Regular meetings of the Plan Commission may be canceled by the President or Staff when there are no cases pending or when a quorum is not going to be present. Notification must be given to the members as soon as reasonably practicable under the circumstances.
2. All meetings shall adjourn not later than 10:30 p.m. and no new cases shall be heard after 10:00 p.m., unless a majority of the Plan Commission Members present agree, in their discretion, to continue the meeting past 10:30 pm. If the meeting is not continued, any cases remaining to be heard on an agenda at time of adjournment shall be rescheduled for hearing at a special meeting within one week of the original meeting; provided, however, that the date, time, and place of the reconvened meeting is publicly announced at and recorded in the minutes of the original meeting, and there is no change to the agenda.
3. All meetings of the Plan Commission shall be conducted in accordance with I.C. 5-141.5, the Indiana Open Door Law, and any amendments thereto. On-site inspections of property involved in applications before the Plan Commission shall not be considered meetings. In accordance with I.C. 36-7-4-306, the minutes of commission meetings and all records shall be filed in the office of the Department of Development Services and are public records.
4. A majority of the total membership of the Plan Commission shall constitute a quorum. The total membership of the Plan Commission is seven (7) members. No action shall be binding unless approved by a majority of the entire membership of the Plan Commission at a regular meeting or duly called special meeting. A quorum consisting of a minimum of four (4) members of the Plan Commission shall be present for the transaction of any business. Voting shall be verbal with a roll call vote taken if requested. For any divided vote, a roll call shall be taken. A record of the roll call vote shall be kept in the minutes.
5. In the event a majority vote cannot be achieved due to absences, abstentions, or disqualification, the matter shall be rescheduled for the next regular meeting without penalty to the Applicant.
6. Any member of the Commission who voted with the majority may call for a reconsideration of any vote at the same meeting of the Commission at which it passed, and, if sustained by a majority of votes, the reconsideration shall be ordered.
7. All regular meetings shall list all items to be considered by the Plan Commission on the Agenda. No item shall be considered by the Plan Commission unless it appears on the Agenda. Any clerical item, agenda modification, waiver of procedure, or waiver of notice may be added to the agenda the night of the request, subject to a majority vote of members present.
8. The order in which the application appears on the agenda may be determined by staff in conjunction with application filing.
 - (a) The order in which agenda items are handled by the Commission may be modified at the meeting.
 - (b) Modification of the agenda order shall be at the discretion of the members of the Commission.
 - (c) Modification of the agenda order shall require a majority vote of members present.
 - (d) Requests to modify the agenda order shall not be subject to the requirement of mailing or publishing legal notice.
9. All regular meetings of the Plan Commission shall proceed as follows:
 - (a) Call to Order/Moment of Silence and Pledge of Allegiance.
 - (b) Swearing in of new member(s) (when appropriate).
 - (c) Roll Call and declaration of quorum by the President.

- (d) Approval of the minutes of the previous meeting(s).
- (e) Agenda Modifications and Requests for continuances.
- (f) Call of cases on agenda, broken down by (i) Old Business; and (ii) New Business.
- (g) Communications and Committee Reports.
- (h) Miscellaneous Business.
- (i) Adjournment.

ARTICLE V. SPECIAL MEETINGS, INFORMATIONAL SESSIONS & SERIAL GATHERINGS

1. Special meetings of the Plan Commission may be called by the President or by two (2) members of the Plan Commission upon written request to the secretary.
2. Written notice shall be sent to all members, at least three (3) days before the meeting, fixing the time, date and place of the meeting. Written notice is not required if:
 - (a) The date, time, and place of the special meeting are fixed in a regular meeting;
 - (b) All members of the Commission are present at that regular meeting; and,
 - (c) The secretary complies with the notice requirements of IC 5-14-1.5
3. The notice for the meeting shall specify its purpose. No other business may be considered at that meeting except by unanimous consent of the Plan Commission.
4. Special meetings may be conducted in accordance with or without a meeting agenda. If a special meeting is at the request of the Applicant, the Applicant must bear the cost of holding the special meeting according to the Town of Brownsburg fee schedule.

ARTICLE VI. PUBLIC HEARING PROCEDURES

1. **General.** The Plan Commission may conduct a public hearing as part of any regular or special meeting as are required by Indiana Code and the Town of Brownsburg Code of Ordinances. At the time of a hearing, the Applicant shall appear on his or her own behalf or be represented by his or her counselor agent. In addition to those required by law, the Plan Commission may, at its discretion, hold public hearings when it decides that hearings will be in the public interest.
2. **Authorization to Proceed with Notice and Form of Notice.** Prior to providing notice as set forth in Paragraphs 2 and 3 below, the Applicant must first obtain Authorization to Proceed with Notice from the Department of Development Services. All notices required hereunder shall be completed by the Applicant using the notice materials as provided by the Town
3. **Publication of Notice of Public Hearing.**
 - (a) In accordance with I.C. 5-3-1 *et seq.*, the Applicant, on behalf of the Town, shall cause notice of all public hearings to be published in either *The Hendricks County Republican* or *The Indianapolis Star* at least ten (10) days before the date of the hearing.
 - (b) Applicant shall submit written confirmation that the notice of public hearing has been submitted for publication in accordance with the established deadlines prior to the hearing. Applicant shall also submit the proof of publication as soon as received from the newspaper, but in no event shall that proof of publication be submitted later than the date on which the Plan Commission presents its Findings of Fact.
 - (c) Any exception to publication requirements will be governed by I.C. 5-3-1-2.
 - (d) In accordance with I.C. 5-3-1-2(1), if notice is required to be published two (2) or more times, the first publication of notice must be made in accordance with subsection (a) above, but all subsequent publications of notice may be made by electronic publication in accordance with IC 5-3-5 *et seq.* and on the Town of Brownsburg official web site.

4. Notice to Affected Property Owner.

- (a) All persons with a legal interest in the property affected by the application and all persons with real property abutting the property subject to the application, and all owners of real property to a depth of two (2) ownerships or six hundred and sixty feet (660'), whichever is less, are interested parties. If the subject matter of the proposal abuts or includes a county line (or a county line street or road, or a county line body of water), then all owners of real property to a depth of two (2) ownerships or six hundred and sixty feet (660'), whichever is less, are interested parties.
- (b) In order to determine the names and addresses of property owners to whom notice must be sent under this Rule, the Applicant or his/her agent shall consult the current Plat Book located in the Office of the Auditor of Hendricks County, Indiana to determine the name of each adjacent property owner. The Applicant or his/her agent shall then consult the computer located in the Office of the Auditor to determine the most current mailing address for each adjacent property owner. A good faith effort shall be made to investigate and resolve any discrepancies or omissions in or among such records in order to determine name and address of the current owner of record. Each notice shall be mailed and postmarked no later than the ten (10) business days after the date upon which the name and address of the owner were obtained from the Plat Book and the computer records in the Auditor's office as described above.
- (c) The Applicant shall, at least ten (10) days before the hearing, send notice to all interested parties by USPS First Class Mail with a Certificate of Mailing on a form provided by the Plan Commission as set forth in these Rules. The form must inform the interested party of the type of application that has been filed with the Plan Commission and state the time, date, and place of the public hearing. The Applicant shall file the required Affidavit of Service and the Certificate of Mailing on the form provided by the USPS with the Department of Development Services at least ten (10) days prior to the hearing. All notices required to be given to surrounding property owners must include all provisions within IC 36-7-4-604 and an 8' 1/2" x 11" color map clearly identifying the subject property and the mailing, address for the property, or the state parcel number.
- (d) For purposes of a replacement UDO under I.C. 36-7-4-604, all citizens of the Town are interested parties. The Administrator is required to give due notice under I.C. 36-7-4-604 by procuring the publication of the notices required by I.C. 36-7-4-604 and by posting copies of the notice in the public places deemed necessary by the Administrator at least ten (10) days before the hearing is conducted on the replacement ordinance.
- (e) Notice addressed to any one of two or more partners, to any one of two or more joint tenants, tenants in common, or tenants by the entireties shall be sufficient.
- (f) For the purposes of the Rules, the term "legal owners" and "owners" shall be defined as being such person or persons in whose name is vested the legal title of real estate as may be shown by the records of Hendricks County, Indiana, and their heirs, executors, administrators, trustees, successors and assigns as may be shown by affidavit, deed and other instruments of conveyance or contract purchasers that are of legal title pursuant to legally binding instruments recorded at the Recorder's office.
- (g) A standard sign furnished by the Department of Development Services may be installed by the Department of Development Services Staff on the subject property for public hearing for a period of ten (10) days prior to the date of the public hearing, barring any unforeseen circumstances such as weather-related matters (ground frozen or drought) or other property related circumstances that would make signage inappropriate.
- (h) Appearance at any hearing on an application or proposal, in person or by representative, shall waive any defect in notice unless the alleged defect is raised prior to the public hearing on said case being closed.

5. Public Hearing Presentation Procedures. All presentations shall be conducted in the following order and in accordance with the procedures as set forth below:

- (a) **Open Public Hearing.** The President will signify the start of the public hearing and note the time for the record.
- (b) **Staff Report.** The President will ask the Development Services staff to frame the request and present staff opinion. The Commissioners may then ask questions of staff.
- (c) **Applicant Presentation.**
 - i. The Applicant, the property owner, or agent for Applicant or property owner must appear before the Commission for the case to be considered. If no person appears on behalf of the Applicant, the case may be dismissed, denied, or rescheduled to the following meeting.
 - ii. The Applicant may present its request and facts relating to the case. This presentation is limited to

fifteen (15) minutes.

- iii. The Commissioners may then ask questions of the Applicant, with no time limit on the Commissioners' questions.
- (d) **Written Comments.** Anyone wishing to submit comments in writing may do so by delivering those comments to the Development Services office. These written comments will become part of the official record in the case.
- i. Written comments that are received by 4:00 pm at least twenty-four (24) hours in advance of the Public Hearing (excluding weekends and holidays) will be distributed to each Commissioner for review prior to the hearing.
 - ii. Written comments that are received after that point will be provided to each Commissioner at the beginning of the hearing, provided the speaker has provided eight (8) copies of the comments to Development Services staff before the hearing. If less than eight (8) copies are provided before the hearing, Development Services staff will make copies and circulate following the hearing.
- (e) **In-Person Public Comment.** Subject to the following procedures, when the floor is open for public comment, any person may appear in person or by counsel to participate in a discussion of an item before the Commission so long as any comments are directly related to an item set forth on the hearing agenda.
- i. **Registration for In-Person Comments.** Prior to the start of the Public Hearing, any member of the public who wishes to speak in person shall register on a sign-in sheet provided by staff and provide a full name, address, and indicate whether the member wishes to speak in support of or against the Applicant.
 - ii. **Statements Against or in Remonstrance.**
 - a. The President shall then invite those who are against the application to make statements and remonstrate. Staff will call speakers to make statements in the order they registered pursuant to 5(d)(i) above.
 - b. The total cumulative time for all statements against Applicant or in remonstrance shall be twenty (20) minutes, allocated as follows:
 - (1) *Individuals.* Individual speakers will be allowed a maximum of three (3) minutes.
 - (2) *Groups/Committees.* Speakers representing three (3) or more persons will be allowed a maximum of five (5) minutes.
 - (3) It is the responsibility of Development Services staff to keep time for each speaker.
 - c. Speakers should present new points and not repeat comments from previous speakers. The President shall have the authority to prohibit repetitious, immaterial, and irrelevant testimony.
 - d. The Commissioners may ask questions of any speaker, with no time limit on the Commissioners' questions.
 - iii. **Statements of Support.**
 - a. The President shall invite those who support the application to make statements. Staff will call speakers to make statements in the order they registered pursuant to 5(d)(i) above.
 - b. The total cumulative time for all statements in support of Applicant shall be twenty (20) minutes, allocated as follows:
 - (1) *Individuals.* Individual speakers will be allowed a maximum of three (3) minutes.
 - (2) *Groups/Committees.* Speakers representing three (3) or more persons will be allowed a maximum of five (5) minutes.
 - (3) It is the responsibility of Development Services staff to keep time for each speaker.
 - c. Speakers should present new points and not repeat comments from previous speakers. The President shall have the authority to prohibit repetitious, immaterial, and irrelevant testimony.
 - d. The Commissioners may ask questions of any speaker, with no time limit on the Commissioners' questions.
 - iv. **Conduct of Public During Hearing.** The President shall preserve order and may warn any person present that particular conduct is a breach of courtesy. If any person persists in this conduct following the warning, the Commissioners may vote to censure the offending person and the

President may order that person to be expelled from the hearing.

- (f) **Applicant Rebuttal.** The Applicant may make a brief, fact-based rebuttal to any public remonstrance.
 - i. This rebuttal presentation is limited to five (5) minutes.
 - ii. The Commissioners may ask questions of the Applicant, with no time limit on the Commissioners' questions.
- (g) **Commission Discussion, Closing of Public Hearing, and Decision.**
 - i. The Commissioners may then ask questions of staff, the Applicant, legal counsel, other Commissioners, as well as ask for clarification of comments made by a person from the public.
 - ii. Upon conclusion of questioning and discussion, the President shall conclude debate on the application and close the public hearing, noting the time for the record. No further testimony will be accepted after the public hearing is closed.
 - iii. The Commissioners shall then discuss the appropriate Findings of Fact and render its decision or recommendation for the record.
- (h) **Exhibits.** Exhibits provided to the Commission shall also be made available to Development Services staff and will be made part of the record. If a speaker wishes any exhibit to be displayed during the hearing, that exhibit must be provided to Development Services staff by 4:00 pm at least twenty-four (24) hours in advance of the Public Hearing (excluding weekends and holidays).
- (i) **Additional Time.** In extraordinary circumstances, a majority of the Commission, in its sole discretion, may extend any time limits set forth in this Rule.
- (j) **Publication of Procedures.** It shall be the responsibility of staff to publish these "Public Hearing Presentation Procedures" and make copies available as handouts for the public upon request.
- (k) **Recordings.** All hearings are recorded by staff.
- (l) **Oath and Admissibility.**
 - iii. The President may administer an oath to all persons wishing to address the Commission that they will swear or affirm, under penalties of perjury to testify truthfully when addressing the Commissioners.
 - iv. The President shall rule on all questions relating to the admissibility of the evidence, which may be overruled by a majority of the Commissioners present at the hearing.
- (m) **Withdrawal of application.**
 - i. Any Applicant may withdraw any application prior to the time that the President orders that a motion be made on the application, but an application may not be withdrawn after a motion has been ordered by the President or presiding officer.
 - ii. No application that has been withdrawn by the Applicant shall again be considered by the Commission within a period of six (6) months from the date of withdrawal unless these Rules are suspended. See Article VII Section 5 for information regarding refunds.

6. Continuances.

- (a) The Commission may continue any item from one meeting to another. No additional notice shall be required for the continued consideration of any docketed item except that which is required by State Law.
- (b) Any application is allowed one continuance as a matter of right without penalty or additional fee. A application also may be continued from the scheduled hearing date to a later date for cause.
- (c) Plan Commission Staff may continue each application one (1) time without express authority of the Commission or agreement of the Applicant. Such continuance will be without penalty or additional fee to the Applicant.
- (d) No application may be continued more than three (3) months from the original scheduled hearing date in a single continuance request and no application may be continued a cumulative total of more than six (6) months beyond the original scheduled hearing date.

ARTICLE VII. FILING REQUIREMENTS FOR APPLICATIONS

1. The following list includes the types of applications that may be filed for consideration by the Plan Commission:
 - (a) Zoning Map Amendment (a/k/a “Rezone”).
 - (b) Conditional Zoning Map Amendment.
 - (c) Commitment Amendment.
 - (d) Primary Plat.
 - (e) Final Plat.
 - (f) Replat.
 - (g) Plat Vacation.
 - (h) Development Plan Review.

For Planned Developments, Development Plans, and any other applications requiring Plan Commission approval, Applicant shall complete an application as supplied by the Administrator. The Administrator may require the Applicant to submit any additional information deemed relevant for consideration by the Plan Commission, including written proof that the Applicant is the agent of the owner.
2. Prior to the filing of any application with the Plan Commission, Applicant must first attend a pre-filing meeting with the Plan Commission Staff.
3. After the pre-filing meeting, any applications must be filed in proper form with the Department of Development Services according to the adopted schedule of meetings.
4. All applications shall be submitted in the format and at the times specified by these Rules and supplied by the Administrator. The number of copies required for filing shall be determined by the Administrator. The Applicant shall pay the appropriate filing fee at the time of filing of the application to cover expenses of processing the application. The amount of fees shall be in accordance with the Town of Brownsburg Fee Schedule in effect at the time of filing.
5. No fee paid for the submission of an application shall be refunded after the staff report has been prepared, unless otherwise approved by the Town Council.
6. Any application that has been withdrawn, dismissed, or denied shall be resubmitted including a new application form, required drawings and other documentation, and filing fees as if it is the initial application for public hearing.
7. No new documents or evidence will be accepted from the Applicant within ten (10) days of a Plan Commission meeting to Plan Commission Staff, other than enlarged charts, maps, or renderings which are identical to and included in the packets for the Plan Commission. Any new documents or evidence submitted less than ten days prior to the meeting date may cause the pending application to be continued until the following meeting.
8. The Administrator shall set a public hearing date for applications filed. The hearing date shall be the date of the first Plan Commission meeting at which the application could be considered and after the Administrator has confirmed that all required filing and application materials have been received and processes completed.
9. Each matter to be heard before the Plan Commission shall be filed in proper form with the required data and shall be numbered serially.

ARTICLE VIII. COMMITMENTS AND CONDITIONS

1. The Plan Commission may accept and/or require the owner of the parcel of property to make written commitments concerning the use or development of the parcel in connection with the approval and/or consideration of any application filed before the Plan Commission. The Commission may also condition approval upon acceptance of reasonable terms and conditions.
2. Written commitments must be prepared and executed in a recordable format in the form prescribed by the Department of Development Services.
3. Following review, approval, and execution by the Department of Development Services, written commitments must be recorded in the Office of the Hendricks County Recorder before an approved re-zone, site development plan or PD district can become effective. The owner of the parcel subject to the written commitment must either

record the written commitment or authorize the Town of Brownsburg to record the written commitment at the owner's expense.

4. A file-stamped, recorded copy of the commitments must be provided to the Department of Development Services within five (5) business days after such recording has occurred.
5. Once recorded, a written commitment shall be considered to run with the land and shall bind all subsequent owners to its terms and conditions as well as any subsequent modification thereto made under these Rules, ordinances of the Town, or state statutes.
6. Written commitments may be enforced jointly and severally by the Department of Development Services and owners of all parcels of real property adjoining the parcel burdened by the commitment to a depth of two ownerships or 660 feet, whichever is lesser. The identity of such owners shall be determined from the records of the Office of the Hendricks County Auditor. For purposes of this paragraph, the cut-off date for determining ownership is 12:00 (noon) on the date of filing for enforcement.
7. A written commitment may be modified or terminated by the Plan Commission following a public hearing after the Applicant for modification or termination complies with the notice requirements applicable to rezoning amendments.

ARTICLE IX. FINAL DISPOSITION OF CASES/DECISIONS

1. Unless provided otherwise in these Rules or by statute, after consideration of any reports and recommendations, Plan Commission proceedings shall have one of the following outcomes
 - (a) **Approval:** Approval occurs when a majority of the entire Commission votes to approve.
 - (b) **Denial:** Denial occurs when a majority of the entire Commission votes to deny.
 - (c) **No Recommendation:** No recommendation occurs when the Commission does not reach an agreement to approve or deny.
 - (d) **Continuance:** Continuances shall be in accordance with Article VI, or as otherwise provided herein.
 - (e) **Withdrawal:** Any application may be withdrawn by the Applicant at any time before the Commission calls for a vote. An application may be withdrawn by the Applicant in writing before the scheduled meeting, and the Commission shall verbally acknowledge the withdrawal at the meeting at which the matter was set for consideration. The official withdrawal date shall be the date the Commission acknowledges the withdrawal.
 - (f) **Dismissal:** The Commission may dismiss any application for the following reasons:
 - i. The Applicant's failure to appear to present the request;
 - ii. The Applicant's failure to provide required notice within 3 months of the original hearing date;
 - iii. The matter remains pending more than 6 months due to the Applicant's actions or inactions.
 - (g) **Vote by Less than Majority:** If a motion for the approval of an application or request fails to earn a majority of the votes, the application or request is deemed denied. If the first motion to approve fails to earn a majority, a different motion(s) to approve may be made. If a motion to deny an application or request fails to earn a majority, the Commission may consider a motion to approve the application or request.
2. An application other than a rezone request which:
 - (a) has been withdrawn by the Applicant or dismissed by the Commission shall not be placed on the agenda again within six (6) months of the date of withdrawal/dismissal.
 - (b) has been decided adversely to the Applicant shall not be placed on the docket again for consideration for a period of twelve (12) months following the date of the adverse decision.
 - (c) is substantially different from the previous application shall not be subject to the re-filing rules noted above. The determination of "substantially different" shall be made by the Department of Development Services. Such determination may be appealed in accordance with state statute.
3. The Plan Commission may not further consider any proposal for a zoning map amendment which has been rejected by the Town Council, or upon which the Town Council has failed to act, for six (6) months. A rezone request for the same property that is substantially different is not subject to the time limit noted here. The determination of "substantially different" shall be made by the Department of Development Services and may be appealed according to state statute.