

**Town of McCordsville Planning Commission
Rules of Procedure**

ARTICLE I: AUTHORITY & DUTIES

Section 1 – Authority

The McCordsville Planning Commission (hereinafter called “Commission”) exists as an Advisory Planning Commission under the authority of Indiana Code section 36-7-4-401 and the Zoning and Development Ordinance (“Zoning Ordinance”) of the Town of McCordsville, Indiana, and any amendments thereto. These rules are adopted in accordance with the requirements of Indiana Code section.

Section 2 – Duties

The duties of the Commission shall be those set forth in Indiana Code section 36-7-4-400 *et. seq.*, and such other responsibilities as may be required by state statute or the McCordsville Municipal Code and as follows:

- 1) The Commission shall be governed by the provisions of the Town of McCordsville Zoning Ordinance, as adopted and amended by the Town Council, and the Rules of 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 3, 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 the Town Council;
- 4) The McCordsville 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 Town Hall, Building and Zoning Department, 6280 W. 800 N., McCordsville, Indiana, 46069.

ARTICLE II: JURISDICTION & RESPONSIBILITIES

Section 1 – Jurisdiction

The jurisdiction of the Commission shall be the whole of the corporate limits of the Town of McCordsville, Indiana.

Section 2: Responsibilities

The responsibilities of the Commission shall be to act in an advisory capacity to the Town Council regarding the following:

- 1) The adoption of a Comprehensive Plan and amendments thereto in accordance with I.C. 36-7-4-500 *et seq.*;
- 2) The adoption of a Zoning Ordinance or Unified Development Ordinance and Zoning Map and amendments thereto in accordance with IC 36-7-4-600 *et seq.*;
- 3) Any other matter, within the responsibilities of the Commission, authorized by Indiana law or the Zoning Ordinance or Unified Development Ordinance.

Section 3: Final Decisions

The Commission shall render final decisions concerning the following matters, unless delegated to the Department or a plat committee; provided, that the Department has made evidentiary findings as to their compliance with the Zoning Ordinance or Unified Development Ordinance:

- 1) Plats or re-plats of Subdivisions;
- 2) Development Plans;
- 3) Subdivision Control Ordinance Waivers; and,
- 4) Vacations of Subdivisions.

ARTICLE III: MEMBERSHIP & OFFICERS

Section 1: Commission Membership

- 1) Members: The Commission shall consist of seven (7) voting members as follows:
 - a) The municipal legislative body shall appoint three (3) persons, who must be elected or appointed municipal officials or employees in the municipal government, as members.
 - b) The municipal executive shall appoint four (4) citizen members, of whom no more than two (2) may be of the same political party.
- 2) Reappointment: Each Commission member appointed herein is eligible for reappointment.
- 3) Removal for cause: The appointing authority may remove a member pursuant to I.C. 36-7-4-218(f).

- a) In addition, if a member of the Commission has three (3) unexcused absences¹ in any calendar year, then that member becomes disenfranchised at the sole discretion of the appointing authority and shall no longer be considered a viable member of the Plan Commission.
 - b) In the event of removal by the appointing authority, the Plan Commission member shall receive a mailed notice in accordance with the terms of I.C. 36-7-4-218(f). The appointing authority shall mail notice of the removal, along with written reasons for the removal, to the member at his/her address. A member who is removed may, within thirty (30) days after receiving notice of the removal, appeal the removal to the appointing authority. The appointing authority may consider the appeal and hold a hearing to either uphold or overturn the removal of the member.
- 4) Vacancy:
- a) 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.
 - b) The President, through the Director, shall inform the appropriate appointing authority as promptly as possible, when a member has three (3) unexcused absences for the purpose of 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.
- 5) Commission Communications: All Commission members are encouraged to discuss any concerns they may have with a particular petition or application with the Department Director or legal counsel.
- 6) Appointment to the Board of Zoning Appeals:
- a) In accordance with I.C. 36-7-4-902, the Commission shall, from its membership, appoint one representative to serve on the McCordsville Board of Zoning Appeals (the "Board of Zoning Appeals").
 - b) The Plan Commission member who is appointed to serve on the Board of Zoning Appeals must be one of the citizen members of the Plan Commission and not be the same appointee made by the legislative body.

Section 2: Officers

The Commission shall, at their first meeting 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 during the absence or disability of the President.

¹ An absence shall be deemed excused if the Director of the Department or Commission President receives a call, text, or email from the member prior to the start of the meeting.

- 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 authority to act as President for the specific meeting of the Commission at which they are elected.
- 4) Upon resignation or replacement of the President or Vice-president as a member of the Commission, a successor shall be elected at the Commission's next regularly scheduled meeting.
- 5) The Director of the Department ("Director") shall be permanently appointed as the Secretary of the Commission. In the event of a vacancy in the position of Director or interim Director, the Commission shall elect a Secretary from its membership.
- 6) The Secretary shall be responsible for recording and transcribing all regular and special meeting minutes of the Commission.

Section 3: Training

- 1) Training
 - a) Within the first ninety (90) days of serving on the Commission, each new member shall be given an opportunity to attend an introductory training session conducted by the Department and/or legal counsel.
 - b) If a member fails to attend the initial training, then that member and appointing authority shall be duly notified of failure to fulfill requirement.

ARTICLE IV: MEETINGS

Section 1: Monthly Meetings

- 1) Schedule of Meetings: The Commission shall adopt an annual Schedule of Meetings and Filing Dates of the regularly scheduled Commission meetings each year and deadlines for filing applications for placement on a meeting agenda (the "Schedule of Meeting and Filing Dates"). The Schedule of Meetings and Filing Dates shall be maintained by the Department and shall be approved by the Commission no later than their December meeting of each year.
- 2) Commission Meeting Time, Date & Location: The meetings of the Commission shall be on the third Tuesday of each month at 7:00 p.m. at the McCordsville Town Hall, 6280 W. 800 N., McCordsville, Indiana 46055. If the date of the meeting falls on a legal holiday, or if it is impossible to conduct the meeting at that time or place, then the Director may administratively set an alternate date, time, or place for the meeting, or the meeting may be postponed with a majority consent of the members of the Commission, provided that the notice requirements of I.C. 5-14-1.5 are satisfied.
- 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 Director (IC 36-7-4-307). The Director shall send to all members, at least five (5) calendar days 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:

- a) The date, time, and place of a Special Meeting are already fixed on the Schedule of Meeting and Filing Dates;
- b) All members of the Commission are present at a meeting on the Schedule of Meetings and Filing Dates where the Special Meeting was called; and,
- c) The Secretary complies with the notice requirements of I.C. 5-14-1.5.

Section 2: Order of Business (Agenda):

1) The order of business at Commission Meetings shall be as follows:

- Call to Order
- Roll Call
- Rules of Procedure Announced
- Agenda Consideration
- Approval of Minutes
- Old Business
- New Business
- New Business from the Floor
- Announcements
- Adjournment

Section 3: Quorum and Decisions

1) Quorum: A majority of four (4) of the Commission membership shall constitute a quorum. No action is official unless authorized at a regular or properly called special meeting by a majority of the Commission.

2) Voting:

- a) Decisions of the Commission may be conducted by voice vote, unless a roll call vote is requested by a member of the Commission, or any member who is attending virtually. If there is a split vote, a roll call vote shall be requested.
- b) Approval of minutes and adjournment may be conducted by voice vote, unless a roll call vote is requested by a member of the Commission, or any member who is attending virtually.

3) Conflict:

- a) No member of the Commission shall participate in a hearing or in any decision on any zoning or planning matter, other than the preparation and enactment of a comprehensive plan, in which the member has a direct or indirect financial interest in the matter that is being presented to the Commission for consideration.
- b) A member of the Commission is disqualified and may not participate in a hearing if the member is biased or prejudiced or otherwise unable to be impartial. Any concerns regarding impartiality should be discussed with legal counsel.

- c) In the event of a conflict, the member shall describe the conflict immediately after the matter is introduced by the presiding officer and take no part in the discussion and/or decision-making process described herein.
- d) The presiding officer shall note the existence and description of the conflict and it shall be entered into the record.

Section 4: Minutes

- 1) 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.
- 2) The Secretary 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.

Section 5: Decisions

All members present shall vote on every question unless prevented by conflict or excused by the presiding officer.

Section 6: Adjournment

The Commission may adjourn so long as all business has been conducted in accordance with these Rules of Procedure. The Commission may, by a majority vote, continue any case(s) that have not been called onto the floor within 3.5 hours of the meeting's start time to allow for adjournment. Such cases shall be continued to a previously scheduled meeting or a Special Meeting.

ARTICLE V: DOCKET

Each petition 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 1st. As soon as the petition receives a docket number and staff believes the petition is ready to be heard, it shall be placed on the docket of the Commission and, if a public hearing is required, the date of the hearing shall be set in accordance with the Schedule of Meeting and Filing Dates. Petition items shall come before the Commission in the regular order of their consecutive docket numbers unless otherwise ordered by the Department or changed by the Commission at the beginning of a meeting. Should a petition need continued, Department staff shall have the authority to continue the petition to a future date without Commission approval.

ARTICLE VI: NOTICES

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

Section 1: General Requirements

- 1) All public hearings shall be noticed using each of the following means of communication:
 - a) Letter mailed via Certified Mail w/ Return Receipt or Certificate of Mailing to Interested Parties;
 - b) Yard Sign(s) posted on the subject property; AND
 - c) Newspaper Publication, per IC 5-3-1.
- 2) All forms of notice shall be postmarked/posted/published at least ten (10) calendar days before the scheduled public hearing.
- 3) 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. No other notice shall be required.
- 4) The Director or their designee may cause notice to be posted on the official Town of McCordsville website.
- 5) 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.
- 6) In the event that a petition which has met all public notice requirements, as set forth herein, 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 President has announced the date, time and place of the new public hearing.

Section 2: Exemptions

- 1) A public hearing shall not be required for Secondary Plat approval, per I.C. 36-7-4-710.
- 2) Applications to change, repeal, replace or amend all or portions of the Zoning Ordinance or Unified Development Ordinance, Subdivision Control Ordinance, or Comprehensive Plan shall only be required to give notice of the hearing by newspaper publication, as set forth herein. Additionally, information regarding these petitions shall be made available on the Town's website.

Section 3: Public Notice by First Class Mail

- 1) Interested Parties: Public notice in accordance with this article and with I.C. 5-3-1-2 and I.C. 5-3-1-4 and due notice to interested parties. Interested parties shall be:
 - a) The owners of real property adjacent to the property subject of the petition to a depth of two (2) ownerships or six hundred and sixty (660) feet, whichever is less.

b) Additional parties deemed advisable by the Director.

A list of the interested parties' last known address shall be obtained from the Hancock County Auditor. The list of interested parties should be obtained and dated no earlier than ninety (90) days prior to the postmarked date of the mailed public notice. 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.

- 2) The applicant shall provide notice to all Interested Parties and his/her Homeowner's Association ("HOA"). Such notice shall state:
 - a) The general location by address or other identifiable geographic description of the subject property or area.
 - b) 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.
 - c) Docket number of the petition or appeal.
 - d) The name of the applicant(s).
 - e) The time, date and place that the petition has been set for hearing.
 - f) That the application and file may be examined in the office of the Department.
 - g) That written objections to the proposal may be filed in the office of the Department before the hearing will be considered.
 - h) That oral comments concerning the proposal will be heard at the public hearing.
 - i) That the hearing may be continued from time to time as may be found necessary.
- 3) The manner in which notice must be sent to Interested Parties/HOAs shall be as follows:
 - a) Town staff shall provide a list of interested parties/HOAs to the petitioner.
 - b) Required notices shall be sent by Certified Mail w/ Return Receipt or Certificate of Mailing (or an equivalent alternative accepted by the Director) and postmarked at least ten (10) calendar days before the public hearing. The Department will advise the Commission at the public hearing of any deficiencies in providing notice.
 - c) Proof that notice has been mailed shall consist of a verified affidavit by the applicant or the Petition Representative indicating compliance with the notice requirements (or an equivalent alternative accepted by the Director or their 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 must be filed in the office of the Department five (5) calendar days prior to the public hearing.
- 4) The applicant shall bear the cost of and responsibility for all mailed notice to Interested Parties and HOAs.

Section 4: Public Notice by Yard Sign(s)

- 1) Town staff shall post a sign or signs on the subject property in a location clearly visible to passing traffic.
- 2) The sign(s) shall not obstruct vehicular line of sight, in compliance with the Town of McCordsville's Construction Standards and Specifications.
- 3) The Department shall determine sign locations with not less than one (1) sign placed on the property per street frontage, per block.
- 4) Signs shall be available in the office of Department.
- 5) The 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.

Section 5: Public Notice by Newspaper Publication

- 1) The Petitioner shall cause a legal notice to be published in a newspaper(s) qualified to publish legal notices as established by Council, in accordance with I.C. 5-3-1. Such notice shall state:
 - a) The general location by address or other identifiable geographic description of the subject property or area.
 - b) 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.
 - c) Docket number of the petition or appeal.
 - d) The name of the applicant(s).
 - e) The time and place that the petition has been set for hearing.
 - f) That the application and file may be examined in the office of the Department.
 - g) That written objections to the proposal may be filed in the office of the Department before the hearing will be considered.
 - h) That oral comments concerning the proposal will be heard at the public hearing.
That the hearing may be continued from time to time as may be found necessary.
- 2) The applicant shall bear the costs of and responsibility for all newspaper notices.

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 the Zoning/Unified Development Ordinance or Zoning Map, vacation of Subdivisions, approval of a Primary Plat, and other petitions as presented to or required by the Zoning/Unified Development Ordinance or Indiana law.
- 2) A petitioner who seeks to amend the Zoning/Unified Development Ordinance, Zoning Map, or the Comprehensive Plan or to gain approval of a Primary Plat, as may be required by the Zoning/Unified Development Ordinance, shall file such petition

with the Department on forms provided by the Department, with documentation and supporting information set forth in the Zoning/Unified Development Ordinance, and in accordance with the Schedule of Meeting and Filing Dates. Upon the receipt of such petition, the Department shall prepare a notice in accordance with these Rules of Procedure.

- 3) In order for a petition to be heard, the Petition Representative shall be in attendance to present the petition and answer questions about the petition. If no Petition Representative is present at the meeting, then the Commission may dispose of the petition in accordance with Section 3 of this Article.

Section 2: Conduct of Hearings

- 1) Public Hearings: Public hearings shall be conducted according to the following procedure. Please note the time limitations for each hearing segment.
 - a) The President of the Commission will introduce the agenda item, followed by a report from the Department.
 - 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, without interruption).
 - d) Commission members and Department staff may request clarification on items discussed in the presentation prior to the public hearing.
 - e) The official public hearing shall then be opened. The public hearing portion of the meeting shall last no more than 10 minutes, unless a motion is made by a Commission member to extend the public hearing by increments of 10 minutes.
 - i) Comments from organized groups and committees shall be 5 minutes maximum/1 member per group, and individuals, other than the petitioner shall be given 2 minutes maximum per speaker. Speakers should present new points and not repeat comments from previous speakers. The public hearing shall then be closed.
 - ii) Any person giving testimony to the Board regarding any pending Petition shall first state his/her name and address for the record prior to beginning testimony.
 - iii) All persons appearing at a public hearing shall act in an orderly and courteous manner. Discourteous, disorderly or contemptuous conduct shall be regarded as breach of the privileges extended by the Board and shall be dealt with by the presiding officer as is deemed fair and proper.
 - f) The Petition Representative shall then respond to comments (10 minutes maximum, without interruption). Additional discussion may occur between Commission members and the Petition Representative.
 - g) To maintain orderly procedure, parties should proceed without interruption by other interested parties.

- h) After the discussion of the petition has concluded, the Commission may consider taking action on the petition or continuing the hearing until the next meeting.
- 2) Presentations: In the presentation of a petition:
 - 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 petition.
 - 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 may be incorporated into a binding agreement between the applicant and Commission, or they may be included as conditions to any Commission motion to approve. Such commitments or conditions shall be reflected in the minutes of that meeting.
- 3) Conduct: 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.

Section 3: Failure to Appear

An applicant's failure 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 to appear. In the absence of a motion by the Commission, the petition shall be continued to the subsequent meeting.
- 2) If a petition is dismissed for failure to appear, then the applicant will be furnished with a written notice by the Department.
- 3) The applicant shall have thirty (30) days from the date of the notice of dismissal to apply for reinstatement of the petition by submitting a written request with the Department for reinstatement. Reinstatement shall be at the discretion of the Director for good cause shown, and upon payment of the appropriate fees by the applicant.
- 4) In all reinstated petitions, the petition will be treated as a new petition and shall be re-filed in proper form with the required data, numbered serially and placed on the docket of the Commission by the Department. The applicant shall be responsible for paying all associated fees with the new petition. Advertisement and public notifications as required herein shall be required as if the petition were a new application.

ARTICLE VIII: FINAL DISPOSITION OF CASES

- 1) After Commission consideration of any reports, testimony (written or verbal) and the recommendations of the Department, the final disposition of any petition 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 petitions requiring final approval from the Council shall be in the form of a recommendation to the Council.
- 3) A Petition Representative may not withdraw or continue a petition after a roll call vote has been ordered by the President.
- 4) Petitions Withdrawn or Continued.
 - a) A Petition Representative may withdraw or request a continuance of a petition to a subsequent meeting at any time prior to vote.
- 5) Petitions Decided Upon.
 - a) A petition 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.
- 6) The Commission's recommendation is advisory in matters of Zoning Map changes and amendments to the Zoning/Unified Development Ordinance or Comprehensive Plan. As a result, all such matters shall be certified to the Council for its consideration in accordance with Indiana law. The Commission's recommendation on any such matter may then be followed or overturned by the Council in accordance with Indiana law and the rules of the Council.

ARTICLE VIII: ADMINISTRATIVE DISMISSAL

- 1) Petitions that require a Public Hearing:
 - a) Petitions which have not received a public hearing will be administratively dismissed six (6) months after the date of filing unless the Commission approves an extension. Requests for an extension shall be made in person by the Petition Representative at a Commission meeting prior to the dismissal date.
 - b) Petitions which have received a public hearing will be administratively dismissed six (6) months after the public hearing unless the Commission approves an extension. Requests for an extension shall be made in person by the Petition Representative at a Commission meeting prior to the dismissal date.
- 2) Petitions that do not require a Public Hearing: Petitions for which no action has been taken will be administratively dismissed one (1) year after the date of filing unless the Director approves an extension. Secondary Plats are exempt from this rule.
- 3) All Petitions: Any Petition may also be dismissed by the Commission for lack of jurisdiction or for lack of representation by the Petition Representative at a meeting where the item appears on the agenda (as a non-continued item).

ARTICLE X: VIRTUAL MEETING POLICY

Plan Commission Resolution 031521 (the "Virtual Meeting Policy") is hereby incorporated into these rules. If a provision of the Virtual Meeting Policy conflicts with these rules, then the Virtual Meeting Policy shall supersede.

ARTICLE XI: AMENDMENTS

Amendments to these Rules of Procedure may be made by the Commission at any meeting of the Commission with and upon the affirmative vote of a majority of the members of the Commission.

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

ARTICLE XIII: ADOPTION

These Rules of Procedure are for the "McCordsville Advisory Plan Commission," McCordsville, Indiana and 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.

President

Date

Vice-president

Date

Commission member

Date

Commission member

Date

Commission member

Date

Commission member

Date

Commission member

Date

Attested by:

Commission Secretary

Date