

Rules and Procedures

101 **COMPLIANCE:** To be in compliance with the Kosciusko County Zoning Ordinance, all structures as defined by the Kosciusko County Zoning Ordinance, not including Mobile Homes placed in Mobile Home Parks, erected or placed in the unincorporated area of Kosciusko County or in the incorporated area of participating cities or towns subsequent to March 1, 1975, are required to obtain an Improvement Location Permit.

The procedural rules as stated shall be followed in the event any person or group of persons wishes to:

- a. Occupy or use any vacant land.
- b. Construct, reconstruct, move, or enlarge any structure being placed on a permanent foundation or locate a Mobile Home in any location other than a Mobile Home Park.
- c. Change the use of any structure or Land to a different use.
- d. Change a Non-conforming use or structure.

102 **JURISDICTION:** These procedural rules shall apply to all unincorporated land and waters and any incorporated land and waters within those cities or towns which have passed an ordinance adopting the ordinances of the Kosciusko County Area Plan Commission as Ordinances for such city or town, In Kosciusko County, Indiana.

103 **APPLICATION:** It is not intended by these rules to interfere with, abrogate or amend any existing rules, regulations or permits previously adopted or issued pursuant to law relating to the use of buildings or premises.

104 **SEVERABILITY:** If any provisions of these rules or the application of any provision to the particular circumstances is held invalid, the remainder of the rules or the application of such provision to other circumstances shall not be affected.

201 IMPROVEMENT LOCATION AND OCCUPANCY PERMIT: This section is written to elaborate on Article 4 of the Kosciusko County Zoning Ordinance.

201.1 **Application Form:** The application form for an Improvement Location Permit (Form No. 751) and Occupancy Permit (Form No. 0102) shall be supplied by the Kosciusko County Area Planning Department Office, and shall be completed by the Area Plan Commission staff with information provided by the applicant. The appropriate fee shall accompany each application and no portion of the fee shall be refundable.

201.2 **Approval:** After the forms have been completed by the staff, the Ordinance Administrator shall review the form and determine if the proposed use or the Zoning is in conformity with all the requirements of the Zoning Ordinance. In the event the proposed use or structure does meet the provisions of the Zoning Ordinance, the Improvement Location Permit shall be issued (Form No. 751). At such time that construction has progressed and the use has been established so that the Ordinance Administrator can determine that conditions set forth in the application have been met, the Occupancy Permit may be issued. In the absence of the Ordinance Administrator, the Director shall be authorized to issue such permits.

201.3 Denial: In the event that the proposed use or structure does not comply with the Zoning Ordinance, the Improvement Location Permit shall be denied. In the event of denial, the applicant shall be informed, in writing, (Form No. 758) of the reason for denial.

201.4 Revocation: In the event that a permit is issued and at a later date additional information shows that the information presented on the Improvement Location Permit application was in error, the permit may be revoked by the Zoning Ordinance Administrator, the Director, or the Commission, upon determination that the use or occupancy violates the Zoning, or supplementary ordinances.

201.5 Appeal: Any person aggrieved or affected by a decision of the Zoning Ordinance Administrator may appeal to the Board of Zoning Appeals. Such appeal shall be filed on Form No. 0123 within thirty (30) days of the Administrator's decision and shall be filed on the forms prescribed. Said appeal shall be filed in the Office of the Kosciusko County Area Planning Department.

301 VARIANCE: In the act of enforcing the set back, minimum lot area, flood elevations, and height requirements of the ordinances, it is sometimes necessary to deny the application for an Improvement Location Permit. In the event this occurs, a variance of the requirements of the Zoning Ordinance or Flood Control Ordinance may be in order. If it is determined a variance is needed and desirable to the use of the land in question as proposed, the following procedures shall apply:

301.1 Petition for Variance: The person or persons seeking a Variance shall file a petition on a form issued at the Planning Department Office (Form No. 0112). The Area Plan Commission staff shall complete the form using information provided by the petitioner showing all information requested.

301.2 Legal Notice: Notice of public hearing shall be published in a newspaper of general circulation, in Kosciusko County, at least fifteen (15) days prior to the date of the Public Hearing. Such date shall be determined by the Director. Said legal notice shall be on a form supplied by the Planning Department Office (Form No. 0103). The cost of publishing this notice shall be borne by the petitioner.

301.3 Adjacent Property Owners Notification: The petitioner shall cause notification of said hearing to all property owners of record, of all land within a minimum of one hundred (100) feet from all land included in the legal description accompanying the petition. The petitioner shall also cause due notification to any property owners involved within the petitioned area. Notification to the property owners shall be given on a form (Form No. 0103) supplied by the Planning Department. The Petitioner shall furnish the Plan Commission an Affidavit attesting that proper notification has been given (Form No. 0110).

301.4 Notification by Board of Zoning Appeals Action: After Public Hearing the Board of Zoning Appeals shall vote on the petition. A majority YES vote would amount to the approval of the petition. A majority NO vote would amount to a denial of the petition.

The Board shall give notification of said action to the petitioner in writing and said notification shall include any conditions imposed by the Board.

301.5 Record of Action: The Planning Department Staff shall establish and maintain a permanent record of all variances granted and denied by the Board of Zoning Appeals. This record shall contain all information pertinent to the Variance.

401 SPECIAL EXCEPTION: The Zoning Ordinance provides that some uses are permitted in different Districts with the approval of the Board of Zoning Appeals. These uses are listed as Special Exceptions in each of the Zoning Classifications in Table "A" of the Zoning Ordinance, also other similar uses which the Area Plan Commission may determine to be consistent with the objectives and purposes of the particular district (as specified under Section 2.13 of the Zoning Ordinance). In applying for a Special Exception, the following procedure should apply:

401.1 Petition for Special Exception: The Area Plan Commission Staff, using information provided by the person or persons seeking a Special Exception, shall file a petition on a form issued at the Planning Department Office (Form No. 0113). The Area Plan Commission Staff shall complete the form using information provided by the petitioner.

401.2 Legal Notice: Notice of Public Hearing shall be published in a newspaper of general circulation in Kosciusko County, at least fifteen (15) days prior to the date of the Public Hearing. Such date shall be determined by the Director. Said legal notice shall be on a form supplied by the Planning Department Office (Form No. 0106). The cost of publishing this notice shall be borne by the petitioner.

401.3 Adjacent Property Owner Notification: The petitioner shall cause notification of said hearing to all property owners, of record, of all land within a minimum distance of one hundred (100) feet of the property included in the legal description accompanying the petition. The petitioner shall also cause due notification to any property owners involved within the petitioned area. Notification to the property owners shall be given on a form supplied by the Planning Department Office (Form No. 0106). The petitioner shall furnish the Commission an Affidavit attesting that proper notification has been given (Form No. 0110).

401.4 Action: If it is determined by the Board of Zoning Appeals that additional investigation is needed, it may refer the application to the Plan Commission for such investigation and information. After such investigation, the Plan Commission will make its recommendations to the Board of Zoning Appeals, in a written report. After Public Hearing, the Board of Zoning Appeals shall vote on the petition. A majority YES vote would amount to the approval of the petition. A majority NO vote would amount to a denial of the petition.

401.5 Notification of Action: The Board shall give notification of said action to the petitioner in writing and said notification shall include any conditions imposed by the Board.

401.6 Record of Action: The Plan Commission Staff shall establish and maintain a permanent record of all Special Exceptions granted and denied by the Board of Zoning

Appeals. This record shall contain the Use, location, and any conditions imposed, also any other information pertinent to the exception.

PLAN COMMISSION PROCEDURE REGARDING THE FOLLOWING PARAGRAPH OF SECTION 2.13.2 OF THE KOSCIUSKO COUNTY ZONING ORDINANCE:

Other Special Exceptions: In addition to the uses stated under special exceptions in each District, any other similar uses which the Area Plan Commission may determine to be consistent with the objectives and purposes of the particular District may be permitted.

This procedure is being established in order to help clear up questions that may arise when applying this section of the Ordinance to various petitions filed.

1. Each petition with its proposed use, within its proposed district and at its specific location, will be considered separately and on its on merits.
2. Criteria for determining if a use is consistent will be based on the following:
 - A. Sections 2.4, 2.5, 2.6, 2.7, 2.8, 2.9, 2.10, 2.11, and 2.12 of the Kosciusko County Zoning Ordinance.
 - B. Permitted and Special Exception uses in Table "A" of the Section 2.13.2 of the Kosciusko County Zoning Ordinance.
 - C. The Kosciusko County Comprehensive Plan
3. The petition will be considered at the soonest possible regular meeting of the Area Plan Commission. The Commission will consider the petition without public comment, however the Commission may ask pertinent questions of the petitioner if they so desire.

501 ZONING ORDINANCE AMENDMENTS: There will be times when the proposed use on a particular piece of property will not be permitted because of the present Zoning Classification. The applicant may petition for a re-zoning of the property. In the event this occurs, the following procedures shall apply:

501.1 Zoning Ordinance Amendment Petition: A proposed amendment shall be filed by the Planning Department Office Staff with information provided by the person or persons petitioning for the appeal (Form No. 0111). This form shall be completed by Staff using information provided by the applicant, showing all requested information.

501.2 Legal Notice: Notice of Public Hearing shall be published in a newspaper of general circulation in Kosciusko County, at least ten (10) days prior to the date of the Public Hearing. Such date shall be determined by the Director. Said Legal Notice shall be on a form supplied by the Planning Department Office (Form No. 0107). The cost of publishing this notice shall be borne by the petitioner.

501.3 Adjacent Property Owner Notification: The petitioner shall cause notification of said hearing to all property owners, of record, within a minimum of 100 feet of all land included in the legal description provided for the petition. The petitioner shall also cause due notification to any property owners involved within the petitioned area. Notification to the property owners shall be given on a form supplied by the Planning Department

Office (Form No. 0107). The petitioner shall furnish the Plan Commission an affidavit attesting that proper notification has been given (Form No. 0110).

501.4 Commission Recommendation: After the public hearing has been held, the Commission shall vote on the petition. A majority YES vote would amount to a recommendation to the Legislative Body for approval of said Zoning Ordinance Amendment. A majority vote NO vote would amount to a recommendation to the Legislative Body for the denial of said petition. The Plan Commission recommendation will be presented to the Legislative Body at the next possible meeting without a scheduling conflict following the date of the Plan Commission Public Hearing.

501.5 Legislative Action: If the petition is approved by the Legislative Body, the Planning Department Staff shall up date the Official Kosciusko County Zoning District Map.

601 ORDINANCE AMENDMENT: From time to time there will be uses and conditions proposed which are not covered in the Zoning, Subdivision Control, Flood Control, Stormwater and Erosion Control, and Mobile Home Park Ordinances. There will also be times that uses and conditions which are covered may not be covered adequately. When this occurs it may be necessary to amend the Ordinances. The following procedures shall apply:

601.1 (Text): The plan commission or any participating legislative body may initiate a proposal under I.C. 36-7-4-602 (b)

601.2 Legal Notice: Notice of Public Hearing shall be published in a newspaper of general circulation, in Kosciusko County, at least ten (10) days prior to the date of the Public Hearing. Such date shall be determined by the director. The cost of publishing this notice shall be borne by the petitioner.

601.3 Commission Recommendation: After the public hearing has been held, the Commission shall vote on the petition. A majority YES vote would amount to a recommendation to the Legislative Body for approval of said Ordinance Amendment. A majority NO vote would amount to a recommendation to the Legislative Body for the denial of said petition. The Plan Commissions recommendation will be given to the Legislative Body, in a written report at the next possible meeting without a scheduling conflict following the date of the Plan Commission Public Hearing.

601.4 Legislative Action: If the petition is approved by the Legislative Body, the Plan Commission Staff shall up date the Official Kosciusko County Ordinance.

701 SPECIAL EXCEPTION-MOBILE HOME PARK: The Zoning Ordinance provides that Mobile Home Parks are permitted in different districts with the Board of Zoning Appeal's Approval. These districts are listed in Table "A" of the Zoning Ordinance. In applying for a Special Exception for the Mobile Home Park, the following procedure should apply:

701.1 Petition for Mobile Home Park Approval: The person or persons seeking a Mobile Home Park approval shall file an application on a form issued at the Area Planning Department Office (Form No. 0113). The staff shall complete the form using information provided by the petitioner showing all information requested.

701.2 Legal Notice: Notice of the Public Hearing shall be published in a newspaper of general circulation, in Kosciusko Count, at least fifteen (15) days prior to the date of the Public Hearing. Said legal notice shall be on a form supplied by the Area Plan Commission Office (Form No. 0106). The cost of publishing the legal notice shall be borne by the petitioner.

701.3 Adjacent Property Owner Notification: The petitioner shall cause notification of said hearing to all property owners, of record, of all land within a minimum of 100 feet of the area included in the legal description of the petition. The petitioners shall also cause due notification to any property owners involved within the petitioned area. Notification to the property owners shall be given on a form supplied by the Planning Department Office (Form No. 0106). The petitioner shall furnish the Plan Commission an affidavit attesting that proper notification has been given (Form No. 0110).

701.4 Information to be submitted for the Board Review: The petitioner shall submit along with the petition two (2) copies of the preliminary plat showing the lot and street lay-out, the screening areas, the recreational areas and any other information that the petitioner may deem helpful to the Board in making the decision.

701.5 Action: If it is determined by the Board of Zoning Appeals that additional information and investigation is needed, it may refer the application to the Plan Commission for such investigation and information. After such investigation, the Plan Commission will make its recommendations to the Board of Zoning Appeals, in a written report. After public hearing the Board of Zoning Appeals shall vote on the petition. A majority no vote would amount to a denial of the petition.

701.6 Notification of Action: The Board shall give notification of said action to the petitioner in writing and said notification shall include any conditions imposed by the Board.

701.7 Record of Action: The Plan Commission Staff shall establish and maintain a permanent record of all Special Exception granted or denied by the Board of Zoning Appeals. This record shall contain the Use, Location, Owner and any conditions imposed, also any other information pertinent to the exception.

801 MOBILE HOME PARK PERMITS: The Mobile Home Park Ordinance establishes minimum standards governing the construction of the Mobile Home Parks. When a person or persons wish to establish a new Mobile Home Park or expand an existing Mobile Home Park, the following procedure shall apply:

801.1 Application for Permit: The application form for a Mobile Home Park permit shall be supplied by the Area Planning Department Office (Form No. 7518). The form shall be completed by staff using information provided by the applicant showing all requested information. The appropriate application fee shall accompany each application and no portion of the fee shall be refundable.

801.2 Commission Approval: After the forms have been completed by the staff, the Director will inspect the Forms and Supporting Documents. Upon his determination that

all necessary information has been submitted, he shall present said application and documents to the Area Plan Commission for consideration. After investigation and study, if the Commission determines that the applicant has met all the requirements of the Mobile Home Park Ordinance, it shall give its approval in writing to the Ordinance Administrator.

801.3 Issuing of Permit: Upon receipt of written approval of the Area Plan Commission and Written approval of the Indiana State Board of Health, the Ordinance Administrator shall issue a permit (Form No. 751) to construct or alter the proposed Mobile Home Park.

801.4 Certification of Occupancy: Upon completion of the Mobile Home Park, the applicant shall notify the Ordinance Administrator in writing. The Ordinance Administrator shall then inspect the park and if completed in accordance with the approved application, he shall issue a Certificate of Occupancy.

901 AGRICULTURE LAND USE INFORMATION: Agriculture structures shall be considered the same as Commercial and Industrial structures. An Improvement Location Permit shall be required for any structure as defined in the Kosciusko County Area Plan Commission.

901.1 Special Attention: When a permit is issued in an agricultural District, special attention shall be given to the following:

- a. Highway entrance and traffic safety.
- b. Utility easements.
- c. Drain tiles, Open ditches, and surface waterways.
- d. Environmental features.
- e. Agricultural waste disposal.

901.2 Grain Storage: Grain storage and drying facilities shall be considered as a single structure and the permit fee will be based on the combined square footage. Additions to an existing facility shall be considered a new structure.

901.3 Other Approval: A structure or project requiring E.P.A. or other State or Federal approval shall have such approval before and Improvement Location may be issued.

1001 SUBDIVISION APPROVAL: In the event a person desires to plat and subdivide land within the jurisdiction area of the Kosciusko County Area Plan Commission, certain procedures shall be followed. This section is to further elaborate on the Subdivision Control and Zoning Ordinances and to spell out the necessary procedures for plat approval.

1001.1 Petition for plat Approval: The person seeking plat approval shall file a petition on a form issued at the Planning Department Office (Form No. 0114). The staff shall complete the form, using information provided by the petitioner, showing all information requested which shall be accompanied with the appropriate filing fee.

1001.2 Legal Notice: Notice of Public Hearing shall be published in a newspaper of general circulation within Kosciusko County, at least ten (10) days prior to the Public Hearing. Said legal notice shall be on a form supplied by the Planning Department Office (Form No. 0104). The cost of the legal ad shall be borne by the petitioner.

1001.3 Adjacent Property Owner Notification: The petitioner shall cause notification of said hearing to all property owners, of record, within a minimum of 100 feet of all land included in the provided legal description of the petition. The petitioner shall also cause due notification to any property owners involved within the petitioned area. Notification shall be given to the property owners on a form supplied by the Planning Department (Form No. 0104). The petitioner shall furnish the Plan Commission an affidavit attesting that proper notification has been given (Form No. 0110).

1001.4 Review by Director: The petitioner shall submit to the Planning Department Office the completed application along with the required documents, for Preliminary Plat Approval. Upon receipt of the Application (Form No. 0114) and documents, the Director shall inspect them and determine if all of the standards of the Ordinance have been met (Form No. 0115). If the Director determines that the standards have been met and the documents are in order, he shall set the time and date for public hearing, and so notify the petitioner in writing. If the Director determines that the standards have not been met, he shall reject the application and provide the petitioner with a written specification of the items of noncompliance. If upon a second submission, made not sooner than thirty (30) days after the first, the application is again rejected by the Director, the applicant may request hearing before the Plan Commission.

1001.5 Preliminary Approval by the Commission: If after Public Hearing the Commission determines that the application and plat comply with the standards set forth in the subdivision control, zoning ordinance, stormwater and erosion control ordinance, and flood control ordinances they shall give to the petitioner their written approval, and he may proceed with the final plat. If it is determined that the plat is deficient the board shall provide a written description of the deficiencies.

1001.6 Review of Final Plat: The petitioner shall submit to the Planning Department Office the Final Plat for inspection (Form No. 7516), by the Director not less than forty-eight (48) hours prior to the next Area Plan Commission meeting. If it is determined by the Director that all of the Standards set forth in the Ordinance have been met, he shall so notify the petitioner, in writing and present the Plat to the Commission at their next regular meeting. If the Director determines that the Standards have not been met, he shall reject the Plat and provide the Petitioner with a written specification of the items of noncompliance. When the Commission determines that the Final Plat complies with the standards set forth in the Subdivision Control Ordinance they shall approve and fix the commission's seal upon the Plat. The certificate shall be signed by the president of the commission. The responsibility and the cost of recording the plat in the office of the County Recorder shall be borne by the petitioner.

1001.7 Approval of Plat With Uncompleted Improvements: If the commission approves a Plat for a Subdivision in which the improvements and installations have not been completed as required by the subdivision control ordinance, a Bond or other accepted method of surety shall be required which runs to the County Commissioners, in an amount determined by the commission to be sufficient to complete the improvements and installations in compliance with the ordinance: or

A deposit of cash or securities in escrow in an amount sufficient to complete the improvements in conformity with the terms and provisions of the Ordinance and subject to the approval of the commission of the terms and conditions of said escrow: or

Any other method or system, satisfactory to the Commission which will adequately guarantee the completion of the improvements required by the Ordinance, within a reasonable period of time.

1101 PLANNED UNIT DEVELOPMENT: In accordance with the provisions of section 3.24 of the Zoning Ordinance and section 508 of the Subdivision Control Ordinance, the design standards of these ordinances may be modified by the Commission and the Board of Zoning Appeals. The Planned Unit Development provision is intended to encourage original and imaginative Subdivision Design, which preserves the natural amenities of the site and provides for the general welfare of the County.

1101.1 Petition for Planned Unit Development Plat Approval: The person seeking approval shall file an exception petition as prescribed under section 401 of these rules of procedure.

1101.2 Upon receipt of the petition, the Board of Zoning Appeals shall act on the exception for the use and concept alone as provided for under section 401 of the rules of procedure.

1101.3 Upon approval of the petition for exception the Board of Zoning Appeals shall forward their action decision onto the Area Plan Commission for review. The petitioner shall apply for preliminary plat review as prescribed under section 1001.

1101.4 Plan Commission Action: Upon receipt of the Petition, Preliminary Plat and other documents, the Plan Commission shall proceed with the Provisions of Section 1001 paragraphs 1001.2 thru 1001.7 of these Rules of Procedure.

1201 Procedure for handling Re-Petition Requests:

This rule is intended to supersede all previous regulations enacted by the Area Plan Commission and Board of Zoning Appeals regarding the procedure for rehearings or repetitions on matters that have previously been, or believed by the Staff of the Area Plan Commission to have previously been, decided by the Boards. It is the hope of the Area Plan Commission to cut down on the caseload of both Boards and eliminate the needless and hindering efforts of those “repetitions”.

1201.1: Upon filing of any and all petitions before the Area Plan Commission and Board of Zoning Appeals, the Ordinance Administrator of the Area Plan Commission shall review the petition for repetition or similarity with prior requests.

1201.2: If the Ordinance Administrator of the Area Plan Commission deems that there have been no proceeding cases on the same property of similar nature the petition will be scheduled for hearing according to the rules of procedure adopted by the Area Plan Commission and Board of Zoning Appeals.

1201.3: If the Ordinance Administrator of the Area Plan Commission deems that this petition in the same or very similar form has previously been decided by either the Area Plan Commission or Board of Zoning Appeals the case will not be scheduled for public hearing. The petitioner shall be notified of the Ordinance Administrators findings in writing.

1201.4: These findings, of the Ordinance Administrator, may then be appealed to the entire Board of Zoning Appeals in accordance with Section 5.2 of the Kosciusko County Zoning Ordinance. The appeal of the Ordinance Administrators findings shall be scheduled for public hearing. If the Board affirms the Ordinance Administrators findings, the course of further appeals is outlined in I.C. 36-7-4-1003, (or the petitioner may wait one year from the original petition date for a new hearing). In the event the Ordinance Administrators findings are reversed, the petitioners shall be scheduled for public hearing according to the rules of procedure.

1300 DEVELOPMENT PLAN REVIEW:

Review Process and Standards for Site Development Plans shall be subject to the following review and approval process and as elaborated on under section 3.27 of the Zoning Ordinance:

1301. Technical Review Committee Review: The Technical Review Committee shall review the Site Development Plan, including all supportive information on the date established by the adopted calendar of meeting and filing dates. All Technical Review Committee actions and procedures shall be consistent with the provisions of Technical Review Committee of this Ordinance.

1301.1 Considerations: In reviewing the Site Development Plan, the Committee shall consider whether or not the proposed Site Development Plan is consistent with the goals and objectives of the Kosciusko County Comprehensive Plan and the requirements of this Ordinance and all other applicable local, state or federal requirements.

1301.2 Possible Action: The Committee may approve, approve with modifications, deny, table, or forward to the Plan Commission the Site Development Plan.

a. Approval: The Committee shall approve the Site Development Plan if it complies with all applicable requirements of this Ordinance.

b. Approval with Modifications: The Committee shall approve the Site Development Plan with modifications if it is generally consistent with the considerations for approval outlined in B(2)(a) above, but requires minor modifications to be completely in compliance with the requirements and intent of this Ordinance. The applicant shall revise the Site Development Plan proposal consistent with the Committee comments and supply revisions for review of the Plan Director prior to the release of any Improvement Location Permit.

c. Denial: The Committee shall deny the Site Development Plan if it is found to be inconsistent with the considerations outlined above.

d. Table: The Committee shall table the Site Development Plan based on a request by the Plan Director or the petitioner, a determination by the Plan Director that sufficient information has not been provided, or the failure of the petitioner or an appropriate representative of the petitioner to appear at the Committee meeting. Site Development Plan applications which are tabled shall be automatically docketed for the next review meeting.

e. Forward to Plan Commission: The Committee shall forward Site Development Plans which are generally consistent with the considerations outlined above to the Plan Commission for a public hearing if the proposal:

- i. includes any improvement to be dedicated to the public,
- ii. includes proposed written commitments,
- iii. requires the imposition of conditions in order to be completely consistent with the considerations for approval,
- iv. requires a surety for improvements to be set,

1301.3 Plan Commission Preparation: If Plan Commission review is required, the Site Development Plan shall be placed on the agenda for the next meeting of the Plan Commission consistent with the adopted calendar of meeting and filing dates. The applicant shall revise the Site Development Plan proposal consistent with any Committee comments prior to review by the Plan Commission and shall provide such revision for review consistent with the adopted calendar of filing and meeting dates.

1302. Public Meeting Notification (if necessary): Notification for the scheduled public hearing regarding the Site Development Plan shall be completed consistent with the requirements of Indiana State Code, the Rules and Procedures of the Plan Commission,

1303. Plan Commission Review (if necessary): The Plan Commission shall, at a meeting scheduled consistent with the adopted calendar of meeting and filing dates, review the Site Development Plan and any supportive information.

1303.1 Representation: The applicant and/or any appropriate representatives of the applicant, such as a surveyor or attorney, must be present at the public hearing to present the Site Development Plan and address any questions the Commission may have.

1303.2 Presentations: The Commission shall consider a report from the Plan Director describing the findings of the Technical Review Committee and testimony from the applicant and any interested parties in making its decision.

1303.3 Possible Action: The Plan Commission shall approve, approve with modifications, deny, or table the Site Development Plan application.

a. Approve: The Plan Commission shall approve the Site Development Plan if it is consistent with all applicable requirements of this Ordinance.

b. Approve with Modification: The Plan Commission shall approve the Site Development Plan with modifications if it is generally consistent with all applicable requirements of this Ordinance. The Plan Commission may impose conditions on the approval of a Site Development Plan, which shall become written commitments of the applicant, if the conditions are necessary to satisfy the requirements and intent of this Ordinance.

c. Deny: The Plan Commission shall deny the Site Development Plan if it is not consistent with the applicable requirements of this Ordinance. Site Development Plan applications which have been denied shall not be re-filed for a period of one (1) year from the date of the denial, unless a different design which addresses the reasons for the denial is submitted.

d. Table: The petition shall be tabled based on a request by the Plan Director, the petitioner, remonstrators, or interested parties; an indecisive vote; or a determination by the Plan Commission that additional information is required prior to action being taken on the request. The tabling of all petitions shall be consistent with the adopted Rules and Procedures of the Plan Commission.

1303.4 Assurance of Completion of Improvements: The Plan Commission may approve a Site Development Plan with the condition that surety be provided that guarantees the timely completion of any proposed public improvements included in the development. The surety shall be in a form acceptable to the Plan Commission, the Plan Director, and the County Attorney, and be consistent with the surety provisions of the Kosciusko County Subdivision Control Ordinance.

1304. Findings of Fact: The Plan Director shall prepare and sign written findings of fact documenting the action taken by the Technical Review Committee and the Plan Commission (if Plan Commission review is necessary). The Plan Director shall make copies of the written findings of fact available to the applicant within ten (10) days of the date of the decision.

1305. Permits: Prior to any construction activity, the improvements approved through all Site Development Plans shall be required to obtain the appropriate Improvement Location Permit, and any other required permits specified by this Ordinance.

1306: Written Commitments: The applicant in any Site Development Plan application may make written commitments regarding the characteristics of the proposed future use of, or the resolution of outstanding issues in existence on the subject property consistent with IC 36-7-4-613.

A. Origin of Commitments: Written commitments may be proposed by the petitioner as an element of the initial submittal of application materials, as a response to comments made by the Technical Review Committee, or in response to any modifications requested by the Plan Commission.

B. Consideration of Commitments: Any commitments shall be considered by the Technical Review Committee and/or the Plan Commission at the time of their review of the petition.

C. Recording of Commitments: Following final action being taken on the Site Development Plan application, the written commitments shall be recorded by the petitioner in the office of the Kosciusko County Recorder. A copy of the recorded commitments shall be provided by the petitioner to the Plan Director for the records of the Plan Commission prior to the receipt of an Improvement Location Permit.

1307. Appeals: Any applicant or interested party may appeal a determination made by the Technical Review Committee to the Plan Commission through the procedure described below:

1307.1 Application: The person making the appeal shall submit to the Plan Director a letter giving notice of the appeal and required supportive information within fifteen (15) days of the decision which is subject to the appeal. Supportive information shall include, but not be limited to the following:

1. Submittals: Copies of all materials submitted to the Technical Review Committee upon which the decision being appealed was based.
2. Findings of Fact: Copies of any written decisions or findings of fact which are the subject of the appeal.
3. Description: A letter describing the reasons for the appeal noting specific sections of this Ordinance, Indiana State Code, or other standards applicable to the Kosciusko County upon which the appeal is based.
4. Filing fee as required under section 4.11.4 of this ordinance.

1307.2 Public Meeting Notification: Notification for a scheduled public hearing regarding the Site Development Plan shall be completed consistent with the requirements of *Notice of Public Hearing* of this Ordinance.

1307.3 Plan Commission Meeting: The Plan Commission will then, in a public hearing scheduled consistent with the adopted calendar of filing and meeting dates, review the appeal and supportive information.

1. Representation: Either the entity initiating the appeal or their representative must be present at the public hearing to present the appeal and address any questions from the Commission.
2. Presentations: The Commission shall consider a report from the Plan Director, testimony from the entity making the appeal, and testimony from any interested parties at the public hearing.

3. Proceedings: The presentation of reports and testimony and all other aspects of the meeting shall be consistent with the requirements of the Rules and Procedures of the Commission.

4. Possible Actions: Upon hearing the appeal, the Plan Commission may approve, approve with modifications, deny, or table the Site Development Plan application consistent with the approval procedure for applications referred to the Commission by the Technical Review Committee as described in this Article.

Any decision of the Area Plan Commission as specified under IC 36-7-4-1016 shall be subject to review by certiorari as stated under I.C. 36-7-4-1003.

FORMS USED BY
KOSCIUSKO COUNTY AREA PLANNING DEPARTMENT

Name	Number	Revised
Application for Improvement Location Permit	751	8/28/78
Application for Occupancy Permit	0102	2001
Notice of Public Hearing for Variance	0103	2001
Notice of Public Hearing for Sub-Division Plat	0104	2001
Notice of Public Hearing for Planned Unit Development	0105	2001
Notice of Public Hearing for Special Exception	0106	2001
Notice of Public Hearing for Zoning Ordinance Amendment	0107	
Improvement Location Permit Refusal	758	
Letter-Failure to apply for Improvement Location Permit	759	
Affidavit of Notice of Public Hearing	0110	2001
Petition for Zoning Ordinance Amendment	0111	2001
Request for Variance	0112	2001
Request for Special Exception	0113	2001
Application for Sub-Division Plat Approval	0114	2001
Preliminary Plat Inspection Report	7515	
Final Plat Inspection Report	7516	
Improvement Location Permit	7517	
Application for Mobile Home Park Permit	7518	
Notice of Public Hearing for Variance Hearing Officer	0119	3/01
Notice of Public Hearing for Exception Hearing Officer	0120	3/01
Setback Reduction Affidavit	0121	2001
Notice of Public Hearing for Appeals	0122	2001
Petition for Appeals	0123	2001
Application for Development Plan Review	0901	2009
Application for a Plat Vacation	0902	2009
Findings of Fact for a Plat Vacation	0903	2009
Notice of Public Hearing for Plat Vacation	0904	2009
Sign Permit Application	0905	2009
Temporary Sign Permit Application	0906	2009

Procedure for Public Hearing

When a Public Hearing is conducted by the Area Plan Commission, Hearing Officer, or the Board of Zoning Appeals, the following procedure shall apply:

- (1) When a Public Hearing has been scheduled to be held during a regular meeting of the Commission or Board, the hearing shall be conducted as the first order of business under new business.
- (2) The Chairman shall announce that the meeting is open for Public Hearing and give the purpose of the hearing.
- (3) The Director shall present the application or petition along with all supporting documents and make any statements for the purpose of explanation or clarification that he may deem appropriate.
- (4) The applicant/petitioner or his agent shall be asked for any additional information or statements that he may wish to make at this time.
- (5) The Commission/Board members shall be asked if they have any questions of the Director, Administrator, or applicant.
- (6) The Public shall be asked for questions or statements. Before a participant of the public speaks he/she must be recognized by the Chair and shall give his/her name and where he/she lives in relation to the area involved in the application/petition. No questions or rebuttal statements shall be asked or made by the Director, Commission, or Applicant until all citizens present have been given an opportunity to be heard. If it is determined by the Chairman that due to the number of citizen participants, there should be a time limitation imposed upon each speaker he shall specify such limitations.
- (7) After all public participants have been given an opportunity to be heard, the applicant/petitioner shall be given an opportunity to present explanatory or rebuttal remarks, as well as opposition.
- (8) At the close of presentations of both the applicant/petitioner and the public, the Commission/Board shall be given an opportunity to question each participant.
- (9) After all questions have been answered, the Chairman shall declare the Hearing Closed. The Commission/Board shall discuss the application/petition and documents and testimony presented, and proceed to render its decision.
- (10) The decision of the Commission/Board, along with the reasons for the decision, shall be given to the applicant/reasons for the decision, shall be given to the applicant/petitioner, in writing within ten (10) working days after the Hearing.

Area Plan Commission

Membership: The Area Plan Commission shall consist of seven (7) members when the number of participating Towns is five (5). When six (6) or more Towns are participating then the

Commission shall consist of eight (8) or more members. The members shall be selected as prescribed under IC 36-7-4-207

Board of Zoning Appeals

Membership: The Board of Zoning Appeals shall be selected as prescribed under I.C. 36-7-4-900

THE BOARD OF ZONING APPEALS SHALL NOT GRANT A VARIANCE FROM A USE DISTRICT OR CLASSIFICATION.

HEARING OFFICER

The Hearing Officer shall consist of two divisions: the Kosciusko County Division Hearing Officer, and the Syracuse Division Hearing Officer. The Kosciusko County Division shall have exclusive territorial jurisdiction over all lands subject to this Ordinance except land located within the corporate limits of the Town of Syracuse, where the Syracuse Hearing Officer shall have exclusive jurisdiction. Reference hereinafter to the Hearing Officer shall respectively be to the Kosciusko County Division Hearing Officer, for matters concerning real estate located within the territorial limits subject to this Ordinance unless this real estate is located within the corporate limits of the Town of Syracuse, when the reference shall then relate to the Syracuse Division Hearing Officer.

The Hearing Officer shall hold meetings, keep minutes and pursuant to legal notice, shall conduct hearings, compel the attendance of witnesses, take testimony and render decisions in writing, all as required by law. When granting any appeal, request for variance, exception or change of a non-conforming use, the Officer may impose all conditions and requirements deemed necessary for the protection of adjacent property and the public interest and the compliance with the goals of this ordinance.

The Officer for each respective territory shall be appointed from within the membership of each existing board of zoning appeals by a majority vote. Each term shall be for a period of four months with the possibility of reappointment. In the case that the appointed officer will not be present at a scheduled hearing, the board may appoint a proxy from within who will be determined by a majority vote. Said proxy shall only temporarily fill the officers' seat until such time that the appointed officer returns or the term limit has expired.

The hearing officer shall have the following duties and powers:

1. The exclusive right to hear and approve or deny Exceptions subject to the following:

- 1.1 The exception shall not involve any element or cause any condition that may be dangerous, injurious, or noxious to any other property or persons, and shall comply with the performance standards of Section 3.19 and lot and yard requirements of Section 2.10;

- 1.2 The exception shall be cited, oriented and landscaped to produce a harmonious relationship of buildings and grounds adjacent buildings and properties;

1.3 The exception shall produce a total visual impression and environment, which is consistent with the environment of the neighborhood;

1.4 The exception shall organize vehicular access and parking minimizes traffic congestion in the neighborhood;

1.5 The exception shall preserve the purpose of this Ordinance.

2 The exclusive right to hear and approve or deny variances from the development standards of the Zoning Ordinance. A variance may be approved by the hearing officer only upon a written determination that:

2.1 The approval will not be injurious to the public health, safety, morals, and general welfare of the community;

2.2 The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and

2.3 The strict application of the terms of the zoning ordinance will not result in any practical difficulties in the use of the property.

2.4 The rules of procedure adopted by the Board under Section 5.1 and 5.2 of this Ordinance in their entirety shall apply to the Hearing Officer.

3 Appeals from the Hearing Officer:

3.1 Any order, requirement, decision, or determination of the Hearing Officer may be appealed to the Board of Zoning Appeals by any person claiming to be adversely affected by that order, requirement, decision, or determination.

3.2 Every appeal shall be filed within fourteen (14) days from the date of the order, requirement, decision, or determination.

3.3 Notice of the hearing on the appeal shall be given fourteen (14) days prior to the Board of Zoning Appeals hearing date and may be made as part of the Notice of Hearing by the Hearing Examiner.

3.4 The Board of Zoning Appeals hearing on the appeal shall be de novo, in the same manner as the petition originally filed with the board.

3.5 The impositions of conditions, requirements of commitments, or any other adverse action by the Staff or Hearing Officer shall permit the applicant to obtain transfer to the Full Board of Zoning Appeals before obtaining a decision.

3.6 The hearing officer has the reserved right to forward any petition directly to the full board for determination at any time.

Erosion Control Procedure

1. For Commercial/ Industrial/Public Use Improvement Location Permits when a Rule 5 permit is required a copy of the approved Notice of Intent and plan must be submitted prior to the issuance of the permit along with other required documents.
2. For Commercial, Industrial, and public use projects which do not require a Rule 5 plan a plan shall showing what erosion control measures are proposed and their location as specified under sections 9.2 & 9.3 of the Stormwater and Erosion Control Ordinance must be submitted and approved of prior to the issuance of a permit.
3. All other land disturbing projects shall be evaluated by staff to determine if a detailed plan is needed taking into consideration project type, property elevation, soil types, floodzone, proximity to a body of water or waterway, and other pertinent conditions.
 - a.) Conditions which require plan (one or all may be present);
 - i.) Any project which disturbs ground within 35' a body of water, drainage way, or a delineated wetlands
 - ii.) Projects on soil as follows;

a. BOC	-	Boyer
b. CLC	-	Coloma
c. KOC	-	Kosciusko
d. KOE	-	Kosciusko
e. KXC3	-	Kosciusko
f. MAC	-	Martinsville
g. MBC	-	Metea
h. MLC	-	Miami
i. MRC3	-	Miami
j. MRD3	-	Miami
k. MSD	-	Miami
l. MSD	-	Owosso
m. MVC	-	Morley
n. MXC3	-	Morley
o. MXD3	-	Morley
p. ORC	-	Ormas
q. OTC	-	Ormas
r. RLC	-	Riddles
s. RLD	-	Riddles
t. RXC	-	Riddles
u. RXC	-	Ormas
v. RXC	-	Kosciusko
w. WLC2	-	Wawasee
x. WLD2	-	Wawasee
 - iii.) Any project which has concentrated flow through it.
 - iv.) Any project within a Special Flood Hazard Area A-A99.

- v.) Any special conditions which may be unique to a specific property.
4. Once construction begins on the site the site will be inspected for compliance with the submitted plan.
 5. The site will be inspected periodically throughout the construction process to ensure all erosion practices are being maintained.
 6. Upon receipt of any complaints the site will be inspected.
 7. Upon finding erosion control deficiencies on the site the following will be followed as prescribed under Article 13 of the Stormwater and Erosion Control Ordinance
 - a. Staff will notify the project contact person in writing and verbally (when possible) of the deficiencies and give five (5) days to correct.
 - b. Upon the follow up inspection if the deficiencies are not corrected staff will post a stop work order and contact the builder/developer in writing that until such time as the deficiencies are corrected the ILP will be pulled. Additionally, the contractor/developer will be notified that they will be responsible for correcting any problems caused by erosion from the site.
 - c. If the deficiencies still exist staff will pursue the violation through the APC attorney and approach the APC regarding future denial of permits to the builder/developer.

Real estate Sign Violation Procedure

The following are the procedures for real estate signs that are found to be in violation of section 3.19.3 of the Kosciusko County Zoning Ordinance.

1. Signs found to be in violation of section 3.19.3 of the Kosciusko County Zoning Ordinance will be identified and photographed.
2. Signs found to be in violation will be removed. If the sign is either too large to be removed or for some reason can not be removed staff will post a stop work notice on the sign.
3. The Area Plan Commission (APC) staff will call the agent/firm listed on the sign at the listed phone number and inform them of the violation, what section of the ordinance the sign is in violation of, and when the sign may be collected. In the instance that no number is given or contact may be determined, staff will notify the property owner of record of the situation by certified letter.
4. Collected signs will be taken to the Kosciusko County Highway Department grounds and deposited.

5. Sign owner or agent may then collect their sign at the Kosciusko County Highway Department grounds at the pre-determined time and day. Signs will only be available when an APC staff member is present and only at the designated time.
6. Prior to releasing the sign the person present to collect the sign must sign that they have received the sign and that they understand the violation.
7. In the instance that multiple violations by the same realtor or firm become evident and clear disregard to the ordinance is present penalties will be pursued as prescribed under section 4.12 of the Kosciusko County Zoning Ordinance which allows for fines anywhere between \$10 and \$300 a day for each day the violation occurs.