

**WABASH COUNTY, INDIANA
ADVISORY PLAN COMMISSION**

WABASH COUNTY
COURTHOUSE
ONE WEST HILL STREET
WABASH, IN 46992

260-563-0661 EXT 1267
260-563-5895 FAX

**WABASH COUNTY, INDIANA
BOARD OF ZONING APPEALS
RULES OF PROCEDURE**

REVIEWED AND RATIFIED ON: 3-2-17
DATE

Joe A Vogel
Signed
B.Z.A BOARD CHAIRMAN

Libby Cook
Witnessed
P.C. SECRETARY

**WABASH COUNTY BOARD OF ZONING APPEALS
RULES OF PROCEDURE**

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Article 20: Definitions

These definitions apply to each provision of the rules:

“board”	means the Board of the Wabash County Board of Zoning Appeals
“department”	means the Wabash County Board of Zoning Appeals
“director”	means the Executive director of the Wabash County Board of Zoning Appeals
“president”	means the President of the Wabash County Board of Zoning Appeals
“secretary”	means the Secretary of the Wabash County board of Zoning Appeals
“staff”	means the Director and his’s / hers’s assignee and other employees of the Wabash County Board of Zoning Appeals
“vice president”	means the Vice President of the Wabash County Board of Zoning Appeals
“WCBZA”	means the Wabash County Board of Zoning Appeals

Article 21: General Statement

- (A) The following rules as adopted by the Wabash County Advisory Board of Zoning Appeals (WCABZA) shall be utilized to conduct all BZA business. These Rules and Procedures shall be used in conjunction with the Wabash County, Indiana Comprehensive Plan Zoning Ordinance and IC 36-7-4-900 et. seq.

Article 22: Composition and Hours, Jurisdiction, General Powers, Duties

22.1 Board Office, Business Days

The office of the WCBZA shall be the Wabash County Plan Commission Office located in the Wabash County Court House. The office shall be open to the public on specific business days as specified by the Wabash County Commissioners. For the purpose of these Rules and Procedures, “business day” shall refer to such days when the office of the WCBZA are open to the public for the transaction of business for the entire period of its normal operating hours, and shall exclude any day on which such offices are not open to the public for the transaction of business or any day when such offices are open for less than the normal operating hours.

22.2 Jurisdiction

The territorial jurisdiction of the WCBZA shall include all lands in Wabash County, Indianathat are not incorporated, and outside the corporate boundary of the City of Wabash and the City of North Manchester. The incorporated towns of Lafontaine, Lagro, and Roann may request (by its respective town board), determinations from the WCBZA on issues covered under these Rules and Procedures. In no case may the board exercise jurisdiction over any property owned by the United States of America or the State of Indiana.

22.3 General Powers, Duties

- (A) The WCBZA shall;
- (1) Supervise and make rules for the administration of the affairs of the WCBZA;

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- (2) Adopt a seal;
 - (3) Certify to all official acts;
 - (4) Prepare, publish and distribute reports, ordinances and other material relating to the activities authorized under this chapter;
 - (5) Supervise the fiscal affairs of the WCBZA;
 - (6) Review orders, requirements, decisions or determinations per IC 36-7-4-918.1 (1), (2), (3).
 - (7) Approve or deny all special exceptions, special uses, contingent uses and conditional uses from the terms of the zoning ordinance. (Only in the classes of cases or in the particular situations specified in the zoning ordinance).
 - (8) Make recommendations to the Wabash County Board of Commissioners concerning:
 - (a) Any matter, within the jurisdiction of the WCBZA authorized by the advisory plan law.
 - (10) Approve or deny variances from the development standards of the zoning ordinance.
 - (a) The approval will not be injurious to the public health, safety morals, and general welfare of the community.
 - (b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
 - (c) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.
- (B) However the zoning ordinance may establish a stricter standard than the "practical difficulties" standard prescribed by this subdivision.
- (C) Approve or deny variances of use from the terms of the Zoning ordinance upon a determination in writing that:
- (1) The approval will not be injurious to the public health, safety morals, and general welfare of the community.
 - (2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
 - (3) The need for the variance arises from some condition peculiar to the property involved.
 - (4) The strict application of the terms of the zoning ordinance will constitute a necessary hardship if applied to the property for which the variance is sought.
 - (5) The approval does not interfere substantially with the comprehensive plan adopted under IC 36-7-4-500 et seq.
 - (6) Any other duties set forth in IC 36-7-4-900 and such other responsibilities as may be required by the State Statute, County Ordinance, and as identified in this document.

Article 23: Membership, Officers, Staff, and Services

23.1 Membership

- (A) Membership of the Wabash County Board of Zoning Appeals (WCBZA) shall

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consist of five (5) members as consistent with the provisions of IC 36-7-7-902.

- (1) Three (3) citizen members appointed by the Executive of the County, of whom one (1) must be a member of the Wabash County Advisory Plan Commission and two (2) must not be members of the Wabash County Advisory Plan Commission.
 - (2) One (1) citizen member appointed by the fiscal body of the County, who must not be a member of the Wabash County Advisory Plan Commission.
 - (3) One (1) member appointed by the Wabash County Advisory Plan Commission from the Plan Commission's membership, who must be a county agriculture agent or a citizen member of the Plan Commission other than the member appointed under subdivision (A).
- (B) After establishment of the WCBZA, each member shall serve a four (4) year term consistent with the provisions of Indiana law. There shall be no limit to the number of terms, including consecutive terms, which members and/or officers of the board may serve. A member must be a resident of the jurisdictional area of the Wabash County Board of Zoning appeals.
- (C) The term of office of a member appointed from the membership of the Wabash County Advisory Plan Commission shall be co-extensive with the appointee's membership on the appointing authority, unless the appointing authority appoints, at its first regular meeting of the year, another to serve as its representative.
- (D) All citizen members shall be appointed for a term of four (4) years which expires on the first Monday of January of the fourth year after the citizen member's appointment.
- (E) The appointing authority may remove a member from the WCBZA for cause. The appointing authority must 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 Wabash Circuit Court. The Circuit Court may, pending the outcome of the appeal, order the removal or stay the removal of the member.
- (F) A member who misses three (3) consecutive regular meetings shall be treated as if he / she had resigned, unless the appointing authority reaffirms his / her appointment.
- (G) If a vacancy occurs among the Wabash County Board of Zoning Appeals members, who are appointed, then the appointing authority shall appoint a member for the un-expired term of the vacating member. In no instance shall the new member assume any office held by their predecessor unless they themselves are elected to such office by the WCBZA consistent with these Rules and Procedures.
- (H) No member of the WCBZA may hold any other elected or appointed office in Wabash County or any state or municipal government with the exception of

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those which are specified in Indiana law as being necessary to qualify an individual for membership on the Board (such as membership on the WCAPC).

23.2: Oath of Office

Every newly appointed member of the Commission shall subscribe to the following oath of office either in writing, or by making a statement on record at a Board of Zoning Appeals meeting, before entering into the performance of his/her duties. (Form # WCPC 1033BZA).

1. "I _____, DO SOLEMNLY SWEAR AND AFFIRM THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF INDIANA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE MY DUTIES AS A MEMBER OF THE WABASH COUNTY, INDIANA BOARD OF ZONING APPEALS ACCORDING TO APPLICABLE LAWS, AND TO THE BEST OF MY ABILITY." DATE _____ SIGNED _____.

23.3 Officers

- (A) At the first regular meeting of the year, the WCBZA shall elect from its members a president, vice president and secretary.
- (1) The currently elected president shall preside over the election of the president.
- (2) If only one (1) member is nominated, the election shall be a show of hands.
- (3) However if more than one individual has been nominated, each member shall choose one candidate by paper ballot.
- (4) The Wabash County Advisory Plan Commission Attorney shall tally the ballots.
- (5) In the instance of a tie vote, the current officer or appointee shall continue in office until the tie is broken. A new vote must be conducted at each subsequent regular meeting of the WCAPCB until such tie vote can be broken.
- (6) Each officer elected under these rules shall enter into office immediately upon being declared elected and shall serve until his successor is declared elected.
- (7) An officer may serve more than one (1) consecutive term as an officer.
- (8) A motion to remove an officer of the WCBZA may be made by any member of the WCBZA. A majority vote of all the members is required to remove the officer. If removed, a motion to appoint a successor shall immediately be made, and if approved by a majority vote of the WCBZA, that individual shall preside in that capacity until the next regular election. If no successor is approved, the individual removed from office shall remain in that office for their unexpired term.
- (B) At the same meeting the WCBZA shall elect a secretary who is not required to be a member of the WCAPC or WCBZA.
- (C) Whenever any office becomes vacant, the WCBZA shall elect a successor at its next regular meeting to complete the remainder of the un-expired term.

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- (D) The WCBZA shall elect a President Pro-Tempore from among its members if both the President and Vice President are temporarily absent or otherwise unable to fulfill their duties
 - (E) If the office of the President or Vice President becomes permanently vacant (due to death, permanent disability, resignation, or other cause) the WCBZA shall elect a replacement from its membership to complete the unexpired term at the next regular meeting.
 - (F) If a permanent vacancy occurs among the membership of the WCBZA, the appointing authority shall appoint a new Board member to complete the unexpired term of the vacating member. In no instance shall the new member assume any office held by their predecessor unless they themselves are elected to such office by the Webs consistent with these Rules and Procedures.
 - (G) If the Secretary is absent from any WCBZA meeting, the President shall appoint a temporary Secretary to serve at the meeting. If the office of Secretary becomes permanently vacant the WCBZA shall appoint a replacement at the next regular meeting.
- 23.4 President
- (A) The President shall preside over all regular and special meetings of the WCBZA. The President shall perform the duties normally performed by a presiding officer, including the appointment of committees and ruling on all points of procedure.
 - (B) The President may participate in the discussion of all matters before the WCBZA and vote on any questions before the WCBZA.
 - (C) The President, after calling for a motion to be made, may make a motion.
 - (D) The President shall sign all official documents on behalf of the WCBZA.
 - (E) The President shall rule on all points of procedure, subject to these Rules of Procedure, unless over ruled by a majority vote of the WCBZA.
 - (F) The President shall announce the decisions of the WCBZA for purposes of recording in the minutes.
- 23.5 Vice President and President Pro Tempore
- (A) The Vice President shall act as President during the absence or disability of the president.
 - (B) In the absence of the President, the Vice President is authorized to sign all official documents on behalf of the WCBZA.
 - (C) The WCBZA shall elect a President Pro Tempore from among its members if both the President and Vice President are absent, disabled, or otherwise disqualified.

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23.6 Secretary

- (A) The Secretary oversees the keeping of a complete and accurate record of all proceedings and votes of the WCBZA.
- (B) The Secretary shall oversee the preservation of all papers and documents of the WCBZA and the preparation and distribution of reports, ordinances and other material related to the WCBZA activities.
- (C) Prepare the agenda for all meetings. Provide notice of meetings to WCBZA . serve all notices required by law or by the by-laws.
- (D) Handle funds allocated to the WCBZA in accordance with its directives, the law, and county regulations.
- (E) Perform all other duties normally carried out by a Secretary or as specifically assigned by the WCBZA.
- (F) The Secretary may be a member of the WCBZA, the Plan Director, or another member of the WCAPC Staff or WCBZA Staff.
- (G) In the absence of the Secretary, the WCBZA may appoint a Secretary Pro Tempore during the absence of the Secretary.

23.7 Director

- (A) Upon recommendation of the WCAPC and as provided by IC 36-7-4-311, the Planning Director shall be appointed by the WCAPC with approval from the Wabash County Board of Commissioners and shall be designated executive of the staff.
- (B) The Planning Director and/or his/her assignee and other employees of the WCAPC shall serve as the WCBZA staff, and shall provide technical and analytical assistance to the WCBZA.
- (C) Duties of the Planning Director shall include, but are not limited to;
 - (1) Attend all WCBZA meetings and act as staff to the WCBZA.
 - (2) Perform administrative acts as directed by the WCBZA in all cases except where final action of the WCBZA is necessary, as provided by IC 36-7-4-312.
 - (3) Submit to the WCBZA a staff report on all matters brought before the WCBZA including a staff recommendation on the matter.
 - (4) Promptly and accurately responding to public inquires, request for forms, applications for permits, etc.
 - (5) Supervising employees in accordance with the policies and procedures detailed in the Wabash County Personnel Policy Handbook
 - (6) Initiating technological advances to first, improve service to the public, and second, increase productivity of WCBZA.
 - (7) Present required matters to the Wabash County Council or the Wabash Board of Commissioners as scheduled.
 - (8) Maintaining the official version of the various ordinances, which govern the activities of the WCBZA. All amendments approved by the

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respective legislative bodies must be immediately incorporated and disseminated to all board members and governing bodies.

- (9) The keeping of an accurate record of all proceedings, including the keeping of records and minutes, the custody of preservation of all papers and documents of the WCBZA, the maintenance of a current roster and qualification of members, and records of attendance.
 - (10) Propose annually a plan for the operation of the planning department to be presented with the annual budget.
 - (11) Being designated enforcement official of all ordinances adopted and action taken in accordance with IC 36-7 et. seq.
 - (12) Prepare and present an annual report to the WCBZA at the January meeting.
 - (13) Establish administrative rules and / or Declaratory Rulings and office procedures and interpretations of codes and ordinances.
- (D) The officers, members, and staff of the WCBZA shall perform such other duties and functions as may, from time to time, be required by the WCBZA, these Rules of Procedure, or Indiana law.

23.8 Attorney

- (A) Legal counsel for the WCBZA shall be appointed by the WCAPC at the rate of compensation established by the WCAPC with approval from the Wabash County Council.
- (B) Legal Counsel shall be on call to attend WCBZA meetings upon request of the President or Director.
- (C) The director may utilize legal counsel when necessary to conduct WCBZA business.

23.9 Staff

- (A) The WCBZA may contract for special or temporary services and any professional counsel with written approval from the Wabash County Council and the Wabash County Board of Commissioners.
- (B) The Director, and employees of the WCAPC shall act as staff to the WCBZA and shall provide technical and analytical assistance to the Board.
- (C) The Director shall obtain the advice and consent of the WCAPC prior to selecting and hiring any employee in the Department.
- (D) The staff of the WCBZA shall be hired, retained, promoted and discharged without regard to age, ancestry, color, handicap, national origin, race, religion, or sex.

Article 24: Applicability, Meetings

24.1 Applicability

- (A) This rule applies to all public hearings required by Indiana law, the Wabash County Zoning and Subdivision Control Ordinances, or other applicable ordinances, and to all regular and special meetings of the WCBZA.

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24.2 Regular Meetings

- (A) The WCBZA shall fix the time for holding regular meetings each month or as necessary.
 - (1) Regular scheduled meetings of the WCBZA shall be held on the FOURTH (4th) TUESDAY of each month at 7:00 P.M. in the Wabash County Board of Commissioners Conference Room on the second floor of the Wabash County Courthouse.
 - (2) The Schedule of meetings shall be available to any interested party.
 - (3) If it is impossible to conduct the meeting at the time or place, the President may set an alternative date, time, or place for the regular meeting. Notice of the rescheduled, relocated or canceled meeting shall be given as required by IC 36-7-4-920(b) and the meeting shall be subject to the Indiana Open Door Law.
- (B) All regular meetings shall adjourn on or before 10:00 p.m. and no new agenda items shall be heard after 9:30 p.m. The board may vote to suspend this rule, if the expected time needed to finish the agenda is short.
- (C) When appropriate, if agenda items remain, but the regular meeting must adjourn, the board may vote to either:
 - (1) Table the rest of the agenda to the next regular meeting or agree on a date, time, and place to reconvene to act on the rest of the agenda.
- (D) When appropriate, scheduled meetings may be canceled if no business is scheduled to be heard or if no quorum is present.
 - (1) The WCAPC Director may cancel any meeting by giving written notice to all members and the general public prior to the time set for each meeting.
 - (2) Notice of the rescheduled, relocated, or canceled meeting shall be given as required by IC 36-7-4- 920(b) and the meeting shall be subject to the Indiana Open Door Law.
 - (3) The secretary will reschedule all items on the agenda.
- (E) No action shall be taken, decision made, or opinion expressed, by the WCBZA unless a quorum of members are present at a properly scheduled and advertised regular or special meeting.
- (F) If the petitioner or an authorized agent for the petitioner fails to notify the Plan Commission Office, by 2:00 PM, the day of the hearing, requesting to be rescheduled, or fails to appear at the scheduled hearing to represent the application, the Commission may dismiss the application. An application which is dismissed by the Board shall not be permitted to be resubmitted for Ninety (90) days from the date of the Boards action to dismiss.

24.3 Special Meetings

- (A) Special meetings shall be called by the President, or by two (2) board members upon written request submitted to the secretary.
 - (1) The secretary shall send to all members at least forty-eight (48) hours before the special meeting, a written notice fixing the time, place and purpose of the meeting.

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- (2) Written notice of a special meeting is not required if the date, time, place and purpose of a special meeting are fixed in a regular meeting, and all the members of the board are present at that regular meeting.
 - (3) Such recess to an announced specified date, time, and place shall not require additional public notice.
 - (B) Only matters included in the call for a special meeting shall be considered at that meeting. No other business may be considered at that meeting except by unanimous consent of the WCBZA.
 - (C) Public notice of the special meeting shall be given in the same manner as required for regular meetings when the date, time, and place are not fixed during the regular meeting.
- 24.4 Executive Session
- (A) The WCBZA may meet in executive session consistent with the provisions of IC 5-14-1.5 through IC 5-14-6.1.
 - (1) Executive sessions may be called by the President or by any two members of the WCBZA, providing that notice is given in accordance with applicable law.
 - (B) Even though the public is excluded from an Executive Session, public notice is required. (IC 5-14-1.5-5.)
- 24.5 Open Meeting / Public Hearings
- (A) All meetings and public hearings of the board , except executive sessions, shall be open to the public and petitioner(s), remonstrator(s), interested parties, and members of the general public desiring to witness the preceding or be heard by the board in accordance with the Wabash County Board of Zoning Appeals "Rules and Procedures" and "Roberts Rules of Order" as revised.
 - (B) The WCBZA may conduct a public hearing as a part of any regular or special meeting or at any other place or time if notice is given as required by law.
 - (C) In addition to those required by law, the WCBZA may, at its discretion, hold public hearings when it decides that a hearing will be in the public interest.
 - (D) Notice of all hearings shall be given as required by law.
- 24.6 Scheduling and Agenda
- (A) The Planning Director shall docket all petitions and other matters for the consideration of the WCBZA consistent with the procedures outlined in the Wabash County Zoning and Sub Division Control Ordinances, applicable provisions of Indiana Law, these Rules and Procedures, and the adopted office policies.
 - (B) All requests from the public for any topic to be discussed and acted upon at a regular meeting must be submitted to the Plan Commission office no later than ten (10) days prior to the scheduled meeting.

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- (C) From that docket, the staff shall prepare an agenda for each meeting which meets the following requirements.
 - (1) The Agenda shall list all items to be considered by the board at the regular or special meeting.
 - (2) The items shall be listed on the agenda in the order in which the petition or other matters were docketed by the Plan Director.
 - (3) The agenda shall be mailed or hand delivered to all members of the board at least five (5) days prior to the scheduled meeting.
 - (4) The agenda shall be made available at the WCAPC office for public inspection at least three (3) days prior to the scheduled meeting.
- (D) Notice of all regular and special meetings shall be in compliance with IC 5-4-1.5.
- (E) At his/her discretion, the Planning Director may exclude any petition or other matter from the agenda consistent with the provisions of these Rules of Procedure.
- (F) No petition shall be docketed, and therefore shall not be placed on the agenda for a WCBZA hearing unless all fees have been paid, all required forms have been submitted, and all materials are deemed to be consistent with the applicable provisions of the Wabash County Zoning and Sub Division Control Ordinances, Indiana Law, and these Rules of Procedure.
- (G) By a majority vote, The WCBZA may amend the agenda during the course of any meeting if necessary for the expeditious conduct of business.

Article 25: Applications / Petitions

25.1 Applications

- (A) Every petitioner shall complete an application obtained from the WCAPC office. All submitted materials shall be consistent with the applicable provisions of the Wabash County Zoning and Subdivision Control Ordinances, Indiana law, these Rules of Procedure, and the adopted office policies of the WCAPC and the WCBZA. The petitioner may be required by the WCAPC to submit additional information deemed relevant for the consideration of the petition.
- (B) Each petitioner shall be notified of the time and place of the meeting at which such petition will be heard.

25.2 Filing Requirements

- (A) Every petition shall be filed with the WCAPC / WCBZA consistent with the adopted Meeting Calendar and Filing Dates.
- (B) Unless otherwise prescribed by Indiana statute, all petitions must contain all signatures of those individuals listed on a deed as owners of a property. The Owner(s) listed on the deed may submit a written authorization permitting someone to file an application for them.

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- (C) Unless authorized by the Director, all required information shall be submitted by the established filing deadline for the following WCAPC / WCBZA meeting.
- (D) No application shall be deemed complete that fails to include all of the forms and documents required by these rules.
- (E) No Confined Feeding Operation (CFO) application shall be deemed complete unless accompanied by a certificate of approval from the Wabash County Drainage Board, an approved permit issued by the Indiana Department of Environmental Management, together with any other permit now or hereafter required by the State of Indiana, or the County of Wabash.
- (F) The Director, with approval of the WCAPC, shall develop forms to be used in connection with public hearing notices, legal notice advertisements, applications, etc.

25.3 Required Forms, Documents

- (A) Applications, request for plat approval, notices, affidavits, certificates, endorsements and instruments and other documents submitted to the WCBZA must be consistent with the forms established and office policies adopted by the WCAPC / WCBZA and the applicable requirements of the Wabash County Zoning and Subdivision Control Ordinance.
 - (1) In the presentation of a case, the burden shall be upon the petitioner to supply all information, including site plans, documentation, evidence and other exhibits necessary for a clear understanding of the petition. The WCBZA may continue the hearing or deny the petition when in its judgment the petitioner has not provided sufficient information or evidence to make a determination.
 - (2) The WCBZA may require additional information, data, statistics, surveys or site plans as deemed necessary for a determination.

25.4 Amendments to Petition

- (A) Request to amend a petition may be filed with the WCAPC / WCBZA in writing prior to the start of any public hearing, or be made orally at the hearing during the petitioner's presentation.
 - (1) A remonstrator or interested parties present shall have the right to be heard on any objections they may have to a proposed amendment.
 - (2) It shall be within the discretion of the WCBZA to grant or deny any request for amendments and to require re-notification in compliance with the WCBZA notification requirements. Any proposed amendments to modify additional standards or regulations shall be required to take the form of a new petition and shall meet all the filing, notification, and other applicable requirements of these Rules and Procedures.

25.5 Fees

- (A) All applications and petitions shall be accompanied by the appropriate fees as specified on the adopted WCAPC Fee Schedule.

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Article 26: Notice Requirements

26.1 General Notice

- (A) Unless otherwise prescribed by law or by another rule, notice to interested parties shall be sent by the Plan Commission Office by first class postage prepaid mail at least 10 days before the hearing, and have the post office date stamp the mailing list of names.
 - (1) The WCBZA staff shall prepare the notice and prepare a listing of the individuals to whom notice is given and certify that it is, to the best of his/her knowledge, a complete listing of interested parties. The WCBZA staff shall take reasonable steps to ensure that all interested parties are notified.
 - (a) All property owners within 250 feet of the boundaries of the petitioning plat shall be notified as per 26.1 (A).
- (B) Unless otherwise prescribed by law or by another rule, notice of the public hearing shall also be published in the local newspaper at least ten (10) days prior to the date set for the hearing.
 - (1) The WCBZA staff shall prepare the notice and prepare a listing of the local newspapers to which the notice may be given for publishing.
- (C) The cost of the notice shall be the responsibility of the petitioner.
- (D) Unless otherwise indicated, interested parties are defined as follows:
 - (1) All persons with a legal interest in a property which is included in a petition before the WCBZA when their signature is not obtained.
 - (2) All persons with a legal interest in a property abutting, removing streets, alleys or other right-of-way, property included in the petition before the WCAPC. Said abutting properties shall be only those located within Wabash County, Indiana.
- (E) The names of property owners to be notified shall be ascertained from the Wabash County GIS System Records as maintained by the County Auditor and Assessor Offices.
- (F) Personal appearance at the hearing shall constitute evidence of notice.
- (G) The petitioner may be required to post a notice, prepared by the WCBZA in a conspicuous place on the property upon which action is pending. Notice shall be posted at least ten (10) days prior to the date of the public hearing.

Article 27: Meeting Conduct

27.1 Procedure Governance

- (A) Unless otherwise provided for in the Rules of Procedure all meetings shall be conducted according to Roberts Rules of Order, as revised except to the extent that it conflicts with State Law, Wabash County Plan Commission Ordinances, or these rules.

27.2 Quorum

- (A) A quorum consist of a majority of the entire membership of the WCBZA

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membership who are qualified to vote.

- (B) No action shall be taken, decision made, or opinion expressed by the WCBZA unless a quorum of members are present at a properly scheduled and advertised regular or special meeting.

27.3 Minutes and Records

- (A) The Secretary shall prepare and maintain minutes of each WCBZA meeting. The minutes shall include the vote of each member on each question presented or indicate that the member is absent, abstaining, or not voting because of a disqualification.
- (B) The Secretary may record the meeting for his / her benefit in preparing the minutes. If the meeting is recorded, such recording may be made available to a person who shall request to hear it, providing the Secretary has completed preparation of the minutes.
- (C) Any person who requires a verbatim record of the WCBZA meeting shall make provision for such verbatim record to be made.
- (D) Upon completion of the minutes of a WCBZA meeting by the Secretary, copies of the unapproved minutes can be distributed upon request. The Secretary shall write or stamp "UNAPPROVED MINUTES" on the copy.
- (E) Whenever possible, the minutes shall be presented to the WCBZA for approval at the next regular meeting. When approved, the minutes shall be signed by the President. Copies of the approved minutes can be distributed upon request.
- (F) When the WCBZA has approved the minutes, the Secretary may dispose of any recording of such meeting.
- (G) The minutes of the WCBZA meetings and all records shall be filed in the office of the WCAPC and are to be open for public inspection and copying. Provided however, the minutes of executive sessions must identify the subject matter considered by specific reference to the enumerated instance of instances listed at IC 5-14-1.5-6.1(b). The WCBZA shall certify by a statement in the minutes that no subject matter was discussed in the executive session other than the subject matter specified in the public notice.
- (H) All information, records, exhibits, photos, site plans, petitions, and similar information submitted to the WCBZA before, during, or after the hearing shall be made a part of the permanent record of the petition and shall be retained by the WCBZA.

27.4 Conflict of Interest

- (A) No member of the WCBZA shall participate in any case in which he/she has financial or personal interest in the property of action concerned, or will be directly affected by the decision, or believes he/she has any other conflict of interest as defined by applicable law.

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- (B) No member of the WCBZA staff or member of any agency serving the WCBZA shall prepare or present reports, arguments or attempt to influence decisions on the WCBZA in any case in which he/she has financial or personal interest in the property or action concerning, or will be directly affected by the decision, or believes he/she has other conflicts of interest as defined by applicable law.
 - (C) Notification of conflict of interest of any case to come before the WCBZA shall be made to the board president, acting president and board members.
 - (1) A Board member may disqualify himself/herself from voting in either the instance of a conflict of interest, or when the applicant, his agent or any other party has influenced the vote of the member on his appeal or application, other than in the public hearing.
 - (2) When a potential conflict is raised by another member, the WCBZA will determine whether, in fact, such conflict does exist.
 - (a) A majority of the members present, excluding the member with the potential conflict, shall be required to make the decision.
 - (b) The outcome of such decision shall be publicly stated by the president at the meeting and shall be reflected in the minutes of the meeting.
 - (c) Should any member be disqualified from participating and voting on any application, an alternate may be placed by the appointing body to fulfill the duties of the disqualified member.
 - (3) In the event a member is not aware of his/her interest or conflict in a matter, but discovers a conflict exist during the meeting, the member shall immediately disclose such interest and shall abstain from voting on the matter.
 - (D) The Secretary shall enter into the records the fact that the member has a conflict and has abstained.
- 27.5 Communications with Board Member, County Departments
- (A) No person may communicate with any member of the WCBZA with the intent to influence the member's action on a matter pending before the WCBZA. However, not less than five (5) days before the hearing, the Director shall make accessible to the board members all information and relevant facts of all matters. Copies of all relevant materials provided by the petitioners, remonstrators, or other interested parties shall be included.
 - (B) A Director's report may include a written recommendation for board action to be taken on a pending matter.
 - (1) This recommendation shall be presented to the WCBZA during the petition review at the regular or special scheduled meeting.
 - (C) Nothing in these sections shall be interpreted as prohibiting members of the WCBZA from gathering at events, community happenings, or on other occasions for the purpose of socialization or the receipt of information not directly related to matter of business pending before the Commission.

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27.6 Order and Courtesy

- (A) The president or his/her designee shall preserve order and may warn any member or other person present that a particular conduct is a breach of peace. If any people persist in such conduct following the warning, the president or designee may call a recess and/or request assistance of the local law enforcement to restore order as allowed by law.

27.7 Order of Business

- (A) The Order of Business for all regular meetings shall;
 - (1) Call to order by President;
 - (2) Roll call of the board members, and staff and determination of a quorum;
 - (3) Greeting / Prayer;
 - (4) Consideration of the minutes of the previous meeting;
 - (5) Old business - Public Hearings (any tabled or continued petitions or other items of business) ;
 - (6) New business - Public Hearings (all new petitions and business items).
 - (7) Discussion Items (Violations)
 - (8) Items from citizens
 - (9) Items of discussion by board members
 - (10) Director's Report
 - (11) Adjournment
- (B) The order of business for special meetings or executive sessions shall be;
 - (1) Call to order by the President;
 - (2) Roll call of board members, secretary, and staff and determination of a quorum;
 - (3) Greeting / Prayer;
 - (4) The business for which the special meeting was called;
 - (5) Adjournment.

27.8 Public Hearing

- (A) WCBZA members should make a reasonable effort to visually inspect properties for which petitions have been filed.
- (B) The WCBZA may conduct a public hearing as a part of any regular or special meeting if the public notice required by State Law, these Rules and Procedures, and the applicable provisions of the Wabash County Zoning Ordinance is provided.
- (C) A public hearing is any proceeding involving the consideration of a variance, a special approval, or an appeal of an administrative decision
- (D) Representation of applicant;
 - (1) Applicant, applicant's attorney, or other representative must be present for a public hearing to be held as scheduled.
 - (2) Written appearances by those arguing the presentation , as well as those either supporting or remonstrating against it will only be

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- accepted prior to the public meeting pursuant to guidelines for additional information submitted.
- (3) Failure of the applicant or their representative to appear, without notification, will result in the petition being removed from the agenda. The petitioner will then be required to repeat the notification process.
- (E) Opening the public hearing.
- (1) The president shall call the agenda item scheduled for public hearing and declare the hearing open.
- (2) The president shall explain the process and the order of testimony.
- (a) All presenters must appear before the WCBZA, identify themselves by name and address, and verify sign in for the record.
- (b) All commentary is to be addressed to the WCBZA through the president; no dialogue between the presenter and any other person present, even individual members of the board including the WCBZA Attorney will be tolerated.
- (c) Discourteous, disorderly or contemptuous conduct will not be tolerated. Examples include booing, applause and personal attacks on people expressing opposing views. Violators may be removed from the hearing at the discretion of the president.
- (d) The president may disallow repetitive and irrelevant testimony
- (F) The agenda item will be read into the record by the President
- (G) The President shall determine whether the petitioner is present and wishes to proceed with his / her petition.
- (H) The president shall have the authority to prohibit repetitious or irrelevant testimony and shall have the authority to limit the length of testimony of each speaker as deemed appropriate to a fair and efficient public hearing.
- (I) Any person wishing to speak to the WCBZA shall register with the WCBZA Secretary by providing their name, address, and topic they wish to comment on.
- (J) The President shall determine the admissibility of any evidence before the WCBZA.
- (K) Order of Testimony
- (1) Presentation by petitioner
- (2) Comments from petition supporters
- (3) Questions from WCBZA
- (4) Presentation by remonstrance
- (5) Comments from remonstrance supporters
- (6) Questions from WCBZA
- (7) Rebuttal by the applicant
- (8) Staff report, recommendations (if any)

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- (9) Hearing Closed
- (10) Deliberation by the WCBZA, including questioning both applicant(s) and remonstrator(s).
- (11) The President shall entertain a motion concerning the matter before the WCBZA
- (12) Action (vote) by the WCBZA
- (13) The President shall announce the decision by the WCBZA

27.9 Presentation by Applicant

- (A) Petitioners shall have twenty (20) minutes for the presentation of evidence and statements in support of the matter being considered.
- (B) Persons appearing in support of the petition shall have three (3) minutes each for statements in support of the matter being considered.
- (C) The WCBZA may seek clarification on any issue raised by the petitioner or persons supporting the petition. The petitioner shall not be penalized for the time required to clarify request by the board

27.10 Presentation by Remonstrator

- (A) The Remonstrance spokesperson shall have thirty (30) minutes for the presentation of evidence, statements and arguments in opposition to the matter being considered.
- (B) Persons appearing in support of the remonstrance shall have three (3) minutes each for statements in opposition of the matter being considered.
- (C) The WCBZA may seek clarification on any issue raised by the remonstrator(s). The remonstrator(s) shall not be penalized for the time required to clarify request by the board .
- (D) Remonstrators and other interested parties may appear at the meeting and make a verbal presentation or they may submit written comments to the Planning Director. Any written comments filed with the Planning Director before the hearing shall be considered by the WCBZA, and shall be made a part of the record of the hearing without requiring the appearance of the author.
 - (1) All written comments must include author's signature, printed name, address, and telephone number in order to be considered by the WCBZA.

27.11 Rebuttal by Applicant

- (A) Applicant(s) shall have ten (10) minutes for rebuttal, which shall only include evidence, statements and arguments in rebuttal of remonstrators' evidence and WCBZA comments.
 - (1) No new evidence or testimony will be permitted during rebuttal.
 - (2) The applicant may add to rebuttal time by reducing the time of the initial presentation and publicly stating that intention.

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27.12 Waiver of Time Limits

- (A) Time limits may be suspended, or amended and new limits established only upon a favorable vote of the WCBZA on a motion.
- (B) It is understood that such deviations from the time prescriptions will be granted only in extraordinary circumstances and will not be routinely permitted.
- (C) WCBZA members shall be granted adequate opportunity to examine the applicant(s) and the remonstrator(s), and question any evidence, statements, and arguments in the interest of a fair and efficient hearing.

27.13 WCBZA Action

- (A) A motion may be made by any member of the WCBZA after the agenda item has been introduced.
- (B) A motion that does not receive a second shall die.
- (C) Upon conclusion of deliberations, the president shall call for a motion of action.
 - (1) Any motion that is made and seconded is open for further WCBZA discussion.
 - (2) Each motion that has received a second shall be voted upon.
 - (3) Any motion with multiple parts must have a separate vote for each part.

27.14 Voting

- (A) All decisions of the WCBZA, on matters heard in public meetings, shall be by record vote. The vote of each member shall be a matter of public record.
 - (1) Voting shall be a verbal "YEA" or "NAY" taken by roll call.
 - (2) When voting on Special Exceptions or Variances, voting shall be completed as required on form numbers "WCPC1010", or "WCPC1011", or "WCPC1012".
 - (a) A record of all votes shall be kept in the minutes.
 - (3) A majority of the entire membership of the WCBZA is required to take official action on a petition.
 - (4) In the event that a vote results in a tie vote or does not receive a majority of the entire membership of the WCBA and no other motion is made and seconded, a "NO DECISION VOTE" will be declared, and the petition will be tabled until the next meeting for action or a special meeting is called by the WCBZA.
 - (5) All members present shall vote on every question unless they are permitted to abstain by the presiding officer or have disqualified themselves because of a conflict of interest.
- (B) Any member of the WCBZA who voted with the majority may call for a reconsideration of the petition or matter subsequently voted on, provided that the next scheduled agenda item has not yet been introduced. If sustained by a majority of the WCBZA, the reconsideration shall be made.

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27.15 Indecisive Vote

- (A) In the event that a vote results in a tie vote or does not receive a majority of the entire membership of the WCBZA and no other motion is made and seconded, a "NO DECISION VOTE" will be declared, and the petition will be tabled and automatically continued, re-docketed and heard again at the next regularly scheduled meeting of the WCBZA.

27.16 Continuances

- (A) All continuances for public hearings on petitions shall be subject to the following:
 - (1) Continuances may be requested by the petitioner, a remonstrator, an interested party, the WCBZA, or the WCBZA Staff as specified below.
 - (a) The WCBZA may, at any time and at its own discretion, continue the hearing of any petition at any time during a public hearing prior to a vote being taken on the matter. The WCBZA shall specify a date to which the matter shall be continued.
 - (b) The WCBZA Staff may request a continuance not to exceed sixty (60) days in which to further review the petition. The staff may request a continuance at any time during the hearing of any petition, prior to a vote being taken on the matter.
 - (c) An interested party may request a continuance not to exceed sixty (60) days. The request shall include the reason for the request, and shall be either presented in writing to the Planning Director prior to the date of the hearing or verbally during the time specified for interested party comments during the hearing.
 - (d) Petitioner(s) or remonstrator(s) may request a continuance to a certain date. The request shall include the reasons for the request, and shall be either presented in writing to the Planning Director prior to the date of the hearing or verbally during the time specified for petitioner/ remonstrator comments during the hearing.
- (B) The WCBZA Director must be informed prior to the meeting if the petitioner desires a continuance. Enough notice must be given to the Director in order for written notice of the continuance to be given to all interested parties. If the director determines that insufficient notice is given to allow a continuance, the petition shall be scheduled for the WCAPC meeting and the petitioner shall, in person or by agent, request a continuance at the meeting. It shall be within the discretion of the WCBZA to grant or deny request for continuances at the meeting.
 - (1) The Plan Director shall inform the WCBZA President of all such request prior to the start of the meeting.
 - (2) The President may seek the approval of the WCBZA to alter the agenda in order to hear all requests for continuance prior to any other business in order to expedite the meeting.
- (C) Request for continuance shall generally be approved if good cause is demonstrated by the party requesting the continuance. If approving the

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continuance, the WCBZA shall specify a date to which the matter shall be continued.

- (1) The WCBZA may continue any item from one meeting to another. No notice shall be required for the continued consideration of any item unless required by Indiana law.

Article 28: Final Disposition of Petitions

28.1 Dismissal of Petition

- (A) The WCBZA may dismiss a petition for lack of action, for want of prosecution, or for lack of jurisdiction. Any petition which has been dismissed by the WCBZA for the lack of action shall not be re-filed for consideration by the WCBZA within a period of 1 (one) year from the date of the dismissal, unless a majority vote of the WCBZA grants a request from the petitioner to allow an earlier re-filing of the petition.
- (B) Petitions will be dismissed after one hundred eighty (180) days of inaction unless good cause is shown.

28.2 Withdrawal of Petitions

- (A) No petition may be withdrawn by the petitioner after a motion has been made and seconded. No petition which has been withdrawn by the petitioner shall again be filed for consideration by the WCBZA within a period of one hundred eighty (180) days from the date of withdrawal. A majority vote of the WCBZA may grant a request from the petitioner to allow an earlier re-filing of the petition.

28.3 Re-filing Following Adverse Condition

- (A) Any petition which was denied by the WCBZA shall not be re-heard by the WCBZA for a period of one (1) year. However the WCBZA may allow any petition to be reheard before the expiration of the waiting period when both of the following conditions are met:
 - (1) A majority of the entire membership of the WCBZA votes in favor of rehearing the petition at a subsequent meeting of the WCBZA.
 - (2) The petition is filed and considered pursuant to all of the other provisions of these Rules and Procedures.

28.4 Certification, Findings of Fact, Review by Certiorari

- (A) The WCBZA shall enter written Findings of Fact onto the record in support of its decision on all petitions. The WCBZA shall list the Findings of Fact for each petition into the record orally at the time a determination is made on each petition. The required Findings of Fact shall be based upon the decision criteria provided by the Wabash County Zoning Ordinance and the applicable requirements of Indiana law.
- (B) Following the WCBZA action on a petition the staff shall notify the petitioner of the WCBZA's decision in writing. For all petitions, the letter shall state the Findings of Fact which were made by the WCBZA consistent with the appropriate decision criteria and other requirements of the Wabash County Zoning and / or Subdivision Control Ordinance, Indiana Law and these Rules and Procedures.

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- (1) For all petitions which are approved, or for which a favorable recommendation is made to the Wabash County Commissioners, the notice shall include the date of the approval and a listing of any conditions made or commitments accepted as part of the approval.
 - (2) For all petitions which are denied, or for which an unfavorable recommendation is made to the Wabash County Commissioners, the notice shall include the date of the denial and a listing of detailed reasons for the negative finding.
 - (3) For all petitions which are continued, the letter shall include the date of the meeting at which the continuance was determined, the reason for the continuance, the date at which the petition will be heard, and whether or not re-notification is required.
- (C) In accordance with IC 36-7-4-1003, each decision of the WCBZA is subject to review by certiorari. Any person aggrieved by a decision of the WCBZA may present, to the circuit or superior court of Wabash County, a verified petition asserting that the WCBZA's decision is illegal in whole or in part and specifying the grounds of the illegality. Any such petition must be submitted to the court within thirty (30) days of the decision of the WCBZA.

Article 29: Seal

29.1 Adoption

- (A) The WCBZA may adopt a seal with the caption "Seal of the Wabash County Plan Commission."
- (B) The WCBZA may then employ the seal to certify all official acts of the WCBZA.

Article 30: Amendments and Suspensions

30.1 Amendments

- (A) The WCBZA shall have the right to amend these rules or any portion thereof at any regular or special meeting, providing that the amendment(s) are approved by a Three-fifths (3/5) vote of the entire voting membership of the WCBZA.

30.2 Suspension

- (A) The WCBZA shall have the right to amend these rules or any portion thereof at any regular or special meeting, providing that the amendment(s) are approved by a Three-fifths (3/5) vote of the entire voting membership of the WCBZA.
- (B) No suspension shall continue beyond the adjournment of the meeting at which the motion to suspend was passed.

30.3 Federal & State Law

- (A) Notwithstanding any other provisions of these Rules and Procedures, nothing shall require the WCBZA to observe any other act, or do any other thing, in contravention of any applicable Federal or State law. These Rules and Procedures shall be construed in accordance with the laws of the State of Indiana.

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30.4 Nullification of Rules

(A) Should any court or jurisdiction declare any provision of these Rules and Procedures to be in part null and void, such ruling shall not affect the remainder of these rules, and they shall stay in full force and effect.

30.5 Repeal of All Previous Rules

(A) All previous rules and regulations heretofore adopted by the WCBZA are hereby repealed, as of the effective date of these rules.

Article 31: Adoption

WHEREFORE, the Rules and Procedures of the Wabash County Board of Zoning Appeals, Wabash County, Indiana are approved by the affirmative vote of the majority of all the voting members of the WCBZA in attendance at the meeting on

DATE: _____

These Rules of Procedure shall become effective immediately upon approval and their formal adoption and implementation shall be considered revocation of any prior Rules and Procedures and amendments thereto.

Signed
B.Z.A BOARD CHAIRMAN

Witnessed
P.C. SECRETARY