

# Chapter 2: Administration

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# 2 2.1 Duties and Powers of the Common Council

## **2.1 DUTIES AND POWERS OF THE COMMON COUNCIL**

The powers and duties of the City of Lebanon Common Council, also known as the legislative body, with regard to this ordinance are defined by Indiana Code, and are described in this chapter.

**A. DUTIES.** Duties should be interpreted as activities that are obligations. Common Council duties include:

1. Plans and Ordinances. Adopt, reject, or amend the Comprehensive Plan, any other plans, and the Unified Development Ordinance, as certified and submitted by the Plan Commission;
2. Plan and Ordinance Amendments. Adopt, reject, or amend proposals to amend or partially repeal the text of the Comprehensive Plan, any other plans, and the Unified Development Ordinance as certified and submitted by the Plan Commission;
3. Zoning Map Amendments. Adopt, reject, or amend proposals to amend the Official Zoning Map certified and submitted by the Plan Commission;
4. Planned Unit Developments. Adopt, reject, or amend proposals for Planned Unit Developments as certified and submitted by the Plan Commission; and
5. Fee Schedule. Adopt, reject, or amend proposals to adopt or amend a Fee Schedule as certified and submitted by the Plan Commission.

**See Also:**

[Chapter 5: Planned Unit Development](#)

**B. POWERS.** Powers should be interpreted as activities that are optional and may be initiated by the Common Council. Council powers include:

1. Plan and Ordinance Amendments. Initiate amendments to the text of the Comprehensive Plan, any other plans, the Unified Development Ordinance;
2. Zoning Map Amendments. Initiate amendments to the Official Zoning Map.

## **2.2 DUTIES AND POWERS OF THE PLAN COMMISSION**

**A. AUTHORITY.** The Plan Commission is hereby authorized to perform those duties and functions specified in Indiana Code (IC) 36-7-4-400 et seq. and other applicable sections of Indiana law and such other responsibilities as may be assigned to it from time to time by the Mayor, Common Council, or Board of Zoning Appeals.

**B. RULES OF PROCEDURE.** The Commission shall adopt written Rules of Procedure for the administration of the affairs of the Commission and its

*Lebanon Plan  
Commission Rules  
of Procedure  
available at [www.  
cityoflebanon.org](http://www.cityoflebanon.org)*

## 2.2 Duties and Powers of the Plan Commission **2**

staff for filing, noticing and conduct of hearings. Refer to city of Lebanon Plan Commission Rules of Procedures, as amended.

**C. ESTABLISH ADVISORY AND REVIEW COMMITTEES.** The Plan Commission shall establish advisory and review committees as necessary, and shall determine the powers and duties, authority, and membership of additional committees.

1. Technical Assistance Committee.

- a. Establishment. A Technical Assistance Committee (TAC) is hereby established to assist the Plan Commission in the technical review of planned unit developments, development plans, and subdivision plats, and to perform such duties as are outlined for the Committee by the Unified Development Ordinance of Lebanon.
- b. Membership. Committee membership shall be at the request of the Planning and Zoning Administrator. The Administrator may request the assistance of members of public and semi-public local and state departments, agencies, and organizations, including but not limited to: the Lebanon Planning Department, Lebanon Utilities, the Lebanon Fire Department, the Lebanon Parks Department, the Lebanon Street Department, the Lebanon School Board, the Mayor's Office, the Boone County Surveyor, the Boone County Storm Water Board, the Boone County Soil and Water Conservation District, the Indiana Department of Transportation, the Indiana Department of Natural Resources, and the Lebanon Plan Commission.
- c. Duties. The duties of the Technical Assistance Committee shall be to give technical expertise to the Plan Commission regarding plans and proposals; and to perform such duties assigned to it by the Plan Commission. When required by this ordinance, the Technical Assistance Committee shall meet with the subdivider or applicants as per the meeting schedule established by the Administrator.
- d. Informal Meetings. An applicant or subdivider seeking an informal meeting with the staff shall contact the Administrator to schedule a meeting date and time.
- e. Findings. The findings of the Technical Assistance Committee shall be advisory only and neither the applicant or subdivider nor the City shall be bound by any decision reached during a Technical Assistance Committee meeting. Findings of the Technical Assistance Committee shall be in writing and shall be submitted to the Plan Commission prior to the Commission's review of a PUD concept plan, development plan, or subdivision proposal.

**See Also:**

[Section 2.3 Duties of the Planning and Zoning Administrator](#)

## 2 2.2 Duties and Powers of the Plan Commission

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### 2. Plat Committee

- a. Establishment. The Plan Commission may establish a Plat Committee to review and decide petitions for minor plats, secondary plats, and administrative subdivisions.
- b. Membership. Committee membership shall be divided into two classes.
  1. Official Members. Official members shall consist of three members. One of the members shall be a staff member representing the City of Lebanon, and the remaining members shall be members of the Plan Commission who are not otherwise employed by the City, its subdivisions or instrumentalities.
  2. Ex-officio Members. Ex-officio members shall be the Technical Assistance Committee (TAC).
- c. Appointment. Each member shall be appointed by the Plan Commission for one year.
- d. Removal. The Plan Commission may remove a member from the committee upon mailing written reasons for removal to the member.
- e. Decisions. The committee may take action only upon a majority vote. In the event of any uncertainty as to compliance or classification of any subdivision, the Plat Committee shall forward such subdivision to the Plan Commission for consideration.
- f. Voting. Only official members of the Plat Committee shall be entitled to vote on matters requiring official action by the Plat Committee.
- g. Meetings. The Plat Committee shall meet at least as often as once each calendar month but not more than once per calendar week.

### **2.3 DUTIES OF THE PLANNING AND ZONING ADMINISTRATOR**

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- A. DUTIES.** The Administrator, including his/her designee(s), will have the principal responsibility for the administration and enforcement of this Unified Development Ordinance within the Plan Commission's planning jurisdiction. The duties delegated by the Plan Commission to the Administrator, or his/her designee shall include, but not be limited to the following:
1. Interpretation and Assistance. Provide interpretation of the "Unified Development Ordinance of Lebanon" when necessary and provide

## 2.3 Duties of the Planning and Zoning Administrator **2**

such technical and clerical assistance as the Plan Commission and Board of Zoning Appeals may require.

2. Public Information. Provide and maintain a public information service relative to all matters or the Plan Commission and arising out of the "Unified Development Ordinance of Lebanon."
3. Permits. Reviewing, approving, or disapproving all Improvement Location Permits and other permits ([Chapter 9: Permits, Certificates, and Procedures](#)) and keeping permanent records of applications made and actions taken.
4. Inspections. Conducting inspections of structures and properties to determine compliance with the requirements of this ordinance and all approvals granted by the Plan Commission, Board of Zoning Appeals, Plat Committee, or other body in the execution of its duties as established by this ordinance and the Indiana State Code.
5. Record Keeping. Maintaining permanent and current records documenting the application of this ordinance including, but not limited to, all maps, amendments, conditional uses, variances, waivers, and appeals. The Official Zoning Map shall be updated per the terms of the Plan Commission Rules of Procedure.
6. Plan Commission Applications. Receiving, processing, docketing, and referring to the Plan Commission all appropriate applications.
7. Board of Zoning Appeals Applications. Receiving, processing, docketing, and referring to the Board of Zoning Appeals all appeals, variances, conditional uses, and other matters upon which it is authorized to act under this ordinance and Indiana State Code.
8. Technical Assistance Committee. Receiving, processing, docketing, and referring to the Technical Assistance Committee all appropriate applications.
9. Clerical & Technical Assistance. Providing all such clerical and technical assistance as may be required by the Board of Zoning Appeals, Plan Commission, Technical Assistance Committee, legislative bodies, or other body in the execution of its duties as established by this ordinance and Indiana State Code.
10. Analysis. Conduct research and collect and analyze, on a continuing basis, all pertinent data on the growth and development of the City and its environs in order to provide a foundation for a planning program.

- B. FEE SCHEDULE.** The Administrator shall maintain a schedule of fees, as approved by the Common Council, for all applications, permits, and other processes outlined in this ordinance.

**Note:**

*Applications and other forms shall be available at the office of the Planning and Building Department and at [www.cityoflebanon.org](http://www.cityoflebanon.org).*

## 2 2.3 Duties of the Planning and Zoning Administrator

1. Fee Basis. All fees shall be intended to reimburse the Plan Commission for the time and cost of processing the required materials. In no instance shall a fee be used as a means of discouraging or encouraging any particular types of applications.
  2. Public Access. The fee schedule shall be made available to the public by the Administrator.
  3. Establishment and Revisions. The fee schedule shall be prepared by the Administrator, reviewed by the Plan Commission, and approved by Ordinance by the Common Council.
    - a. The fee schedule may be amended by a recommendation submitted to the Common Council by the Plan Commission followed by the Council approval of a revised fee schedule Ordinance.
    - b. The Administrator shall review the fee schedule annually and bring any necessary revisions to the attention of the Plan Commission and Common Council.
  4. Payment Required. Until all applicable fees have been paid in full, no action shall be taken on any application or petition.
  5. Fines for Failing to Obtain a Permit. The Administrator may require any person who initiates construction of a structure or the alteration of land prior to obtaining any required permit to pay fines in accordance with the schedule in Chapter 10: Enforcement and Penalties of this ordinance. In addition to any enforcement cost, attorney's fees for such activity may be included in addition to the established fine/penalty.
- C. SCHEDULE OF MEETING AND FILING DATES.** The Administrator shall maintain an annual Calendar of Meeting and Filing Dates for the Technical Assistance Committee, Plat Committee, Plan Commission, and Board of Zoning Appeals. The existence of this calendar shall not be interpreted as prohibiting special meetings of the Committees, Commission, or Board.
1. Coordination of Calendars. The calendars of the Technical Assistance Committee, Plat Committee and Plan Commission shall be coordinated to ensure the efficient processing of applications.
  2. Conformance with Indiana Code. All meeting and filing dates shall be based on the requirements of this ordinance and the laws of the State of Indiana.
  3. Approval of Dates. The Calendar of Meeting and Filing Dates shall be prepared by the Administrator and approved by the Plan Commission and Board of Zoning Appeals (the Plan Commission shall be responsible for approving a coordinated calendar for the Technical Assistance Committee and the Plat Committee). The calendar of

## 2.3 Duties of the Planning and Zoning Administrator **2**

meeting and filing dates shall be reviewed and updated annually by the Administrator.

- D. APPEALING A DECISION OF THE ADMINISTRATOR.** Recourse from the decision of the Administrator shall be to the Plan Commission on matters pertaining to zoning. Recourse from the decision of the Plan Commission shall be to the Board of Zoning Appeals (BZA), and recourse from the decision of the BZA shall be to the courts as provided by law.

### 2.4 BOARD OF ZONING APPEALS

- A. ESTABLISHMENT.** The City of Lebanon Board of Zoning Appeals (referred to herein as the Board of Zoning Appeals, the BZA, or The Board) which shall conduct business consistent with all requirements of the Indiana Code and this Unified Development Ordinance, is hereby established pursuant to the IC 36-7-4-900 series.

- B. DUTIES.** Duties should be interpreted as activities that are obligations. Board of Zoning Appeals duties include:

1. Rules of Procedure. The Board of Zoning Appeals shall have sole authority to adopt any and all rules under Indiana Code Section 36-7-4-916 and any and all procedures concerning organization, selection of officers, forms for applications, filing requirements, procedures, notices and conduct of meetings, and public hearings.
2. Variances. Review, hear, and approve or deny all applications for variances from development standards, such as height, setback, or area (IC 36-7-4-918.5);
  - a. Written Findings of Fact. No variance in the application of the provisions of the ordinance shall be made by the Board relating to buildings, land or premises now existing or to be constructed, unless after a public hearing, the Board shall find, in writing that (IC 36-7-4-918.5):
    - 1) the approval will not be injurious to the public health, safety, morals, and general welfare of the community;
    - 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
    - 3) the strict application of the terms of this ordinance will result in practical difficulties in the use of the property.
  - b. Conditions or Commitments for Variances. The Board may impose such reasonable conditions upon or require commitments for its

**See Also:**

[Section 9.23  
Development  
Standards Variance](#)

**See Also:**

[Section 9.14 Written  
Commitments](#)

## 2 2.4 Board of Zoning Appeals

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approval as it deems necessary to find that the variance will not subvert the general purpose of this or any other city ordinance and will not injure property, uses, or natural, scenic, or historic features in the same zoning district and vicinity. Such conditions may include limitations concerning use, construction, character, location, landscaping, screening, parking, and other matters related to the purpose and intent of this ordinance.

- c. Failure To Comply. Where an owner has failed to comply with any condition and/or commitment permitted or required by the grant of the variance, the Board may authorize such action as consistent with [Section 10.4 Citation for Written Commitment Violations](#).
  3. Conditional Uses. Review, hear and approve or deny all applications for conditional uses (IC 36-7-4-918.2);
    - a. Imposition Of Additional Conditions. The Board may impose additional conditions to assure that the Conditional Use will conform to the intent of this ordinance (IC 36-7-4-918.2 and IC 36-7-4-921).
  4. Appeals. Review, hear, and decide appeals of decisions made under this ordinance or in the enforcement of this ordinance by the Administrator and/or his designees, committees, administrative boards, or any other bodies (except the Plan Commission) (IC 36-7-4-918.1); and
  5. Other Duties. All additional duties as established by Indiana State Code and the Lebanon Board of Zoning Appeals Rules of Procedure.
- C. POWERS.** Powers should be interpreted as activities that are optional and may be initiated by the Board as per Indiana Code or the BZA Rules of Procedure.
- D. APPLICATIONS.** All applications for variances, conditional uses, and requests for administrative appeal shall be filed by the applicant with the Administrator in the manner prescribed by the Board.
- E. COMMUNICATION WITH BOARD MEMBERS.** No person (including applicants, remonstrators, and other interested parties) may communicate with any member of the Board before the hearing with intent to influence the member's action on a matter pending before the Board (IC 36-7-4-920).
- F. NOTICE OF PUBLIC HEARING.** For all public hearings, notice shall be provided to the public consistent with the requirements of [Section 9.15 Notice of Public Hearing](#).
- G. RE-FILED OF DENIED APPLICATIONS.** No request for variance, conditional use, or administrative appeal that has been denied may be

## 2.4 Board of Zoning Appeals **2**

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re-filed for a period of one (1) year from the date of the denial, unless substantial changes have been made that address the reasons for denial. The Administrator may waive the waiting period at his/her discretion based on adjacent land use changes, or other contributing factors.

- H. APPEALS.** Every decision of the Board of Zoning Appeals shall be subject to review by a court of jurisdiction (writ of certiorari) as prescribed by the IC 36-7-4-1000 series. All appeals shall be presented to a court of jurisdiction.
- I. IMPROVEMENT LOCATION PERMIT REQUIRED.** If the Board grants a conditional use or variance, it shall direct the applicant to apply for an Improvement Location Permit. A Development Plan consistent with [Section 9.17 Development Plan](#) of this ordinance may apply. If such application complies with all requirements established by the Board and this ordinance, an Improvement Location Permit for the execution of the approved variance or conditional use shall be issued.

### **2.5 ADOPTION BY REFERENCE OF RULES OF PROCEDURE**

- A. The Lebanon Plan Commission Rules of Procedure dated October 15, 2007, as amended, is incorporated by reference into this Unified Development Ordinance. In the event the provisions of this ordinance conflict with the Rules of Procedure, then the Unified Development Ordinance shall control.

**See Also:**

*Lebanon Plan  
Commission Rules of  
Procedure at [www.  
cityoflebanon.org](http://www.cityoflebanon.org)*

