

# **Westfield / Washington Planning Commission**

## **Rules of Procedure**

### **ARTICLE I: AUTHORITY & DUTIES**

#### Section 1 – Authority

The Westfield / Washington Planning Commission (hereinafter called “Commission”) exists as an Advisory Planning Commission under the authority of IC 36-7-4-401 and the Zoning Ordinance of the City of Westfield, Indiana, and any amendments thereto. These rules are adopted in accordance with the requirements of IC 36-7-4-401.

#### Section 2 – Duties

The duties of the Commission shall be those set forth in IC 36-7-4-400 *et seq.*, and such other responsibilities as may be required by State Statute or the Westfield City Code and as follows:

- 1) The Commission shall be governed by the provisions of the City of Westfield Zoning Ordinance, specifically, Chapter 16.04, as adopted and amended by the City Council and the Rules and Procedures set forth herein, as adopted and amended by the Commission;
- 2) Any member of the Commission who has a conflict of interest in a matter before the Commission shall remove him / herself from hearing the matter and not vote thereon, as further described in Article IV, Section 5, Item 3;
- 3) Nothing herein shall be construed to give or grant to the Commission the power of authority to alter or change the Zoning Ordinance, including all official zoning maps; this authority is reserved for and with the City Council of the City of Westfield;
- 4) The Westfield / Washington Advisory Planning Commission Attorney shall be consulted in all cases where the powers of the Commission are not clearly defined; and,
- 5) The office of the Commission shall be located in the offices of the City of Westfield, Community Development Department, , Westfield, Indiana, 46074.

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## **ARTICLE II: JURISDICTION & RESPONSIBILITIES**

### **Section 1 – Jurisdiction**

The jurisdiction of the Commission shall be the whole of Washington Township, Hamilton County, Indiana, inclusive of the corporate City of Westfield, Indiana.

*(Generally described and beginning as follows: The intersection of Hamilton-Boone Road and 216<sup>th</sup> Street (northwest corner of Washington Township) then extending east to and with the intersection of Hinkle Road (northeast corner of Washington Township) then extending south along Hinkle Road connecting to Moontown Road and then connecting to Gray Road to the intersection of Gray Road and 146<sup>th</sup> Street (southeast corner of Washington Township), then extending west along 146<sup>th</sup> Street to Hamilton-Boone Road (southwest corner of Washington Township), then extending north along Hamilton-Boone Road to the intersection with 216<sup>th</sup> Street, which is inclusive of approximately fifty-six (56) square miles and the corporate City of Westfield.)*

### **Section 2 – Responsibilities**

The responsibilities of the Commission shall be to act in an advisory capacity to the Westfield City Council (hereinafter called “Council”) regarding the following:

1. The adoption of a Comprehensive Plan and amendments thereto in accordance with IC 36-7-4-500 Series-Comprehensive Plan;
2. The adoption of a Zoning Ordinance and Zoning Map and amendments thereto in accordance with IC 36-7-4-600 Series-Zoning Ordinance;
3. Vacation of any Public Right-of-Way, as per IC 36-7-3 *et al*; and,
4. Any other matter, within the responsibilities of the Commission, authorized by the advisory planning law or City Code.

### **Section 3 – Final Decisions**

The Commission shall render Final Decisions concerning the following applications / petitions, provided, that the Community Development Department / Planning Division has made evidentiary findings as to their compliance with the Westfield City Code of Ordinances and City of Westfield Zoning Ordinance:

- 1) Plats of Subdivision / Re-Plats of Subdivision (IC 36-7-4-700 Series-Subdivision Control); and,
- 2) Development Plan Review (IC 36-7-4-1400 Series-Development Plans).

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### **ARTICLE III: MEMBERSHIP & OFFICERS**

#### Section 1 – Membership

The Commission shall consist of nine (9) voting members (IC 36-7-4-1210.5) to begin as follows:

- 1) Four (4) city residents who are not elected officials or city employees, to be appointed by the City Executive Officer (Mayor) shall each serve a four (4) year term. Section 1, (5) herein then applies;
- 2) One (1) city resident who is not an elected official or city employee, to be appointed by the City Council shall serve a four (4) year term. Section 1, (5) herein then applies;
- 3) Two (2) members of the City legislative body (City Council), may be appointed by the City Council for a one (1) year term; and,
- 4) Two (2) township residents who are not elected officials, township employees or city employees, to be appointed by the Township Executive with the approval of the township legislative body shall serve a four (4) year term.
- 5) Each Commission member appointed herein are eligible for reappointment.
- 6) Vacancy: If a vacancy occurs among the membership, then the appointing authority shall appoint a member for the unexpired term of the vacancy or vacating member.
- 7) Removal for cause: The appointing authority may remove a member pursuant to IC 36-7-4-218(f).
  - a) In addition, if a member of the Commission has three (3) unexcused absences (i.e. workshop, regular or special meeting) of the Commission in any calendar year, that member becomes disenfranchised at the sole discretion of the appointing authority and shall no longer be considered a viable member of the Commission.
  - i) An excused absence(s) shall be considered as a call in to the Director of Community Development.
  - b) In the event of removal by the appointing authority, the Commission member shall receive a mailed notice in accordance with the terms of IC 36-7-4-218(f). The appointing authority shall mail notice of the removal, along with written reasons for the removal, to the members at their address. A member who is removed may, within thirty (30) days after receiving notice of the removal, appeal the removal to the appointing

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authority. The appointing authority may consider the appeal and hold a hearing to either uphold or overturn the removal of the member.

c) Commission Communications

All Commission members are encouraged to discuss any concerns that they may have with a particular petition or application with the Director of Community Development or Department Planning Staff.

8) Appointment to the Board of Zoning Appeals:

- a) In accordance with IC 36-7-4-902, the Commission shall, from its membership, appoint one representative to serve on the Board of Zoning Appeals. This appointee shall not hold elective office, other appointive office or be a City or Township employee.
- b) In accordance with IC 36-7-4-907, the Commission may, in the absence of its appointment under the above paragraph (8) (a), appoint an alternate member to the Board of Zoning Appeals as needed.
- c) In accordance with City of Westfield Ordinance 06-02, the President of the Commission shall not be eligible for membership on the Board of Zoning Appeals.
- d) In accordance with IC 36-7-4-903 this member shall not reside within the Corporate Limits of the City.

9) Training, Seminars, Continuing Education and/or Field Trips

a) Training

- i) Within the first ninety (90) days of the Commission each new member shall be given an opportunity to attend an introductory training session conducted by the Department of Community Development. This session will be offered at least twice during this time period and take place at a scheduled workshop meeting of the Commission.
- ii) Each new member(s) will receive a certificate stating the completion of the introductory course.
- iii) Should a member fail to attend the initial training requirements, or subsequent scheduled session, that member and appointing authority shall be duly notified of failure to fulfill requirement.

b) Seminars / Conferences / Workshops

- i) Each member of the APC appointed to a four (4) year term, shall be required to attend at least one (1) planning seminar / conference / workshop offered by the Department of Community Development, other Governmental Offices, Local Builders Association, American Planning Association or local universities regarding planning principals and how they affect local planning, during each term of service (This excludes the legislative body appointments under Article III, Section 1 – 3).
  - ii) These events shall be fully reimbursable (if a cost is involved) upon proof of completion by the member in attendance through the Department of Community Development.
- c) Continuing Education
  - i) Each new member shall become a member of the American Planning Association (APA) and Indiana Planning Association (IPA) through the Department of Community Development.
  - ii) With your membership you are encouraged to participate in Planning Commissioners Programs and Services with the American Planning Association online in the following areas: 1) Live Audio Conference Series; 2) Training Resource Center; 3) Chapter Workshops; 4) Planning and Land Use Law; and, 5) Ethics Training.
- d) Field Trips
  - i) These trips are not mandatory; however, the membership is strongly encouraged and advised to attend as Community Development Staff will be providing education and research into new development proposals. Staff will make available areas for each Commissioner to see first hand how other Indiana or out of State municipalities have been managing their growth.

## Section 2 – Officers

The Commission shall, at its first regular meeting in each year, elect from its membership a President and Vice-President.

- 1) The President shall preside over all meetings of the Commission.
- 2) The Vice-president shall have the authority to act as President of the Commission during the absence or disability of the President.
- 3) In the absence of both the President and Vice-president, the Secretary shall preside over the election of a President pro-tempore who shall have the

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authority to act as President of the Commission for the specific meeting at which they are elected.

- 4) Upon resignation or replacement of the President or Vice-president as a member of the Commission, the Commission shall elect a successor at its next regularly scheduled meeting.
- 5) In accordance with City of Westfield Ordinance 06-02, members of the City Council who are appointed to serve on the Commission shall not be eligible for the position of President, Vice-president or Secretary of the Commission.
- 6) The Community Development Director ("Director") shall be permanently appointed as the Secretary of the Commission. In the event of a vacancy in the position of Director, the office of Secretary shall be transferred to the interim Director as appointed by City Council.
- 7) The Director shall be responsible for recording and transcribing of all regular and special meeting minutes of the Commission.

### Section 3 – Vacancies

The President, through the Director of Community Development, shall inform the appropriate appointing authority as promptly as possible, when a member has three (3) unexcused absences, as outlined in Section 1 (7) (a) herein, for the purpose considering the replacement of said member so that the appointing authority may appoint a replacement to fulfill the unexpired term. Other vacancies occurring in the Commission shall also be reported to the appropriate appointing authority for similar action.

## **ARTICLE IV: MEETINGS**

### **Section 1 – First Monthly Meeting**

#### **1) Meeting Time, Date & Location**

The First Monthly Meeting (the “First Meeting”) of the Commission shall be the first Monday of each month at 7:00 p.m. The location of the First Meeting shall be in the Council Chambers of the City of Westfield, City Hall, Westfield, Indiana. If the date of the First Meeting falls on a legal holiday, or if it is impossible to conduct the First Meeting at that time or place, the meeting will be on the following Tuesday. If that is unavailable, the Community Development Director may administratively set an alternate date, time or place for the First Meeting, or the First Meeting may be postponed with the unanimous consent of the members of the Commission, provided that the notice requirements of IC 5-14-1.5 are satisfied.

#### **2)\_ Meeting Purpose & Intent**

The primary purpose of the First Meeting is to hold public hearings, for the petitioner to comment on its petition, and for APC members to ask questions and identify issues the petitioner should address prior to the APC taking action on the petition. The APC may also take action on pending matters, including rezonings, ordinance amendments, and comprehensive plan amendments, at this meeting.

### **Section 2 – Second Monthly Meeting**

#### **1) Meeting Time, Date & Location**

The Second Monthly Meeting (the “Second Meeting”) of the Commission shall be the third Monday of each month at 7:00 p.m. The location of the meeting shall be in the Council Chambers of the City of Westfield, City Hall, Westfield, Indiana. If the date of the Second Meeting falls on a legal holiday, or if it is impossible to conduct the meeting at that time or place, the meeting will be on the following Tuesday. If that is unavailable, the Community Development Director may administratively set an alternate date, time or place for the Second Meeting, or the meeting may be cancelled with the unanimous consent of the members of the Commission, provided that the notice requirements of IC 5-14-1.5 are satisfied.

#### **2)\_ Meeting Purpose & Intent**

The primary purpose of the Second Meeting is to take action on matters that have received a public hearing at the previous APC meeting. However, in some instances the APC may hold a public hearing at this meeting as well. The APC may hear additional public comment at the APC President’s discretion, or by a majority of the APC members present.

### **Section 3 – Special Meetings**

Special meetings of the Commission may be called by the President or by two (2) members of the Commission upon written request to the secretary (IC 36-7-4-307). The secretary shall send to all members, at least five (5) calendar days

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before the special meeting, a written notice fixing the time and place of the meeting. Written notice of a special meeting is not required if:

- 1) The date, time, and place of a Special Meeting are fixed in a First Meeting or Second Meeting;
- 2) All members of the Commission are present at the First Meeting or Second Meeting where the Special Meeting was called; and,
- 3) The secretary complies with the notice requirements of IC 5-14-1.5.

#### Section 4 – Order of Business (Agenda)

1) The Order of Business at **First and Second Meetings** shall be as follows:

- Call to Order
- Roll Call
- Determination of a Quorum
- Meeting Announcements:
  - Changes to the Agenda
  - Continuance Requests
  - Withdrawal Requests
- Consideration / Approval
  - Minutes of Previous Meetings
  - Procedural Items
  - Items of Discussion
- Review Meeting Rules & Procedures
- Consent Agenda Items
- Old Business
  - Petition Presentation
  - Public Hearing (typically at First Meeting only)
  - APC Action (typically at Second Meeting only)
- New Business
  - Petition Presentation
  - Public Hearing (typically at First Meeting only)
  - APC Action (typically at Second Meeting only)
- Reports:
  - Commission Members
  - City Council Liaison
  - BZA Liaison
  - City Staff
- Commission Membership Comments
- Adjournment

## Section 5 – Quorum and Decisions

- 1) Quorum, a majority, five (5), of the membership of the Commission shall constitute a quorum. No action, however, is official unless authorized at a workshop, regular or properly called special meeting by a majority of the Commission.
- 2) Voting
  - a) Except as provided in Section 5, 2b below, decisions of the Commission shall be by roll call vote of the members. The first roll of each meeting shall be called in alphabetical order of the members' last names. Each successive roll call shall be called in the same order as the immediately preceding roll except that the member who voted first in the immediately preceding roll call shall vote last. For example: 1<sup>st</sup> Roll Call = 1,2,3,4,5,6,7,8,9; 2<sup>nd</sup> Roll Call = 2,3,4,5,6,7,8,9,1; 3<sup>rd</sup> Roll Call = 3,4,5,6,7,8,9,1,2; and, etc.
  - b) Approval of Minutes and Adjournment shall be conducted by voice vote, unless a roll call vote is requested by a member of the Commission
- 3) Conflict
  - a) No member of the Commission shall participate in the hearing or decision upon any zoning matter, other than the preparation and enactment of an overall or comprehensive plan, in which the member is directly or indirectly having or holding a financial interest in a petition or application that is being presented to the City for consideration.
  - b) In the event of a conflict, the member shall describe the conflict immediately after the matter is introduced by the presiding officer, leave the room, and take no part in the discussion and/or decision making process described herein.
  - c) The presiding officer shall note the existence and description of the conflict and it shall be entered into the record.
- 4) The Commission shall keep minutes of its proceedings showing the vote of each member on each question presented, or indicating that the member is absent or not voting.
- 5) The Director, or their designee, shall keep a record of all proceedings (minutes) of the Commission which shall be presented to the Commission at the next regular succeeding meeting for review and acceptance into the record. Upon acceptance, the record shall be signed by the President and attested by the Secretary.

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- 6) The Commission may continue any case(s) that have not been called onto the floor by 10:30 p.m. Such cases shall be continued to either the next First Meeting, Second Meeting or Special Meeting. The Commission shall adjourn the meeting no later than 10:30 p.m. This rule may be suspended by a simple majority vote of the Commissioners present.
- 7) Continuances may be granted at the discretion of the Commission in any case for good cause shown, and to any interested party who has entered their appearance as follows:
  - a) New cases appearing for the first time on the Agenda – continuances may be granted upon request.
  - b) Cases which have previously appeared on the agenda of the Commission constitute continued cases. A request for the further continuance of a case may be granted by the Planning Commission for any of the following reasons:
    - i) At the request of petitioner because they will be unable to proceed with their hearing and are requesting time to answer questions or modify petition.
    - ii) At the request of the Director of Community Development or Department Planning Staff to allow time for further modification of the Petition / Application.
  - c) The Commission at its discretion and on an affirmative vote of a majority of the Commission, may continue or postpone a public meeting or hearing of any case where, in its judgment, the petitioner has not provided sufficient evidence on which to make a final determination.
- 8) Adjournment. The Commission may adjourn so long as all business has been conducted in accordance with these Rules of Procedure.

## **ARTICLE V: DOCKET**

Each case that is to be publicly heard before the Commission shall be filed in proper form with the required data, shall be numbered serially and placed on the docket of the Commission. The docket numbers shall include the year and begin anew on January 1 of each year.

As soon as the case receives a docket number it shall be placed on the docket of the Commission and a date set for hearing. Cases shall come before the Commission in the regular order of their consecutive numbers unless otherwise ordered by the Director or changed by the Commission at the beginning of a meeting.

## **ARTICLE VI: FILINGS**

Petitions / Filings. The Community Development Director shall administratively establish petition filing deadlines for all First Meeting or Second Meeting of the Planning Commission. Those deadlines shall be approved by the APC no later than their first December meeting of each year.

## **ARTICLE VII: HEARINGS & CONDUCT OF HEARINGS**

### **Section 1 - Hearings**

- 1) Public hearings shall be held on the adoption or amendment of a Comprehensive Plan, the adoption or amendment of a Zoning Ordinance (text or map), vacation of public rights-of-way and the approval of a preliminary subdivision plat and other petitions as presented to or required by Indiana Code or planning law.
- 2) A petitioner who seeks to amend the Zoning Ordinance or the Comprehensive Plan or to gain approval of a preliminary subdivision plat as may be required by the Zoning Ordinance shall file such petition with the Secretary (Director of Community Development). Upon the receipt of such petition, the Secretary shall prepare a notice in accordance with Article VIII Notices, contained herein.
- 3) In order for a petition to be heard, the petitioner, agent or representative for the petitioner ("Petition Representative"), shall be in attendance to present the petition and answer questions about the petition. If no one is present to represent the petition, then the Commission shall dispose of the petition in accordance with Section 3 of this Article.
- 4) Administrative rules and deadlines are established by the Secretary (Director of Community Development) for procedures such as filing petitions and are available in the Community Development Department.

### **Section 2 – Conduct of Hearings**

- 1) Public hearings shall be conducted according to the following procedure. Please note the time limitations for each hearing segment.
  - a) For any petition for which a public hearing is required, after a petition is introduced by the President, a staff report will be given.
  - b) After being recognized by the President, the Petition Representative will step up to the podium, and state their name and address.
  - c) The Petition Representative shall present the facts and arguments in support of the case (15 minutes maximum).
  - d) Comments and questions from the Commission and staff shall be held until the end of the initial presentation.
  - e) The official public hearing shall then be opened. Comments from organized groups, committees (5 minutes maximum), and individuals,

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other than the petitioner, shall then follow (3 minutes maximum per speaker). Speakers should present new points and not repeat comments from previous speakers. The public hearing shall then be closed.

- f) The petitioner shall then receive time for rebuttal. (5 minutes maximum) There shall be no time granted for a rebuttal to the rebuttal.
  - g) To maintain orderly procedure, each side should proceed without interruption by the other side.
  - h) After the discussion of the case has concluded, the commission may consider the petition; however, action on a petition will typically occur at the APC meeting following a public hearing.
- 2) In the presentation of a case:
- a) The burden shall be upon the Petition Representative to supply all information, including charts, diagrams and other exhibits necessary for a clear understanding of the case.
  - b) Statements and/or discussions to the Commission made by the Petition Representative at the meeting regarding anticipated methods of operation, site design / layout or other details relevant to the decision shall be incorporated into a binding agreement between the petitioner and Commission and shall become written commitments as per WC 16.04.010 W. (in the case of Development Plans and rezones) or if they are included as conditions to any motion to approve. Such commitments or conditions shall be reflected in the minutes of that meeting.
- 3) Every person appearing before the Commission shall abide by the orders and directions of the President. Discourteous, disorderly or contemptuous conduct shall be regarded as a breach of the privileges of the Commission and shall be dealt with as the President directs.
- 4) Applicants shall be entitled to one postponement/continuance to another scheduled Commission meeting following the meeting advertised by public notice. Such postponement/continuance must be requested in writing by the petitioner / applicant, or their representative, at the scheduled meeting.
- 5) Subsequent postponements, continuances or requests for such action to a meeting beyond the meeting referred to in paragraph "4" above shall be made to the Commission in person by the petitioner / applicant, or by their representative.
- 6) Failure of the applicant, or Petition Representative, to appear in order to make the request referred to in paragraph "5" above shall result in the dismissal of the petition. If the applicant chooses to proceed with the petition, it will be treated as a new petition and shall be re-filed in proper form with the required

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data, numbered serially and placed on the docket of the Commission by City staff. Should the above occur the petitioner / applicant shall be responsible for paying all associated fees with the new petition / application.

- 7) Petitions that continue to appear on the Commission docket for a period of six (6) months beyond the originally noticed Commission meeting (the "Initial Period") shall be administratively dismissed and removed from the Commission docket, unless a continuation or postponement is granted by the Director for due cause. Petitioners aggrieved by the Director's determination to dismiss and remove a petition from the Commission docket may appeal such determination to the Commission, without notice, at the next regularly scheduled Commission meeting. In the event the Director administratively grants a continuation or postponement beyond the Initial Period (or in the event the Commission grants a continuation or postponement beyond the Initial Period, in the event of a successful appeal), the Director may require additional public notice to be served if the Director determines such additional notice is warranted.
- 8) All members present shall vote on every question unless prevented by conflict or excused by the presiding officer.

### Section 3 – Failure to Appear

Failure on behalf of a petitioner to appear during a public hearing shall be dealt with as follows:

- 1) The President may entertain a motion from the Commission to dismiss the case for failure of the petitioner to appear. In the absence of a motion by the Commission, the Petition shall be continued to the next First Meeting or Second Meeting.
- 2) In cases which are dismissed for failure of the petitioner to appear, the petitioner will be furnished with a written notice by the Secretary of the Commission.
- 3) The petitioner shall have thirty (30) days from the date of the notice of dismissal to apply for reinstatement of the case. In such cases, the petitioner must file a written request with the Secretary for reinstatement. Reinstatement shall be at the discretion of the President for good cause shown, and upon payment of the appropriate fees by the petitioner.
- 4) In all cases reinstated in the above-described manner, the case will be docketed with new advertisement and public notifications as required by State Law and Westfield Code, as if this were a new case.

## **ARTICLE VIII: NOTICES**

In the event that a public hearing is required, the following requirements for notice must be met:

### **1) General Requirements**

- a) All public hearings shall be noticed using each of the following means of communication:
  - i) Letter mailed via First Class U.S. Mail to Interested Parties (as defined in the Zoning Ordinance, WC 16.04.210);
  - ii) Yard Sign(s) posted on the subject property; AND
  - iii) Newspaper Publication, per IC 5-3-1.
- b) All three (3) forms of notice shall be postmarked/posted/published at least ten (10) calendar days before the scheduled public hearing.
- c) For all Commission meetings other than public hearings, a 48-hour notice shall be made by posting the meeting time and location at the entrance of the building where the meeting will occur and at City Hall. No other notice shall be required.
- d) The Community Development Department may cause notice to be posted on the official City of Westfield website.
- e) 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 at the beginning of the hearing.

### **2) Exemptions**

- a) A public hearing shall not be required for Final Plat approval, per IC 36-7-4-710.
- b) Applications to change, repeal, replace or amend all or portions of the zoning ordinance or comprehensive plan shall only be required to give notice of the hearing by Newspaper Publication.

### **3) Public Notice – First Class Mail**

- a) The applicant shall provide notice to all Interested Parties. Such notice shall state:
  - i) The general location by address or other identifiable geographic description of the subject property or area.
  - ii) A summary of the subject matter contained in the proposal and/or a description of the proposed change in the zone maps, where the proposal involves a change to the zone maps.

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- iii) Case number of the petition or appeal.
  - iv) The name of the applicant(s).
  - v) The time and place that the petition has been set for hearing (including First Meeting and Second Meeting dates).
  - vi) That the application and file may be examined in the office of the Community Development Department.
  - vii) That written objections to the proposal may be filed in the office of the Community Development Department before the hearing will be considered.
  - viii) That oral comments concerning the proposal will be heard at the public hearing.
  - ix) That the hearing may be continued from time to time as may be found necessary.
- b) In order to determine the names and addresses of property owners to whom notice must be sent, the applicant or the applicant's agent shall consult with the County Mapping and Transfers Office, Hamilton County, Indiana, for a list of parties requiring notification per the zoning ordinance. 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.
- c) The manner in which notice must be sent to Interested Parties shall be as follows:
- i) Required notices to Interested Parties shall be sent by First Class U.S. Mail (or an equivalent alternative accepted by the Director of Community Development or designee) and postmarked at least 10 calendar days before the public hearing. City staff will advise the Commission at the public hearing of any deficiencies in providing notice.
  - ii) Proof that notice has been mailed shall consist of a verified affidavit by the applicant or the applicant's agent indicating compliance with the notice requirements (or an equivalent alternative accepted by the Director of Community Development or designee) and shall be sufficient proof of notice under these rules regardless of actual receipt by the intended recipient. Said affidavit and a copy of the mailing list from the County Mapping and Transfers Office, must be filed in the

office of the Community Development Department four (4) calendar days prior to the public hearing.

- d) The applicant shall bear the cost of and responsibility for all mailed notice to Interested Parties.

4) Public Notice – Yard Signs

- a) The applicant shall post a sign or signs on the subject property in a location clearly visible to passing traffic.
- b) The sign(s) shall not obstruct vehicular line of site, in compliance with the City of Westfield's Construction Standards and Specifications.
- c) The City staff shall determine sign locations with not less than one sign placed on the property per street frontage, per block.
- d) Signs shall be available in the office of Community Development.
- e) The Community Development Department shall bear the cost of the initial sign(s). The cost for any subsequent replacement signage shall be borne by the applicant. The responsibility of sign placement shall be borne by the applicant.

5) Public Notice – Newspaper Publication

- a) The Community Development Department shall cause a legal notice to be published in a newspaper(s) qualified to publish legal notices as established by Council, in accordance with IC 5-3-1. Such notice shall state:
  - i) The general location by address or other identifiable geographic description of the subject property or area.
  - ii) A summary of the subject matter contained in the proposal and/or a description of the proposed change in the zone maps, where the proposal involves a change to the zone maps.
  - iii) Case number of the petition or appeal.
  - iv) The name of the applicant(s).
  - v) The time and place that the petition has been set for hearing.
  - vi) That the application and file may be examined in the office of the Community Development Department.

- vii) That written objections to the proposal may be filed in the office of the Community Development Department before the hearing will be considered.
  - viii) That oral comments concerning the proposal will be heard at the public hearing.
  - ix) That the hearing may be continued from time to time as may be found necessary.
- b) The applicant shall bear the costs of and responsibility for all newspaper notices.
- 6) In the event that a petition which has met all public notice requirements is postponed or continued for any reason prior to a public hearing being held, no further public notice shall be necessary, so long as at the meeting for which the public hearing was noticed and scheduled, the APC President has announced the date, time and place of the new public hearing.
- 7) In accordance with City of Westfield Ordinance 07-09, all development proposals which are located within the area designated as the U.S. Highway 31 Overlay Zone, as defined in the Westfield-Washington Township Zoning Ordinance, that require a public hearing or action by the Commission shall provide notice to the Indiana Department of Transportation in accordance with the requirements established on the INDOT Notice Form.
- 8) In accordance with City of Westfield Ordinance 07-15, all development proposals which are located within the area designated as the State Highway 32 Overlay Zone, as defined in the Westfield-Washington Township Zoning Ordinance, that require a public hearing or action by the Commission shall provide notice to the Indiana Department of Transportation in accordance with the requirements established on the INDOT Notice Form.

## **ARTICLE IX: FINAL DISPOSITION OF CASES**

- 1) After Commission consideration of any reports, testimony (written or verbal) and the recommendations of the Department of Community Development, 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 Commission, together with any modifications, specifications or limitations which it makes.
- 2) The disposition of cases requiring final approval from the Westfield City Council ("Council") shall be in the form of a recommendation to the Council.
- 3) The final disposition of cases requiring only Commission approval shall set forth the findings and determinations of the Commission, together with any modification, specification or limitation it makes.
  - a) In any case in which the Commission is required to make written findings along with a final decision, the Commission may adopt findings as submitted by the petitioner or by any interested party, with or without modifications, specifications or limitations, or the Commission may delegate to Staff and/or legal counsel the authority to prepare written findings.
  - b) When written findings are required, the Commission's findings shall be executed by the President and Secretary of the Commission and filed in the office of the Commission within forty-five (45) days after the date of the Commission's final decision.
- 4) The Commission may dismiss a case for lack of representation by the petitioner or lack of jurisdiction. If a petition is dismissed for lack of representation and a postponement/continuation in accordance with Article VIII has not been granted by the Commission, then the case may be dismissed and the petitioner may re-file in accordance with these rules.
- 5) A petitioner may not withdraw a case after a roll call vote has been ordered by the President.
- 6) Cases Withdrawn.
  - a) A case which has been withdrawn by the petitioner shall not be placed on the docket again for consideration within a period of six (6) months after the date of withdrawal.
  - b) A new case involving the same property that was the subject of a case which has been withdrawn by any petitioner shall not be placed on the

docket for consideration within a period of three (3) months after the date of withdrawal.

7) Cases Decided Upon.

a) A case which has been decided adversely to the petitioner shall not be placed on the docket again for consideration until the legality of the 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.

b) A new case involving the same property that was the subject of a case which has been decided adversely to any petitioner shall not be placed on the docket for consideration until the legality of the 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 adverse decision previously rendered, whichever is later.

8) Because the Commission's recommendation (if any) is advisory in matters of Rezones and Text Amendments to the Zoning Ordinance or Comprehensive Plan, all such matters shall be certified to the City Council for its consideration in accordance with State Statute. The Commission's recommendation (if any) on any such matter may then be followed or overturned by the City Council in accordance with State Statute and the rules of the Council.

## ARTICLE X: AMENDMENTS

Amendments to these rules of procedure may be made by the Commission at a First Meeting, Second Meeting, or Special Meeting. With and upon the affirmative vote of a majority of the members of the Commission it shall be effective.

A suspension of any rule may be so ordered by the Commission at any meeting by a majority vote of the members present.

These Rules of Procedure are for and of the "Westfield / Washington Planning Commission", Westfield, Indiana have been approved by the affirmative vote of the membership of said Commission ( ) – ( ) – ( ) at a meeting of the Commission held on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_. This approval repeals any prior Rules of Procedure.

|                                                          |               |
|----------------------------------------------------------|---------------|
| _____<br>President                                       | _____<br>Date |
| _____<br>Vice-President                                  | _____<br>Date |
| _____<br>Commissioner                                    | _____<br>Date |
| _____<br>Commissioner                                    | _____<br>Date |
| _____<br>Commissioner                                    | _____<br>Date |
| _____<br>Commissioner                                    | _____<br>Date |
| _____<br>Commissioner                                    | _____<br>Date |
| _____<br>Commissioner                                    | _____<br>Date |
| _____<br>Commissioner                                    | _____<br>Date |
| <u>Attested by:</u>                                      |               |
| _____<br>Secretary/Director of Economic & Community Dev. | _____<br>Date |

Approved: 01/28/08;  
Amended: 01/04/10; Amended: 01/18/11; Amended 03/18/13