

# OWEN COUNTY ADVISORY PLAN COMMISSION RULES OF PROCEDURE

## Article 1 – Powers and Duties

### 1.01 Source of Powers and Duties

The Commission shall have the general powers and duties set forth in the Indiana Code and in the Owen County Zoning Ordinance.

### 1.02 General Powers and Duties

The Commission shall:

- A. Supervise, and make rules for, the administration of the affairs of the Commission;
- B. Prescribe uniform rules pertaining to investigations and hearings;
- C. Keep a complete record of all the departmental proceedings;
- D. Record and file all bonds and contracts and assume responsibility for the custody and preservation of all papers and documents of the commission;
- E. Prepare, publish, and distribute reports, ordinances, and other material relating to the activities authorized under Indiana Code 36-7-4;
- F. Adopt a seal;
- G. Certify to all official acts;
- H. Supervise the fiscal affairs of the Commission; And,
- I. Prepare and submit an annual budget in the same manner as other departments of county and be limited in all expenditures to the provisions made for the expenditures by the fiscal body of the county.

### 1.03 Power to Sue and be Sued, Costs

The Commission shall sue and be sued collectively by its legal name, "Owen County Advisory Plan Commission", with service of process on the president of the commission. No costs may be taxed against the Commission or any of its members in any action.

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1.04 Recommendations to the Board of Commissioners of Owen County

The Commission shall make recommendations to the Board of Commissioners of Owen County concerning the following.

- A. The adoption of the comprehensive plan and amendments to the comprehensive plan.
- B. The adoption or text amendment of:
  - 1. An initial zoning ordinance;
  - 2. A replacement zoning ordinance; And,
  - 3. A subdivision control ordinance.
- C. The adoption or amendment of a Planned Unit Development (PUD) district ordinance.
- D. Zone map changes.
- E. Any other matter, within the jurisdiction of the Commission, authorized by Indiana advisory planning law.

1.05 Commission Decisions and Approvals

The Commission shall render decisions concerning and approve:

- A. Plats, replats, and amendments to plats of subdivisions;
- B. Development plans and amendments to development plans; And,
- C. Variances to subdivision standards.

1.06 Street Names and Numbers

The Commission shall assign street numbers to lots and structures and shall renumber lots and structures. The Commission shall name or rename streets According to the guidelines set forth in Section 1.07.

The Commission shall notify of actions taken under this section, no later than the last day of the month following the month in which the action is taken, the following:

- A. Circuit Court Clerk or Board of Registration;

- B. The administrator of the County's enhanced emergency telephone system;
- C. The United States Postal Service; And,
- D. Any person or body that the Commission considers appropriate to receive notice.

1.07 Guidelines for Naming and Renaming Streets

In naming and renaming streets, the Commission shall be guided by the following policies.

- A. Duplicate street names and names that sound alike shall not be allowed.
- B. Directional or relative names should not be used (e.g., North Drive, Kirksville Road).
- C. A continuous Street should not change names when the direction of the street changes.
- D. Predominantly north-south streets shall have a "N" prefix if north of the center line of the County and a "S" if south of the center line of the County.
- E. Predominantly east-west streets shall have an "E" prefix if east of the center line of the County and a "W" if west of the center line of the County.
- F. The Owen County Postmaster must be given the opportunity to review and comment on proposed names before their adoption.
- G. The Owen County Highway Engineer and Owen County Highway Superintendent must be given the opportunity to review and comment on proposed names before their adoption.

1.08 Fees

The Commission may establish a schedule of reasonable fees to defray the administrative costs connected with processing and hearing administrative appeals and petitions for rezoning, special exceptions, special uses, contingent uses, and variances; the issuing of permits; and other official actions taken under the zoning ordinance.

## Article 2 - Members

### 2.01 Membership

The Commission shall consist of nine (9) members as follows.

- A. One (1) member appointed by the Board of Commissioners from its membership.
- B. One (1) member appointed by the County Council from its membership.
- C. The County Surveyor or a qualified deputy appointed by the County Surveyor. However, the County Surveyor's appointee must be a resident of the County to be eligible to serve on the Commission.
- D. The County Agricultural Extension Educator. However, the County Agricultural Extension Educator must be a resident of the County to serve on the Commission.
- E. Five (5) citizen members, appointed by the Board of Commissioners, of whom not more than three (3) may be of the same political party. Each of the five (5) members must be:
  1. A resident of an unincorporated area of the county; Or
  2. A resident of the County who is also an owner of real property located in whole or in part in an unincorporated area of the county.

However at least three (3) members must be residents of the unincorporated area of the County.

Each appointing authority may appoint an alternate member to act during the absence or disability of a regular appointee of the authority.

### 2.02 Qualifications

Each citizen member shall be appointed because of the member's knowledge and experience in community affairs, the member's awareness of the social, economic, agricultural, and industrial problems of the area, and the member's interest in the development and integration of the area. A citizen member may not hold an elected or appointed office in municipal, county, or state government. A citizen member must be a resident of the County Jurisdictional Area.

2.03 Terms of Office

The term of office of a member who is appointed from the membership of the Board of Commissioners or the County Council shall be coextensive with the appointee's membership on the appointing authority, unless the appointing authority appoints, at its first regular meeting in any year, another to serve as its representative

Citizen's Members shall be appointed for a term of four years, which term expires on the first Monday of January of the fourth year after the member's appointment. A member may serve until his successor is appointed and qualified. A member may be reappointed.

The term of office for the County Surveyor's appointee shall be for one year but may not exceed the appointing County Surveyor's term of elected office or the appointee's term of employment as a Deputy County Surveyor.

2.04 Removal of Member

The appointing authority may remove a member from the Commission for cause. The appointing authority must mail notice of the removal, along with written reasons for the removal, to the member at their residence address. A member who is removed may, within thirty (30) days after receiving notice of the removal, appeal the removal to the Owen Circuit Court. The Circuit Court may, pending the outcome of the appeal, order the removal or stay the removal of the member.

2.05 Vacated Membership

If a vacancy occurs among the members of the Commission, the appointing authority shall appoint a member for the unexpired term of the vacating member, who meets the same requirements as the vacating member, including residency, not later than ninety (90) days after the vacancy occurs.

If a vacancy occurs in the office of the County Surveyor while the County Surveyor is serving on the Commission, then the County Engineer shall participate with the Commission during the time the office of the County Surveyor is vacant. The County Engineer has all the powers and duties of a regular member while participating under this provision.

2.06 Expenses

If the Commission determines that it is necessary or desirable for members or employees to join a professional organization or to attend a conference or interview dealing with planning or related problems, the Commission may pay the applicable membership fees

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and all actual expenses of the members or employees, if that amount has been appropriated by the County Council.

2.07 Conflict of Interest

A member of the Commission may not participate as a Commission member in a hearing or decision of the Commission concerning a zoning matter in which the member has a direct or indirect financial interest. The Commission shall enter in its records the fact that a regular member has such a disqualification and the name of the alternate member, if any, who participates in the hearing or decision in place of the regular member. A member of the Commission or the Board of Commissioners may not directly or personally represent another person in a hearing before that Commission or the Board of Commissioners concerning a zoning decision or a legislative act. A member of the Commission may not receive any mileage or compensation under Section 2.06 above for attendance at a meeting if the member is disqualified under this section from participating in the entire meeting.

2.08 Official Action

Action of the Commission is not official, unless it is authorized, at a regular or special meeting, by a majority of the entire membership of the Commission.

2.09 President and Vice President

At the first Commission meeting of each year, the Commission shall elect a president and vice president from its members. The vice president shall act as president during the absence or disability of the president.

2.10 Secretary

The Commission may appoint and fix the duties of a secretary, who is not required to be a member of the Commission.

### **Article 3 - Meetings**

#### **3.01 Time, Place of Public Hearings**

Regular sessions of the Commission designated as public hearings shall be held the third Tuesday of each month, at 6:30 p.m., at the Owen County Courthouse, Commissioners Room, Second Floor. If the third Tuesday is a County recognized holiday, the hearing shall be held on a different date published in the Commission's adopted meeting schedule.

#### **3.02 Applicability**

These Rules apply to all meetings (including public hearings) required by state law, the Zoning Ordinance, the Subdivision Control Ordinance, or to any other special or regular meeting of the Commission.

#### **3.03 Meetings Open To Public**

Except for executive sessions as permitted by law, all regular and special meetings of the Commission shall be open to the public in compliance with the Indiana Open Door Law, Indiana Code 5-14-1-1.5-1 et. seq.

#### **3.04 General Rules**

- A. No action is official unless authorized by a majority of the entire membership of the Commission at a properly called meeting.
- B. All meetings at which official action is taken shall be open to the general public.
- C. An agenda shall list all items to be considered by the Commission at a regular or special meeting.
- D. An agenda shall be distributed to members of the Commission in a manner acceptable to them at least three (3) days before any regular meeting. The agenda shall be available for public inspection at the Building and Mapping Department at least two days before any regular meeting.

#### **3.05 Quorum and Voting**

- A. A quorum is a majority of the entire membership of the Commission.

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- B. Voting shall be by voice or by a show of hands, unless an alternative method is deemed appropriate by the Commission.
- C. A record of the vote shall be kept in the minutes.

3.06 Regular Meetings

- A. The Commission shall conduct its regular meetings according to a yearly schedule adopted no later than the last meeting of the previous year.
- B. If it is impossible to conduct a meeting at its regularly scheduled time, the President may set an alternative time, date, or place. The President may also cancel the meeting upon unanimous consent of the Commission in compliance with Indiana Code 5-14-1.5.
- C. The order of business at a regular meeting shall be established by the Commission. Generally, the format for the order of business is as follows:

- Call to Order
- Pledge of Allegiance
- Roll Call / Public Sign-In
- Approval of Minutes
- Old Business
- New Business
- Public Comment
- Staff Reports
- Commission Member Comments
- Adjournment

3.07 Public Hearings and Notice

- A. The Commission may conduct a public hearing as part of any meeting, or at any other place or time if proper notice is given.
- B. In addition to those required by law, the Commission may hold public hearings when it decides that hearings will be in the public interest.
- C. Notice of public hearings shall comply with Indiana Code 5-3-1.
- D. If the Secretary determines that the application meets all requirements for Submission, a date shall be set for its public hearing. Notice by publication and additional written notice shall be made as follows:



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1. Notice by Publication. The Secretary shall publish a notice one time at least ten (10) days prior to the public hearing in a newspaper of general circulation in Owen County. The notice shall contain the following information:
  - a. Date and place of the meeting.
  - b. Name of the applicant.
  - c. Reason for the public hearing.
  - d. Name of Township; and Section, Township, and Range numbers.
  - e. Key and Parcel Number
  - f. That the proposal is on file and available for inspection at the Building and Mapping Department.
  - g. The general location of the property described in the application.
  - h. That comments regarding the proposal may be made in writing and filed with the Building and Mapping Department.
  - i. The comments must be received prior to the public hearing in order to be considered by the Commission.
  
2. Additional Written Notice. Upon a form acceptable to the Commission, the applicant shall provide additional written notice by first class mail at least ten (10) calendar days prior to the public hearing. The persons so notified shall be the owners of all adjoining parcels of land in Owen County to a depth of two ownerships within six hundred sixty (660) feet of the perimeter of the subject property except as qualified in these Rules. The owners' name and mailing address are determined according to the most recent bound volumes of the real estate tax assessment list on file in the office of the County Assessor.
  - a. For purposes of giving notice as required by this section, the land described in the application shall be deemed to include any adjoining or adjacent land owned by the applicant, with the exception however, that if the applicant is a railway, or other utility, the land described in the application shall not be deemed to include the entire right-of-way, but shall be limited to the particular parcel involved.
  
  - b. Any land separated from land described in the application by streets, alleys, easements, channel waters, or any other natural or artificial barrier, shall be deemed to be adjoining or adjacent to that described in the application. If the property described in the application abuts or includes a county line, the

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applicant shall secure the names and addresses of property owners from the appropriate county office.

- c. The written notice shall include the following information:
  - i. The general location of the property and a general description of the land as stated in the application.
  - ii. That the proposal is on file and may be examined at the office of the Building and Mapping Department.
  - iii. That the addressee may file written comments concerning the proposal with the Building and Mapping Department. The comments must be received prior to the public hearing in order to be considered by the Commission.

3. Affidavit of Written Notice

- a. The applicant shall furnish evidence of compliance with Section 1.07 D.2. of these Rules by filing an affidavit with the Secretary at least ten (10) days prior to the public hearing. If the tenth day should fall on a weekend or legal holiday, the affidavit may be filed the first day following which is not a weekend day or legal holiday.
- b. The affidavit shall list the owners of all parcels of ground within the notification boundary to whom notice was sent.

4. Purpose of Written Notice. Written notice is not required by state law. It serves to supplement the legally required public notice for persons in the vicinity of a proposal before the Commission. Written notice shall be considered helpful in disseminating information, but not necessary to meet legally required public notice. Having complied with the provisions of Section 1.07 D.2. and 3. of these Rules, the applicant shall be considered to have met the intent of written notice and adequate notice to have been served.

5. Text Amendments. For amendments to the text of the Zoning Ordinance and Subdivision Control Ordinance, public notice as required by I.C. 5-3-1 shall be deemed sufficient notice and no additional notice, written or otherwise, shall be required.

E. Supplemental Forms of Notice

- 1. The Commission may authorize supplemental forms of notice deemed necessary by the Commission to improve the dissemination of information regarding its activities.

2. These supplemental forms of notice are not required by law and shall be considered helpful in disseminating information but not necessary to meet legally required public notice.

3.08 Special Meetings

- A. Special meetings of the Commission may be called by the President or by three (3) members of the Commission upon written request to the Secretary.
- B. The Secretary shall send a written notice fixing the time and place of the meeting to all members at least three (3) days before the meeting.
- C. Written notice is not required if:
  1. The date, time, and place are fixed at a regular meeting; and
  2. All members are present at that regular meeting.
- D. The order of business shall be established by the Commission.

**Article 4 - Application and Case Numbers**

4.01 Applications

- A. Application shall be made on forms provided at the Building and Mapping Department.
- B. The applicant shall meet all the application submission requirements of the Zoning Ordinance. Staff may require additional information if the proposal warrants it.
- C. The Secretary shall review the application and determine whether or not it is complete and accurate. If complete and accurate, the Secretary shall set a date for the application's hearing. If not complete and/or accurate, the Secretary may return the application to the applicant and not set a date for the application's hearing.
- D. All application fees are due at the time of application and are not refundable once a hearing date for the application is set.
- E. The deadline for filing an application is 3:30 p.m. on the date established as a filing deadline on the Commission's hearing schedule.

- F. The Secretary may limit the number of proposals to be heard at a regularly scheduled meeting if adjournment at a reasonable time would not be possible otherwise. The President shall be informed when this occurs. Those proposals not scheduled may be heard at a special meeting.

4.02 Case Numbers

- A. Each case heard by the Commission shall have a case number assigned to it.
- B. The case number shall be in a form established by the Commission.

**Article 5 - Conduct of Hearings**

5.01 Conduct

- A. Discourteous, disorderly, or contemptuous conduct shall be regarded as a breach of courtesy.
- B. The President shall preserve order and may warn any person present that particular conduct is a breach of courtesy. If a Commission member persists in this conduct following a warning, the Commission may vote to censure the offending member. If any other person persists in this conduct following a warning, the President may order that person expelled from the meeting.
- C. Every person appearing before the Commission shall abide by the directions of the President.
- D. The President shall determine the admissibility of any evidence.

5.02 Presentations

- A. Applicant
  - 1. The applicant or the applicant's representative must appear before the Commission for the case to be heard.
  - 2. The applicant shall first present the facts and arguments in support of the case.
  - 3. The burden shall be on the applicant to supply all information necessary for a clear understanding of the proposal.

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4. Information to be displayed to the Commission shall be in an electronic format suitable for video projection on the Commission's projection system.
5. The Commission and staff may interject during the applicant's presentation with comments or questions.

B. Public Comments

1. Following the applicant's presentation, comments from the public shall be taken.
2. Any person may appear in person or by representative to participate in a discussion of an item before the Commission.
3. Any person wishing to speak must register with the Secretary and state their name and address.
4. Comments shall be directed to the Commission and not to the applicant or any other person.
5. The Commission and staff may query any person speaking to clarify that person's position.

C. Rebuttal

1. The applicant shall have time for rebuttal and to answer questions raised by the public.
2. The applicant shall direct comments to the Commission and not to any person.

D. Public Portion of the Hearing Closed

1. Once all testimony is taken, the public portion of the hearing is closed.
2. No further testimony will be taken once the public portion of the hearing is closed.
3. After the public portion of a hearing is closed, the Commission may address questions or comments to the applicant or other persons if, in the Commission's opinion, the information is necessary to make an informed decision.
4. The Commission may discuss the proposal with staff or among its members for any length of time deemed necessary.

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- E. Conclusion of the Public Hearing. The President shall conclude the public hearing and call for a motion on the item before the Commission.

5.03 Time Limits

- A. Discussion of any item shall be limited as follows:

1. The applicant shall have fifteen (15) minutes to present their case.
2. Remonstrators and those in support shall have three (3) minutes per person for the presentation of evidence in opposition or support. Persons speaking for a group of four (4) or more individuals shall have ten (10) minutes for their presentation.
3. The applicant shall then have five (5) minutes for rebuttal and to answer questions raised by the public.

- B. No limit shall be placed on the amount of time the Commission takes to discuss a proposal.

- C. The Commission may grant additional time for discussion if it deems it necessary to make an informed decision. The additional time should be allocated equally between the applicant and the public.

5.04 Continuance

- A. The Commission may continue the hearing of any case subject to the following provisions:

1. Applicant. The applicant may request and be granted a continuance if the Commission deems it necessary to make an informed decision.
2. The Commission. The Commission may on its own continue any item from one meeting to another.
3. Staff. Staff may recommend continuance of any item, subject to Commission approval.

- B. Procedure for applicant-initiated continuances

1. Any continuance request after the initial request shall be made by the applicant directly to the Commission at a public hearing.

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2. Unless expressly authorized otherwise by the Commission, the continuance shall be until the next regularly scheduled hearing of the Commission.
3. Maximum number and total time of applicant-initiated continuances
  - a. The maximum number of applicant-initiated continuances granted any particular agenda item shall be limited to three (3).
  - b. In no case shall a particular agenda item be continued by an applicant more than ninety (90) days total time.
  - c. The Commission may agree to applicant-initiated continuances in excess of the maximum number permitted, or for more than the total time permitted, or both, if the Commission finds that unusual circumstances warrant it.

C. Dismissal of Continued Items

1. Any agenda item that is unable to proceed to hearing and which has already received the maximum number of continuances and which has not received a further continuance may have that item dismissed by affirmative vote of the Commission.
2. Any agenda item that is unable to proceed to hearing and which has already been continued the maximum number of days and which has not received a further continuance may have that item dismissed by affirmative vote of the Commission.
3. A dismissal by the Commission does not constitute a denial of the agenda item.
4. Any item dismissed under Section 3.04 D.1. or 3.04 D.2. of these Rules shall be eligible for rehearing as a new case with a new case number only after a new application is submitted and all applicable fees have been paid.

D. Withdrawal or Denial of Continued Items. Nothing in these Rules prevents the Commission from accepting a withdrawal of, or denying, an agenda item subject to Section 3.04 in lieu of a dismissal if the Commission deems it appropriate under the circumstances.

E. Re-Notification

1. For any continuance, the Commission may require re-notification of property owners within the written notification boundary established under these Rules if doing so serves the public interest.

2. Any continuance granted for more than sixty (60) days shall require re-notification of property owners within the written notification boundary established under these Rules.

5.05 Hearing Limited to a Reasonable Length of Time

The Commission may cease hearing new cases after 10:30 p.m. Cases not heard shall be placed at the beginning of the agenda of the next regular session of the Commission.

**Article 6 - Final Disposition of Cases**

6.01 Action by the Commission

- A. Zoning Map Amendments, Text Changes to the Zoning and Subdivision Control Ordinances, and Replacement Ordinances. Action by the Commission shall be in the form of a recommendation on the proposal to the Board of Commissioners. The proposal may be voted on as submitted or as modified by the Commission. Modifications to the proposal as submitted shall be made part of the motion. The following recommendations are possible:
  1. Recommend adoption of the proposal.
  2. Recommend the proposal not be adopted.
  3. Make no recommendation.
- B. Plats, Development Plans, Vacations, Appeals of Decisions of the Administrative and Plat Committee, Any Other Action Not Requiring Adoption by the Board of Commissioners. Action by the Commission shall be in the form of an approval or denial. The proposal may be voted on as submitted or as modified by the Commission. Modifications to the proposal as submitted shall be made part of the motion.
- C. Committee Reports, Staff Reports, Staff Recommendations. Action by the Commission shall take an appropriate form:
  1. Vote to approve or deny.
  2. Establish a sense of the Commission.
  3. Take information without any action.



D. Adverse Decisions

1. Commission Decision. An application receiving a recommendation from the Commission to not adopt or to deny shall not be heard again until six (6) months after the date of the decision by the Commission.
2. Board of Commissioners Decision. An application transmitted by the Commission and receiving a denial from the Board of Commissioners shall not be heard again by the Commission until six (6) months after the date of the decision by the Board of Commissioners.
3. A proposal that is subject to an adverse decision may be considered for hearing before six (6) months if it is substantially changed from the original. Before the proposal can be placed again on the docket, the Commission shall determine if a change sufficient enough to warrant hearing before six (6) months has been made to the proposal.

6.02 Findings of Fact

Where appropriate and/or required, the Commission shall set forth its determinations, recommendations, and conditions of approval in written findings of fact.

6.03 Dismissal

- A. The Commission may dismiss a case for lack of representation or lack of jurisdiction when an applicant fails to appear at two consecutive meetings.
- B. A case so dismissed shall not be heard again until six (6) months after the date of the decision by the Commission.
- C. A proposal so dismissed may be considered for hearing before six (6) months if it is substantially changed from the original. To qualify for a hearing before six (6) months, the Commission shall determine if a change sufficient enough to warrant hearing before six (6) months has been made to the proposal.

6.04 Withdrawal

- A. An applicant may withdraw a case by requesting it in writing no less than five (5) days prior to the hearing. A withdrawal so made shall be removed from the Commission agenda by the Secretary. The President shall be notified of the withdrawal prior to the hearing.

- B. An applicant may appear at a hearing and request the case be withdrawn.
- C. An applicant may not withdraw a case after a vote has been ordered by the President.
- D. A case that is withdrawn shall not be heard again until three (3) months after the date of the decision by the Commission.
- E. A proposal that is withdrawn may be considered for hearing before three (3) months if it is substantially changed from the original. Before the withdrawn proposal can be placed again on the docket, the Commission shall determine if a change sufficient enough to warrant hearing before three (3) months has been made to the proposal.

## **Article 7 - Miscellaneous**

### **7.01 Amendments and Suspension of Rules**

- A. Amendments to these Rules may be made by the Commission at any regular or special meeting upon the affirmative vote by a majority of the Commission members.
- B. The suspension of any rule may be ordered at any meeting by an affirmative vote of at least three Commission members.

### **7.02 Remanding Cases**

- A. Unless specified otherwise by the Commission, review and hearing authority shall be given to the Administrative and Plat Committee in all authorized cases.
- B. The types of cases the Administrative and Plat Committee are authorized to re-view and hear for the Commission shall be specified in the Committee's Rules of Procedure.

### **7.03 Conflict with Zoning Ordinance**

For any conflict between the Owen County Zoning Ordinance and these Rules of Procedure, the Owen County Zoning Ordinance shall govern.

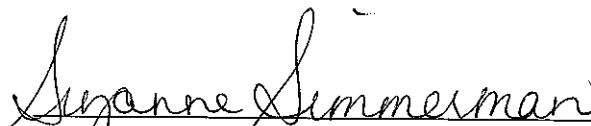
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These Rules of Procedure of the Owen County Advisory Plan Commission, was approved by the affirmative vote of a majority of the members of the Commission at the regular meeting of the Commission held on the 21<sup>st</sup> day of February, 2023. This approval also repeals any prior Rules of Procedure.

**Signed:**

**Attest:**

  
\_\_\_\_\_  
Norman Warner, President

  
\_\_\_\_\_  
Suzanne Simmerman, Secretary