Article 1: Jurisdiction and Authority

1) Board of Zoning Appeals Authority. The authority to review, approve, and grant the petitions listed in the Zoning Ordinance shall rest with the Whitestown Board of Zoning Appeals (WBZA). Where permitted, the WBZA may, at its discretion, delegate such authority to the Town Planner.

2) The WBZA shall have jurisdiction over all land within the established municipal boundary of the Town of Whitestown as defined by description or map in the Boone County Recorder’s Office.

3) Town Planner. With regard to the WBZA, the Town Planner, including any staff members or other designee(s), shall have the principal responsibility for the administration and enforcement of the Zoning Ordinance. Their duties shall include, but not be limited to:

   a) Inspections. Conducting inspections of structures and properties to determine compliance with the requirements of the Zoning Ordinance and all approvals granted by the WBZA in the execution of its duties as established by the Zoning Ordinance and Indiana State Code.

   b) WBZA Applications. Receiving, processing docketing, and referring to the WBZA all appropriate applications.

   c) Clerical & Technical Assistance. Providing all such clerical and technical assistance as may be required by the WBZA in the execution of its duties as established by the Zoning Ordinance and Indiana State Code.

4) Town Planner’s Right of Referral. The Town Planner may, at their discretion, refer applicants for permits and petitions to the WBZA for review and approval.

5) Roberts Rules of Order. Roberts Rules of Order are hereby incorporated by reference and made a part of these Rules and shall control on issues and procedures not expressly provided for herein.
### Membership of the WBZA

<table>
<thead>
<tr>
<th>Member</th>
<th>Appointment</th>
<th>Initial Term</th>
<th>Qualifications</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Town Council President</td>
<td>January 18, 2011</td>
<td>January 1, 2014</td>
</tr>
<tr>
<td>2</td>
<td>Town Council President</td>
<td>January 18, 2011</td>
<td>January 1, 2012</td>
</tr>
<tr>
<td>3</td>
<td>Town Council President</td>
<td>January 18, 2011</td>
<td>January 1, 2013</td>
</tr>
<tr>
<td>4</td>
<td>Town Council WPC Citizen Member</td>
<td>January 18, 2011</td>
<td>January 1, 2015</td>
</tr>
<tr>
<td>5</td>
<td>WPC</td>
<td>January 18, 2011</td>
<td>January 1, 2015</td>
</tr>
</tbody>
</table>

A resident of the WBZA’s jurisdiction
OR
a resident of Boone County
and owns property within the WBZA’s jurisdiction
AND
may not hold an elective or appointive office for the town.

1) Composition. The WBZA shall consist of five (5) members as prescribed by IC 36-7-4-902(a) and Whitestown Ordinance #2010-11. They shall serve the terms as described in the same Whitestown Ordinance.

2) Qualifications for Citizen Members. The qualifications for citizen members shall be as prescribed by IC 36-7-4-905.

3) Certification. The clerk of the Town Council shall certify members appointed by Town Council, the Town Council President shall certify their appointments, and the WPC shall certify its appointment. The certificates shall be sent to and made a part of the records of the WBZA.

4) Removal of Members. Members may be removed from the WBZA by the respective appointing authority prior to the end of their term for failure to appear at three (3) consecutive, regularly scheduled WBZA meetings.
Article 3: Duties and Powers

1) The following duties should be interpreted as activities that are obligations of the WBZA (IC 36-7-4-916, 918.1, 918.2):
   a) Prescribe the procedures for:
      i) filing appeals;
      ii) the application for variances, special exceptions, special uses, contingent uses, and conditional uses;
      iii) the giving of notice;
      iv) the conduct of hearings; and
      v) the determination of whether a variance application is for a variance of use or for a variance from the development standards (such as height, bulk, or area).
   b) Approve or deny:
      i) special exceptions;
      ii) special uses;
      iii) contingent uses;
      iv) conditional uses; and
      v) variances of use.
   c) Hear and determine appeals from and review:
      i) any order, requirement, decision, or determination made by the Town Planner or staff member under the zoning ordinance;
      ii) any order, requirement, decision, or determination made by an administrative board or other body except the WPC in relation to the enforcement of the zoning ordinance; or
      iii) any order, requirement, decision, or determination made by an administrative board or other body except the WPC in relation to the enforcement of an ordinance requiring the procurement of an improvement location or occupancy permit.

2) Powers. The following powers should be interpreted as activities that are optional and may be initiated by the WBZA within their jurisdiction pursuant to IC 36-7-4-916:
   a) the allocation of cases filed among the divisions of the board of zoning appeals; and
   b) the fixing of dates for hearings by the divisions.

3) Commitments. Pursuant to IC 36-7-4-1015(a), as a condition to the:
   a) Special Exception;
   b) Special Use;
   c) Contingent Use;
   d) Conditional Use; or
   e) Variance

the BZA may require or allow the owner of a parcel of real property to make a commitment to the Board concerning the use or development of that parcel. Pursuant to IC 36-7-4-1015(c), the BZA hereby declares that the criteria to be considered when an owner applies for the modification or termination of a commitment made under these Rules and Procedures are the same criteria that applied to the proposal when the Board originally recommended adoption or granted approval, as the case may be.
Article 4: Actions and Decisions

Decisions Rendered

<table>
<thead>
<tr>
<th>Application Type</th>
<th>Staff</th>
<th>WBZA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Special Exception</td>
<td></td>
<td>• Approve (with or without conditions)</td>
</tr>
<tr>
<td>Special/Conditional Use</td>
<td>Review and make recommendations</td>
<td>• Approve (with or without conditions)</td>
</tr>
<tr>
<td>Use Variance</td>
<td></td>
<td>• Disapprove</td>
</tr>
<tr>
<td>Variance</td>
<td></td>
<td>• Disapprove</td>
</tr>
<tr>
<td>Appeals</td>
<td>Review and provide information</td>
<td>• Approve (with or without conditions)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Disapprove</td>
</tr>
</tbody>
</table>

1) Quorum. A quorum is a majority of the full membership of the WBZA.

2) Official Action. Action of the WBZA is official when concurred by a majority of the full membership.

3) Tie Votes. When a vote of the WBZA results in a tie, the matter may be resolved by:
   a) A new motion to reconsider the matter and followed by a re-vote; or
   b) Re-docketing the matter for the next regularly scheduled meeting of the WBZA.

4) Indecisive Vote. In any case where a vote of the WBZA does not result in official action, the petition shall be automatically re-docketed for the next regularly scheduled meeting of the WBZA.

5) Continuance. A continuance may be requested for sufficient cause by the petitioner, by an interested party, or a member of the WBZA. It shall be within the discretion of the WBZA to grant or deny any request for continuance. Re-notification shall not be required if a petition is continued at a properly noticed public hearing/meeting to a specified future hearing/meeting date of the WBZA.
   a) Continuance Request by the Petitioner. A request for continuance by the petitioner may be filed in writing prior to the WBZA’s hearing/meeting or made orally at the beginning of the WBZA meeting when the agenda is considered. However, the petitioner shall be prepared to move forward with their petition until the continuance request is granted by the WBZA.
   b) Continuance Request by an Interested Party. A request for continuance by an interested party may be filed in writing prior to the WBZA’s hearing/meeting or made orally at the beginning of the WBZA meeting when the agenda is considered. The interested party shall be prepared for the petition to move forward until the continuance request is granted by the WBZA. For purposes of a public hearing, an “interested party” is any individual whose right to use, acquire, or enjoy property is or may be affected by action taken by the WBZA.
   c) Continuance Request by a Member of the WBZA. A member of the WBZA may make a motion of continuance for consideration by the WBZA.
   d) Meeting Limitations. An automatic continuance that occurs because of meeting time limitations does not count as a requested continuance described in this section.

6) Withdrawal of Petitions.
   a) No petition may be withdrawn by the petitioner after a vote has been ordered by the Chairman or chairperson presiding at the meeting.
   b) A petition which has been withdrawn by the petitioner shall not again be placed on the docket for consideration by the WBZA within a period of ninety (90) days from the date of withdrawal, except upon a motion by a WBZA member to permit re-docketing and approved by the unanimous vote of the quorum present.

7) Dismissal. The WBZA may dismiss a case for want of prosecution or for lack of jurisdiction.
**Article 5: Meeting Schedule**

1) Application Schedule. The Town Planner shall develop and maintain an annual Calendar of Meetings and Filing Dates for the Board of Zoning Appeals. The existence of this calendar shall not be interpreted as prohibiting special meetings of the WBZA.

2) Coordination of Calendars. The calendar of the WBZA shall be coordinated to ensure the efficient processing of applications.

3) Compliance with Indiana State Code. All meeting and filing dates shall be based on the requirements of the *Zoning Ordinance* and the laws of the State of Indiana.

4) Approval of Dates. The Calendar of Meetings and Filing Dates shall be prepared by the Town Planner and approved by the WBZA.

5) Maintenance. The Calendar of Meeting and Filing Dates shall be reviewed and updated annually by the Town Planner and posted in the Whitestown Town Hall and/or on the town’s website.
**Article 6: Petition Hearing Procedures**

1) Order of Business. The WBZA shall follow the following order of business:
   a) Call to Order
   b) Pledge of Allegiance
   c) Agenda Consideration (and consideration of requested continuances)
   d) Minutes
   e) Public Comment for items not on the agenda
   f) Old Business.
      i) Public hearings on petitions
      ii) Other petitions for consideration
      iii) Other business
   g) New Business
      i) Public hearings on petitions
      ii) Other petitions for consideration
      iii) Other business
   h) New Business from the Floor
      i) Announcements
   j) Adjournment

2) Procedure for Public Comment for items not on the agenda. The WPC shall allot a total of five (5) minutes for public comment for items not on the agenda. Each individual wishing to speak shall be allowed three (3) minutes.

3) Procedure for Petition Consideration. Each petition before the WBZA shall generally be allotted a total of twenty-five (25) minutes for the presentation of evidence, comments, and questions at the public hearing. The Chairman (or presiding member) shall have the authority to extend the time periods specified below where appropriate, unless otherwise directed by a majority of the quorum present.
   a) Introduction. The Chairman shall introduce the petition and open it for discussion.
   b) Presentation. The petitioner shall have a total of twenty (20) minutes for the presentation of their petition.
      a) Staff and Public Official’s Report. The Town Planner shall present the staff and public official’s report for the petition.
      b) Public Discussion.
         i) Discussion of Support. Persons in support of the petition shall have a total of ten (10) minutes to present evidence, comments, and questions relevant to the matter being considered.
         ii) Discussion of Neutrality. Persons neutral on the petition shall have a total of ten (10) minutes to present evidence, comments, and questions relevant to the matter being considered.
         iii) Discussion of Opposition. Persons in opposition of the petition shall have a total of ten (10) minutes to present evidence, comments, and questions relevant to the matter being considered.
         iv) Closing Remarks by Petitioner. The petitioner shall have a total of five (5) minutes for closing remarks as well as responding to the presentation of evidence, comments, and questions raised during the public discussion.
b) Discussion of WBZA. The Chairman shall close the public discussion portion of the hearing and call for questions and comments from members of the WBZA.

c) Call for Vote.
   i) The Chairman shall call for a motion and a second on the case being heard.
   ii) The Chairman shall call for discussion.
   iii) The Chairman shall do a role call for a vote on the motion. The call for the member casting the first vote shall rotate after each petition.

2) Meeting Limitations. No petition shall be introduced for consideration after 10:00pm. Agenda items remaining on the agenda shall be automatically placed at the beginning of the agenda at the next regularly scheduled meeting of the WBZA.
Article 7: General Meeting Conduct and Procedures

1) Orderly Conduct. Every person appearing before the WBZA shall abide by the order and direction of the Chairman. Discourteous, disorderly, or contemptuous conduct shall be regarded as a breach of the privileges and shall be dealt with as the Chairman deems fair and proper.

2) Appearance at Meetings. Any party may appear in person or by representative (person, agent, attorney, etc) at WBZA meetings. A representative may testify to the facts that he has particular knowledge of that relate to the issues of the petition. In so testifying, the representative shall be subject to cross-examination and questions.

3) Contacting Members. No person (including applicants, remonstrators, and others) may communicate with any member of the WBZA before a hearing with the intent to influence the member’s action on a matter pending before the WBZA.

4) Basis for Decisions. Actions of the WBZA shall be based upon:
   a) Information made part of the permanent record;
   b) The information submitted at the meeting and made part of the permanent record;
   c) The testimony received at the meeting and made part of the permanent record;
   d) The applicable ordinances that are in effect and relevant to the petition (i.e. Zoning Ordinance).

5) Site Visit. Members shall have the right to inspect land involved in any petition to be heard by the WBZA either individually or jointly. No more than two (2) members shall inspect the subject land at any one (1) time.

6) Conflict of Interest. During presentation and discussion of the subject petition, a member who has a conflict of interest shall not sit as a member of the WBZA nor vote on the particular petition, however they may participate in the discussion as a member of the public. A member of the WBZA shall have a conflict of interest with regard to a petition if:
   a) they, or a family member, have financial interest in a subject property or petition; or
   b) they own (individually or jointly) property close enough to a subject petition to receive written notice.

7) Record of Hearing. The Town Planner shall manage files and maintain a record of all petitions, hearings, and meetings of the WBZA. Copies of such record of any hearing may be ordered by any party, and cost thereof shall be paid by the party ordering such copy or copies in accordance with the adopted fees.

8) Attendance. WBZA members are expected to attend all meetings of the WBZA. To ensure a quorum, members shall notify the Town Planner at their earliest convenience if they are not able to attend a scheduled meeting either entirely or in part. Members who fail to appear at meetings may be subject to removal from the WBZA (see Article 2, Section 3: Removal of Members)
Article 8: Filing of Petitions

1) Policy.
   a) Prior Code Violation Resolution. A petition or permit application may not be filed for a property that has a previously documented and unresolved code violation until the violation has been resolved. However, the Town Planner may allow the filing of a petition application or permit application if it is shown that it will directly contribute to the resolution of the violation.
   b) Adverse Decision. A petition that receives an adverse decision from the WBZA may not be re-filed for a period of one (1) year from the date of the adverse decision. The Town Planner shall determine if a new petition significantly differs from the previous petition that received the adverse decision.

2) Filing Required Prior to Hearing.
   a) Petitions for Consideration. All applications for consideration or recommendation shall be filed in accordance with the proper forms adopted by the WBZA, in the required numbers, and in the required form, and in accordance with the adopted Calendar of Meeting and Filing Dates.
   b) Incomplete Applications. If the Town Planner finds that the application or submittal is insufficient, not in accordance with the proper forms, or not in compliance with the adopted ordinances, said petition shall be considered “incomplete” and shall not be accepted until such time as it becomes complete.

3) Attendance at Hearing Required. All applicants, petitioners, or designated representatives, shall attend the public hearing in person to present the application or petition, to answer questions from the WBZA, and to make rebuttal or answer questions to remonstrators. Failure to meet this requirement may result in the dismissal of the petition.

4) Filing on WBZA Forms. Any communication purporting to be an application not on forms furnished by the WBZA or not containing the information called for on said forms, shall be regarded as a mere notice of intention to file and shall be of no force or effect until it is made on and in the form required. All application forms, including the instructions therewith, are hereby declared to be a part of these written Rules and Procedures.

5) Filing Fee. The petitioner shall pay the appropriate filing fee at the time of filing their petition to cover expenses of processing the petition. The amount of fees shall be in accordance with the fee schedule as adopted by the Town Council.
Article 9: Public Notice

1) Notice Requirements. Notice of petitions or cases to be heard by the WBZA shall be given to all interested parties or property owners in the following manner:

a) Notification by Newspaper. The petitioner shall publish notice at least ten (10) days prior to the scheduled hearing in The Lebanon Reporter and the Zionsville Times Sentinel. Proof of publication affidavit from the publisher shall be placed in the file at least three (3) days prior to the hearing. The cost of publication shall be borne by the applicant.

b) Notification by Mail. The petitioner shall provide written notice at least ten (10) days prior to the scheduled hearing on the WBZA’s prescribed form, by certificate of mailing or certified mail. Notice shall be post marked at least ten (10) days prior to the hearing. Receipts and/or the Affidavit of Mailing shall be submitted at least three (3) days prior to the hearing.

c) Interested Parties. For the purpose of written notice by certificate of mailing, “interested parties” shall be defined as property owners within six hundred (600) feet and at least two (2) parcels deep in all directions from the property that is the subject of the petition. Additionally, written notice shall be sent to owners of the properties that are the subject of the petition, unless said owners are the petitioner or have granted written consent for the petitioner in the WBZA’s prescribed form.
Article 10: Docketing of Cases

1) Docketing of Cases. Each case shall be filed in proper form, with the required date, numbered serially, and placed on the docket by the Town Planner.

2) Order of Hearing Cases. On the date set for hearing, cases shall come before the WBZA either in the regular order of their consecutive numbers, or grouped by similar petitions, as determined by the Town Planner in setting the meeting agenda. Provided, however, cases re-docketed or continued from a previous meeting shall be heard at the beginning of the meeting, before the regularly docketed cases.

3) Agenda Limitations. In preparing the docket for each public hearing of the WBZA the cases scheduled shall be limited to a reasonable number as determined by the Town Planner.

4) Meeting Limitations. No petition shall be introduced for consideration after 10:00pm. Agenda items remaining on the agenda shall be automatically placed at the beginning of the agenda at the next regularly scheduled meeting of the WBZA.
Article 11: Officers, Board of Zoning Appeals Records

1) Officers of the WBZA.
   a) Chairman. A Chairman shall be elected at the first regular meeting of the WBZA in each calendar year. The Chairman shall preside at all WBZA meetings. Meetings shall be held at the call of the Chairman or at other times which the WBZA deems necessary.
   b) Vice Chairman. A Vice Chairman shall be elected in the manner prescribed for the Chairman and shall have the authority to act as Chairman during the absence or disability of the duly elected Chairman.
   c) Secretary. The Town Planner shall serve as the Secretary of the WBZA. A Secretary shall be elected in the manner prescribed for the Chairman who shall maintain responsibility with the Town Planner, for all records and correspondence for the WBZA. They shall cause minutes of the WBZA meeting to be maintained in permanent volume, notice to be served of all public hearings and notification to be served to all members of all meetings. The Secretary, subject to the direction of the Chairman and the supervison of the Town Planner or designee, shall record all important facts pertaining to each meeting and hearing, all resolutions acted upon by the WBZA, and all votes of members of the WBZA upon any resolution or upon the final determination of any questions, indicating the names of any members absent or facility to vote.
   d) In the absence of both the Chairman and Vice Chairman, a chairperson shall be selected from the legal voting quorum present at the meeting.
   e) A Recording Secretary may be used for keeping and transcribing minutes of regular or special meetings of the WBZA.

2) Presiding Officer. The Presiding Officer shall decide all points of order of procedure in accordance with these rules, unless otherwise directed by a majority of the quorum present.

3) Recorded Vote. In all cases heard by the WBZA, the vote shall be recorded in the minutes of the meeting.

4) Agenda Preparation and Distribution. The Town Planner shall be responsible for the preparation and distribution of an agenda for each meeting of the WBZA. Agendas shall be distributed prior to the hearing to members of the WBZA, legal counsel, and the press. Other interested or affected parties may request agendas.

5) Open Door Law. WBZA shall comply with IC 5.14.1.5, the Open Door Law, with respect to the use of agendas and requirements for meetings.
Article 12: Amendments of Rules and Procedures
1) Amendment of Rules and Procedures. Amendment to these Rules and Procedures may be made by the WBZA only upon the affirmative vote of a majority of the full membership of the WBZA.
2) Proposed Amendments: Any amendment to these rules or procedures must be presented at least fourteen (14) days prior to voting on the amendment.
3) Suspension of Rules or Procedures. The suspension of any rule or procedure may be ordered at any meeting of the WBZA by a majority vote of the quorum present.
Article 13: Adoption and Amendment History for Rules and Procedures

1) The official record of these Rules and Procedures for the WBZA shall be kept on file at the Whitestown Town Hall.

2) Adopted:
   a) May 9, 2011.

3) Amended:
   a) March 12, 2012 – residency requirements for citizen members in accordance with IC 36-7-4-905.
   b) January 8, 2015 – Add clarification for commitments; clarify property owners identified as “interested parties”; update procedures for petition consideration.

Attest:

Greg Semmler, Chairman:

__________________________  ____________
Date

Matthew Doublestein, Vice Chair:

__________________________  ____________
Date

Deborah Luzier, Secretary:

__________________________  ____________
Date