

City of Auburn Plan Commission

Rules and Procedures

Article 1 Name, Purpose, Powers, and Jurisdiction

- 1.1 Name: The name of the Commission shall be the City of Auburn Plan Commission. Its office shall be located in the Auburn City Hall at 210 South Cedar Street, Auburn Indiana 46706.
- 1.2 Purpose: The purpose of the Plan Commission is to prepare, adopt, and maintain a Comprehensive Plan that promotes orderly development, improves the health, safety, convenience, and welfare of its residents, and plans for the future development of the community. [IC 36-7-4-201]
- 1.3 Powers and Duties: The powers and duties of the City of Auburn Plan Commission are specific and set out in Indiana Code 36-7-4-401 through Indiana Code 36-7-4-411 as amended from time to time.
- A. The City of Auburn Plan Commission is an advisory plan commission [IC 36-7-4-202(a)]. The Commission acts in an advisory capacity to the City of Auburn Common Council regarding:
- i. The adoption of a Comprehensive Plan and amendments thereto;
 - ii. The adoption of development ordinances, zoning ordinances, subdivision control ordinances, zoning maps, and amendments thereto; and
 - iii. Any other matter, within the jurisdiction of the Commission, authorized by advisory planning law.
- B. The Commission renders final decisions concerning
- i. Plats, Amended Plats, or Replats of subdivisions; and
 - ii. Development Plans.
- 1.4 Jurisdiction: The jurisdiction of the Plan Commission shall be the City of Auburn corporate limits and the Extra-Territorial Jurisdiction as established in the recorded *Inter-Local Cooperation Agreement Between DeKalb County and The City of Auburn, Indiana Regarding Planning, Zoning, Subdivision Control, Permitting, and Enforcement Jurisdiction*, as amended.
- 1.5 Seal: The Plan Commission adopts a seal with the caption “City of Auburn Plan Commission.”

Article 2 Meetings

- 2.1 Regular Meetings: The City of Auburn Plan Commission shall meet on the second Tuesday of each month [IC 36-7-4-306]. The Plan Commission shall elect officers at its first regularly scheduled meeting of each year. Regular meetings may be canceled if there is no business.
- 2.2 Special Meetings: All other meetings of the City of Auburn Plan Commission, which are not regular meetings, shall be designated as special meetings. All notices required by the Open Door Law of the State of Indiana [IC 5-14-1.5] shall be complied with in calling a special meeting.
- A. The President, Plan Commission Staff, or two (2) members of the Plan Commission upon written request to the Secretary may call a special meeting. The Secretary shall contact Staff, and Staff shall give notice of the special meeting to all members, at least seventy-two (72) hours before the special meeting. The notice shall include time, place, and subject matter of the meeting. The notice may be delivered in person, by phone, by email, by text, by fax, or by regular United States mail. This notice shall not be required if the date, time, and place of the special meeting has been fixed at a regular meeting.
- B. An applicant may request a special meeting. The applicant shall pay the fee established in the City of Auburn fee schedule for calling a special meeting. Staff shall work to coordinate a time that will allow for adequate notice, but works with the applicant's timeframe and ensures satisfactory member attendance.
- 2.3 Place of Meeting: The City of Auburn Plan Commission meetings shall take place in the Auburn City Hall at 206 East Ninth Street, Auburn Indiana. The President may change the date, time, or place of a regular meeting provided that notice of said change is given to all members, interested parties, and the public.
- 2.4 Notice of Meetings: Notice of meetings shall be given to all members of the Plan Commission in person, by phone, by e-mail, by text, by fax, or by regular United States mail. News media entitled to notice shall be notified by United States mail, fax, telephone, or e-mail. All notices that are required to be posted shall be posted in City Hall. Staff, on behalf of the Secretary, shall be responsible for providing meeting notices in a timely manner for publication in the newspaper and/or posting as required.
- 2.5 Minutes of Meetings: The Plan Commission shall keep minutes of each meeting. The minutes shall document each member's vote; capture the essence of the discussion and deliberations; and capture the essence of public input including each speaker's name and address. These minutes shall be presented to the Plan Commission at a subsequent meeting for approval. When approved, the minutes shall be signed by the Secretary and kept in the Plan Commission minute book in the Plan Commission office.
- 2.6 Meeting Packets: Staff shall distribute meeting packets including agendas, petitions, supporting material, and other necessary meeting information to the Auburn Plan Commission members prior to the meeting.

2.7 Order of Business: The following order of business shall be followed at all meetings of the Plan Commission.

- A. Call to Order
- B. Roll Call
- C. Determination of Quorum
- D. Approval of Minutes
- E. Agenda Modification
- F. Old Business – Public Hearings / Public Meetings
- G. New Business – Public Hearings / Public Meetings
- H. Other Business
- I. Reports
- J. Adjournment

2.8 Quorum and Official Action: A majority of the City of Auburn Plan Commission that is qualified to vote, six (6) members, shall constitute a quorum [IC 36-7-4-301]. Action of the City of Auburn Plan Commission is not official unless authorized at a regular or special meeting by a majority of the entire membership of the City of Auburn Plan Commission [IC 36-7-4-302].

2.9 Late Night Meeting Policy: It shall be the policy of the City of Auburn Plan Commission to conclude all meetings at or before 10:00 PM. In the event that agenda items or other Commission matters have not been acted on by 10:00 PM on any meeting day, the meeting shall be recessed and reconvened the following evening, in the same location at 6:00 PM, unless otherwise announced. All items or matters not acted on during the recessed meeting may be acted on during the reconvened meeting without further advertisement. The above notwithstanding, the Plan Commission may extend any meeting beyond the hour of 10:00 PM with a vote of at least three-fourths ($\frac{3}{4}$) of all members present provided a quorum of the Commission exists.

2.10 Onsite Inspections: Onsite inspections of property involved in an application before the City of Auburn Plan Commission shall not be considered a regular meeting or a special meeting. Onsite inspections shall be for fact finding. No notice is required. No official action or informal votes shall take place.

Article 3 Membership and Officers

- 3.1 Membership: The Plan Commission membership shall be consistent with the provisions of Indiana Code 36-7-4-207(a); 36-7-4-217; 36-7-4-218; and 26-7-4-214, as amended from time to time.
- A. The City Council shall appoint one (1) City Council member.
 - B. The Park Board shall appoint one (1) member of the Park Board.
 - C. The Board of Public Works and Safety shall appoint a member or designated representative.
 - D. The City Engineer or a qualified assistant appointed by the City Engineer shall serve as a member of the Plan Commission.
 - E. The Mayor shall appoint five (5) citizen members, of which no more than three (3) may be of the same political party.
 - F. The DeKalb County Commissioners shall appoint two (2) members who reside in the extra-territorial jurisdiction, which shall not be from the same political party.
 - G. The DeKalb County Plan Commission shall designate a representative from the DeKalb County Plan Commission to serve as an advisory member of the City of Auburn Plan Commission. The member has all of the privileges of membership, except the right to vote.
 - H. The appointing authority may also appoint an alternate member to participate with the commission in a hearing or decision if the regular member appointed by the appointing authority has a disqualification [IC 36-7-4-220].
- 3.2 Terms and Removal: Terms of Plan Commission members shall be consistent with the provisions of Indiana Code 36-7-4-217 and 36-7-4-218.
- A. The term of office of a member who is appointed from the membership of a legislative body is coextensive with the member's term of office on that body, board, or council unless that body, board, or council appoints at its first regular meeting in any year, appoints another to serve as its representative.
 - B. When an initial term of office of a citizen member expires, each new appointment of a citizen member is for a term of four (4) years.
 - C. The appointing authority may remove a member from the Plan Commission for cause. The appointing authority shall mail or email notice of the removal, along with written reason for removal, to the member. A member who is removed may, within thirty (30) days after receiving notice of the removal, appeal the removal to the Circuit or Superior Court of DeKalb County. The court may, pending the outcome of the appeal, order the removal or stay the removal of the member.
 - D. Attendance: Members of the City of Auburn Plan Commission shall forfeit their membership for missing more than four (4) regularly-scheduled meetings in any calendar year or for missing three (3) consecutive regularly-scheduled meetings.
- 3.3 Officers:
- A. Election of Officers: The City of Auburn Plan Commission shall elect a President and Vice-President from the members of the Plan Commission at the beginning of its first regular meeting of each year. The Plan Commission may appoint and fix the duties of a Secretary, who is not required to be a member of the Commission [IC 36-7-4-303 and IC 36-7-4-303].
 - i. The person serving as the President at the last meeting of the preceding year shall entertain nominations or ask the Plan Commission Attorney to entertain nominations for each office specified in these Rules and Procedures.

- ii. Whenever a candidate receives a majority of the vote of the entire membership of the Commission, that person shall be declared elected.
- iii. Each officer elected under these rules shall enter into office immediately upon being declared elected and shall serve until the successor is declared elected at the first meeting of the following year, or until the officer is no longer a member of the Commission.
- B. Vacancy: Whenever any office becomes vacant, the Commission shall elect a successor at its next regular meeting to complete the remainder of the unexpired term.
- C. Compensation: All voting members, except the City Engineer or the City Engineer's appointee shall receive compensation on a bi-annual schedule per the City of Auburn salary ordinance.
- D. Duties of Each Officer:
 - i. The President shall preside over each regular or special meeting of the City of Auburn Plan Commission, shall perform duties normally performed by a presiding officer including the appointment of committees, ruling on all points of procedure, signing all official documents on behalf of the Plan Commission, and serving on the Project Advisory Committee.
 - ii. The Vice-President shall preside over and assume the duties and responsibilities of the President at any meetings at which the President is absent. The Vice-President shall serve on the Project Advisory Committee. The Plan Commission shall elect a temporary president from among its members if both the President and Vice-President are absent.
 - iii. The Secretary, in conjunction with the Staff, shall keep records of all meetings, applications, and other items of the City of Auburn Plan Commission. The Secretary, in conjunction with the City of Auburn Clerk-Treasurer, shall keep track of all money received and disbursed by the City of Auburn Plan Commission [IC 36-7-4-303 and IC 36-7-4-304].

3.4 Member Assignments

- A. Board of Zoning Appeals Representative: The City of Auburn Plan Commission shall appoint one member of the Plan Commission that resides in the Extra-territorial Jurisdiction to serve as the extra-territorial jurisdiction representative on the City of Auburn Board of Zoning Appeals.
- B. DeKalb County Plan Commission Representative: The City of Auburn Plan Commission shall appoint one member of the Plan Commission as the representative to the DeKalb County Plan Commission [IC 36-7-4-213(2)].

3.5 Conflict of Interest:

- A. No member of the City of Auburn Plan Commission shall participate in the hearing or decision of the Plan Commission, other than the preparation and enactment of a comprehensive plan, concerning a legislative act or zoning decision in which he or she has a direct or indirect financial interest or is aware of circumstances that would prevent the member from considering an application in a fair and unbiased manner. In the event of such disqualification, such fact shall be entered into the records of the Plan Commission along with name of the alternate member, if any, who participates in the hearing in place of the regular member.
- B. If the President disqualifies himself or herself for any reason and the Vice-President is absent or unavailable, the President shall have the power to appoint another member of the

Commission as temporary president for the purpose of conducting the meeting. The temporary president retains his or her right to vote, and the regular President shall be counted in determining whether or not a quorum is present [IC 36-7-4-223].

3.6 Voting:

- A. Each member of the City of Auburn Plan Commission shall have one (1) vote, except for the DeKalb County Plan Commission representative.
- B. Decisions of the Plan Commission shall be by voice vote unless a paper ballot is requested by a member of the Plan Commission. In the case of a paper ballot vote, the President shall disclose the vote of each member when announcing the decision.
- C. All members present shall vote on every matter unless prevented by conflict.

3.7 Vacancies: If a vacancy occurs among the Plan Commission members who are appointed, then the appointing authority shall appoint a member for the unexpired term of the vacating member. [IC 36-7-4-220]

3.8 Communication:

- A. Open Door Law: All communication outside of Auburn Plan Commission meetings shall be in accordance with IC 5-14-1.5 (Indiana Open Door Law) as amended.
- B. Official Communication with Members: Any official communication by Staff to members of the Auburn Plan Commission shall be made via US Mail, email, text, phone, or face-to-face.
- C. Communication with Plan Commission Member Outside Meetings: Should communication about an application take place outside of the public meeting or hearing, the Plan Commission member shall disclose this communication and relay pertinent information to the Plan Commission members at the public meeting or hearing. This includes any communication with the applicant, adjacent or affected property owners, general public, and/or any other Auburn Plan Commission or committee members. The same policy shall be observed for Plan Commission members in regard to business before any committee of the Plan Commission. Plan Commission members are encouraged to have anyone with concerns or questions about an application contact Staff or attend the public meeting or hearing.

Article 4 Hearings

- 4.1 Required Hearings: Public hearings shall be held as required by Indiana Code and the City of Auburn Unified Development Ordinance for the adoption or amendment of a Comprehensive Plan, the adoption or amendment of the Unified Development Ordinance, the adoption or amendment of the Zoning Map, the approval of a primary plat, the approval of a development plan, and other applications as necessary.
- 4.2 Filing Deadline and Agenda Placement: At the last meeting of each year, the Plan Commission shall adopt a meeting schedule and filing deadlines for the coming year. An applicant who seeks a recommendation from or the approval of the Plan Commission shall file the appropriate application with the Plan Commission. Upon receipt of such an application, payment of filing fees, and confirmation that all the necessary information is included, Staff shall place the application on the agenda of the Plan Commission meeting.
- 4.3 Meeting Attendance: In order for an application to be heard at a Public Hearing, the applicant or agent for the applicant shall be in attendance to present the application, evidence and support thereof, and answer questions about the application. If no one is present to represent the applicant, then the Commission shall dispose of the application in accordance with *Article 5: Final Disposition of Cases*.
- 4.4 Conduct of Hearings:
- A. Public hearings shall be conducted according to the following procedure. The Plan Commission may set time limitations for each hearing segment depending on the level of interest in the project and the number of people wishing to speak. To maintain orderly procedure, each side should proceed without interruption by the other side. After being recognized by the President, each speaker giving testimony to the Commission shall state his/her name and address for the record and state whether they support or oppose the application.
 - i. For any application for which a Public Hearing is required, the President shall open the Public Hearing and introduce the application.
 - ii. The President shall ask for the Staff Report on the application.
 - iii. The President shall request the applicant present the application. The applicant shall present the facts and arguments in support of the case. Comments and questions from the Plan Commission concerning the initial presentation shall be held until the end of the initial presentation.
 - iv. The President shall ask for comments and questions from the Plan Commission.
 - v. The hearing shall then be opened for comments from others.
 - (a) Supporting comments from organized groups, committees, and individuals, other than the applicant shall then follow. Speakers should try to present new points and not repeat previous speakers.
 - (b) Opposing comments shall then be heard. Speakers should try to present new points and not repeat previous speakers.
 - (c) The Plan Commission reserves the right to question any speaker at the end of his/her presentation or at the end of the Public Hearing.

- vi. The applicant shall then receive time for rebuttal. In its discretion or upon request, the Plan Commission may permit the opposition to address new information presented in the rebuttal.
 - vii. Once the Plan Commission has no final questions, the Public Hearing shall be closed.
 - viii. After the Public Hearing is closed, the Plan Commission shall discuss and deliberate the application and shall have the right to ask questions to clarify information.
- B. In the presentation of a case:
- i. The burden shall be on the applicant to supply all information, including charts, pictures, diagrams, and other exhibits necessary for a clear understanding of the request.
 - ii. Statements to the Plan Commission made by the applicant at the meeting regarding anticipated methods of operation, siting, or other details relevant to the decision shall be binding agreements between the applicant and the Plan Commission and shall be reflected in the minutes of the meeting.
 - iii. Drawings, displays, or documents presented at the meeting by the applicant illustrating details shall also be binding as to their content and representation if the application receives approval. Said documentation shall become part of the public record and shall be maintained with the case file.
- C. Every person appearing before the Plan Commission shall abide by the orders and directions of the President. Discourteous, disorderly, or contemptuous conduct shall be regarded as a breach of the privileges of the Plan Commission and shall be dealt with as the President directs.
- D. The Plan Commission may continue or postpone any hearing when it needs more time to deliberate. The Plan Commission, at its discretion and on an affirmative vote of a majority of the Plan Commission, may continue or postpone a hearing upon request of any party.
- E. Postponement/continuation of hearings to a date more than six (6) months beyond the initial Public Hearing shall not be granted. The Plan Commission shall dismiss such pending requests. The right of applicants to re-file such applications shall be preserved, providing no final disposition of the prior request was granted. Such applications shall again be subject to the payment of filing fees.

Article 5 Final Disposition of Cases

5.1 Final Disposition:

- A. The disposition of cases requiring final approval from the City of Auburn Common Council shall be in the form of a recommendation to the Common Council.
- B. The final disposition of cases requiring only Commission approval shall set forth the findings and determinations of the Commission, together with any modification, specification, condition, or limitation it makes in the Plan Commission minutes.

5.2 No Show: The Commission may dismiss an application if no one shows up to present the request. If an application is dismissed for this reason, the applicant may re-file. Such application shall again be subject to the payment of filing fees.

5.3 Withdraw of Application: An Applicant may not withdraw a case after a motion has been made concerning the application.

5.4 Re-file: An applicant that has received an adverse decision may re-file the application twelve (12) months after the date of the decision and only if there has been a change of circumstances. The change of circumstances shall be specified in the re-filed application.

Article 6 Notice

6.1 Notice for Repealing, Replacing, or Amending the Text of the Unified Development Ordinance or Comprehensive Plan: In the event that a proposal would repeal and replace or amend the text of the Unified Development Ordinance, the Plan Commission shall publish notice of the proposal in *The Star* or other local newspaper ten (10) days or more before the Public Hearing on the proposal.

6.2 Notice for Repealing and Replacing the Entire Zoning Map: In the event that a proposal would repeal and replace the entire Zoning Map, the Plan Commission shall publish notice of the proposal in *The Star* or other local newspaper ten (10) days or more before the Public Hearing on the proposal.

6.3 Request by 100% of the Property Owners: In the event that a request for action by the Plan Commission is made by 100% of the property owners in the proposed action, the following requirements for notice shall be met:

- A. The applicant shall inform *adjacent property owners* of the proposal by sending a copy of the legal notice with the US Post Office's Certificate of Mailing Service with such notice being postmarked at least ten (10) days before the Public Hearing date. *Adjacent properties owners* shall be defined as all contiguous properties with the assumption that public rights-of-way do not exist. Addresses for adjacent property owners shall be obtained through the DeKalb County property owner records.

- B. Such notice shall state:
 - i. The name of the applicant.
 - ii. The location by address or other identifiable geographic description of the subject property.
 - iii. A summary of the subject matter contained in the proposal and/or a description of the proposed change in the zoning maps (if applicable).
 - iv. The date, time, and place that the application has been set for hearing.
 - v. That the application and file may be examined in the City of Auburn’s Building, Planning, and Development Department.
 - vi. That the addressee may voice an opinion at the hearing and/or file written comments with the Plan Commission.
 - vii. That the hearing may be continued from time to time as necessary.
- C. Appearance at any hearing on an application, in person or by representative, shall waive any defect in notice unless the alleged defect is raised at the beginning of the hearing.
- D. Proof of notice shall be filed in the case file. Proof shall consist of the original or a copy of the US Postal Service Certificate of Mailing receipts stamped by the US Post Office with the postmark and/or the original or copies of any envelopes that were returned to sender as “undeliverable.” The postmarked receipts shall be sufficient proof of notice under these rules regardless of actual receipt by the intended recipient.
- E. Plan Commission Staff shall cause a legal notice to be published in *The Star* or other local newspaper ten (10) days or more before the Public Hearing.

6.4 Requests by Less than 100% of the Property Owners: In the event of a request for action by the Plan Commission is made by less than 100% of the property owners in the proposed action, the following requirements for notice shall be met:

- A. The applicant shall inform *affected property owners* and *adjacent property owners* of the proposal by sending a copy of the legal notice with the US Post Office’s Certificate of Mailing Service with such notice being postmarked at least ten (10) days before the Public Hearing date. Those who have signed the application or are acting as the applicant need not be notified. *Affected property owners* shall be defined as those that own land involved in the application. *Adjacent property owners* shall be defined as all contiguous properties with the assumption that public rights-of-way do not exist. Addresses for affected property owners and adjacent property owners shall be obtained through the DeKalb County property owner records.
- B. Such notice shall state:
 - i. The name of the applicant.
 - ii. The location by address or other identifiable geographic description of the subject property.
 - iii. A summary of the subject matter contained in the proposal and/or a description of the proposed change in the zoning maps (if applicable).
 - iv. The date, time, and place that the application has been set for hearing.
 - v. That the application and file may be examined in the City of Auburn’s Building, Planning, and Development Department.
 - vi. That the addressee may voice an opinion at the hearing and/or file written comments with the Plan Commission.
 - vii. That the hearing may be continued from time to time as necessary.

- C. Appearance at any hearing on an application, in person or by representative, shall waive any defect in notice unless the alleged defect is raised at the beginning of the hearing.
- D. Proof of notice shall be filed in the case file. Proof shall consist of the original US Postal Service Certificate of Mailing receipts stamped by the US Post Office with the postmark and/or any envelopes that were returned to sender as “undeliverable.” The postmarked receipts shall be sufficient proof of notice under these rules regardless of actual receipt by the intended recipient.
- E. Plan Commission Staff shall cause a legal notice to be published in *The Star* or other local newspaper ten (10) days or more before the Public Hearing.

6.5 Notice for Other Meetings: For all other meetings of the Plan Commission, a notice shall be posted in Auburn City Hall giving the meeting time and location. This notice shall be posted at least forty-eight (48) hours before the meeting occurs. No other notice shall be required.

6.6 Cost of Notice: The applicant requesting a Public Hearing shall bear the cost of the newspaper notice and notice to all affected and adjacent property owners by paying the fee established in the City’s fee schedule.

Article 7 Staff and Committees

- 7.1 Committees: Committees may be created for purposes and terms, which the Commission approves, and in accordance with the following:
- A. Each committee shall be composed of less than a majority of members of the City of Auburn Plan Commission.
 - B. The President shall appoint a chair for each committee who shall be responsible for all official business of the committee.
 - C. Non-member residents and special resource people may be appointed to serve on committees.
- 7.2 Standing Committees:
- A. Project Advisory Committee: The Project Advisory Committee is charged with reviewing and advising on upcoming projects to be heard by the City of Auburn Plan Commission. The Project Advisory Committee shall consist of the following membership:
 - i. Plan Commission President;
 - ii. Three (3) other members of Plan Commission; and
 - iii. City Engineer, or assistant appointed by the City Engineer.
 - B. Downtown Auburn Review Committee (DARC): DARC is an advisory body responsible for reviewing and providing input to Staff or Plan Commission for projects proposed within the Downtown Auburn Historic District and/or other areas deemed necessary by Staff. The Downtown Auburn Review Committee shall consist of the following membership:
 - i. Three (3) Plan Commission members;
 - ii. Two (2) current property or business owners within the Downtown Auburn Historic District;
 - iii. One (1) at-large citizen of Auburn without direct connection to Downtown Auburn; and
 - iv. One (1) representative appointed by Auburn Main Street.
- 7.3 Staff: The Plan Commission Staff shall be the Department of Building, Planning, and Development of the City of Auburn.

Article 8 Budget

- 8.1 Budget: The City of Auburn Plan Commission, by and through its Staff, shall work with the City of Auburn Clerk-Treasurer to prepare an annual budget and submit the same to the City Council at budget time.

Article 9 Amendment and Conflicting Statutes

- 9.1 Amendment: These Rules and Procedures shall be amended by two-thirds (2/3) of the membership at any regular meeting or special meeting called for the purpose of amending the Rules and Procedures of the City of Auburn Plan Commission.
- 9.2 Powers and Duties: The powers and duties of the City of Auburn Plan Commission are contained in State Statutes enacted and promulgated by the State of Indiana. If any statute of the State of Indiana conflicts with these Rules and Procedures, then the provisions of said statute shall control unless said Rules and Procedures create a stricter provision than those contained in said statutes. If the State Statutes, which are incorporated in these Rules and Procedures, are amended by the legislature, then these Rules and Procedures shall be automatically amended to conform to the provisions of said statutes. The President of the Plan Commission shall have the Rules and Procedures reviewed regularly by legal counsel in order to keep them current.
- 9.3 Incorporation by Reference: All statutes of the State of Indiana and amendments concerning plan commissions, which are not specifically incorporate in these Rules and Procedures are hereby incorporated by reference as part of the Rules and Procedures of the City of Auburn Plan Commission.

Adopted by the City of Auburn Plan Commission on this 12th day of February, 2019.

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Table of Amendments

PC Approval Date	Article Affected	Brief Description of Changes
02/12/2019		Initial Adoption