

# Town of Brownsburg Board of Zoning Appeals Rules and Procedures

## ARTICLE I. GENERAL PROVISIONS

1. These Rules of Procedure 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 Board of Zoning Appeals (hereinafter “BZA”).
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 BZA’s presiding officer, shall govern the conduct of the BZA meetings.
3. The BZA 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 BZA shall abide by the order and direction of the BZA Chair. Discourtesy, disorderly or contemptuous conduct shall be regarded as a breach of the privileges and shall be dealt with as the BZA directs.
5. Amendments to or suspension of these rules of procedures may be made by the BZA at any regular or special meeting/hearing upon the affirmative vote of a majority of the Members of the BZA. 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 deadlines provided by the Department of Development Services.

## ARTICLE II. POWERS AND DUTIES OF THE BZA

1. The BZA shall render decisions concerning the approval or denial of the following:
  - (a) Variances of Development Standards;
  - (b) Variances of Uses;
  - (c) Special Exceptions; and
  - (d) Administrative Appeals made to the BZA.
2. The BZA may utilize the Town’s administrative staff to discharge the duties and responsibilities of the BZA.
3. The Town Attorney shall be consulted in cases where the powers of the BZA are not clearly defined.
4. The BZA Chair may appoint such committees as determined necessary from time to time. Any appointed committee shall consist of at least two (2) Members. The term of each committee Member shall expire not later than December 31 of the year of appointment. The Chair shall fill any vacancy immediately and announce the appointment at the following meeting of the BZA. The Chair may also appoint special committees for any purpose and for any term subject to the approval of the BZA.

## ARTICLE III: BZA MEMBERS, OFFICERS, AND STAFF

1. **BZA Members.** The BZA is governed by the Indiana Code 36-7-4-900 series and shall consist of five (5) Members appointed in accordance with IC 36-7-4-902 and as provided in the Town’s Unified Development Ordinance.
  - (a) **Citizen Members appointed by Town Council President.** The President of the Town Council appoints three (3) citizen Members, of whom one (1) must be a Member of the Town of Brownsburg Advisory Plan Commission (hereinafter called APC”) and two (2) must not be Members of the APC.
  - (b) **Citizen Members appointed by Town Council.** The Town Council appoints one (1) Member of the BZA who must not be a Member of the APC.
  - (c) **APC Member.** The APC appoints one (1) Member from the APC’s Membership, who must be a county agricultural agent or a citizen Member of the APC other than the Member appointed under subdivision (a).

<p>(d) <b>Alternate Member.</b> The BZA may also consist of an Alternate Member, appointed in accordance with IC 36-7-4-907.</p>
<p>2. <b>Conduct of BZA Members.</b></p> <p>(a) BZA Members shall adequately prepare before each meeting to be informed about the matters and issues on the meeting agenda.</p> <p>(b) A Member of the BZA may not directly or personally represent another person or entity in a hearing concerning a BZA decision.</p>
<p>(c) A BZA Member is disqualified and may not participate in a hearing or decision concerning any matter if any of the following apply. The BZA Member shall also abstain from any vote on any document that results from the matter, such as the Report of Determination, Findings of Fact, etc.</p> <p>i. <b>Financial or Personal Interest.</b> Any matter in which the Member has: (a) a direct or indirect financial interest in the outcome of a case; (b) an interest in any property close enough to receive written notice of the matter; 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 BZA. A “familial relationship” includes the BZA Member’s spouse, parent, aunt/uncle, grandparent, child, grandchild, sibling, or niece/nephew.</p> <p>ii. <b>Impartiality.</b> A BZA Member is disqualified and may not participate in a hearing or decision concerning any matter in which the Member is biased, prejudiced, or otherwise unable to be impartial.</p> <p>iii. <b>Conflict of Interest.</b> If a BZA Member discovers a conflict of interest in any matter before the BZA, the Member shall notify the Chair and staff immediately. The Member shall declare the disqualification prior to the BZA hearing evidence or considering a case, or as soon as possible once the reason for disqualification becomes known. The affected BZA Member shall voluntarily remove himself or herself from the chamber while the matter is being deliberated by the remaining Members of the BZA.</p> <p>iv. <b>Ex parte contacts.</b> No person, firm, corporation, other entity, Applicant, or remonstrator shall contact any BZA Member, orally or in writing, in advance of a public hearing, on a matter pending before the BZA, for the purpose of attempting to influence any BZA Member’s decision; provided, however, the BZA understands that communications may be permitted when a BZA Member also serves in a staff/employee role of the Town, so long as such communications are related solely to that role.</p> <p>Upon disqualification, the BZA Member shall enter his or her reason for disqualification, recusal, or abstention on 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) BZA Members must be physically present at the public hearing to vote on any matter before the BZA. A Member who misses three (3) consecutive regular BZA meetings or a total of six (6) BZA meetings in any calendar year may be removed for cause in accordance with the provisions of I.C. 36-7-4-906 and shall no longer be considered a viable Member of the BZA.</p>
<p>(e) The appointing authority may remove any BZA 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. <b>Election of Officers.</b></p> <p>(a) At its first regularly scheduled meeting each year, the BZA shall select from its Membership a Chair and Vice-Chair. These officers shall serve for the balance of the calendar year. Whenever an office becomes vacant, the BZA shall elect a successor at its next regular meeting to complete the remainder of the unexpired term.</p>
<p>(b) The Chair shall preside over all regular and special meetings/hearings of the BZA. The Chair shall perform the duties normally performed by a presiding officer, including the ruling on all points of procedure. The Chair may participate in the discussion of all matters before the BZA and vote on any question before the BZA. The Chair shall sign all official documents on behalf of the BZA.</p>
<p>(c) The Vice-Chair shall act as Chair during the absence or disability of that officer. The BZA may elect a Chair pro tempore from among its Members if both the Chair and Vice-Chair are absent, disabled, or otherwise disqualified.</p>
<p>4. <b>BZA Administrative Staff.</b></p> <p>(a) <b>Recording Secretary.</b> The BZA shall appoint a Recording Secretary who shall serve at its pleasure. The</p>

Recording Secretary shall:

- i. keep a complete and accurate record of all proceedings and votes of the BZA;
- ii. provide notice of meetings/hearings(s) to BZA 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 the BZA. If the Secretary is absent, the Administrator may fill in as the Recording Secretary or assign a Staff Member to do so.

(b) **Administrator.** The Director of the Department of Development Services shall serve as the BZA Administrator. The Administrator shall supervise the BZA staff, administer the daily affairs of the BZA and conduct all investigations required to administer the UDO. The Administrator shall establish personnel policies and office procedures including the following tasks:

- i. prepare the agenda of all regular and special meetings/hearings;
- ii. arrange for all required legal notices(s) for public hearing(s) of the BZA;
- iii. date stamp and attend to all correspondence directed to the BZA;
- iv. create such committees as determined necessary from time to time to as may be created by statute or as otherwise determined necessary; and
- v. all other duties as may be directed or assigned by the BZA.

#### ARTICLE IV. REGULAR MEETINGS

1. Regular Meetings. Regular meetings of the BZA shall be held on the second Monday of every month at 6:00PM, local time, in the Town Hall of the Town of Brownsburg located at 61 N. Green Street. The BZA shall adopt a Schedule of Meeting Dates and Filing Deadlines for the upcoming year. This schedule shall account for Town office closures and instances when the regular meeting cannot be held on the second Monday of the month. Regular meetings of the BZA may be canceled by the Chair 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. If the meeting is not continued, any cases remaining to be heard on an agenda at the 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. Member
3. All meetings/hearings of the BZA shall be conducted in accordance with I.C. 5-14-1.5, the Indiana Open Door Law, and any amendments thereto. On-site inspections of property involved in Applications before the BZA shall not be considered hearings. In accordance with I.C. 36-7-4-915, the minutes of BZA meetings/hearings and all records shall be filed in the office of the Department of Development Services and are public records.
4. A quorum, requiring three BZA Members, is needed for the transaction of any BZA business. Approval from a majority of the entire five-Member BZA is necessary for any action to be binding, whether at a regular or special meeting. 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. All regular meetings shall list all items to be considered by the BZA on the Agenda. No item shall be considered by the BZA 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,
7. 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 BZA may be modified at the meeting.
  - (b) Modification of the agenda order shall be at the discretion of the Members of the BZA.
  - (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.
8. All regular meetings of the BZA 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 Chair.
- (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

1. Special meetings of the BZA may be called by the Chair or by two (2) Members of the BZA 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 BZA 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 BZA.
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 BZA 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 BZA may, at its discretion, hold public meetings/hearings when it decides that it 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 3 and 4 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 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 BZA 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.

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**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, including a county line or a county line street, road, or body of water, and all owners of real property to a depth of two (2) ownerships or six hundred, 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 the 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 by USPS First Class Mail, with a Certificate of Mailing to all interested parties on a form provided by staff as set forth in these Rules. The form must inform the interested party of the type of Application that has been filed with the BZA and state the time, date, and place of the public hearing. All notices required to be given to surrounding property owners must include all provisions within IC 5-3-1 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) 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.

(e) 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.

(f) A standard sign furnished by the Department of Development Services shall be installed by the Applicant on the subject property for public hearing 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. A fee to cover costs of a replacement sign may be assessed if the sign is lost, destroyed, or otherwise not returned to the Department of Development Services within five (5) days of the date of the BZA's decision.

(g) 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.

(h) 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 three (3) calendar days prior to the hearing.

**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 Chair will signify the start of the public hearing and note the time for the record.
- (b) **Staff Report.** The Chair will ask the Development Services staff to frame the request and present staff opinion. The BZA may then ask questions of staff.
- (c) **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 BZA Member for review prior to the hearing.
  - ii. Written comments that are received after that point will be provided to each BZA Member at the

beginning of the hearing, provided the speaker has provided six (6) copies of the comments to Development Services staff. If less than six (6) copies are provided, Development Services staff will make copies and circulate following the hearing.

(d) ***Applicant Presentation.***

- i. The Applicant, the property owner, or agent for Applicant or property owner must appear before the BZA 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 BZA may then ask questions of the Applicant, with no time limit on the BZA's questions.

(e) ***In-Person Public Comment.*** Subject to the following procedures, when the floor is open for a public hearing related to a specific item on the agenda, any person may participate in a discussion before the BZA so long as comments are directly related to the specific item being heard.

- i. ***Registration.*** 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. ***Time Allocation for Public Comments:***
  - a. Public comments against Applicant/in remonstrance or in support of Applicant shall be limited to a cumulative total of thirty (30) minutes per side, 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 people will be allowed a maximum of five (5) minutes.
  - b. 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 Chair shall have the authority to prohibit repetitious, immaterial, and irrelevant testimony.
  - d. The BZA Members may ask questions of any speaker, with no time limit on questions or answers.
- iii. ***Statements Against or in Remonstrance.*** The Chair shall 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(e)(i) above.
- iv. ***Statements of Support.*** The Chair 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.
- v. ***Conduct of Public During Hearing.*** The Chair 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 BZA may vote to censure the offending person and the Chair 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 BZA may ask questions of the Applicant, with no time limit on the BZA's questions.

(g) ***BZA Discussion, Closing of Public Hearing, and Decision.***

- i. The BZA Members may then ask questions of staff, the Applicant, legal counsel, other BZA Members, as well as ask for clarification of comments made by a person from the public.
- ii. Upon conclusion of questioning and discussion, the Chair 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 BZA shall then discuss the appropriate Findings of Fact and render its decision for the record.

(h) ***Exhibits.*** Exhibits provided to the BZA to be made part of the record are characterized either as substantive (containing evidence that the speaker wishes to be considered by the BZA) or as demonstrative (a summary of substantive evidence already tendered to the BZA). If a speaker wants a substantive exhibit to be considered by

the BZA as part of 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). If a speaker wants a demonstrative exhibit or presentation to be displayed during the hearing, that exhibit must be provided to Development Services staff before the hearing begins.

- (i) **Additional Time.** In extraordinary circumstances, a majority of the BZA, 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.**
  - i. The Chair may administer an oath to all persons wishing to address the BZA that they will swear or affirm, under penalties of perjury, to testify truthfully when addressing the BZA.
  - ii. The Chair shall rule on all questions relating to the admissibility of the evidence, which may be overruled by a majority of the BZA present at the hearing.

(m) **Withdrawal of Application.**

- i. Any Applicant may withdraw any Application prior to the time that the Chair orders that a motion be made on the Application, but an Application may not be withdrawn after a motion has been ordered by the Chair or presiding officer.
- ii. No Application that has been withdrawn by the Applicant shall again be considered by the BZA within a period of six (6) months from the date of withdrawal. See Article VII Section 5 for information regarding refunds.

**6. Continuances.**

- (a) The BZA 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) An Applicant is allowed one continuance as a matter of right without penalty or additional fee. An Application also may be continued from the scheduled hearing date to a later date for cause.
- (c) If only three BZA Members are present to hear a matter, the Applicant is entitled to have the matter continued to the following meeting. Such a continuance does not preclude any additional continuance available under these Rules.
- (d) BZA Staff may continue each Application one (1) time without express authority of the BZA or agreement of the Applicant. Such continuance will be without penalty or additional fee to the Applicant.
- (e) 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 BZA:
  - (a) Variance of Development Standard;
  - (b) Variance of Use;
  - (c) Special Exception; and
  - (d) Administrative Appeal.
- 2. Prior to the filing of any Application with the BZA, Applicant must first attend a pre-filing meeting with the BZA Staff.
- 3. After the pre-filing meeting, any Application 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.	All substantive documents and evidence the Applicant wants included in the packets provided to the BZA for consideration in connection with a decision shall be submitted to BZA Staff within ten (10) days of a BZA meeting. Any new substantive documents or evidence submitted by the Applicant less than ten (10) days prior to the meeting date may cause the pending Application to be continued until the following meeting. The Applicant may, however, provide demonstrative exhibits or presentations at the hearing, so long as they consist of summaries of substantive evidence or enlargements of charts, maps, or renderings that are identical to what has already been tendered to the BZA.
8.	The Administrator shall set a public hearing date for Applications filed. The hearing date shall be the date of the first BZA 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 BZA shall be filed in proper form with the required data and shall be numbered serially.

#### **ARTICLE VIII. COMMITMENTS and CONDITIONS**

1.	The BZA may accept and/or require written commitments as part of any approval. The BZA may also condition approval upon acceptance of reasonable terms and conditions.
2.	The Applicant must return a copy of the recorded commitments to the Development Services Department within 14 days of recording. New Applications for approvals or permits for the property will not be processed until a copy of the recorded commitments is provided to the Development Services Department.
3.	A commitment is binding on the property owner. Any binding effect on subsequent owners is controlled by IC 36-7-4-1015.
4.	A commitment may be modified or terminated only by a decision of the BZA made at a public hearing after notice is given in accordance with the requirements set forth in these Rules and by state statute.
5.	If any person fails to abide by a commitment, that person commits a violation of the Unified Development Ordinance (UDO) and risks voiding their approval by the BZA. The commitment shall be enforced in accordance with the provisions of the Unified Development Ordinance (UDO).
6.	Following review, approval, and execution by the Department of Development Services, written commitments must be recorded in the Office of the Hendricks County Recorder by the owner of the parcel.
7.	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.
8.	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.
9.	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.
10.	A written commitment may be modified or terminated by the BZA 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, all Applications or requests to the BZA shall have one of the following outcomes:
  - (a) **Approval:** Approval occurs when a majority of the entire BZA votes to approve an Application or request.
  - (b) **Denial:** Denial occurs when a majority of the entire BZA votes to deny an Application or request.
  - (c) **Continuance:** Continuances shall be in accordance with Article VI, or as otherwise provided herein.
  - (d) **Withdrawal:** Any Application or request may be withdrawn by the Applicant at any time before the BZA calls for a vote. An Application or request may be withdrawn by the Applicant in writing at least twenty-four business hours before the scheduled meeting, and the BZA shall verbally acknowledge the withdrawal at the meeting at which the Application or request was set for consideration. The official withdrawal date shall be the date the BZA acknowledges the withdrawal.
  - (e) **Dismissal:** The BZA may dismiss any Application or request 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.
  - (f) **Vote by Less than Majority:** If a motion to approve an Application or request fails to earn a majority of the votes, the Application or request is automatically deemed denied but a different motion to approve may thereafter be made and voted on. If a motion to deny an Application or request fails to earn a majority, it is not automatically approved; a motion to approve the Application or request must thereafter be made to obtain approval.
2. Pursuant to I.C. §36-7-4-919, the BZA shall make a decision on any matter that it is required to hear under the 900 series either: (1) at the meeting at which that matter is first presented; or (2) at the conclusion of the hearing on that matter, if it is continued. Within five (5) days after making any decision under the 900 series, the BZA shall file in the office of the BZA a copy of its decision.
3. If written Findings of Fact are required pursuant to statute, those written Findings of Fact shall set forth the factual basis, findings, and determinations of the BZA, together with any modification, specification, or limitation which the BZA requires. If written Findings of Fact are not required by statute, the final disposition shall be memorialized in a Report of Determination.

## ARTICLE X. ADMINISTRATIVE APPEALS TO THE BZA

1. An appeal of an order, requirement, decision, or determination by an administrative official or board charged with the administration of the Unified Development Ordinance shall be filed with Staff within 30 days of the decision, unless provided otherwise by any statute or ordinance.
2. The appeal may be filed in any form, so long as it clearly identifies the initiation of an appeal. The filing shall specify the decision being appealed. The appeal shall include all facts and elements involved, including a clear statement of the reason(s) why the decision being appealed is in error. The Appellant shall also provide the BZA with copies of any documents supporting the appeal.
3. Staff shall review the appeal materials and schedule the matter for hearing when the request is in technical and legal compliance.
4. The administrative official, board, or other body from whom the appeal is taken shall, upon the BZA's or staff's request, provide all records concerning the decision being appealed.

5. As provided in IC 36-7-4-919, the BZA may reverse, affirm, or modify the order, requirement, decision, or determination being appealed, and for this purpose the BZA has all the powers of the official, officer, board, or body from which the appeal is taken. The BZA shall make a decision on the appeal at the conclusion of the hearing.