

Town of Brownsburg Advisory Plan Commission Rules of Procedure
9/16/2019

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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 Advisory Plan Commission (“Plan 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. The seal of the Town of Brownsburg Plan Commission shall be used in all matters relating to the Plan Commission’s activities.
5. 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.
6. Amendments or suspension to these rules of 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.
7. 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.

ARTICLE II. POWERS AND DUTIES OF THE PLAN COMMISSION

1. The Plan Commission shall make recommendations to the legislative body concerning:
 - (a) The adoption of a comprehensive plan resolution and amendments;
 - (b) The adoption of a Unified Development Ordinance (“UDO”), zoning map, and amendments thereto;
 - (c) Adoption or amendments to planned development districts; and
 - (d) Any other matter, within the jurisdiction of the Plan Commission, authorized by the Advisory Planning Law.

2. The Plan Commission shall render decisions concerning the approval or denial of the following:
 - (a) Primary Plats, and Vacation of Subdivision Plats;
 - (b) Development plans;
 - (c) Render decisions regarding commitments made to the Plan Commission.
3. The Plan Commission President may appoint such committees as determined necessary from time to time.
4. 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.
5. The Plan Commission may utilize the Town's administrative staff to discharge the duties and responsibilities of the Commission.
6. The Town Attorney shall be consulted in cases where the powers of the Commission are not clearly defined.

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) 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. 36-7-4-216, 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.

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) Disqualification. 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 in which the member has a direct or indirect financial interest. Furthermore, a member of the Plan Commission is disqualified and may not participate as a member of the Plan Commission in a hearing regarding a zoning decision, if the member is biased or prejudiced or otherwise unable to be impartial. Upon disqualification, the Commission member shall enter his or her reason for the record.
- (d) Conflicts of Interest. A "conflict of interest" is:
 - i. A direct or indirect financial interest in any matter before the Commission;
 - ii. 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
 - iii. 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.)
- (e) 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 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.

- (f) 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.
- (g) 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 staff/employee role of the Town, so long as such communications are related solely to that role.
- (h) 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. 36-7-4-218 and shall no longer be considered a viable member of the Plan Commission.
- (i) Any violation of this Section constitutes cause for removal of the Plan Commission Member by his or her appointing authority.

3. Election of Officers.

- (a) The officers of the Plan Commission are the President and Vice-President. 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.
- (b) The President. 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. In conjunction with the UDO, the President may appoint additional members, subject to the approval of the Plan Commission, to the Tech Review

Committee. Each standing 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.

- (c) The Vice President and President Pro Tempore. 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.

4. Plan Commission Staff.

- (a) Recording Secretary. The Plan Commission shall appoint a Recording Secretary who shall serve at its pleasure. The Recording Secretary shall: (1) keep a complete and accurate record of all proceedings and votes of the Plan Commission; (2) provide notice of meeting(s) to Plan Commission Members as directed by the Administrator; and (3) perform all other duties normally carried out by a recording secretary or as specifically assigned by the Administrator or Plan Commission.
- (b) Administrator. The Director of Development Services shall a 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: (1) prepare the agenda of all regular and special meetings; (2) arrange for all required legal notices(s) for public hearing(s) of the Plan Commission; (3) Date stamp and attend to all correspondence directed to the Plan Commission; (4) 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; (5) create such committees as determined necessary from time to time to as may be created by statute or as otherwise determined necessary; (6) under I.C. 36-7-4-405 and unless otherwise directed by the Plan Commission, assign the street numbers to lots and structures and rennumbers lots and structures; and (7) all other duties as may be directed or assigned by the Plan Commission.

ARTICLE IV. REGULAR MEETINGS

1. Regular Meetings. 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 of Hall of the Town of Brownsburg located at 61 N. Green Street, provided that, if said day shall fall on a legal holiday, the Plan Commission may by unanimous consent of the members, fix an alternative day, time and place for the holding of a regular meeting without requiring an amendment to these rules or adopt a Schedule of Meeting Dates and Filing Deadlines for the following year. All meetings shall adjourn not later than 10:30 p.m. and no new cases shall be heard after 10:00 p.m., unless otherwise determined by the Plan Commission at the 10:00 p.m. deadline. 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.
2. 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. Reconvened Meetings: If any meeting lasts longer than 10:30 p.m. or such time as may otherwise be determined necessary by the Plan Commission, the Plan Commission may, by a majority vote of the Plan Commission Members present in their discretion, agree to continue the meeting to a later date, time and place; 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 commission office 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. Four members constitute a majority. A quorum consisting of a minimum of four 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. All regular meetings shall list all items to be considered by the Plan Commission on the Agenda. The items shall be listed on the Agenda in the order in which the Application or other document was filed with Administrator's office. No item shall be considered by the Plan Commission unless it appears on the Agenda.

All regular meetings of the Plan Commission shall proceed as follows:

- (a) Roll Call and declaration of a quorum by the President.
- (b) Moment of Silence and Pledge of Allegiance.
- (c) Approval of the minutes of the previous meeting(s).
- (d) Hearing of requests for continuances.
- (e) Call of cases on agenda.
 - i. Old Business
 - ii. Continued Public Hearings
 - iii. New Public Hearings
- (f) Communications and Committee Reports.
- (g) Miscellaneous Business.
- (h) Adjournment.

**ARTICLE V. SPECIAL MEETINGS, INFORMATIONAL SESSIONS
& SERIAL GATHERINGS**

1. Special Meetings. 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. 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. 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. 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. See 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.

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.

2. Notice of Public Hearing. Notice of all hearings shall be published in *The Hendricks County Republican* and *The Indianapolis Star*, by the Applicant on behalf of the Town at least fourteen (14) days before the date of the hearing. Applicant shall submit written confirmation that the notice of public hearing has been submitted to the required newspaper 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 newspapers, but in no event, later than the date on which the Plan Commission presents its Findings of Fact.
3. Notice to Affected Property Owner.
 - (a) Interested Parties: 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) ownership's or six hundred and sixty feet (660'), whichever is greater, 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 greater, 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) Adequate notice is provided under these rules if the Applicant shall, at least fourteen (14) 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 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 eleven (11) 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) Replacement Ordinance Notice. 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 twenty-one (21) 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 fourteen (14) days prior to the date of the public hearing provided any unforeseen circumstances such as weather related matters (ground frozen or drought), or other property related circumstances.
- (h) The applicant is required to submit, on the same check as the required application fee and at the time application is made, as security deposit pursuant to the fee schedule for the replacement cost of each sign furnished by the Department of Development Services. If the sign is missing or damaged beyond repair, the check for the placement of the sign in the applicant's yard *WILL NOT* be refunded and shall be used to obtain a replacement sign. It is the intent of the Department of Development Services Staff to return all checks, after the public hearing to the applicant. No fee paid for the submission of an application shall be refunded after the staff report has been prepared.
- (i) 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.

4. Public Hearing Application Presentations.

- (a) All presentations shall be conducted in the following order and in accordance with the procedures as set forth below:
- i. Applicant presents case. The presentation is limited to twenty (20) minutes or at the discretion of the Plan Commission by majority vote.
 - ii. Plan Commission Members direct questions to the Applicant. There is no time limit on this phase of the hearing.
 - iii. The Administrator presents the Staff Report. There is no time limit on this phase of the hearing.
 - iv. The President opens the public hearing and recognizes those who wish to speak on the proposal. These presentations are limited to a total of five (5) minutes per person or as modified at the discretion of the Plan Commission by majority vote.
 - v. The Applicant may rebut the testimony of those against the proposal. The rebuttal time is limited to five (5) minutes.
 - vi. The public may be allowed to speak toward the rebuttal points of the Applicant. Limited to one (1) minute per person. No new evidence may be presented at this time — only a response to the Applicant’s rebuttal.
 - vii. The President shall ask the Plan Commission if they have any additional questions on the Applicant’s presentation, remonstrators’ comments, or the rebuttals.
 - viii. The President shall conclude the public hearing and call for a motion on the item before the Plan Commission. A copy of all presentation materials must be provided to the Commission by Staff seven (7) days prior to the project hearing.
 - ix. All documents presented at the hearing by the Applicant or the remonstrator or any other person speaking before the Plan Commission as part of the case shall become the property of the Town and be incorporated into the record.
- (b) It shall be the responsibility of the Plan Commission staff to publish speaking rules and make them available as handouts for the public. All parties wishing to comment publicly may do so only if their comments are directly related to an item set forth on the meeting agenda. Upon request, copies of the speaking rules will be made available to the public at each meeting.

- (c) It will also be the responsibility of the Plan Commission Secretary to keep time for each speaker wishing to make public comment.
- (d) The President shall preserve order and may warn any member or person present that particular conduct is a breach of courtesy. If any member persists in this conduct following the warning, the Plan Commission may vote to censure the offending member. If any other person present persists in this conduct following the warning, the President may order that person to be expelled from the meeting.
- (e) The Applicant, the property owner, or agent for Applicant or property owner must appear before the Plan Commission for the case to be considered.
- (f) The Plan Commission staff must be informed prior to the meeting if the Applicant or property owner desires a continuance to another Plan Commission meeting date. The Plan Commission staff shall determine whether the Applicant's request for the continuance should be granted. If an Applicant or property owner fails to appear without sufficient cause, the Application may be dismissed.
- (g) Any person may appear in person or by counsel to participate in a discussion of an item before the Plan Commission.
- (h) Any person wishing to speak for or against an Application must register with the secretary and state their name and address.
- (i) The President may administer an oath to all persons wishing to address the Plan Commission that they will swear or affirm, under penalties of perjury to testify truthfully when addressing the Plan Commission. The President shall rule on all questions relating to the admissibility of the evidence, which may be overruled by a majority of the Plan Commission present at the meeting.
- (j) The President may entertain a motion from the Plan Commission to dismiss a case for want of prosecution based on the fact it has been continued for three consecutive months or failure of the applicant to appear. In the absence of a motion by the Plan Commission, the President shall rule.
- (k) In cases that are dismissed for want of prosecution, the applicant will be furnished written notice.
- (l) Any Applicant may withdraw any Application prior to the time that the President orders that a vote be taken on the Application. An Application may not be withdrawn by the Applicant after the vote has been ordered by the President. No Application that has been withdrawn by the Applicant shall again be considered by the Plan Commission within a period of six (6) months from the date of withdrawal, except upon the motion of a member, and adopted by a unanimous vote of all members at a regular or special meeting. See Article VII., Section 5 for information regarding refunds.

5. Continuances.

- (a) The Plan 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) Continuances that are requested by an Applicant, property owner, or agent for the Applicant or property owner must be received in writing prior to the scheduled meeting. After two (2) consecutive requested continuances on a specific docketed item, the Applicant shall be required to re-send, pursuant to Art. VI, Sec. 3 of these Rules, the public hearing notice to all surrounding property owners and re-publish legal notice in the newspaper prior to the case being heard at the third meeting.
- (c) No case shall be continued at the request of the Applicant unless such request has been made to the Department of Development Services not later than noon, five (5) business days before the scheduled hearing, and the request has been noted on the agenda before it is distributed. Staff shall have discretion to continue cases before notice is mailed and shall have discretion to provide a procedural continuance for defects in notice that Staff identifies prior to the hearing date.
- (d) If the Applicant requests that a case be continued prior to the above referenced deadline, the Department of Development Services, at its discretion, may act as agent for the Plan Commission or Committee and may approve such requests without formal Plan Commission or Committee vote. Such staff approval shall be noted on the agenda. However, any request for continuance that occurs after the above-mentioned deadline requires a majority vote by the Plan Commission or Committee. Similarly, if an Application is continued for three consecutive hearings, any further request for continuance, even within the above-referenced deadline, requires a majority vote by the Plan Commission or Committee. If the Plan Commission or Committee denies such a request or continuance, the Application shall be treated as denied on the merits unless the Applicant elects to formally withdraw the Application within 24 hours.

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; and
 - (i) Other Applications: 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 application that is filed must be filed with the Administrator in accordance with the deadlines that are established by Staff for the applications, subject to the following. Pursuant to I.C. 36-7-4-1111, when the deadline falls on a Saturday or Sunday, a legal holiday under Indiana statute or on any other day in which the Town Hall is closed, the filing deadline is extended to the first business day following said deadline.
 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 documents or evidence shall be submitted 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.

8. Any new documents or evidence submitted after the ten days prior to the meeting date, may cause the pending application to be continued until the following meeting.
9. The Administrator shall set a 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.
10. Each matter to be heard before the Plan Commission shall be filed in proper form with the required data and shall be numbered serially. The docket numbers shall include the two-digit month and year and be identified as follows:

PPL – Primary Plat
 FPL – Construction Plans & Final Plat
 RPL – Re-plat
 APL – Amended Plat
 CZM – Conditional Zoning Map Amendment
 ZMA – Zoning Map Amendment
 ZTA – Zoning Text Amendment
 DPR – Development Plan Review
 ADP – Development Plan Review, Administrative

Example – for the third (3rd) Primary Plat application submitted in 2019: PPL19-000003

ARTICLE VIII. REQUIREMENTS FOR WRITTEN COMMITMENTS

1. The Plan Commission may require the owner of the parcel of property to make a written commitment concerning the use or development of the parcel in connection with the approval and/or consideration of any Application filed before the Plan Commission.
2. Written commitments must be prepared and executed in a recordable format in the form prescribed by the Department of Development Services. All commitments must be reviewed, approved and executed by the Administrator prior to the recording thereof.
3. 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 Administrator within five (5) business days after such recording has occurred. A written commitment shall be considered to run with the land and shall bind all subsequent owners to its terms and conditions and any subsequent modification thereto made under these Rules, ordinances of the Town, or state statutes. The 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.

5. Written commitments may be enforced jointly and severally by the Administrator 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 greater. The identity of such owners shall be determined from the records of the Office of the Hendricks County Auditor which list the current owners of record. For purposes of this paragraph, the cut-off date for determining ownership is 12:00 (noon) on the date of filing for enforcement.

ARTICLE IX. PUBLIC IMPROVEMENTS

1. Request for Inspection. Upon completion of any required improvements within a subdivision or development (or sections thereof), the developer's engineer shall make a written Request for Inspection, which shall include As-Built plans of the improvements and a Letter of Compliance, signed by the Developer and the Project Engineer.
2. As-Built Plans. The As-Built plans must be submitted as follows: (1) PDF; and (2) by hard copies (36 by 24 inches) and shall include all public improvements covered by the Performance Bond, including, but not limited to: water mains, valves, hydrants, meters, service lines, pumps, and stations; sewer mains, laterals, manholes, lift stations, air release valves, and pumps; storm sewer pipes, underdrains, swales, and detention/retention pond elevations; curb and gutter; sidewalks; trails; and any other improvements dedicated to the Town of Brownsburg or other public/semi-public agency. The As-Built plans shall show the actual locations, and vertical elevations, with ties to permanent points of reference, specifications, and all materials used for the improvements installed in the subdivision or section thereof. These plans shall be certified by a registered professional engineer or land surveyor.
3. Inspections. The developer shall be responsible for having all improvements inspected for compliance with the approved plans and provisions of the UDO. Upon receipt of a Request for Inspection, the Administrator and/or a designated inspector (see paragraph (4) below) shall inspect the improvements, and any such designated inspector shall submit a recommendation to the Administrator. Any deficiencies found in the design and workmanship of public improvements shall be corrected by the developer prior to release of the Performance Bond. A Performance Bond is not required for public improvement projects when the plat is not recorded.
4. Inspectors. The Department of Development Services may appoint such person(s) as it deems necessary to accomplish adequate inspection and review of all improvements constructed within the jurisdiction of the Town. An Inspector's duties shall include, but are not limited to, the following duties:

- (a) Monitor work being performed to ensure that it complies with the standards and specifications of the UDO, Construction Standards and any other applicable ordinance, rule or law governing the development of the land;
 - (b) Maintain a written accurate log of his or her inspections and findings; and
 - (c) Issue directives or stop-work orders when necessary to ensure compliance with the approved plans and the UDO.
5. Determination of Completion of Improvements. The Director of the Department of Development Services is hereby designated as the person responsible for determining whether all improvements have been constructed and completed as required by the UDO and shall issue a letter of acceptance upon determining that such improvements have been completed in a satisfactory manner.

ARTICLE X. FINAL DISPOSITION OF CASES/DECISIONS

1. After consideration of any reports and recommendations of the Plan Commission, the final disposition of any case shall be in the form of a decision or report, setting forth, when deemed appropriate, the recommendation (if any), findings and determinations of the Plan Commission, together with any modifications, specifications or limitations which it makes. In any case in which the Plan Commission is required to make written findings along with a final decision, the Plan Commission may adopt findings as submitted by the Applicant or by any interested party, with or without modifications, specifications or limitations, or the Plan Commission may delegate to Staff and/or legal counsel the authority to prepare written findings. When written findings are required, the Plan Commission's findings shall be executed by the President and Secretary of the Plan Commission and filed in the office of the Department of Development Services within forty-five (45) days after the date of the Plan Commission's final decision.
2. The Plan Commission may dismiss a case for lack of prosecution or lack of jurisdiction. A case may be dismissed for lack of prosecution based on the fact it has been continued for three (3) consecutive months or failure of the applicant to appear. With respect to a Secondary Plat, when the Secondary Plat has been pending before Staff for three consecutive months, Staff may request that the Plan Commission dismiss the case for lack of prosecution. Staff shall notify the Applicant by mail, not less than ten (10) days before presenting the request to the Plan Commission, that Staff will seek the Plan Commission's approval to dismiss the Secondary Plat Application.
3. A case which has been decided adversely to the Applicant shall not be placed on the docket again for consideration until the legality of the Plan Commission's decision is finally determined pursuant to IC 36-7-4-1000 *et seq.*, or for a period of twelve (12) months following the date of the adverse decision previously rendered, whichever is later. A new case involving the same property that was the subject of a case which has been decided adversely to any Applicant shall not be placed on the docket for consideration

until the legality of the Plan Commission's decision is finally determined pursuant to IC 36-7-4-1000 *et seq.*, or for a period of six (6) months following the date of the adverse decision previously rendered, whichever is later.

4. Because the Plan Commission's recommendation (if any) is only advisory in matters of rezones and text amendments to the UDO or Comprehensive Plan, all such matters shall be certified to the Town Council for its consideration in accordance with state statute. The Plan Commission's recommendation (if any) on any such matter may then be followed or overturned by the Town Council in accordance with state statute and the rules of the Council.
5. **Reconsideration of Rezone Proposals.** The Plan Commission may not further consider for one year any proposal for a zoning map amendment which has been defeated under subsection (f)(3), (g)(3), or (g)(4) of IC 36-7-4-608. The Plan Commission may not further consider for six (6) months any proposal for a zoning map amendment which has been withdrawn by the Applicant, regardless of whether it is withdrawn while it is pending on the Plan Commission's docket or pending before the Town Council. If a new proposal to amend the zoning map (rezone) involves the same property that was the subject of a defeated proposal, as described in Section 1 above, the new proposal may not be considered by the Plan Commission until six (6) months have elapsed from the date the defeated proposal was defeated under subsection (f)(3), (g)(3), or (g)(4) of IC 36-7-4-608. If a new proposal to amend the zoning map (rezone) involves the same property that was the subject of a withdrawn proposal, as described above, the new proposal may not be considered by the Plan Commission until three months have elapsed from the date the withdrawn proposal was withdrawn. A rezone proposal that is restricted from consideration under this Article shall not be assigned a docket number or placed on the Plan Commission's agenda before the expiration of the restriction period, unless these Rules are suspended.