

**RULES AND PROCEDURES  
OF THE  
FISHERS ADVISORY PLAN COMMISSION**

February 9, 2022

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## ARTICLE I

### GENERAL GOVERNING RULES

1. The Fishers Advisory Plan Commission (hereinafter referred to as the Commission) shall be governed by Indiana's Planning and Zoning Statutes, Ind. Code §36-7-4 et seq., as amended, the Unified Development Ordinance of the City of Fishers, as amended, 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 as defined in Paragraph 6 of Article III in a matter before the Commission shall not be qualified to hear or vote upon a petition or appeal before the Commission and shall comply with those provisions in Paragraph 6 of Article III.
3. Nothing herein shall be construed to give or grant to the Commission the power of authority to alter or change the Unified Development Ordinance, including all official zoning maps. This authority is exclusively reserved to the City Council of the City of Fishers.
4. The office of the Commission shall be located in the office of the City of Fishers, Department of Planning and Zoning, One Municipal Drive, Fishers, Indiana, 46038-1574.

## ARTICLE II

### OFFICERS, MEMBERS AND DUTIES

1. The Commission shall elect a President and Vice President (who shall be acting in the absence of the President) annually at its first meeting of each year.
2. In the case of death or resignation of the President, the Vice President shall succeed to the Presidency and a new Vice President shall be selected from the membership.
3. A temporary President shall be elected in case both President and Vice President are absent.
4. The President (or in his/her absence the Vice President) shall preside at all meetings and hearings of the Commission and decide all points of order and procedure. The Commission may provide for an oath to be administered to all witnesses in cases before the Commission.
5. The Department of Planning and Zoning of the City of Fishers shall serve as the office of the Commission. The Secretary of the Commission shall be appointed at the beginning of each calendar year. The Secretary shall conduct all correspondence of the Commission. A Recording Secretary shall also be appointed at the beginning of each calendar year. The Recording Secretary shall be responsible to keep minutes recording attendance, the vote of each member upon each question, or, if absent or failing to vote, indicating such fact; and records of examinations and hearing and other official actions; and shall carry other official duties as may be assigned by the Commission. Records and minutes of all such procedures shall be filed in the office of the Commission.
6. The Commission may consist of seven (7) members who are residents of the City of Fishers, two (2) members who are residents of the unincorporated areas of Delaware Township, appointed in accordance with an interlocal agreement between the City of Fishers and Delaware Township pursuant to IC 36-7-4- 1208, and two (2) members who are residents of the unincorporated areas of Fall Creek Township who are appointed in accordance with the City of Fishers' exercise of zoning jurisdiction two (2) miles outside of its corporate boundaries pursuant to IC 36-7-4- 205 in the unincorporated areas of Fall Creek Township. The total membership of the Plan Commission, if all entities have appointed their members, will be eleven (11) members.

The jurisdiction of the Commission shall be the territory within the corporate boundaries of the City of Fishers as from time to time extended by annexation. The Commission shall also exercise jurisdiction two (2) miles outside of its corporate

boundaries pursuant to IC 36-7-4-205 or under an interlocal agreement with another municipality pursuant to IC 36-7-4-1208.

7. Major responsibilities of the Commission are:
  - a. To review and to make recommendations to the City Council for supplementing and amending the comprehensive Strategic Plan, other supplemental community plans, and the Unified Development Ordinance to keep them up-to-date and adjusted to changing conditions;
  - b. To review and approve or disapprove all subdivision plats proposed for recording;
  - c. To review and make recommendations on conditional-use and planned unit developments for consistency with the various City Plans; and,
  - d. To review and make recommendations to the City Council for the adoption of the City's guiding development plans including together with all essential elements, including but not limited to, the Land Use Plan, Transportation and Thoroughfare Plan, Parks and Recreation Plan, Capital Improvements Plan, Economic Plan, and other supporting documents.
8. The Commission may elect to utilize a Plat Committee for approval of Primary Plats, Secondary Plats, and Vacations of Plats.
  - a. The Plat Committee shall consist of three (3) members:
    - i. One (1) member of the Plan Commission.
    - ii. One (1) member of the City Engineering Department.
    - iii. One (1) member of the City Planning and Zoning Department.
  - b. The meeting and hearing schedule shall be published by the Planning and Zoning Department in accordance with State Law and these Rules and Procedures.
  - c. The Plat Committee shall be reappointed by resolution at the first Plan Commission meeting of each calendar year.
  - d. The chair of the Plat Committee shall have signatory authority for secondary plats. The chair may designate this signatory authority to any member of the Plat Committee.

## ARTICLE III

### MEETINGS

1. The regular meeting of the Commission shall be held monthly at a standard meeting date established at the regular November meeting. The Commission will designate the standard meeting dates and times from January to the following January. From time to time these regular meeting dates may be modified. Such modifications shall be determined with as much advanced notice as reasonably practical. Meetings will be held at 6:00 p.m., in the City Hall, or at such other place as will accommodate the public unless there is no cause for holding such meeting. If there is to be no regular meeting, the Secretary shall make every effort to inform the members of the Commission at least 48 hours in advance.
2. Special meetings may be called by the President, by written request of three (3) members, or as determined at a regular meeting provided at least 48 hours' notice of such meeting is given to each member. Only matters included in the call for special meeting shall be considered except, by unanimous approval of all members of the Commission, additional matter may be considered.
3. A quorum shall consist of a majority of the appointed members of the Commission. No action of the Commission is official unless authorized by a majority of the appointed members of the Commission.
4. Public Hearings may not be held by less than a quorum of the Commission. Such public hearings shall be continued until a quorum is present.
5. Each case to be publicly heard before the Commission shall be filed in proper form by the required date set by the Planning & Zoning Department and shall be numbered serially and placed on the agenda of the Commission by the Secretary. The case numbers shall begin anew on January 1 of each year. As soon as the case receives a number, it shall be placed on the agenda of the Commission and a date set for hearing by the Secretary. Cases shall come before the Commission in the regular order of their consecutive numbers unless otherwise directed by the Commission.
6. Conflict of Interest. No member of the Commission shall be qualified to hear or vote upon a petition or appeal in which he/she are directly or indirectly interested in a personal or financial way. Further, no member of the Commission shall hear or vote upon a petition or appeal in which he/she is biased or prejudiced or otherwise unable to be impartial. Commission members are required to fully disclose any conflict of interest as defined herein on any matter appearing on the Commission's

agenda during its public meeting. The Secretary of the Plan Commission shall note in the Plan Commission minutes that a member has been disqualified for a conflict of interest. When a member is recused in a particular matter due to a conflict of interest, he/she may exit the room for that item of business.

7. Conduct of Meetings. All meetings shall be open to the public. The President or, in his/her absence, the Vice President may administer oaths or compel the attendance of witnesses. The order of business at meetings shall be as follows:
  - a. Call to order/Pledge of Allegiance
  - b. Swearing in of new member(s) (when appropriate)
  - c. Roll Call
  - d. Election of Officers (when appropriate)
  - e. Appointments (when appropriate)
  - f. Approval of Previous Minutes
  - g. Public Hearings
  - h. Old Business
  - i. New Business
  - j. Staff Communications
  - k. Adjournment
8. Adjourned Meetings. The Commission may adjourn a regular meeting if all business cannot be disposed of on the day set, and no further public notice shall be necessary for such a meeting if the time and place of its resumption is stated at the time of adjournment and is not changed after adjournment.
9. **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 his/her appearance as follows:
  - a. New cases appearing for the first time on the agenda--continuances may be granted upon request.
  - b. Continued cases. All 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 Commission for any of the following reasons:

- i. At the request of a Petitioner because he/she will be unable to proceed with his/her evidence at this hearing to allow time to answer questions or modify petition.
  - ii. At request of staff to allow time for research or modification to the Petition.
  - iii. At the request of the Commission for any reason.
10. **Tabling an Item.** The Commission may from time to time table or postpone certain agenda items. These items are ones that may take longer to research or prepare than the usual 30-day continuance. An item may be tabled for a period of up to three (3) months, however notice must be given for the new public hearing date. However, in no event may the Commission table an item after holding the statutorily required public hearing.
11. **Failure of petitioner to appear:**
  - a. 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 regular meeting.
  - b. In cases which are dismissed for failure of the Petitioner to appear, the Petitioner will be furnished written notice by the Secretary of the Commission.
  - c. The Petitioner shall have 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 fee by the Petitioner.
  - d. In all cases reinstated in the above-described manner, the case will be docketed and readvertised in the usual manner prescribed for new cases.
12. No matter requiring a vote will be placed upon the regular meeting agenda unless received by the Secretary or designee at least 30 days prior to the regular meeting for which it is to be scheduled. Items may be added to the agenda at any regular meeting if agreed to through a majority vote of the Commission.
13. The Commission shall continue any case(s) that are not called onto the floor by 10:30 pm. Such cases shall be continued to either the next regular meeting or to a special meeting. The Commission shall adjourn the meeting no later than 11:30 pm. This rule can be suspended by simple majority vote.
14. **Electronic Participation Policy:**

- a. The provisions of P.L. 88-2021 (HEA 1437) (the “Act”), including definitions, are hereby incorporated into this Policy, per [IC 5-14-1.5-3.5](#).
- b. Subject to the following sections, any member may participate in a meeting by any electronic means of communication that: (i) allows all participating members of the governing body to simultaneously communicate with each other; and (ii) allows the public to simultaneously attend and observe the meeting.
- c. A member who participates by an electronic means of communication: (i) shall be considered present for purposes of establishing a quorum; and may participate in final action only if the member can be seen and heard.
- d. All votes taken during a meeting at which at least one (1) member participates by an electronic means of communication must be taken by roll call vote.
- e. A member who participates by an electronic means of communication shall strive to notify the Secretary at least 48 hours in advance of the meeting, unless emergency circumstances dictate otherwise.
- f. Restrictions:
  - i. At least fifty percent (50%) of the members must be physically present at a meeting at which a member will participate by means of electronic communication. Not more than fifty percent (50%) of the members may participate by an electronic means of communication at that same meeting.
  - ii. A member may not attend more than a fifty percent (50%) of the meetings in a calendar year by an electronic means of communication, unless the member’s electronic participation is due to:
    1. military service;
    2. illness or other medical condition;
    3. death of a relative; or
    4. an emergency involving actual or threatened injury to persons or property.
  - iii. A member may attend two (2) consecutive meetings (a “Set”) by electronic communication. A member must attend in person at least one (1) meeting between a Set that the member attends by electronic communication, unless the member’s absence is due to:
    1. military service;
    2. illness or other medical condition;
    3. death of a relative; or



4. an emergency involving actual or threatened injury to persons or property.
- g. Minutes/Memoranda: The minutes or memoranda of a meeting at which any member participates by electronic means of communication must:
- i. Identify each member who:
    1. was physically present at the meeting;
    2. participated in the meeting by electronic means of communication; and
    3. was absent; and
  - ii. identify the electronic means of communication by which:
    1. members participated in the meeting; and
    2. members of the public attended and observed the meeting.
- h. Declaration of Emergency: If an emergency is declared by (i) the governor under Ind. Code § 10-14-3-12; or (ii) the mayor under Ind. Code §10-14-3-29; members are not required to be physically present for a meeting until the emergency is terminated. Members may participate in a meeting by any means of communication provided that:
- i. At least a quorum of the members participate in the meeting by means of electronic communication or in person.
  - ii. The public may simultaneously attend and observe the meeting.
  - iii. The minutes or memoranda of the meeting must comply with the above section.
  - iv. All votes taken during a meeting at which at least one member participates by an electronic means of communication must be taken by roll call vote.

## ARTICLE IV

### VACANCIES

The President shall inform the appropriate appointing official as promptly as possible when a member fails to attend three consecutive meetings or three of any seven meetings for the purpose of considering the replacement of said member so that the appointing official may appoint a replacement to fill out the unexpired term. Other vacancies occurring in office shall also be reported to the appropriate official for similar action.

#### Alternative Appointments

The Mayor, City Council, Delaware Township Trustee and Hamilton County Commissioners, as appointing authorities under IC 36-7-4-220(a), may appoint alternate members to their respective appointments to the Plan Commission. An alternate member has all the powers and duties of a regular member while participating in a hearing and/or decision.

An alternate member would serve as a member of the Plan Commission in a hearing or a decision if the regular member appointed is disqualified due a Conflict of Interest as defined Paragraph 6 of Article III or was unable to participate in the meeting of the Commission.

## ARTICLE V

### NOTICE OF HEARINGS

A Public Hearing is required for all rezones, text amendments, primary plat approvals, and requested subdivision waivers. Any defective notification of a required City procedure, not otherwise required by State or Federal law, does not invalidate the proceedings if the defect is determined to be harmless error by the City.

1. **Timing:** When a Public Hearing is required, public notice through newspaper and/or mailed notices shall be given not less than ten (10) calendar days (not counting the day of the hearing) prior to said Public Hearing, or as otherwise specified by State law. The meeting agenda shall be published at least 48 hours before the meeting, or as otherwise required by State code.
2. **Mailed Notice:** Names and addresses of the adjacent property owners must be obtained by the Planning & Zoning Department from the Hamilton and/or other applicable County Transfer and Mapping Office. This list should be obtained not more than ninety (90) days prior to the date of the hearing. The adjoiner list must be requested for the entire parcel if no deed has been recorded for smaller parcels. The Planning & Zoning Department must mail notice to every entity on the adjoiner list through certified mail or a certificate of mailing.
3. **Newspaper Notice:** Notice by publication shall be made by the Planning & Zoning Department in accordance with Ind. Code §5-3-1, as amended. Newspapers recognized for publishing notice are the Times of Noblesville, The Current in Fishers, and the Current in Geist.
4. **Proof:** Proof of newspaper publication and public notice mailing must be obtained by the Planning & Zoning Department at least two (2) business days before the scheduled hearing.
5. **Re-notice:** If, for any reason, the petition is not heard within seventy (70) days of the date of the published hearing date, a new or updated list of adjacent property owners from the applicable Transfer and Mapping Office must be obtained, and a revised notice stating the new public hearing date shall be sent at least ten (10) calendar days (not counting the day of the hearing) before the hearing to any new or revised adjacent property owners.
6. **All means of notice shall include:**
  - a. The case number assigned;
  - b. The time, place, and date of the hearing;

- c. A description of the petition, and requested action;
  - d. A description of the subject property location or address;
  - e. A statement that the full legal description is on file with the Department of Planning and Zoning, City of Fishers, One Municipal Drive, Fishers, IN 46038, (317) 595-3155;
  - f. A brief description of the general procedure concerning submission of public comments; and,
  - g. The name of the Petitioner.
7. On-Site Notice: The Department of Planning and Zoning shall place a notice sign on the affected property, where applicable. Notices shall be large enough to be legible from the road and shall be placed in a conspicuous place on the property.
8. Exception. The notice requirements herein shall be applicable to all petitions except those initiated by the City. In this case, the City shall determine the notice requirements, if any.

## ARTICLE VI

### HEARING AND REHEARING

1. Cases shall be heard at a meeting following a complete submission and placement on the first available Commission agenda. Cases will be heard in order of receipt of allocations.
2. At the public hearing, the Petitioner or any other party may appear on his/her own behalf or be represented by agent or by legal counsel. In the event that remonstrators retain counsel to represent them at a hearing before the Commission, then such counsel shall state that they have been retained and are present to object.
3. Order of the Hearing shall be:
  - a. Staff and the Petitioner or their representative may make a statement outlining the nature of the request and introduce such evidence as he/she may wish.
  - b. The floor shall be open for public hearing. Persons wishing to address the Commission shall state their name and address and make such remarks as they wish, pertinent to the subject matter of the application.
  - c. The Petitioner may reserve time for rebuttal at the conclusion of the public hearing as they carry the burden of proof.
  - d. The President shall formally close the public hearing and permit the members of the Commission to direct questions to the Petitioner or any other persons.
  - e. The President shall ask for any staff comments, concerns or recommendations.
  - f. The President shall call for a motion and, upon motion duly made and seconded following discussion by members of the Commission only, the matter shall be concluded by recorded vote on the motion.

Witnesses may be called and factual evidence and exhibits submitted by either Petitioner, remonstrator, or those in favor of the petition.

The President may establish appropriate time limits for arguments, but such time limits shall be equal for both sides. The President may request representatives of each side to speak for the entire group or portions of the group, but shall not require such representation against the wishes of the group involved. General guidelines are as follows:

Presentation by Petitioner	15 minutes
Public Hearing	
Individuals	2 minutes
Spokesperson	5 minutes
Petitioner Rebuttal	5 minutes
Staff	As needed for complete response

The Commission may, at the discretion of the President, extend any or all time limits.

4. The Commission shall not be bound by strict rules of evidence and may exclude irrelevant, immaterial, incompetent, or repetitious testimony.
5. A Petitioner or remonstrator, or the agent or attorney of either, may submit a list of persons favoring or opposing the petition. Such list will be accepted as an exhibit if it contains nothing more than a brief statement of the position of the persons favoring or opposing the petition together with the signatures and addresses of the persons subscribing to such statement.
6. The President may rule on all questions relating to the admissibility of evidence, which may be overruled by the majority of the Commission.
7. The Petitioners and remonstrators must present all evidence they possess concerning the case at the public hearing. No further oral testimony will be accepted after the public hearing is closed. Only a written response by Petitioners or remonstrators to the staff report, prepared solely for the case under consideration, will be accepted by the Secretary after the close of the public hearing. Statements will be accepted no later than the day on which the Commission's decision is made on the specific case in question.
8. Roberts Rules of Order shall apply in the absence of specific procedures established herein.
9. Application for rehearing may be in the same manner as the original application. Application for rehearing may be denied by the Commission if from the record it shall appear that there has been no substantial change in facts, evidence, or conditions. However, any matter not previously reviewed may be heard again on motion adopted by unanimous vote of all members at a meeting at which a quorum is present.

## ARTICLE VII

### DECISIONS

1. The Commission shall conduct its vote in public session.
2. All decisions of the Commission shall be made at a public meeting by a motion made, seconded, and determined by a roll call vote by the Secretary. Exception: approval of minutes, adjournment, and other procedural items may be made by a voice vote.
3. The motion shall include explicitly, or by reference, any findings-of-fact of the Commission. If conditions are imposed in the recommendation, such conditions shall be implicitly included in the motion.
4. Any motion deciding in favor of the Petitioner on any petition, shall require the concurring vote of the majority of the members on the Commission. The motion shall show the reasons for the determination made, and if in favor of the Petitioner, shall set forth any conditions and/or safeguards required, and any time limitations prescribed .

A case may not be withdrawn by the Petitioner after the vote has been ordered by the President. No case which has been withdrawn by the Petitioner shall again be placed on the agenda for consideration by the Commission within a period of three months from the date of said withdrawal, except upon the motion of a member, and adopted by the majority vote of all members in attendance at a regular or special meeting.

## ARTICLE VIII

### RECORDS

1. A file of materials and decision relating to each case, including notation concerning the decision, shall be kept in the office of the Commission.
2. All records of the Commission are to be considered public documents.



## ARTICLE IX

### AMENDMENT OF RULES

1. Amendments to these rules of procedure may be made by the Commission following the circulation of said amendment to the total membership prior to a regular meeting. The amendment may then be adopted upon the affirmative vote of a simple majority of the membership of the Commission.
2. The proposed amendment must be presented in writing at a regular or special meeting preceding the meeting at which the vote is taken.
3. These rules may be suspended for due cause upon the affirmative vote of all members present.

# ADOPTION OF RULES AND PROCEDURES

These rules of procedure were adopted by the City of Fishers Advisory Plan Commission on February 9, 2022.

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*Howard Stevenson*  
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President

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*Pete Peterson*  
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Vice-President

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Member

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*Todd Zimmerman*  
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Member

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*Rick Fain*  
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Member

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*Dawn Lang*  
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Member

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Member

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Member

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*Bruce Molter*  
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Member

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Member

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Member

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Secretary