

Town of Frankton Advisory Plan Commission
Rules of Procedure

ARTICLE I. GENERAL PROVISIONS

1. These Rules of Procedure are established in conformity with Ind. Code § 36-7- 4-0.1 *et seq.* and all acts amendatory thereof and are supplementary to the provisions of the Town of Frankton (“Town”) Code of Ordinances and Unified Development Ordinance (“UDO”), as they relate to procedures of the Town of Frankton Advisory Plan Commission (“Plan Commission”).

2. In all matters not otherwise provided for by statute, ordinance or these rules, the most recent edition of Robert’s Rules of Order, as interpreted by the Plan Commission’s presiding officer, shall govern the conduct of the Plan Commission meetings.

3. The Plan Commission shall keep records of its proceedings and record the vote on all actions taken. All minutes and records shall be filed in the Frankton Town Hall, 204 E. Sigler Street, Frankton, IN 46044, and are public record.

4. Every person appearing before the Plan Commission or a committee thereof shall abide by the order and direction of the presiding officer of the Plan Commission or committee. Discourtesy or disorderly or contemptuous conduct shall be regarded as a breach of the privileges of the Plan Commission or committee and shall be dealt with as the presiding officer directs.

5. Amendments or suspension to these rules of procedures may be made by the Plan Commission at any regular or special meeting upon the affirmative vote of a majority of the members of the Plan Commission.

6. Any application required to be made hereunder shall be completed and submitted to the Town Clerk no later than ten (10) days prior to the scheduled Plan Commission meeting at which it is to be heard.

ARTICLE II. POWERS AND DUTIES OF THE PLAN COMMISSION

1. The Plan Commission shall make recommendations to the Frankton Town Council concerning:
 - (a) The adoption of a resolution establishing a comprehensive plan and amendments thereto;
 - (b) The adoption of a UDO, zoning map and amendments thereto;
 - (c) Adoption of or amendments to planned unit development districts; and (d) Any other matter, within the jurisdiction of the Plan Commission, authorized by Indiana law.

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2. The Plan Commission shall render decisions concerning the approval or denial of the following:
 - (a) Primary plats and vacation of subdivision plats;
 - (b) Development plans;
 - (c) Commitments made to the Plan Commission.
3. The Plan Commission President may appoint such committees as determined necessary from time to time.
4. The Plan Commission hereby delegates to the Administrator and/or Building Inspector the duties of rendering decisions concerning the approval or denial of secondary plats and re-plats of subdivisions, the assignment of street numbers to lots and structures, and the naming of streets within the jurisdiction of Plan Commission.
5. The Plan Commission may utilize the Town's administrative staff to discharge the duties and responsibilities of the Plan Commission.
6. The Town Attorney shall be consulted in cases where the powers of the Plan Commission are not clearly defined.

ARTICLE III. PLAN COMMISSION MEMBERS, OFFICERS AND STAFF

1. Plan Commission Members. The Plan Commission membership is governed by Ind. Code § 36-7-4-201 *et seq.* and shall consist of seven (7) members.
 - (a) Citizen Members: The President of the Town Council appoints four (4) citizen members to the Plan Commission. No more than two of these appointed citizen members may be from the same political party, and each citizen member must reside or hold real property in the jurisdictional area of the Plan Commission. In accordance with Ind. Code § 36-7-4-216, citizen members of the Plan Commission shall be appointed based upon the member's knowledge and experience in community affairs, the member's awareness of the social, economic, agricultural and industrial circumstances of the area, and the member's interest in the development and integration of the area. A citizen member may not hold an elected office or any other appointed office in municipal, county or state government, except for membership on the Town of Frankton Board of Zoning Appeals. Each citizen member serves a term of four (4) years.
 - (b) Government Members: The Town Council appoints the remaining three (3) members of the Plan Commission. These three members must be elected or appointed Town officials or employees, and their terms are coextensive with each member's term of office in their elected or appointed positions.

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2. Conduct of Plan Commission Members.

- (a) Plan Commission members shall adequately prepare before each meeting to be informed about the matters and issues on the meeting's agenda.

- (b) A member of the Plan Commission may not directly or personally represent another person or entity in a hearing before the Plan Commission concerning a zoning decision.
- (c) Disqualification: A member of the Plan Commission is disqualified and may not participate as a member of the Plan Commission in a hearing concerning a zoning decision, such as subdivision control, an appeal from a commitment or modification, a termination of a rezoning or planned development, a rezoning, development plans, and/or a planned unit development in which the member has a direct or indirect financial interest. Furthermore, a member of the Plan Commission is disqualified and may not participate as a member of the Plan Commission in a hearing regarding a zoning decision if the member is biased or prejudiced or otherwise unable to be impartial. Upon disqualification, the Plan Commission member shall enter his or her reason for the record.

- (d) Conflicts of Interest: A "conflict of interest" is:
 - (i) A direct or indirect financial interest in any matter before the Commission;

 - (ii) An interest in any property close enough to receive written notice of the matter before the Plan Commission (this particular subsection applies to both members of the Plan Commission, as well as to members of the Plan Commission staff); or

 - (iii) A familial relationship with the applicant or any other person who stands to gain a measurable financial benefit from the matter before the Plan Commission. For purposes of this subsection, a "familial relationship" includes the Plan Commission member's spouse, parent, aunt/uncle, grandparent, child, grandchild, sibling or niece/nephew.

- (e) If a Plan Commission member believes he or she may have a conflict of interest in any matter before the Plan Commission, he or she must recuse himself or herself from voting. The Plan Commission member shall also abstain from any vote on any document that results from the conflict of interest matter. The affected Plan

Commission member shall be disqualified from participating in the matter and shall voluntarily remove himself or herself from the meeting while the matter is being deliberated by the remaining members of the Plan Commission.

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- (f) In accordance with Ind. Code § 36-7-4-223(f), Plan Commission members who are disqualified from an entire meeting may not receive mileage or any other compensation for attendance at the meeting.
- (g) Ex parte contacts: No person, firm, corporation, other entity, applicant or remonstrator shall contact any Plan Commission member, orally or in writing, in advance of a public hearing on a matter pending before the Plan Commission for the purpose of attempting to influence any Plan Commission member's decision; provided, however, the Plan Commission understands that communications may be permitted when a Plan Commission member also serves in a staff/employee role of the Town, so long as such communications are related solely to that role.
- (h) Plan Commission members must be physically present at the public meeting to vote on any matter before the Plan Commission. If a member of the Plan Commission misses three consecutive regular meetings, or a total of six meetings of the Plan Commission in any calendar year, it will be considered cause for removal and the member may be terminated in accordance with Ind. Code § 367- 4-218(f).
- (i) Any violation of this section constitutes cause for removal of the Plan Commission member by his or her appointing authority in accordance with Ind. Code § 36-7-4-218(f).

3. Election of Officers.

- (a) The officers of the Plan Commission are the President and Vice President. The officers of the Plan Commission shall be elected at the first regular meeting of the Plan Commission in January of each year. The person serving as presiding officer of the Plan Commission at the last meeting of the preceding year shall entertain nominations for each office chosen under these rules. Whenever a candidate receives a majority vote of the entire membership of the Plan Commission, that person shall be declared elected. Each officer elected under these rules shall enter into office immediately upon being declared elected and shall serve until his or her successor is declared elected at the first meeting of the following year or until the officer is no longer a member of the Plan Commission. Whenever any office becomes vacant, the Plan Commission shall elect a successor at its next regular meeting to complete the remainder of the unexpired term.

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- (b) President: The President shall preside over all regular and special meetings of the Plan Commission. The President shall perform the duties normally performed by a presiding officer, including the appointment of committees, and ruling on all points of procedure. The President may participate in the discussion of all matters before the Plan Commission and vote on any question before the Plan Commission. The President shall sign all official documents on behalf of the Plan Commission. Each standing committee shall consist of at least three (3) members. The term of each committee member shall expire not later than December 31 of the year of appointment. The President shall fill any committee vacancy immediately and announce the appointment at the following meeting of the Plan Commission. The President may also appoint special committees for any purpose and for any term subject to the approval of the Plan Commission.

- (c) Vice President and President Pro Tempore: The Vice President shall act as President during the absence or disability of the President. The Plan Commission shall elect a President pro tempore from among its members if both the President and Vice President are absent, disabled or otherwise disqualified.

4. Plan Commission Staff.

- (a) Secretary: The Plan Commission shall appoint a Secretary, who shall serve at its pleasure. The Secretary may or may not be a member of the Plan Commission. The Secretary shall: (1) keep a complete and accurate record of all proceedings and votes of the Plan Commission; (2) provide notice of meetings to Plan Commission members as directed by the Town Clerks; and (3) perform all other duties normally carried out by a recording secretary or as specifically assigned by the Town Clerks or Plan Commission.

- (b) Administrator: The Town Utility Clerks shall a serve as the Plan Commission Administrator. The Administrator shall supervise the Plan Commission staff, administer the daily affairs of the Plan Commission, and conduct all investigations required to administer the UDO. The Administrator shall establish personnel policies and office procedures, including: (1) preparation of the agenda of all regular and special meetings; (2) arrangement for all required legal notices for public hearings of the Plan Commission; (3) date stamping and attending to all correspondence directed to the Plan Commission; (4) recording and filing all bonds and contracts and assuming all responsibility for custody

and preservation of all papers and documents of the Plan Commission; (5) under Ind. Code § 36- 7-4-405 and unless otherwise directed by the Plan Commission, assignment of street numbers to lots and structures and renumbering lots and structures as necessary; and (6) all other duties as may be directed or assigned by the Plan Commission.

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ARTICLE IV. REGULAR MEETINGS

1. Regular Meetings. Regular meetings of the Plan Commission shall be held on the second Monday of every month at 5:00 p.m., local time, at the Frankton Police Department, 108 E. Sigler Street, Frankton, IN 46044, provided that, if said day shall fall on a legal holiday, the Plan Commission may by unanimous consent of the members, fix an alternative day, time and place for the holding of a regular meeting without requiring an amendment to these rules or adopt a schedule of meeting dates and filing deadlines for the following year. All meetings shall adjourn not later than 7:30 p.m. Any cases remaining to be heard on an agenda at time of adjournment shall be rescheduled for hearing at a special meeting within one (1) week of the original meeting.
2. Regular meetings of the Plan Commission may be canceled by the President or staff when there are no cases pending or when a quorum is not going to be present. Notification must be given to the members as soon as reasonably practicable under the circumstances. If any meeting lasts longer than 7:30 p.m. or such time as may otherwise be determined necessary by the Plan Commission, the Plan Commission may, by a majority vote of the Plan Commission members present in their discretion, agree to continue the meeting to a later date, time and place; provided, however, that the date, time and place of the reconvened meeting is publicly announced at and recorded in the minutes of the original meeting and there is no change to the agenda.
3. All meetings of the Plan Commission shall be conducted in accordance with Ind. Code § 5-14-1.5-1 *et seq.*, as amended from time to time. On-site inspections of property involved in applications before the Plan Commission shall not be considered meetings. In accordance with Ind. Code § 36-7-4-306, the minutes of Plan Commission meetings and all records shall be filed in the Plan Commission office and are public records.
4. A majority of the total membership of the Plan Commission shall constitute a quorum. The total membership of the Plan Commission is seven (7) members. No action shall be binding unless approved by a majority of the entire membership of the Plan Commission at a regular meeting or duly called special meeting. Four (4) members constitute a majority. A quorum consisting of a minimum of four (4) members of the Plan Commission shall be present for the transaction of any business. Voting shall be verbal with a roll call vote taken if requested. For any divided vote, a roll call shall be taken. A record of the roll call vote shall be kept in the minutes.

5. All regular meetings shall list all items to be considered by the Plan Commission on the agenda. The items shall be listed on the agenda in the order in which the application or other document was filed with the Town Clerks office. No item shall be considered by the Plan Commission unless it appears on the agenda.

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All regular meetings of the Plan Commission shall proceed as follows:

- (a) Roll call and declaration of a quorum by the President.
- (b) Approval of the minutes of the previous meeting(s).
- (c) Hearing of requests for continuances.
- (d) Call of cases on agenda.
 - i. Old business
 - ii. Continued public hearings
 - iii. New public hearings
- (e) Communications and committee reports.
- (f) Miscellaneous business.
- (g) Adjournment.

ARTICLE V. SPECIAL MEETINGS

Special meetings of the Plan Commission may be called by the President or by two (2) members of the Plan Commission upon written request to the Secretary. Written notice shall be sent to all members at least three (3) days before the meeting, fixing the time, date and place of the meeting, and notice of the special meeting shall be advertised in accordance with Ind. Code § 5-14-1.5-1 *et seq.* The notice for the meeting shall specify its purpose. No other business may be considered at that meeting except by unanimous consent of the Plan Commission. Special meetings may be conducted in accordance with or without a meeting agenda. If a special meeting is at the request of the applicant, the applicant must bear the cost of holding the special meeting, in accordance with the Town's UDO fee schedule.

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ARTICLE VI. PUBLIC HEARING PROCEDURES

1. General. The Plan Commission may conduct a public hearing as part of any regular or special meeting as are required by Indiana law and the Town of Frankton Code of Ordinances or UDO. At the time of a hearing, the applicant shall appear on his or her own behalf or be represented by counsel. In addition to those required by law, the Plan Commission may, at its discretion, hold public hearings when it decides that hearings will be in the public interest.
2. Notice of Public Hearing. Notice of all public hearings shall be published in Elwood Call Leader by the applicant on behalf of the Town at least ten (10) days before the date of the hearing. The notice shall be completed by the applicant using the notice materials and forms provided by the Town. Applicant shall submit written confirmation that the notice of public hearing has been submitted to the required newspaper for publication in accordance with the established deadlines prior to the hearing. Applicant shall also submit the proof of publication as soon as received from the newspaper(s), but in no event later than the date of the hearing.
3. Notice to Interested Parties.
 - (a) Interested Parties: All persons with a legal interest in the property affected by an application, all persons with real property abutting the property subject to an

application, and all owners of real property to a depth of two (2) ownerships or three hundred (300) feet, whichever is less, are considered interested parties for purposes of this section. The term “legal interest” shall include the interest of any person in whose name is vested the legal title of the property, as may be shown by the public records of Madison County, Indiana, and his or her heirs, executors, administrators, trustees, successors and assigns, as may be shown by affidavit, deed or other conveyance instrument, or land contract.

(b) In order to determine the names and addresses of interested parties to whom notice must be sent under this section, the applicant or his/her agent shall consult current property records located in the Office of the Auditor of Madison County, Indiana. A good faith effort shall be made to investigate and resolve any discrepancies or omissions in or among such records in order to determine the name and address of the interested party. Each notice shall be mailed and postmarked no later than the ten (10) business days after the date upon which the name and address of the interested party were obtained from the property records in the Auditor’s office, as described herein.

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(c) Adequate notice to interested parties is provided under this section if the applicant, at least fourteen (14) days before the scheduled public hearing, sends notice by USPS First Class Mail, with a Certificate of Mailing, to all interested parties on a form provided by the Town Hall as set forth in this section. The form must inform the interested party of the type of application that has been filed with the Plan Commission and state the time, date, and place of the public hearing. The applicant shall file the Certificate of Mailing with the Plan Commission at least ten (10) days prior to the hearing. All notices required to be given to interested parties must include all provisions within Ind. Code § 36-7-4-604 and an 8 ½” x 11” color map clearly identifying the subject property and the mailing address or state parcel number of the subject property.

(d) Replacement Ordinance Notice: For purposes of public hearing regarding a replacement UDO under Ind. Code § 36-7-4-604, all citizens of the Town are interested parties. In such cases, the Town Clerks is required to give due notice as required by Ind. Code § 36-7-4-604.

(e) Notice addressed to any one of two or more partners or to any one of two or more joint tenants, tenants in common or tenants by the entireties shall be sufficient.

- (f) A standard sign furnished by the Town may be installed by the Town on the subject property advertising the public hearing fourteen (14) days prior to the date of the public hearing.
- (g) Appearance at any hearing on an application or proposal, in person or by representative, shall waive any defect in notice unless the alleged defect is raised at the beginning of the public hearing.

4. Public Hearing Presentations.

- (a) All public hearing presentations shall be conducted in the following order and in accordance with the procedures as set forth below:
 - (i) Applicant presents case. The presentation is limited to twenty (20) minutes or at the discretion of the Plan Commission by majority vote.
 - (ii) Plan Commission member's direct questions to the applicant. There is no time limit on this phase of the hearing.
 - (iii) The Administrator presents the staff report. There is no time limit on this phase of the hearing.
 - (iv) The President opens the public hearing and recognizes those who wish to speak on the proposal. These presentations are limited to a total of five (5) minutes per person or as modified at the discretion of the Plan Commission by majority vote.

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- (v) The applicant may rebut the testimony of those against the proposal. The rebuttal time is limited to five (5) minutes.
 - (vi) The public may be allowed to speak toward the rebuttal points of the applicant. Limited to one (1) minute per person. No new evidence may be presented at this time.
 - (vii) The President shall ask the Plan Commission if they have any additional questions on the applicant's presentation, remonstrators' comments or the rebuttals.
 - (viii) The President shall conclude the public hearing and call for a motion on the item before the Plan Commission. A copy of all presentation materials must be provided to the Plan Commission by staff seven (7) days prior to the hearing.
 - (ix) All documents presented at the hearing by the applicant or a remonstrator or any other person speaking before the Plan Commission as part of the case shall become the property of the Town and be incorporated into the record.
- (b) It shall be the responsibility of the Plan Commission staff to publish speaking

rules and make them available as handouts for the public. All parties wishing to comment publicly may do so only if their comments are directly related to an item set forth on the meeting agenda. Upon request, copies of the speaking rules will be made available to the public at each meeting.

- (c) It will also be the responsibility of the Plan Commission Secretary to keep time for each speaker wishing to make public comment.
- (d) The President shall preserve order and may warn any member or person present that particular conduct is a breach of courtesy. If any member persists in this conduct following the warning, the Plan Commission may vote to censure the offending member. If any other person present persists in this conduct following the warning, the President may order that person to be expelled from the meeting.
- (e) The applicant or his or her agent must appear before the Plan Commission during the public hearing for the case to be considered.
- (f) The Plan Commission staff must be informed prior to the meeting if the applicant or property owner desires a continuance to another Plan Commission meeting date. The Plan Commission staff shall determine whether the applicant's request for the continuance should be granted. If an applicant fails to appear without sufficient cause, the application may be dismissed.
- (g) Any person may appear in person or by counsel to participate in a discussion of an item before the Plan Commission.

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- (h) Any person wishing to speak for or against an application must register with the Secretary and state their name and address for the record.
- (i) The President may administer an oath to all persons wishing to address the Plan Commission that they will swear or affirm, under penalties of perjury, to testify truthfully when addressing the Plan Commission. The President shall rule on all questions relating to the admissibility of the evidence, which may be overruled by a majority of the Plan Commission present at the meeting.
- (j) The President may entertain a motion from the Plan Commission to dismiss a case for want of prosecution based on the fact it has been continued for three (3) consecutive months or failure of the applicant to appear. In the absence of a motion by the Plan Commission, the President shall rule.
- (k) In cases that are dismissed for want of prosecution, the applicant will be furnished written notice.
- (l) Any applicant may withdraw any application prior to the time that the President

orders that a vote be taken on the application. An application may not be withdrawn by the applicant after the vote has been ordered by the President. No application that has been withdrawn by the applicant shall again be considered by the Plan Commission within a period of six (6) months from the date of withdrawal, except upon the motion of a member that is adopted by a unanimous vote of all members of the Plan Commission.

5. Continuances.

- (a) The Plan Commission may continue any item from one meeting to another. No additional notice shall be required for the continued consideration of any docketed item except that which is required by Indiana law.
- (b) Continuances that are requested by an applicant or agent therefor must be received in writing prior to the scheduled meeting. After two (2) consecutive requested continuances on a specific docketed item, the applicant shall be required to re-send the public hearing notices required under these rules to all interested parties and re-publish legal notice, as required under these rules, prior to the application being heard.
- (c) No case shall be continued at the request of the applicant unless such request has been made to the Town not later than five (5) business days before the scheduled hearing and the request has been noted on the agenda before it is distributed. Plan Commission staff shall have discretion to continue cases before notice is mailed and shall have discretion to provide a procedural

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continuance for defects in notice that the staff identifies prior to the hearing date.

- (d) If the applicant requests that a case be continued prior to the above referenced deadline, Town Clerks, at his or her discretion, may act as agent for the Plan Commission or committee and may approve such requests without formal Plan Commission or committee vote. Such staff approval shall be noted on the agenda.

However, any request for continuance that occurs after the abovementioned deadline requires a majority vote by the Plan Commission or committee. Similarly, if an application is continued for three (3) consecutive hearings, any further request for continuance, even within the abovereferenced deadline, requires a majority vote by the Plan Commission or committee. If the Plan Commission or committee denies such a request for continuance, the application shall be treated as denied on the merits unless the applicant elects

to formally withdraw the application within 24 hours.

ARTICLE VII. FILING REQUIREMENTS FOR APPLICATIONS

1. The following list includes the types of applications that may be filed for consideration by the Plan Commission:
 - (a) Zoning map amendment; (a/k/a “rezone”).
 - (b) Conditional zoning map amendment.
 - (c) Commitment amendment.
 - (d) Primary plat.
 - (e) Final plat.
 - (f) Replat.
 - (g) Plat vacation.
 - (h) Development plan review; and
 - (i) Other applications: For planned developments, development plans and any other applications requiring Plan Commission approval, applicant shall complete an application as supplied by the Town Clerks and/or Building Inspector. The Town Clerks and/or Building Inspector may require the applicant to submit any additional information deemed relevant for consideration by the Plan Commission, including written proof that the applicant is the agent of the owner of the subject property.
2. Prior to the filing of any application with the Plan Commission, the applicant must first attend a pre-filing meeting with the Building Inspector.
3. After the pre-filing meeting, any application that is filed must be filed with the Town Clerks and/or Building Inspector in accordance with the deadlines that are established
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by Plan Commission staff for applications. Pursuant to Ind. Code § 36-7-4-1 111, when the deadline falls on a Saturday, Sunday, legal holiday under Indiana law, or any other day in which the Town Hall is closed, the filing deadline is extended to the first business day following said deadline.
4. All applications shall be submitted in the format and at the times specified by these rules and supplied by the Town Clerks. The number of copies required for filing shall be determined by the Town Clerks. The applicant shall pay the appropriate filing fee at the time of filing of the application to cover expenses of processing the application. The amount of fees shall be in accordance with the Town of Frankton’s UDO fee schedule in effect at the time of filing.

5. No fee paid for the submission of an application shall be refunded after the staff report has been prepared, unless otherwise approved by the Town Council.
6. Any application that has been withdrawn, dismissed or denied shall be resubmitted, including a new application form, required drawings and other documentation, and filing fees as if it is the initial application for public hearing.
7. No documents or evidence regarding an application shall be submitted within ten (10) days of a Plan Commission hearing on the application, other than enlarged charts, maps or renderings that are identical to and included in the packets for the Plan Commission.
8. Any new documents or evidence submitted after ten (10) days prior to the hearing date may cause the pending application to be continued until the following meeting.
9. The Town Clerks and/or Building Inspector shall set a hearing date for applications filed. The hearing date shall be the date of the first Plan Commission meeting at which the application could be considered and after the Town Clerks and/or the Building Inspector has confirmed that all required filing and application materials have been received and processes completed and all required notices have been given.
10. Each matter to be heard before the Plan Commission shall be filed in proper form with the required data and shall be numbered serially. The docket numbers shall include the two-digit month and year.:

ARTICLE VIII. REQUIREMENTS FOR WRITTEN COMMITMENTS

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1. The Plan Commission may require the owner of the parcel of property to make a written commitment concerning the use or development of the parcel in connection with the approval and/or consideration of any application filed before the Plan Commission.
2. Written commitments must be prepared and executed in a recordable format in the form prescribed by the Town Clerks. All commitments must be reviewed, approved, and executed by the Town Clerks prior to the recording thereof.
3. Written commitments must be recorded in the Office of the Madison County Recorder before an approved rezone, site development plan or planned unit development district can become effective. The owner of the parcel subject to the written commitment

must either record the written commitment or authorize the Town to record the written commitment at the owner's expense.

4. A file-stamped, recorded copy of the commitment(s) must be provided to the Town Clerks within five (5) business days after such recording has occurred. A written commitment shall be considered to run with the land and shall bind all subsequent owners to its terms and conditions and any subsequent modification thereto made under these rules, ordinances of the Town or state statutes. The commitment(s) may be modified or terminated by the Plan Commission following a public hearing after the applicant for modification or termination complies with the notice requirements applicable to rezoning amendments.

5. Written commitments may be enforced jointly and severally by the Town Clerks and/or Building Inspector and owners of all parcels of real property adjoining the parcel burdened by the commitment to a depth of two ownerships or 660 feet, whichever is greater. The identity of such owners shall be determined from the property records of the Office of the Madison County Auditor. For purposes of this paragraph, the cut-off date for determining ownership is 12:00 p.m. on the date of filing for enforcement.

ARTICLE IX. PUBLIC IMPROVEMENTS

1. Request for Inspection. Upon completion of any required improvements within a subdivision or development (or sections thereof), the developer's engineer shall make a written request for inspection, which shall include as-built plans of the improvements and a letter of compliance, signed by the developer and the project engineer.

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2. As-Built Plans. The as-built plans must be submitted in both .pdf and hard copy versions (36" x 24") and shall include all public improvements covered by the performance bond, including, but not limited to, water mains, valves, hydrants, meters, service lines, pumps and stations; sewer mains, laterals, manholes, lift stations, air release valves and pumps; storm sewer pipes, underdrains, swales and detention/retention pond elevations; curbs and gutters; sidewalks; trails; and any other improvements dedicated to the Town of Frankton or other public/semi-public agency. The as-built plans shall show the actual locations and vertical elevations with ties to permanent points of reference, specifications and all materials used for the improvements installed in the subdivision or section thereof. These plans shall be certified by a registered professional engineer or land surveyor.

3. Inspections. The developer shall be responsible for having all improvements inspected for compliance with the approved plans and provisions of the UDO. Upon receipt of a request for inspection, the Town Utilities and/or a designated inspector (see subsection 4 below) shall inspect the improvements, and any such designated inspector shall submit a recommendation to the Town Clerks. Any deficiencies found in the design and workmanship of public improvements shall be corrected by the developer prior to release of the performance bond. A performance bond is not required for public improvement projects when the plat is not recorded.

4. Administrators. The Building Inspector, Town Clerk, and Town Utility Clerk shall perform functions related to the administration of the Plan Commission and its duties. Each of these positions will perform its respective functions as set forth in these Rules and will collectively be referred to as the "Administrator." Generally, these functions shall include supervising the Plan Commission staff, administering the daily affairs of the Plan Commission, and conducting all investigations required to administer the UDO. The Administrator shall establish personnel policies and office procedures,

including:

- (A) Preparation of the agenda of all regular and special meetings;
- (B) Arrangement for all required legal notices for public hearings of the Plan Commission;
- (C) Date stamping and attending to all correspondence directed to the Plan Commission;
- (D) Recording and filing all bonds and contracts and assuming all responsibility for custody and preservation of all papers and documents of the Plan Commission; (E) Under Ind. Code § 36-7-4-405 and unless otherwise directed by the Plan Commission, assignment of street numbers to lots and structures and renumbering lots and structures as necessary; and (6) all other duties as may be directed or assigned by the Plan Commission.

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5. Determination of Completion of Improvements. The Building Inspector is hereby designated as the person responsible for determining whether all improvements have been constructed and completed as required by the UDO and shall issue a letter of acceptance upon determining that such improvements have been completed in a satisfactory manner.

ARTICLE X. FINAL DISPOSITION OF CASES/DECISIONS

1. After consideration of any reports and recommendations of the Plan Commission, the final disposition of any case shall be in the form of a decision or report, setting forth, when deemed appropriate, the recommendation (if any), findings and determinations of the Plan Commission, together with any modifications, specifications or limitations which it makes. In any case in which the Plan Commission is required to make written findings along with a final decision, the Plan Commission may adopt findings as submitted by the applicant or by any interested party, with or without modifications, specifications or limitations, or the Plan Commission may delegate to staff and/or legal counsel the authority to prepare written findings. When written findings are required, the Plan Commission's findings shall be executed by the President and Secretary of the Plan Commission and filed in the office of the Plan Commission within forty-five (45) days after the date of the Plan Commission's final decision.
2. The Plan Commission may dismiss a case for lack of prosecution or lack of jurisdiction. A case may be dismissed for lack of prosecution based on the fact it has been continued for three (3) consecutive months or failure of the applicant to appear. With respect to a secondary plat, when the secondary plat has been pending before staff for three (3) consecutive months, staff may request that the Plan Commission dismiss the case for lack of prosecution. Staff shall notify the applicant by mail, not less than ten (10) days before presenting the request to the Plan Commission, that staff will seek the Plan Commission's approval to dismiss the secondary plat application.
3. A case that has been decided adversely to the applicant shall not be placed on the docket again for consideration until the legality of the Plan Commission's decision is finally determined pursuant to Ind. Code § 36-7-4-1000 *et seq.*, or for a period of twelve (12) months following the date of the adverse decision previously rendered, whichever is later. A new case involving the same property that was the subject of a case which has been decided adversely to any applicant shall not be placed on the docket for consideration until the legality of the Plan Commission's decision is finally determined pursuant to Ind. Code § 36-7-4-1000 *et seq.*, or for a period of six (6) months following the date of the adverse decision previously rendered, whichever is later.
4. Because the Plan Commission's recommendation (if any) is only advisory in matters of rezones and text amendments to the UDO or comprehensive plan, all such matters shall be certified to the Town Council for its consideration in accordance with Indiana

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law. The Plan Commission's recommendation (if any) on any such matter may then be followed or overturned by the Town Council in accordance with Indiana law and the rules of the Town Council.

5. Reconsideration of Rezone Proposals. The Plan Commission may not further consider for one (1) year any proposal for a zoning map amendment that has been defeated under subsection (f)(3), (g)(3) or (g)(4) of Ind. Code § 36-7-4-608. The Plan Commission may not further consider for six (6) months any proposal for a zoning map amendment that has been withdrawn by the applicant, regardless of whether it is withdrawn while it is pending on the Plan Commission's docket or pending before the Town Council. If a new proposal to amend the zoning map (rezone) involves the same property that was the subject of a defeated proposal, the new proposal may not be considered by the Plan Commission until six (6) months have elapsed from the date the defeated proposal was defeated under subsection (t)(3), (g)(3) or (g)(4) of Ind. Code § 36-7-4-608. If a new proposal to amend the zoning map (rezone) involves the same property that was the subject of a withdrawn proposal, as described above, the new proposal may not be considered by the Plan Commission until three months have elapsed from the date the withdrawn proposal was withdrawn. A rezone proposal that is restricted from consideration under this subsection shall not be assigned a docket number or placed on the Plan Commission's agenda before the expiration of the restriction period, unless these rules are suspended.

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