

## **RULES AND PROCEDURES FOR THE PLANNING COMMISSION OF THE TOWN OF EDINBURGH, INDIANA**

Whereas, the Town of Edinburgh Planning Commission is authorized and required by I.C. 36-7-4-200 Series to supervise and make rules for: the planning and regulation of real property; the inspection of structures or improvements; the regulation of the repair, alteration, construction, or destruction of structures and improvements; the regulation of movement or removal of earth below ground level; the promotion of economic development and tourism; and

Whereas, the Town of Edinburgh Planning Commission determines that its rules should be printed and be made readily available to all applicants and other interested persons;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN OF EDINBURGH PLANNING COMMISSION, THAT THE FOLLOWING RULES BE ADOPTED.

### **ARTICLE I - OFFICERS AND STAFF**

#### **1. ELECTION OF OFFICERS**

- a. The Planning Commission shall, at its first meeting of each year, elect a President, a Vice President, and may elect a Secretary from its members. A person who receives a majority vote of the entire membership of the Commission shall be declared elected and shall serve until a new person is declared elected to the office at the first meeting of the following year.

#### **2. PRESIDENT**

- a. The President shall preside over all regular and special meetings of the Planning Commission. The President shall appoint committees. The President shall also rule on all points of procedure, unless overruled by a majority vote of the Commission. The President shall sign all official documents on behalf of the Commission. The President shall be the spokesperson for all matter relevant to the Commission. All press releases and similar public statements issued by the Commission shall be provided by the President.

#### **3. VICE PRESIDENT**

- a. The Vice President shall act as President during the absence or disability of that officer. The Commission shall elect a President pro tempore from among its members if both the President and the Vice President are absent or disabled.

#### 4. SECRETARY

- a. The Secretary shall keep a complete and accurate record of all proceedings and votes of the Commission, and assume all responsibility for the custody and preservation of all papers and documents of the Commission, and shall prepare, publish and distribute reports, ordinances and other material related to Commission activities.

#### 5. STAFF

- a. The Building Commissioner or his/her assignee shall provide technical and analytical assistance to the Commission. The Director shall conduct a complete and thorough investigation of all matters that come before the Commission and may enlist at his/her discretion, technical and professional assistance from engineers, architects and other consultants as required.

### **ARTICLE II - MEETINGS AND PUBLIC HEARINGS**

#### 1. ORDER AND COURTESY

- a. The President or the Commission's designee shall preserve order and may warn any member or other person present that particular conduct may be a breach of peace. If any person persists in such conduct following the warning, the President or the Commission's designee may call a recess and request the assistance of local law enforcement to enter and restore order as allowed by law.



#### 2. PROCEDURAL RULES

- a. The most recent edition of *Robert's Rules of Order* shall govern the conduct of all meetings except to the extent that it conflicts with the Law and these rules.

#### 3. ALL MEETINGS AND HEARINGS PUBLIC

- a. All meetings and hearings of the Commission, except executive sessions, shall be open to the public and petitioner(s) remonstrator(s) and other persons desiring to be heard shall have the right to be heard, in accordance with these rules.

#### 4. REGULAR MEETINGS

- a. The Commission shall conduct regular meetings the Tuesday following the Third Monday of each month at 6:00 P.M. in the Edinburgh Town Hall. If the date of a regular meeting falls on a legal holiday recognized by the Town of Edinburgh, or if it is impossible to conduct the meeting at that time or place, the President may set an alternative date, time or place for the regular meeting. Notice shall be given as required by I.C. 36-7-4-920(b) and the meeting shall be subject to the State Open Door Law.

#### 5. SPECIAL MEETINGS

- a. Special meetings shall be held upon call of the President, written request by two Commission members or as determined at a regular meeting. All members shall be notified of the time and place of a special meeting. Only matters included in the call for a special or emergency meeting shall be considered. Notice shall be given in the same manner as required for regular meetings.

## 6. QUORUM

- a. A quorum consists of a majority of the entire membership of the Planning Commission who are qualified to vote. No action of the Commission is official however, unless approved by a majority of the entire membership of the Commission.



## 7. ORDER OF BUSINESS

- a. The order of business at a regular meeting shall be:

- i. Call to order;
- ii. Roll call and determination of quorum;
- iii. Reading of minutes of previous meeting;
- iv. Approval of minutes;
- v. Swearing in of person(s) giving testimony;
- vi. Report of officers and committees;
- vii. Old business (tabled or continued items);
- viii. New business;
- ix. Communications;
- x. Adjournment.

- b. The order of business for special meetings shall be:

- i. Call to order;
- ii. Roll call and determination of quorum;
- iii. Swearing in of person(s) giving testimony;
- iv. The business for which the special meeting was called;
- v. Adjournment.

## 8. AGENDA

- a. The agenda shall list all items to be considered by the Commission at the regular or special meeting. The items shall be listed on the agenda in the order in which the petition or other document was filed with the Secretary. No item shall be considered by the Commission unless it appears on the agenda. A petition may be withdrawn by the petitioner at any time prior to the meeting at which it was to be considered subject to notification rules herein.

- b. The agenda shall be sent by U.S. Mail to all members of the Commission and each petitioner or his agent, along with any party or group filing written request for that calendar year to reserve the agenda. The agenda shall be available for public inspection at the Town Hall no later than (48) hours before any regular meeting.

## 9. HEARINGS

- a. A hearing is any proceeding involving the approval or denial of a subdivision by the Commission or an appeal to the Commission.
- b. A hearing may be held as a part of any regular or special meeting or at any other place or time if the notice required by these rules and by is given. The conduct of the hearings shall be governed by the following:
  - i. To the extent necessary for full disclosure of all relevant facts and issues, the Commission shall afford all parties the opportunity to present evidence and argument, respond, conduct cross examination, and submit rebuttal evidence, except as restricted by a limitation of these Rules.
  - ii. The President or a designee may administer oaths and affirmations and rule on any offer of proof, evidence or other motion.
  - iii. Nonparties shall have an opportunity to present oral or written statements. When the opportunity is allowed, then all the parties shall have the opportunity to challenge or rebut written statements.
  - iv. The hearing shall be recorded at the Commission's expense. The Commission is not required, at its expense, to prepare a transcript, unless required to do so by law. Any person, at the person's expense, may cause a reporter approved by the Commission to prepare a transcript from the Commission's record, or cause additional recordings to be made during the hearing so long as it does not cause a distraction or disruption.

## 10. APPEARANCES

- a. The petitioner and any remonstrators or their agents must appear in person or by counsel to present a petition or an oral remonstrance for the Commission to consider their cases. A written remonstrance filed with the Commission before the hearing may be considered by the Board and be made a part of the record of the hearing without requiring the appearance of the remonstrator; such a remonstrance shall include the remonstrator's signature, printed name, address and telephone number.
- b. If no person appears on behalf of a petition, the petition may be tabled until the following meeting or dismissed.

## 11. CONTINUANCES

- a. All continuances on petitions shall be filed subject to the following:
  - i. The Commission or the Commission's staff may request a continuance not to exceed sixty (60) days in which to review the petition or to allow the investigation or review of issues not raised in the original petition or new matters.
  - ii. All requests for continuances must be made to the Commission or its staff prior to the hearing.
  - iii. The Board or its designee will determine whether the continuance will be granted. A continuance shall not be unreasonably denied.
- b. A party may request a continuance not to exceed sixty (60) days. The request shall be in writing and include the reasons for the request. Petitioner(s) or remonstrator(s) may request a continuance to a date certain, as specified below. Such request shall be in writing and filed with the Commission designee no later than the Friday immediately preceding the day of the scheduled hearing. The request shall:
  - i. Specify the date to which the party is requesting that the hearing be continued;
  - ii. Indicate whether it is the first request made by the party for a continuance for the hearing; and
  - iii. Contain a certification that notice of the request has been given to other parties as required below.
- c. A party requesting a continuance shall give notice to all parties required to be served with notice and to attorneys or agents who have entered their appearance or are known by the party requesting the continuance to represent petitioner(s) or remonstrator(s).
- d. The Commission may, at any time, in its own discretion, continue the hearing of any petition. On its own motion, the Commission may determine if re-notification of interested property owners shall be required if a petition is continued at a hearing for which proper notice was given by the petitioner in compliance with the notice requirements. A continuance may be granted by the Commission at the hearing if a showing is made of good cause.
- e. If the petitioner fails to appear at a hearing on the petition, either in person or by counsel, without sufficient reason, the petition may be dismissed or the matter may be continued. Petitions will be dismissed after one hundred eighty (180) days of inaction unless good cause is shown.

## 12. AMENDMENTS TO ANY PETITION

- a. Requests to amend a petition may be filed in writing prior to the start of any hearing, or made orally at the hearing. Any remonstrators present shall have the right to be heard on any objections they may have to such a proposed amendment. It shall be within the discretion of the Commission to grant or deny any requests for amendments and to require re-notification in compliance with these rules. Provided, however, any proposed amendment to modify additional standards or regulations of the applicable ordinance(s) shall be re-docketed and republished and the petitioner shall pay an additional filing fee.



## 13. REQUIRED FINDINGS OF FACT

- a. At the time of filing a petition, proposed, detailed, written findings of fact may be filed with the Commission by the staff. Any other interested party may file proposed findings of fact at any time prior to the hearing subject to these rules. The Commission shall in all cases heard by it, make written findings of fact.

## 14. SPECIFICATIONS FOR DOCUMENTS TO BE SUBMITTED

- a. Documents to be submitted to the Commission must follow certain guidelines set forth in accordance with the Subdivision Control Ordinance of the Town of Edinburgh, Indiana.

## 15. REQUIRED FORMS AND CERTIFICATES

- a. All applications, requests for plat approval, notices, affidavits, certificates, endorsements and instruments submitted to the Commission must follow the forms set forth in accordance with the Application Packet of the Planning Commission and of the Subdivision Control Ordinance of the Town of Edinburgh, Indiana.

## 16. COMMUNICATION WITH COMMISSION MEMBERS

- a. A person may not communicate with any member of the Commission with intent to influence the member's action on a matter pending before the Commission. Not less than five (5) days before the hearing, however, the staff shall file with the Commission a written case report setting forth any facts relating to the matter. Staff reports shall be available to the Commission five (5) days prior to the hearing. The petitioner and the Commission shall notify each other of any new pertinent information as soon as possible.



- b. The Petitioner may not contact any departments within the Town of Edinburgh to discuss, instruct, communicate, or otherwise exchange information relevant to said

petition without first informing the Building Commissioner of said intent. All submittal and related materials will be channeled through the Building Commissioner.

## 17. PRESENTATIONS

- a. The Commission shall act on petitions in the following order:
  - i. The application shall be read and the affected area located on a Town Map.
  - ii. The Building Commissioner or designee shall present the case report reflecting the facts of the Petition.
  - iii. The Petitioning party shall present facts relating to the case, with approximately 20 minutes being available for the presentation. The burden to supply all information necessary for a clear understanding of the case shall be upon the Petitioner.
  - iv. Each remonstrating party shall have the opportunity to present facts relating to the case, with approximately 20 minutes total being available for their presentations.
  - v. The Commission shall then recognize those nonparties who have registered and allow approximately ten minutes for their presentations.
  - vi. The Commission may direct questions to any speaker.
  - vii. The Petitioner shall then be allowed approximately 10 minutes in which to present rebuttal.
  - viii. The staff shall present a staff report setting forth any opinions relating to the petition and may recommend specific action to be taken by the Commission.
  - ix. The President shall call for a discussion by the members.
  - x. The President shall call for a motion to accept as submitted.



## 18. INDECISIVE VOTE

- a. When a vote of the Commission does not result in an official action of the Commission, the petition shall be automatically continued, re-docketed and heard at the next regularly scheduled meeting of the Commission.

## 19. CONFLICTS OF INTEREST

- a. Any member of the Commission may not participate in a hearing or decision of the Commission concerning any matter in which he or she has a direct or indirect financial interest. Any member with a conflict must notify the Commission, in writing, three (3) days prior to the hearing and that notification be entered in the Commission's records. If a case should arise where a quorum is needed for a hearing an appointment of a temporary Commission Member shall be made by the appointing body at the President's request.

## 20. VISUAL INSPECTION



- a. Commission members should make a reasonable effort to visually inspect the subject property/properties for which petitions have been filed.

## **ARTICLE III - PLANNING COMMISSION CASELOAD NOTICE AND PROCEDURE**

### 1. APPLICATIONS

- a. Every petitioner for a rezoning, annexation, or subdivision of properties shall complete an application supplied by the Planning Commission. The application shall be in the following form set forth in the Application Packet. The petitioner may be required to submit any additional information deemed relevant for consideration by the Commission, including written proof that the petitioner is the agent of the property owner or owner(s) if the petitioner is not the sole owner of the property.

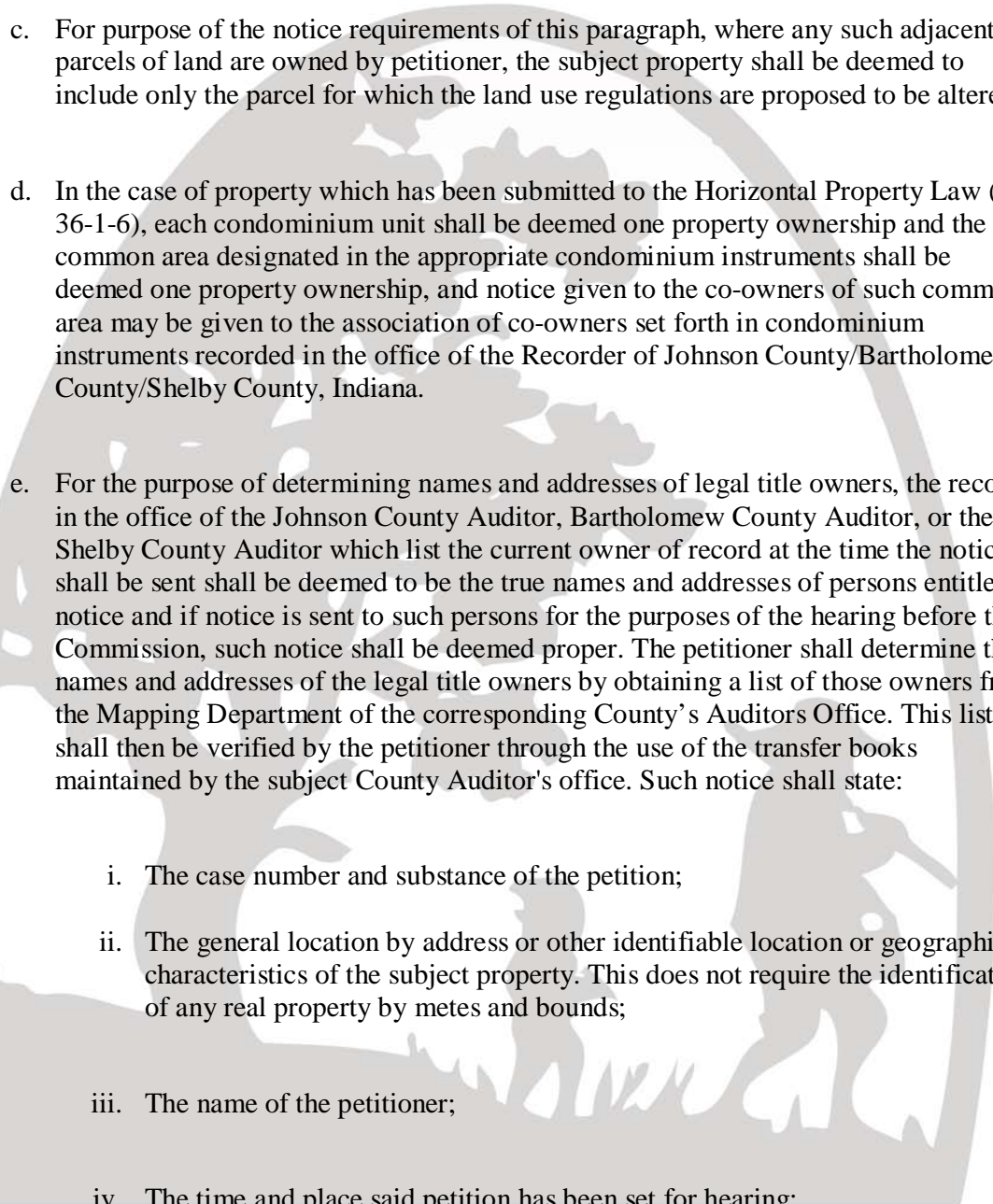
### 2. FILING REQUIREMENTS

- a. Every petition shall be filed with the Planning Commission no later than thirty-three (33) days prior to its consideration by the Commission. Any appeal to the Commission shall be filed with the Commission within thirty (30) days.

### 3. NOTICE REQUIREMENTS

- a. In all matters relating to rezoning, annexations, and/or subdivision of properties the petitioner shall prepare a legal notice on a form prescribed by the Commission. The legal notice shall be advertised in the Johnson County Daily Journal and The Republic newspapers for all cases and an additional legal notice must appear in the Shelbyville News newspaper if the subject property is located in Shelby County, not less than ten (10) days prior to the date of the hearing. The petitioner shall assume the cost of said notice and shall submit proof of publication.



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- b. Additional notice, on a form prescribed by the Commission shall be given by the petitioner and verified by a certificate of mailing at least ten (10) days before the date of the hearing to the owners of all adjoining parcels within five hundred (500) feet of the perimeter of the subject property or two property owners whichever is a lesser distance.
  - c. For purpose of the notice requirements of this paragraph, where any such adjacent parcels of land are owned by petitioner, the subject property shall be deemed to include only the parcel for which the land use regulations are proposed to be altered.
  - d. In the case of property which has been submitted to the Horizontal Property Law (I.C. 36-1-6), each condominium unit shall be deemed one property ownership and the common area designated in the appropriate condominium instruments shall be deemed one property ownership, and notice given to the co-owners of such common area may be given to the association of co-owners set forth in condominium instruments recorded in the office of the Recorder of Johnson County/Bartholomew County/Shelby County, Indiana.
  - e. For the purpose of determining names and addresses of legal title owners, the records in the office of the Johnson County Auditor, Bartholomew County Auditor, or the Shelby County Auditor which list the current owner of record at the time the notice shall be sent shall be deemed to be the true names and addresses of persons entitled to notice and if notice is sent to such persons for the purposes of the hearing before the Commission, such notice shall be deemed proper. The petitioner shall determine the names and addresses of the legal title owners by obtaining a list of those owners from the Mapping Department of the corresponding County's Auditors Office. This list shall then be verified by the petitioner through the use of the transfer books maintained by the subject County Auditor's office. Such notice shall state:
    - i. The case number and substance of the petition;
    - ii. The general location by address or other identifiable location or geographic characteristics of the subject property. This does not require the identification of any real property by metes and bounds;
    - iii. The name of the petitioner;
    - iv. The time and place said petition has been set for hearing;
    - v. That the petition and file, including the legal description of the subject property, may be examined in the offices of the Building Commissioner.

- vi. An informational brochure describing the public hearing process shall be supplied by the Building Commissioner and reproduced and distributed to the adjoining property owners by the petitioner with the notice at the cost of the petitioner.
  
- f. Further, the petitioner shall permit the staff to place a sign of public notice on the subject property. This sign will be placed on the subject property on the date which has been established as the application deadline for the meeting at which the petition will be heard. The petitioner must allow the sign to remain on the subject property until the final disposition of the petition. The sign will be removed by the staff the day following the final disposition of the petition.
  
- g. Adequate notice is given under these rules if:
  - i. By certificate of mailing not less than ten (10) days prior to the hearing advising the location and nature of the subject appealed or petitioned and the date, place, and item of the public hearing as stated herein, or;
  - ii. The petitioner obtains the signatures of all interested parties on a form supplied by the Commission stating the date, time and place of the hearing, the name of the petitioner, and briefly describes the variance or special exception requested. The signature of any person is not to be construed as a waiver or consent to the petition, but simply evidence that the person has received notice. The completed form must be filed with the Commission before it may act on the petition.



#### 4. AFFIDAVIT OF NOTICE

- a. Petitioner, his attorney or agent, shall furnish evidence of compliance with the above notice requirement by filing a notarized statement in the offices of the Commission, listing the names, addresses, and plat map numbers of the property owners and neighborhood organizations to whom notice was sent. Said notarized statement shall be postmarked or filed in the offices of the Commission within two (2) business days prior to the hearing date. For purpose of this paragraph, "business day" shall refer to a day when the offices of the Commission 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.

#### 5. DEFECTIVE NOTICE

- a. If proper notice has not been given, the Commission shall continue the petition until a later date to allow time for unnotified persons to prepare for the hearing. Personal appearances shall waive any defect in notice unless said defect is timely raised at the beginning of the hearing when the Commission is considering requests for continuances.

## 6. MAJOR SUBDIVISIONS

- a. The steps involved in major subdivision approvals are as follows:
  - i. Sketch plan;
  - ii. Administrative review;
  - iii. Pre-submittal conference;
  - iv. Submission of preliminary plat to Building Commissioner;
  - v. Building Commissioner review;
  - vi. Subdivider's notifications;
  - vii. Commission either approves, conditionally approves, or rejects the petition;
  - viii. Subdivider obtains [mal drainage approval;
  - ix. Surveyor prepares final plat and submits for review;
  - x. Recording of the final plat.

## 7. MINOR SUBDIVISIONS

- a. The steps in minor subdivision approvals are as follows:
  - i. Sketch plan;
  - ii. Administrative review;
  - iii. Pre-submittal conference;
  - iv. Submission of preliminary plat to Building Commissioner;
  - v. Building Commissioner review;
  - vi. Subdivider's notifications;
  - vii. Commission either approves, conditionally approves, or rejects the petition;
  - viii. Surveyor prepares final plat and submits for review;
  - ix. Recording of the final plat.

## 8. ANNEXATION PROCEDURES

- a. The steps in the annexation process are as follows;
- b. Submit a written annexation request to Planning Commission for review. The request must include the following:
  - i. All applicable fees;
  - ii. Complete legal description;

- iii. Location map;
- iv. Request for re-zoning or verification of existing zoning.
- v. Present request for annexation before next regularly scheduled meeting of Planning Commission.
- vi. Plan Commission forwards recommendations to the Edinburgh Town Council.

## 9. REQUEST FOR ANNEXATION

- a. In order for an annexation to withstand a legal challenge, one of the following two sets of conditions must be met:
  - i. At least one-eighth (1/8) of the aggregate external boundaries of the territories sought to be annexed must coincide with the boundaries of the annexing municipality, and the resident population of the area sought to be annexed must be equal to at least three (3) persons per acre; or the land must be rezoned for commercial, business or industrial use; or 60 percent (60%) of the land must be subdivided. (I.C. 36-4-3-13)
  - ii. At least one-fourth (1/4) of the aggregate external boundaries of the territory sought to be annexed must coincide with the boundaries of the annexing municipality, and the territory sought to be annexed is needed and can be used by the municipality for its development in the reasonably near future.

## **ARTICLE IV - FINAL DISPOSITION OF PETITIONS**

### 1. DISMISSAL OF PETITIONS

- a. The Commission may dismiss any petition for want of prosecution or for lack of jurisdiction. Any petition which has been dismissed by the Commission for want of prosecution shall not be filed for reconsideration by the Commission within a period of twelve (12) months from the date of the dismissal, unless the Commission grants an approval petition to permit a refile of the petition.

### 2. WITHDRAWAL OF PETITIONS

- a. No petition may be withdrawn by the petitioner after a vote has been ordered by the President. No petition which has been withdrawn by the petitioner shall again be filed for consideration by the Commission within a period of three (3) months from the date of said withdrawal, unless the same Division of the Commission grants an approval petition to permit a refile of the petition.

### 3. REFILING FOLLOWING ADVERSE DECISIONS

- a. Any petition which was denied by the Commission shall not be reheard by the Commission for a period of twelve (12) months, with said twelve (12) month period commencing with the date the respective petition was denied. However, the

Commission may allow any such petition to be reheard before the expiration of said twelve (12) month waiting period if both of the following conditions are met:

- i. A majority of the entire membership of the Commission votes in favor of rehearing the petition at a subsequent meeting of the Commission, and
- ii. Said petition is filed and considered pursuant to all of the other rules, regulations, and requirements contained herein, including the provision that all of the public notice requirements outlined in Article III of these *Rules and Procedures* are met prior to any such petition being reheard by the Commission.

#### 4. LETTER OF GRANT OR DENIAL

- a. Following the Commission's action on a petition before the Planning Commission, the Building Commissioner shall notify the petitioner of the Commission's decision by sending the petitioner a letter of grant or denial which shall include, if a letter of grant, all conditions imposed by the Commission.

### **ARTICLE V - AMENDMENTS AND SUSPENSIONS**

#### 1. AMENDMENTS

- a. These rules may be amended by a two-thirds (2/3) vote of the membership of the Commission.

#### 2. SUSPENSIONS

- a. These rules or any portion of them may be suspended by a two-thirds (2/3) vote of the membership of the Commission. No suspension shall continue beyond the adjournment of the meeting at which the motion to suspend was passed.

#### 3. EFFECTIVE DATE

- a. These rules shall enter into effect immediately upon the adoption of this Resolution.

#### 4. FEDERAL AND STATE LAW

- a. Notwithstanding any other provisions hereof, nothing herein shall require the Commission to observe any other act, or do any other thing, in contravention of any applicable federal or state law.

#### 5. APPLICABLE LAW

- a. These rules shall be construed in accordance with the laws of the State of Indiana.

6. SEVERABILITY

- a. Should any provision of these rules be void or unenforceable, such provision shall be deemed omitted, and these rules with such provisions omitted, shall remain in effect.

*These Rules and Procedures are hereby adopted on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by the Plan Commission of the Town of Edinburgh, Indiana.*

\_\_\_\_\_  
President, Edinburgh Planning Commission

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Vice President, Edinburgh Planning Commission

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Secretary, Edinburgh Planning Commission

