

# City of Rushville Zoning Ordinance

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Effective

January 4, 2016

Amended

Ordinance No. 2017-27 (10/3/2017); Ordinance No. 2017-28 (10/3/2017)  
Ordinance No. 2017-31 (11/21/2017); Ordinance No. 2017-32 (11/21/2017)  
Ordinance No. 2018-12 (7/5/2018); Ordinance No. 2018-13 (7/5/2018)  
Ordinance No. 2018-14 (7/5/2018); Ordinance No. 2018-30 (10/3/2018)  
Ordinance No. 2018-31 (10/3/2018); Ordinance No. 2019-23 (11/19/2019)  
Ordinance No. 2020-1 (1/7/2020); Ordinance No. 2020-22 (10/6/2020)  
Ordinance No 2020-27 (12/16/2020); Ordinance No 2021-08 (03/02/2021)  
Ordinance No. 2021-17 (6/15/2021); Ordinance No. 2021-27 (8/3/2021)  
Ordinance 2021-34 (11/16/2021); Ordinance 2021-38; (12/7/2021)  
Ordinance No. 2022-22 (9/6/2022); Ordinance No. 2022-28 (10/4/2022)

# Zoning Ordinance Rushville, Indiana

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## **ARTICLE I GENERAL PROVISIONS**

### **A. TITLE**

This Ordinance shall be known and cited as the City of Rushville Zoning Ordinance (Ordinance).

### **B. PURPOSE**

The purpose of this Ordinance is to regulate and control the use and development of land within the jurisdiction of the City of Rushville Advisory Plan Commission. The intent of this Ordinance is to promote the health, safety and general welfare of the citizens of Rushville, Indiana. More specifically, this Ordinance is intended to:

1. Secure adequate light, air, and convenience of access;
2. Provide safety from fire, flood, and other dangers;
3. Plan for the future development and redevelopment of the City to the end that:
  - a. The community grows with adequate public ways, utilities, health, education, and recreation facilities;
  - b. The needs of agriculture, industry and business be recognized in future growth;
  - c. Residential areas provide healthful surroundings for family life;
  - d. The growth of the community is commensurate with and promotes the efficient and economical use of public funds. (Ordinance No. 2020-22 – October 6, 2020)

### **C. AUTHORITY**

The Zoning Ordinance is hereby adopted by the city pursuant to its authority under the laws of the State of Indiana, I.C. 36-7-4 et seq. Whenever codes cited in this ordinance refer to Indiana Code where the state statute has been amended or superseded, this ordinance shall be deemed amended in reference to the new or revised Indiana Code. (Ordinance No. 2020-22 – October 6, 2020)

### **D. APPLICABILITY**

No structure shall be located, erected, constructed, reconstructed, moved, altered, converted, or enlarged; nor shall any structure or land be used, or existing use be expanded, except in full compliance with all of the provisions of this Ordinance and after the lawful issuance of all permits and certificates required by this Ordinance. This Ordinance, unless otherwise noted, shall apply to all public, private, and institutional development with the following exceptions:

1. Renovations of buildings in existence as of the effective date of this Ordinance; and,
2. All improvement location permits, variances, special exceptions, planned unit developments, and plats approved prior to the effective date of this Ordinance. (Ordinance No. 2020-22 – October 6, 2020)

## **E. MINIMUM REQUIREMENTS**

The provisions of this Ordinance are designed to encourage the establishment and maintenance of reasonable community standards for the physical environment. In their interpretation and application, the provision of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare of the people at large.

## **F. COMPLIANCE**

No structure shall be located, erected, constructed, reconstructed, moved, reconstructed, converted, ~~or~~ enlarged, structurally altered, used, or occupied without full compliance with the provisions of this Ordinance and all other applicable city, county and/or state regulations.

## **G. CONFLICTING PROVISIONS**

### **1. Zoning Ordinance Provisions**

If two or more provisions within this ordinance conflict, or are otherwise inconsistent with one another, then the provision which is most restrictive, or imposes higher standards, shall govern.

### **2. Public Provisions**

These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation or other provision of law, those provisions which are more restrictive or impose higher standards shall govern.

### **3. Private Provisions**

- a. These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than any easement, covenant, or other private agreement or restrictions, the requirements of these regulations shall govern.
- b. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive, or impose higher standards than the requirements of these regulations or the determinations of the City Council, Advisory Plan Commission or Board of Zoning Appeals as appropriate in enforcing these regulations, and the private provisions are not inconsistent with these regulations or determinations hereunder, then the private provision shall be operative and supplemental to these regulations or the determinations made there under.
- c. Private provisions shall only be enforced privately.

#### **H. SEVERABILITY**

If any part or provision of these regulations or application thereof to any property owner(s) or circumstances is judged invalid by any court of competent jurisdiction, the judgment having been rendered shall not affect or impair the validity of the remainder of these regulations or the application thereof to another property owners(s) or circumstances. The City Council hereby declares that it would have enacted the remainder of these regulations even without any part, provision, or applications. Failure to enforce any portion of this ordinance on any particular occasion shall not be deemed a waiver of any other or the same or similar or provision enforced on any other occasions.

#### **I. SAVING PROVISION**

Except as expressly provided for herein, this ordinance shall not be construed as either:

1. Abating any action now pending under or by virtue of any preexisting ordinance;
2. Discontinuing, abating, modifying, or altering any penalty accruing or about to accrue;
3. Affecting the liability of any property owner(s), firm, or corporation;
4. Waiving any right of a participating jurisdiction under any section or provision existing at the time of the effective date of this ordinance; or
5. Vacating or annulling any right obtained by any property owner(s), firm or corporation, by lawful action of the participating jurisdictions or administrative bodies thereof.

#### **J. JURISDICTION**

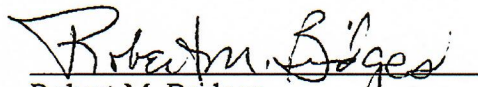
The provisions, standards and regulations of this Ordinance shall apply to all lands within incorporated limits of the City of Rushville.

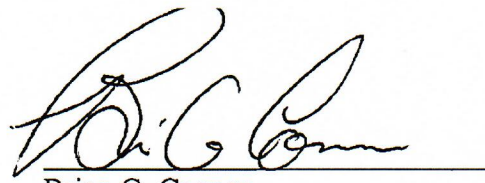
#### **K. ZONING OR ANNEXED AREAS**


1. Any ordinance annexing into the city property that does not have zoning designation under this ordinance shall be accompanied by an ordinance designating the zoning district of said property.
2. Whenever an annexed area abuts a public right-of-way, including a street, alley, or other right-of-way, the entire abutting right-of-way shall be included within the property to be annexed.

## L. EFFECTIVE DATE

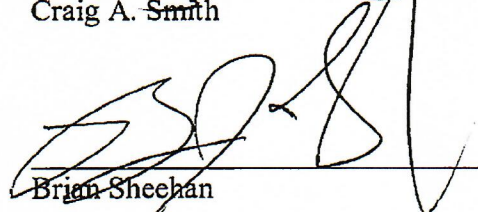
This Ordinance shall be in full force and effect from and after its, approval and publication according to law. Adopted this 4 day of Jan, 2016 by the City of Rushville Common Council.

  
Robert M. Bridges

  
Brian G. Conner

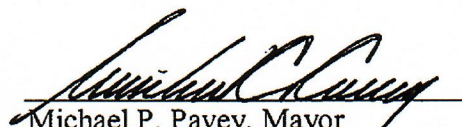
  
Craig A. Smith

  
Bradley A. Berkmeier

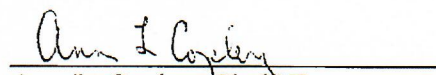
  
Brian Sheehan

PRESENTED TO ME FOR APPROVAL AND APPROVED

This 4 day of Jan, 2016 at 6:00 o'clock p.m.

  
Michael P. Pavey, Mayor  
City of Rushville, Indiana

ATTEST:

  
Ann L. Copley, Clerk-Treasurer  
City of Rushville, Indiana



## **M. ADMINISTRATION**

### **1. Improvement Location Permits**

An Improvement Location Permit shall be obtained prior to any construction, reconstruction, moving, enlarging, or structural alterations. A single Improvement Location Permit may be issued for a combination of these actions, if they occur together:

- a. Construction;
- b. Enlarging;
- c. Moving;
- d. Placing/or replacement
- e. Reconstruction; or,
- f. Structurally altering any structure, placed on a foundation (permanent or non-permanent), including signs;
- g. Making any significant alterations to features such as, but not limited to, swimming pools, or ponds.
- h. Fences and retaining walls

(Ordinance No. 2019-23 – November 19, 2019)

### **2. Improvement location Permit Not Required**

An Improvement Location Permit is not required for the following:

- a. Routine maintenance, or repair of existing structures not involving any change of use, additional lot coverage, or increase in structure size.
- b. Lot and yard improvements such as drives, sidewalks, patios, play equipment and landscaping. (Ordinance No. 2019-23 – November 19, 2019)

### **3. Flood Hazard Determination**

- a. The Planning Office's designated staff shall review all applications for Improvement Location Permits for new construction, additions to existing construction, or other development to ascertain whether the proposed construction, addition, or development lies in a flood hazard area as set out in the City of Rushville Flood Hazard Ordinance. (Ordinance No. 2020-22; October 6, 2020)

### **4. Advisory Plan Commission**

The Rushville Advisory Plan Commission as established in Ordinance 2015-11 and shall have the powers and duties set forth in IC 36-7-4, et. seq. Powers and duties are further described by the Rushville Advisory Plan Commission's adopted Rules of Procedures, as amended from time to time.

- a. The Advisory Plan Commission pursuant to Indiana Code 36-7-4 appoints a Variance Hearing Office to hear Development Standards Variances and to establish rules prescribing the authority and procedures of the Variance Hearing Officer pursuant to Indiana Code 36-4-7-923 and Indiana Code 36-7-4-924. (Ordinance No. 2022-22; September 6, 2022)

### **5. Advisory Board of Zoning Appeals**

The Rushville Advisory Board of Zoning as established in Ordinance 2015-11 and the powers and duties as adopted in the Rushville Advisory Board of Zoning Appeals' Rules of Procedures, as amended from time to time. (Ordinance No 2020-22; October 6, 2020)

6. Notification Requirements
  - a. Newspaper notification and mailed notices required for public hearing for the Board of Zoning Appeals and the Advisory Plan Commission shall be as set out in the Rules of Procedures applicable to the appropriate Board or Commission. (Ordinance. No. 2018-12 - July 5, 2018)
  - b. If a conflict exists between Rules of Procedure and state statute, the more restrictive shall prevail. (Ordinance. No. 2018-12 - July 5, 2018)
7. Posting of Public Hearing Sign
  - a. An applicant shall post sign(s) on the property where a Board of Zoning Appeals or Advisory Plan Commission Public Hearing will be held.
  - b. The sign shall be in accordance with the Rules of Procedure for the Advisory Plan Commission and/or Board of Zoning Appeals. (Ordinance. No. 2018-12 - July 5, 2018)

## **N. APPLICATION AND INTERPRETATIONS**

In the application and interpretation of this Ordinance, the following rules shall apply:

1. the particular shall control the general.
2. The phrase “used for” includes arranged for, designed for, intended for, maintained for and occupied for.
3. A building or structure includes any of its parts.
4. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by the conjunctions “and,” “or” or “either...or,” the conjunction shall be interpreted as follows:
  - a. “And” indicates that all the connected items, conditions, provisions or events shall apply.
  - b. “Or” indicates the connected items, conditions, provisions or events may apply singly or in any combination.
  - c. “Either...or” indicates that the connected items, conditions, provisions or events shall apply singly, but not in combination.
5. Words used in the present tense shall include the future tense.
6. Words used in the singular number shall include the plural and the plural shall include the singular, unless the context clearly indicates the contrary.
7. The word “shall” is always mandatory and not discretionary. The word “may” is permissive.
8. In case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
9. Terms not defined in the Ordinance shall have the meaning customarily assigned them. (Ordinance No. 2020-22 – October 6, 2020)

## **ARTICLE II DEFINITIONS**

### **A. WORD INTERPRETATIONS**

For purposes of this Ordinance, the following terms shall have the meaning Indicated below:

1. Present tense shall also include the future tense.
2. A singular number shall include plural and plural shall include singular.
3. The word “shall” is mandatory; the word “may” is permissive.
4. The word “used” includes “designated” or “intended to be used.”

### **B. DEFINITIONS**

Certain words used in this Ordinance are defined below. Any words not defined as follows shall be construed in their generally accepted meanings.

**ACCESSORY APARTMENT:** A subordinate dwelling, attached to the primary dwelling that is designed and used specifically as a subordinate use to the primary dwelling unit on a residentially zoned lot. Such a use may be occupied only by a member of the extended family of the occupants of the primary dwelling, or by a bona fide domestic employee.

**ACCESSORY STRUCTURE:** A detached building which:

- (1) is subordinate to and serves a primary building or use;
- (2) is subordinate in area, extent or purpose to the primary building to be served;
- (3) contributes to the comfort, convenience, or necessity of occupants of the primary building or use served; and
- (4) is located on the same lot with the primary building. (Ordinance No. 2020-22; October 6, 2020)

**ACCESSORY USE.** A use customarily incidental to, subordinate to, and supportive of the primary use of the lot. (Ordinance No. 2020-22; October 6, 2020)

**AIRPORT.** Any facility used primarily for the landing and take-off of aircraft, including all necessary facilities for the housing and maintenance of aircraft. This definition does not include a private airstrip. (Ordinance 2021-38; December 7, 2021)

**ALLEY:** A public right-of-way, other than a street, road, crosswalk, or easement, that provides secondary access for the abutting property. (Ordinance No. 2019-23; November 19, 2019)

**AMATEUR RADIO TOWER:** A free standing or building-mounted structure, including any base, tower or pole, antenna and appurtenances, intended for personal, non-commercial two-way airway communication purposes by a person holding a valid amateur radio license form the Federal Communication Commission. (Ordinance 2021-38; December 7, 2021)

**ANTENNA:** Any system of wires, poles, rods, reflecting discs, or similar devices used for the purpose of receiving and/or transmitting signals, images, sounds, or information of any nature by radio, visual, or electromagnetic waves, including but not limited to directional, or omni-directional antenna, panels, and microwave or satellite dishes external to or attached to the exterior of any building.

**APPLICANT:** A landowner, or developer, as hereinafter defined, including their heirs, successors, and assigns who makes application to the Rushville Board of Zoning Appeals or Rushville Advisory Plan Commission for action by said board or commission affecting the real estate owned.

**ASSEMBLY FACILITY.** An industrial facility where components are brought to a common location and combined to form a finished product. (Ordinance 2021-38; December 7, 2021)

**ASSISTED LIVING FACILITY:** A residential facility where assistance with daily activities, such as dispensing medication, dressing, grooming, and bathing are provided for the aged or infirm or any other reasonably independent person in need of nursing care; and which does not contain equipment for surgical care or for treatment of disease or injury and is not primarily designed for patients being treated for mental illness or alcohol or drug addiction.

**BATCHING FACILITY.** A facility for the manufacture or mixing of concrete, cement, and concrete and cement products, including any apparatus, equipment, and uses incidental to such operations. (Ordinance 2021-38; December 7, 2021)

**BED AND BREAKFAST HOME:** An owner-occupied dwelling, or portion thereof, that contains guest rooms where short-term lodging, with or without food, is provided for compensation.

**BOARDING HOUSE:** A building, not available to transients, in which meals are regularly provided for compensation for at least three but not more than thirty persons.

**BUILDING:** Any structure having a roof supported by columns or walls, and designed, built, and used for the shelter, protection, or enclosure of persons, animals, or property, and having an ascertainable stationary location on or in land or water, whether or not affixed to the land. A building is also a structure.

**BUILDING FRONT:** The side(s) of a building that parallels and is visible from the right-of-way of a street.

**BUILDING HEIGHT:** The vertical distance measured from the average grade level to the highest point of a building or structure, excluding chimneys, smokestacks, stage towers, spires, bell towers, water towers, ornamental towers, conveyors, or flag poles. Where the finished grade of a structure is not uniform, the average of all sides of a building or structure shall be used to determine the building height.

**BUILDING LINE:** The line nearest the front of and across a lot establishing the minimum open space to be provided between the front line of a building or structure and the street right- of-way line.

**BUILDING'S SUPPLY STORE.** A facility where building materials, including electrical and plumbing supplies, paint, hardware, lumber, and similar items are provided to construction professionals on either a retail or wholesale basis. Such facilities are generally not designed for the supply of such items to the general public; however, this may occur as a secondary aspect of the business operation. (Ordinance 2021-38; December 7, 2021)

**CHILD CARE:** As defined in IC 12-7-2. (Ordinance No. 2020-27; December 15, 2020)

**CHILD CARE CENTER:** As defined in IC 12-7-2.

**CHILD CARE HOME:** As defined in IC 12-7-2. (Ordinance No. 2020-27; December 15, 2020)

**CHILD CARE MINISTRY:** As defined in IC 12-7-2.

**CHILD CARING INSTITUTION:** As defined in IC 22-7-2. (Ordinance No. 2020-27; December 15, 2020)

**CLINIC:** Any establishment where human patients are examined and treated by a doctor or dentist, but not hospitalized overnight.

**COMMON OPEN SPACE:** A parcel(s) of land designed or intended for the use or enjoyment of residents of the development. Common open space may contain such complementary structures and improvements as are necessary and appropriated for the benefit and enjoyment of occupants. Street rights-of-way, driveways and parking lots which directly serve dwellings or commercial buildings shall not be counted toward area requirements of common open space. Those structures directly serving recreational areas may be counted toward common open space area requirements.

**COMMUNICATIONS SERVICE EXCHANGE:** A telecommunications facility that houses one or more computer systems and related equipment dedicated to building, maintaining, and/or processing data. Such a facility would likely include a telephone exchange service, a data center, and a server farm.

**COMPREHENSIVE PLAN:** The Comprehensive Plan of Rushville, Indiana including all amendments adopted by the City of Rushville Advisory Plan Commission and the City Council of Rushville.

**CONFINED FEEDING LOT:** As defined in IC 13-11-2.

**CONFINED FEEDING OPERATION:** As defined in IC 13-11-2.

**CONTRACTOR’S FACILITY:** Any building or structure used as the permanent place of business for a general contractor or tradesman, but where the site does not include the outdoor storage of construction equipment, material, and company vehicles. (Ordinance No. 2020-22; October 6, 2020)

**CONTRACTOR’S YARD:** Outdoor storage for a general contractor or tradesman, including the storage of construction equipment, material, and company vehicles. (Ordinance No. 2020-22; October 6, 2020)

**CORRIDOR GREENBELT:** That portion of the front yard of a lot that is immediately adjacent and parallel to the right-of-way of State Road 3, State Road 44 or U.S. Highway 52 and having a minimum depth of twenty (20) feet from the street right-of-way.

**DAY CARE FACILITIES:** See “Child Care Center,” “Child Care Home,” “Child Car Ministry” and “Child Caring Institution”. (Ordinance No. 2020-27; December 15, 2020)

**DEVELOPER:** The legal or beneficial owner or owners of a lot or of any land included in a proposed development, including the holder of an option or contract to purchase or other persons having enforceable proprietary interests in such land.

**DEVELOPMENT PLAN:** A specific plan presented by a developer for the improvement of land in order to comply with the requirements of the zoning ordinance and subdivision control ordinance, or to qualify a proposed subdivision for approval.

**DIMENSION(S).** Measurement shall be provided in United States standard lengths of feet and inches. Measurements are to be in feet, with fractional feet, provided in inches. (Ordinance No. 2022-28; October 4, 2022)

**DRIVE APRON.** The driving surface area, typically located within the public right-of-way, between the edge of a paved street and the driveway accessing private property. (Ordinance No. 2022-28; October 4, 2022)

**DRIVEWAY.** A surface area intended solely for the purpose of accessing a garage, public or private parking lot, other than an aisle serving as direct access to a row of parking spaces. (Ordinance No. 2022-28; October 4, 2022)

**DUMPING:** The discarding or long-term storage of any items of solid waste commonly known as garbage, rubbish, refuse, construction, and demolition debris, household trash, appliances, diapers, food service wastes, tires, scrap metal, vehicle parts, implement parts, fence wire and all other items and material defined as “solid waste” in IC 13-11-2.

**DWELLING:** A structure or portion thereof that is used exclusively for human habitation.

**DWELLING, SINGLE FAMILY:** A structure that contains one (1) dwelling unit and is not attached to any other dwelling unit

DWELLING, TWO-FAMILY: A structure that contains two (2) dwelling units separate from each other by fire-resistant wall constructed from foundation to roof.

DWELLING, MULTI-FAMILY: A structure containing three (3) or more dwelling units, including units that are located one over the other.

DWELLING UNIT: A single unit providing complete, independent living facilities for one or more person, including permanent provisions for living, sleeping, eating, cooking and sanitation.

EASEMENT: An authorization or grant by a property owner to a specific person(s) or entity, or to the public to use land for specific purposes, where the ownership of such easement is retained by the granting party.

EGRESS. An exit. (Ordinance No. 2022-28; October 4, 2022).

ENCLOSED MALL SHOPPING CENTER: A commercial real estate development comprised of department, retail and/or commercial stores, and/or drinking and dining establishments the majority of which stores have entrances facing upon a common enclosed mall. This definition shall not include free- standing buildings located at or about such enclosed mall shopping center.

EQUIPMENT SALES OR RENTAL. An establishment engaged in the display, sale, and rental of equipment, tools, supplies, machinery, or other equipment used for commercial, industrial, or construction enterprises, such as, but not limited to, trucks, trailers, semi-tractor trailers, farm equipment, bulldozers, cranes, backhoes, rollers, loaders, or lifts. This use includes the selling of farm-specific vehicles such as tractors, tillers, farm trailers, back hoes, graders, boom lifts, and front-end loaders, but not including "Vehicle Sales or Rental." (Ordinance No. 2022-28; October 4, 2022)

ESSENTIAL SERVICES: The erection, construction, alteration, or maintenance, by public utilities or governmental agencies, underground, surface, or overhead, communication, telephone, gas, electrical, steam, fuel or water, transmission, distribution, collection, supply or disposal systems. This includes related poles, wires, pipes, conduit, cables, public safety alarm and communication equipment, traffic signals, hydrants and similar accessories that are necessary to furnish adequate service, addressing general public health, safety, convenience, or welfare. These do not include wireless telecommunication towers (unless located on public property and used as part of a municipal emergency communications network), wind energy conversion systems (WECS), offices, utility buildings, substations or structures that are enclosures or shelters for service equipment or maintenance depots. (Ordinance No. 2020-22; October 6, 2020)

EXCAVATION: Any act by which earth, sand, gravel, rock, mineral substances, or organic substances, other than vegetation, is dug into, cut, quarried, uncovered, removed, displaced, relocated, or bulldozed, including the conditions resulting there from.

**EXPLOSIVE MANUFACTURING AND STORAGE.** The manufacture and storage of any chemical compound, mixture, or device of which the primary and common purpose is to function by explosion with substantially simultaneous release of gas and heat, the resulting pressure being capable of producing destructive effects. (Ordinance 2021-38; December 7, 2021)

**FAMILY:** One (1) or more persons, occupying a dwelling unit as a single housekeeping unit and therefore using common facilities for cooking, sanitation, and gathering. A family does not include a society, club, fraternity, sorority; or group living in a boarding house, motel, hotel, bed and breakfast facility, lodging house, rooming house, or club; any group of individuals whose association with each other is seasonal or any individuals who are in a group living arrangement as a result of criminal activity.

**FARM IMPLEMENT AND MACHINERY SALES AND SERVICE.** The sale or leasing of new and used farm implements and machinery displayed, stored, and sold or leased on site, including services on farm implement and machinery.

**FENCE:** A barrier or partition of wood, masonry, stone, metal or similar manufactured materials or combination of materials, including entrance and exit gates, used to prevent or control entrance, confine within or straying from within, mark a boundary or act as a screen. (Ordinance No. 2019-23; November 19, 2019)

**FENCE, BARBED-WIRE.** One (1) or more strands of wire or other material having intermittent sharp points of wire or metal that may puncture, cut, tear, or snag persons, clothing, or animals. (Ordinance No. 2019-23; November 19, 2019)

**FENCE, DECORATIVE.** Any fence constructed of permitted materials no greater than three (3) inches in width, with the spacing between permitted materials being no less than 3 inches. This term shall also include wire and chain-link fencing that do not contain privacy slats. (Ordinance No. 2019-23; November 19, 2019)

**FENCE, PRIVACY.** Any fence constructed of board or similar materials, with the spacing those boards or pieces of material being less than three (3) inches. (Ordinance No. 2019-23; November 19, 2019)

**FENCE, STOCKADE.** A fence constructed of vertical strips, with no intervening spaces, providing a complete visual barrier. (Ordinance No. 2019-23; November 19, 2019)

**FLOOD HAZARD AREAS:** See Ordinance No. 2014-20; September 16, 2014 and 2015-1; January 5, 2015

**FOOD AND BEVERAGE PRODUCTION.** The large-scale processing of raw ingredients and materials to create finished or unfinished foods and beverages. (Ordinance 2021-38; December 7, 2021)



**FOOT CANDLE.** A unit of measurement that is used to gauge the brightness or illumination of a projected light source, which is equal to the light flux falling on one square foot of area one foot away from a light source of one candle power. (Ordinance No. 2022-28; October 4, 2022)

**FRONTAGE:** See “Lot Line, Front.”

**FOUNDATION, PERMANENT:** In-ground support for exterior walls of structures, designed to safely support imposed loads based on soil type, and extending to the frost line.

**GARAGE.** An attached or detached accessory structure whose principal use is to house motor vehicles or personal property associated with related dwelling units or related business establishments. (Ordinance 2021-38; December 7, 2021)

**GARBAGE:** All putrescible animal solid, vegetable solid, and semi-solid wastes from the processing, handling, preparation, cooking, serving, or consumption of food or food materials.

**GROSS FLOOR AREA:** Is the area within the inside perimeter of the exterior walls, including the thickness of the exterior walls. Interior court yards are not calculated as part of gross square feet. (Ordinance No. 2022-28; October 4, 2022)

**HEDGE.** A row of closely planted shrubs, bushes, or any other kind of plant used as a compact, dense solid, or unbroken visual screen of self-supporting living plants that protects, shields, separated or demarcates an area. (Ordinance No. 2019-23; November 19, 2019)

**HOME DAY CARE:** Means a provider that does not receive regular compensation, cares only for children who are related to the provider or cares for five (5) or less children, not including the providers children, stepchildren, guardian, custodian, or other relative. (Ordinance No. 2020-27; December 15, 2020)

**HOME OCCUPATION:** An occupation or activity conducted entirely within a principal dwelling which is, limited in extent, and incidental, and secondary to the use of the building of the dwelling for purpose, and does not change its residential character.

**IMPERVIOUS SURFACE.** A paved surface, man-made area that prevents absorption of stormwater into the ground. (Ordinance No. 2022-28; October 4, 2022)

**INERT SOLID WASTE:** Uncontaminated earth, rocks, concrete, bricks, tiles, aged asphalt, natural wood, brush, leaves, wood chips, or sawdust used or intended to be used as fill material within thirty (30) days of accumulation or deposit for that purpose.

**INGRESS.** An entrance. (Ordinance No. 2022-28; October 4, 2022)

**JUNK YARD:** An area where used or second-hand materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled including but not limited to appliances, scrap iron, and other metals, paper, rages, rubber tires, and bottles. A junkyard includes a vehicle wrecking yard, but does not include uses established entirely within enclosed buildings.

**KENNEL:** Any premises, or portion thereof, on which more than four (4) dogs, cats or other household domestic animals over (4) months of age are kept or on which more than (2) such animals are maintained, boarded, bred, or cared for, in return for remuneration, or are kept for the purpose of sale.

#### **LANDSCAPE**

**LANDSCAPE BUFFER AREA (LBA).** An area set aside to accommodate the required landscape and screening materials. No buildings, accessory structures or parking shall occur within the LBA.

**LANDSCAPE ISLAND.** A curbed planting area located in or immediately adjacent to a vehicular use area used to mitigate the environmental and visual impacts of the impervious surface.

**TREE PROTECTION AREA (TPA).** An existing tree area to be preserved and counted towards the tree requirements.

**TREE PROTECTION FENCE.** A durable, highly visible barrier, at least four feet in height, used to demark trees or tree masses to be protected during the construction process. Typically, a plastic mesh fence, commonly known as "snow fence" is used.

**VEHICULAR USE AREA (VUA).** An impervious surface used for vehicular movements such as a parking lot, loading area or drive lane. Surfaces include asphalt, concrete, clay pavers and compacted gravel.

**LOADING, OFF-STREET:** An area which is designated permanently for the loading and unloading of vehicles as well as associated egress areas, none of which may lie within a public right-of-way. (Ordinance No. 2022-28; October 4, 2022)

**LOADING SPACE.** An off-street portion of a lot designated for the temporary parking of commercial vehicles while loading or unloading materials for use or sale on the lot. (Ordinance No. 2022-28; October 4, 2022)

**LOT:** A contiguous area of land separated from other areas of land by a separate description (including a recorded deed, a subdivision plat or record of survey map, or by metes and bounds) for purpose of sale, lease, and transfer of ownership or separate use.

**LOT AREA:** The total horizontal area within the lot lines of a lot, excluding any street rights- of-way.

LOT, BUILDABLE AREA: That portion of a lot bounded by the required front, rear, and side setback lines.

LOT, CORNER: A lot of which at least two adjacent sides abut for their full lengths upon a street. A corner lot may have two (2) front lot liens.

LOT COVERAGE: The percentage of the lot area covered by buildings, structures, parking areas, driveways, walkways, and other paved or impervious surface.

LOT DEPTH: The mean horizontal distance between front and rear lot lines, measured at right angles to the front lot line.

LOT, LEGAL: A lot that has been subdivided or otherwise established in a manner that meets all requirements of the Subdivision Control Ordinance of the jurisdiction in effect at the time the lot was established. (Ordinance No. 2020-1 - January 7, 2020)

LOT LINE, FRONT: On an interior lot, the line separating the lot from the street. On a corner or through lot, the line separating the lot from either street.

LOT LINE, REAR: A lot line or connected lines between the ends of the side lot lines and which is or are parallel to or approximately parallel to the front lot line.

LOT LINE, SIDE: A lot line or connected lot lines commencing at an end of a front lot line and terminating either at an intersection with an end of the rear lot line or at an intersection with the opposite side lot line, no portion of which is parallel to or approximately parallel to the front lot line.

LOT OF RECORD: A lot, which is part of a subdivision, the plat of which has been recorded in the Rush County Recorder's Office, or a parcel of land, the deed to which was recorded in the Rush County Recorder's Office prior to adoption of this Ordinance.

LOT, THROUGH: A lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot. Such lots shall provide the required front setback along each street, except alleys.

LOT WIDTH: The horizontal distance between side lot lines, measured at the established front setback line and measured at right angles to the lot depth.

**MANUFACTURED HOME:** A dwelling unit which is designed and fabricated in one or more modules at a location other than the home site, by assembly-line type production techniques or by other construction methods unique to an off-site manufacturing process; bearing a label certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards Law of 1974; and built after January 1, 1981, and a minimum 950 square feet of main floor area (exclusive of garages, carports, and open porches).

**MANUFACTURING FACILITY.** A facility for the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the manufacturing of products, and the blending of materials, such as lubricating oils, plastics, or resins. (Ordinance 2021-38; December 7, 2021)

**MANUFACTURING, HEAVY:** The manufacturing storage, processing, assembly, fabrication, or repairing of any materials or products where processes involved therein may produce noise, vibration, electrical disturbance, air or water pollution, heat, glare, waste matter, outdoor storage of materials, odors, or other hazardous or commonly recognized offensive conditions.

**MANUFACTURING, LIGHT:** The manufacturing, storage, processing, fabrication, or repairing of certain materials or products where no process involved will produce noise, vibration, electrical disturbance, air or water pollution, heat, glare, waste matter, odor or fire hazard which will disturb or endanger any neighboring property, and where all operations shall be contained within an enclosed area.

**MEASUREMENT.** See Dimension(s). (Ordinance No. 2022-28; October 4, 2022)

**MINERAL AND AGGREGATE.** Includes soil, select fill, coal, clay, stone, sand, gravel, aggregate, pumice, cinders, metallic ore, and any other inorganic solid excavated from a natural deposit in the earth for commercial, industrial, or construction use. (Ordinance 2021-38; December 7, 2021)

**MINERAL EXTRACTION.** Any operation where soil, topsoil, water, loam, sand, gravel, clay, rock, peat, or other mined material is removed from its natural location or where it is handled for use off-site, including incidental uses and activities such as processing facilities, access roads, structures, offices, parking areas, and stockpiles. (Ordinance 2021-38; December 7, 2021)

**MINIMUM GROUND FLOOR AREA:** The minimum ground floor area of a proposed structure, exclusive of open porches, attached garages, and accessory structures.

**MINIMUM ROAD FRONTAGE:** The minimum property on one (1) side of a street measured along the right-of-way of the street between property lines.

**MOBILE HOME:** A transportable, factory-built structure larger than three hundred twenty square feet, designed to be used as a year-round residential dwelling, and built prior to the enactment of the Federal Mobile Home Construction and Safety Act of 1974, which became effective for all manufactured homes construction after June 15, 1976.

**MANUFACTURED HOME PARK:** An area of land under single ownership used for the parking of two (2) or more occupied manufactured homes.

**MANUFACTURED HOME SITE:** The area of land in a manufactured home park for the parking of one manufactured home.

**MANUFACTURED HOME SUBDIVISION:** A residential subdivision designed exclusively for, and occupied by, manufactured homes in which the homes and land are owned by the same person.

**NATURAL RESOURCES:** The Indiana Department of Natural Resources (DNR).

**NET FLOOR AREA.** That portion of the building which is occupied. Net square feet does not include as identified on the floor plan, corridors, closets, mechanical rooms, stairways, and toilet/bathroom. The square footage of these areas may be deducted from Gross Square Feet, to calculate Net Square Feet. (Ordinance No. 2022-28; October 4, 2022)

## **NON-CONFORMING**

**NON-CONFORMING LOTS:** A lot of record which does not conform to the lot area or lot width regulations of this Ordinance.

**NON-CONFORMING STRUCTURE:** A structure designed, converted, or adapted for a use prior to the adoption of provisions prohibiting such use or structure in such location.

**NON-CONFORMING USE:** Any use or arrangement of land or structures legally existing at the time of enactment of this Ordinance, or any of its amendments, which does not conform to provisions of the Ordinance.

**NURSING HOME:** A facility licensed by the State Board of Health, which provides nursing services amounting to 24-hour per day care on a continuing basis; admits the majority of the occupants upon the advice of physicians as ill or infirm persons requiring nursing services; provides for licensed physicians services or supervision; and maintains medical records. Such facilities may also provide other similar medical or health services, including physical therapy services with equipment uses in an on-going basis for patient rehabilitation provided that no occupant requires security restraint within the facility. This facility shall not contain equipment for surgical care or for treatment of disease or injury and is not primarily designed for mental patients or alcoholics. Examples of nursing home facilities that provide health services typically include nursing homes, convalescent homes, maternity homes, rest homes, homes for the aged, and the like.

**OVERLAY DISTRICT.** A special purpose zoning district that encompasses all or a portion of one or more underlying zones and imposes additional requirements beyond those required by the underlying zone(s). (Ordinance No. 2020-22; October 6, 2020)

**OWNER:** Any person having a legal or equitable title in the real estate or premises.

**PARKING FACILITY.** See Parking Lot

**PARKING LOT.** A ground-level open off-street area to be used for the temporary storage or parking of motor vehicles for limited periods of time. A parking lot includes all parking spaces, interior drives, and maneuvering areas. (Ordinance No. 2022-28; October 4, 2022)

**PARKING, OFF-SITE:** A temporary storage or parking for motor vehicles for a limited period of time that is not located on the same lot as the primary building or primary use. (Ordinance No. 2022-28; October 4, 2022)

**PARKING, OFF-STREET:** A storage space for a motor vehicle located outside of the public-right-of-way. (Ordinance No. 2022-28; October 4, 2022)

**PARKING, ON-STREET:** A temporary storage or parking for motor vehicles that are located within the public right-of-way. (Ordinance No. 2022-28; October 4, 2022)

**PARKING, SEMI-TRUCK/TRACTOR.** Any motor vehicle, tractor designed and used primarily for drawing or propelling a semitrailer designed for carrying/transporting persons or property of any kind. The Term “Tractor” does not include a farm tractor. (Ordinance No. 2022-28; October 4, 2022)

**PARKING SPACE:** A delineated off-street space within a public or private parking lot for the parking of one (1) motor vehicle. (Ordinance No. 2022-28; October 4, 2022)

**PAVED SURFACE –** A durable surface of concrete, porous concrete, bituminous (asphalt), porous bituminous (asphalt), brick, paving blocks, or similar materials for parking, driving, riding, or similar activities. Crushed gravel, stone, rock, dirt, sand, or grass are not a paved surface. (Ordinance No. 2022-28; October 4, 2022)

**PENNANT:** Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

**PERSON:** Any entity including any of the following: individual, firm, corporation, association, partnership, or limited liability corporation/company. References in the masculine gender include the feminine and the neuter, in the present tense includes the future, and the singular includes the plural.

**PLACE OF ASSEMBLY.** A building or portion of a building in which facilities are provided for group civic, educational, political, professional, cultural, or social functions. (Ordinance 2021-38; December 7, 2021)

**PLACE OF WORSHIP:** A structure or place in which worship, ceremonies, rituals, and education pertaining to a particular system of beliefs are held. This definition includes parochial school.

**POND:** A still body of water having a surface area of five thousand (5,000) square feet or more.

**PROCESSING PLANT.** Is the processing and distribution of materials and products from processed or previously manufactured materials. (Ordinance 2021-38; December 7, 2021)

**PRIMARY BUILDING:** The building in which the primary use on the lot is conducted.

**PRIMARY USE:** The main use of land or structures, as distinguished from an accessory use. A primary use may be either a permitted use or a special exception use.

**PUBLIC UTILITY STRUCTURE:** Electrical and telephone substations and distribution centers, filtration plants, pumping stations, water reservoirs, public or package sewer treatment plants, telephone exchanges, radio and television transmitting or relay stations, antenna towers, and other similar public utility service structures.

**RECLAIMED/RECYCLED ASPHALT PAVEMENT.** Asphalt paving material milled or scraped off an existing bituminous pavement, consisting of aggregate and asphalt binder. (Ordinance No. 2022-28; October 4, 2022)

**RECREATIONAL VEHICLE:** A vehicle primarily designed as temporary living quarters for recreation, camping, or travel, either with its own motor power or mounted on or towed by another powered vehicle.

**RECREATIONAL VEHICLE PARK:** An area of land used for the parking of two (2) or more recreational vehicles.

**RESEARCH AND DEVELOPMENT LABORATORY.** A structure or group of structures used primarily for applied and developmental research where product testing is an integral part of the operation and goods, or products used in the testing may be manufactured and stored. (Ordinance 2021-38; December 7, 2021)

**RETAIL SALES:** Commercial enterprises that provide goods and/or services directly to the consumer, where such goods are available for immediate purchase and removal from the business.

**RIGHT-OF-WAY. PUBIC.** Property occupied or intended to be occupied by a street, trail, utility transmission line, or other public utility or facility. (Ordinance No. 2019-23; November 19, 2019)

**SCRAP LUMBER.** Small pieces or an extract of larger pieces of lumber, left-over oddment of wood. (Ordinance No. 2019-23; November 19, 2019)

**SELF-SERVICE STORAGE FACILITY:** A building or group of buildings situated within a controlled access and fenced compound, consisting of small, individual, self-contained units that are leased or owned for the storage of commercial or household goods or supplies.

**SETBACK:** The horizontal distance between a structure and a lot line or right-of-way.

**SEXUALLY ORIENTED BUSINESS.** Any commercial activity whether conducted intermittently or continuously, which primarily involves the sale, display, exhibition, or viewing of books, magazines, films, photographs, or other materials, distinguished, or characterized by an emphasis on matter depicting, describing, or relating to human sex acts, or by an emphasis on male or female genitals, buttocks, or female breasts. Sexually oriented businesses typically include, but are not limited to the following:

**ADULT BOOKSTORE.** Any establishment having as a preponderance of its stock in trade or its dollar volume in trade any merchandise for sale, trade or lease which are distinguished or characterized by their emphasis on adult matter;

**ADULT CABARET.** A nightclub, bar, theater, restaurant, or similar establishment which frequently features live performances by topless or bottomless dancers, strippers, or similar entertainers, whether professional or amateur, where such performances are distinguished or characterized by an emphasis on, or by exposure of, adult matter;

**ADULT LIVE ENTERTAINMENT ARCADE.** Any building or structure which contains or is used for commercial entertainment where the patron directly or indirectly is charged a fee to view from an enclosed or screened area or booth a series of live dance routines, strip performances or other gyrational choreography and where performances are distinguished or characterized by an emphasis on, or by exposure of, adult matter;

**ADULT MOTEL.** Any motel or similar establishment offering public accommodations for any form of consideration which provides patrons, upon request, with closed-circuit television transmissions, films, motion pictures, video cassettes, DVD's, digital or physical slides or other photographic reproduction which are distinguished or characterized by an emphasis upon the depiction or description of adult matter;

**ADULT MOTION PICTURE THEATER.** Any establishment, to which the public is permitted or invited, used for presenting films, motion pictures, video cassettes, DVD's, digital or physical slides or similar photographic reproductions in which a preponderance of the total presentation time is devoted to showing of materials which are distinguished or characterized by an emphasis on adult matter; or

**ADULT SERVICE ESTABLISHMENT.** Any building, structure, premises or other facility, or any part thereof, under common ownership or control which provides a preponderance of services involving adult matter.



**SIGN, POLITICAL:** Temporary signs announcing candidates seeking political office.

**SIGN.** Any name, identification, description, device, display, or illustration which is affixed to, painted, or represented directly or indirectly upon a building, structure, or piece of land which directs attention to an object, product, place, activity, person, institution, organization, or business. A sign includes the face area which conveys a message, any equipment or sign device, and any related mechanical, electrical, and structural supports, and features, such as poles and lighting. In no instance shall this Ordinance be interpreted as considering the flag of the United States, a County or Official State flag as a sign. (Ordinance No. 2020-22; October 6, 2020)

**SIGN PERMIT.** An Improvement Location Permit issued by the Planning Office's designated staff on behalf of the Advisory Plan Commission that must be obtained before temporary and permanent signs are erected. (Ordinance No. 2020-22; October 6, 2020)

**SIGN SETBACK.** The distance between any property line or right-of-way and the nearest portion of any sign at or above finished grade level.

**SIGN, ABANDONED.** A sign that identifies or advertises a business, product, service, owner, or other activity that is no longer located on or conducted on the property where the sign is displayed.

**SIGN, ANIMATED.** A sign with action, motion, or changing colors or lights, any of which imitates movement. A flashing sign shall be considered to be an animated sign.

**SIGN, AREA (TOTAL SQUARE FOOTAGE).** The entire face of a sign including the message surface and any framing or trim, but excluding any poles or other supports. Sign area is measured as the maximum vertical dimension of the face area multiplied by the maximum horizontal dimension of the face area, each at its largest point.

**SIGN, AWNING.** A sign incorporated into or attached to an awning.

**SIGN, BANNER.** A sign with a message applied to cloth, paper, fabric, or flexible plastic, with any such non-rigid material for background.

**SIGN, BILLBOARD.** See SIGN, OFF-PREMISES.

**SIGN, CHANGEABLE COPY.** A sign or portion thereof which has a reader board for the display of text information in which each alphanumeric character, graphic or symbol is defined by objects which may be changed or rearranged manually with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. Changeable copy signs display a static message. (Ordinance No. 2020-22; October 6, 2020)

**SIGN, DIRECTIONAL.** Any on-premises sign that includes information assisting in the flow of pedestrian or vehicular traffic, such as "enter", "exit", and "one-way".

**SIGN, DOUBLE-FACED (TWO-SIDED).** A sign designed and/or used to display a message on the outer surface of two (2) identical and opposite parallel planes.

**SIGN, ELECTRONIC MESSAGE BOARD.** A sign or portion thereof that display electronic information in which each alphanumeric character, graphic or symbol is defined by a small number of matrix elements using different combinations of light emitting diodes (LEDs), fiber optics, light bulbs, or other illumination devices within the display area itself. Electronic message board signs typically include computer programmable, microprocessor controlled electronic displays. For the purposes of administering and enforcing this ordinance, the phrase ELECTRONIC MESSAGE BOARD shall also include projected images or messages onto a building or other object.

**SIGN, ENTRY FEATURE.** A permanent on-premises sign identifying an entrance to a residential subdivision, apartment complex, or manufactured home community.

**SIGN, FACE.** The area or display surface used for the message.

**SIGN, FREE-STANDING.** A sign supported completely by a frame, pole, or foundation and which is independent from all other structures on the property.

**SIGN, GROUND.** A street sign supported by one (1) or more uprights, posts, or bases placed upon or affixed in the ground and not attached to any part of a building. It includes freestanding signs and monument signs.

**SIGN, HEIGHT.** The highest point measured from adjacent finished grade level to the highest point of the sign, including any structure, frame, light fixture, or other element of the sign.

**SIGN, ILLUMINATED.** A sign lighted by or exposed to artificial lighting either by internal or external illumination.

**SIGN, MONUMENT.** A sign that is permanently affixed to the ground at its base, supported entirely by a base structure, and not mounted on a pole. This sign could be displayed on a decorative feature of brick, wood, or other material, which is intended to serve as an entry feature or focal point.

**SIGN, MURAL.** A sign painted onto the side of a building, wall, ground, or structure.

**SIGN, OFF-PREMISE.** A sign which directs attention to a business, commodity, service, organization, or entertainment conducted, sold, or offered elsewhere than upon the premises where such sign is located or to which it is affixed. This includes billboard and other outdoor advertising and directional signs located on private property.

**SIGN, OPINION.** A sign which does not advertise a product, good, business, or service and which expresses an opinion or point of view, such as a student achievement announcement, a political, religious, or other sentiment, or support or opposition to a candidate or proposition for a public election.

**SIGN, POLE.** A free-standing sign, usually double-faced (two-sided), mounted on a round pole, square tube or other fabricated member without any type of secondary support, a free-standing sign with a visible support structure.

**SIGN, PORTABLE.** Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A or T-frames; menu or sandwich board signs; and balloons used as signs.

**SIGN, POSTER.** Any sign made of cardboard, metal, plastic or other semi-rigid material which is attached to outdoor products, structures, or other features, or anchored into the ground with the use of stakes.

**SIGN, PROJECTING.** A sign attached to and projecting out from a building face or wall, generally at right angles to the building.

**SIGN, PYLON.** A free-standing sign, other than a pole or ground mounted sign, which is secured permanently to the ground by one or more supports. A pylon sign differs from a pole sign in that the support structure (i.e. pole or poles) of a pylon sign is not visible.

**SIGN, REAL ESTATE.** A temporary sign that relates to the sale, lease or rental of property or structures, or to construction activity on a site.

**SIGN, SANDWICH BOARD.** A free-standing sign located at grade level constructed in such a manner as to form an "A" by separating to opposite and parallel sign faces by supporting structural members.

**SIGN, SEARCHLIGHT.** A searchlight used to attract attention to a property, use, or structure consistent with the definition of a sign.

**SIGN, TEMPORARY.** An on-premises sign not fixed to a permanent foundation and displayed for a fixed period of time, for the purpose of conveying information, knowledge, or ideas to the public about a subject related to the activities on the premises upon which it is located.

**SIGN, UNIFIED DEVELOPMENT.** A single sign structure with one (1) or more sign faces indicating the presence of multiple tenants on a property being constructed or managed as a single development. Such developments include, but are not limited to: shopping centers, office parks, and industrial parks.

**SIGN, VEHICLE.** A sign that is attached to or painted on a parked vehicle for the purpose of drawing attention to the product, business, or property which is indicated on the sign.

**SIGN, WALL.** A sign attached to or painted on the exterior wall of a structure.

**SIGN, WINDOW.** A sign affixed to a window or placed immediately behind a windowpane so as to attract the attention of persons outside of the structure.

**SIGNABLE AREA.** A two-dimensional area that describes the largest square, rectangle, or parallelogram on the facade of a building which is free of architectural details.

**SOLID WASTE:** As defined in IC 13-11-2.

**SPECIAL EXCEPTION:** A use that is not listed as a permitted use in the particular zoning district under this Ordinance, but which may be compatible with such uses and may promote the realization of the purposes of this Ordinance if such use is restricted as to intensity and location in the district and to such other conditions as may be required by the Board of Zoning Appeals.

**STREET:** A partially or fully improved public thoroughfare, including a road, highway, drive, lane, avenue, place, boulevard, and any other thoroughfare that affords vehicular access to abutting property.

**STRUCTURE:** Anything constructed, installed, or erected which requires location on the ground or attachment on something having location on the ground, including but not limited to buildings, walls, fences and signs.

**SUPPLY YARDS:** A commercial establishment storing or offering for sale building supplies, steel supplies, coal, heavy equipment, feed and grain, and similar goods. Supply yards do not include the wrecking, salvaging, dismantling or storage of automobiles or similar vehicles.

**SWIMMING POOL:** Any structure located either at, above, or below grade which is designed and/or used to hold water which exceeds two (2) feet in depth at any point for the purpose of recreation and entertainment of adults and children.

**TELECOMMUNICATIONS ANTENNA.** Any structure or device, including all appurtenances, used for the purpose of collecting or radiating electromagnetic waves, including those used to transmit cellular telephone service, data, radio and television signals, and any other information. (Ordinance 2021-38; December 7, 2021)

**TELECOMMUNICATION TOWER:** A mast, pole, monopole, guyed, or freestanding framework, or other vertical structure that acts as a telecommunications antenna or to which an antenna is affixed or attached (Ordinance 2021-38; December 7, 2021)

**TRUCK FREIGHT TERMINAL.** An area and/or building where trucks and cargo are stored, where loading and unloading is carried on regularly. (Ordinance 2021-38; December 7, 2021)

**TRANSPORTATION TERMINAL.** A centralized and/or primary community facility for the transient housing or parking of vehicles related to mass transportation, as well as the loading and unloading of passengers and the transfer of passengers from one form of transportation to another. Such facility may include a bus transfer station, a park and ride location, and/or a train station. The storage of bicycles, personal automobiles, and other similar personal conveyances may also be present. (Ordinance 2021-38; December 7, 2021)

**USE:** The purpose for which the land or building thereon is designed, arranged, or intended, or for which it is occupied or maintained, let, or leased.

**VARIANCE:** A modification of the strict terms of the relevant regulations of this ordinance where such modification will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of this ordinance would result in unnecessary and undue hardship.

**VEHICLE:** A device used as a mode of transportation of persons and/or goods including but not limited to automobiles, semi-tractor trailers, all types of trailers, snowmobiles, recreational vehicles, motorcycles, motorized bike, and like devices.

**VEHICLE REPAIR.** The use of a structure or property for the repair of motor vehicles, including trucks, motorcycles, recreational vehicles and boats; including, but not limited to, the installation and servicing of equipment and parts. Automobile repair includes muffler shops, auto repair garages, tire sales and installation, wheel and brake shops, body and fender shops, and similar repair and service activities, but excludes dismantling or salvage. (Ordinance 2021-38; December 7, 2021)

**VEHICLE SALES AND SERVICE.** Any establishment dedicated to the storage and display of new and/or used vehicles for sale or long-term lease and where service is provided is incidental to the operation of the new or used vehicle sales. Inoperable vehicles may be stored on a temporary basis, and only if they are to be serviced. (Ordinance 2021-38; December 7, 2021)

**WAREHOUSE.** A facility for the storage, and distribution of manufactured products, supplies, and equipment. (Ordinance 2021-38; December 7, 2021)

**WHOLESALE:** An establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers, to industrial, commercial, institutional, or professional business users, or to other wholesalers.

**YARD:** A space on a lot that is open and unobstructed.

**YARD, FRONT:** The horizontal space between the nearest foundation of a building to the front lot line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the front lot line.

**YARD, REAR:** The horizontal space between the nearest foundation of a building to a rear lot line and that rear lot line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the rear lot line. Corner lots shall have not rear yards, only front yards, and side yards.

**YARD, SIDE:** A yard extending along the side of a lot from the front to the rear yard.

**YARD SALES (includes the term Garage Sale):** The organized sale, barter, or exchange, of new or used merchandise, household items, clothing, furniture, appliances, vehicles, equipment, or any similarly items from a structure, yard, or driveway within any residential zoned district or any other zoned district where retail sales are prohibited. Garage sales, yard sales and similar activities may be held in a residential zoned district by individuals, for a maximum of ten (10) days per address in one (1) calendar year.

**ZONING MAPS:** The map of the City showing the zoning districts therein.  
(Ordinance No. 2020-22; October 6, 2020)

## **ARTICLE III ZONING DISTRICT REGULATIONS**

### **A. ZONING DISTRICTS AND MAPS**

#### **1. Establishment of Zoning Districts**

The City is divided into the districts stated in this Ordinance as shown by district boundaries on the zoning maps. The districts are:

- R-1 - Single-Family Residential District
- R-2 - Single-Family Residential District
- R-3 - Multi-Family Residential District
- R-4 - Manufactured Home Community District
- RE – Residential - Existing
- C-1 - Neighborhood Business District
- C-2 - Community Business District
- CBD - Central Business District
- M-1 - Light Manufacturing District
- M-2 - Heavy Manufacturing District
- PUD - Planned Unit Development

(Ordinance No. 2020-1; January 7, 2020 and Ordinance No. 2020-27; December 15, 2020)

#### **2. Zoning Map**

- a. A zoning map for the City of Rushville is hereby adopted as part of this Ordinance. Zoning maps shall be kept on file and available for examination at the office of the Advisory Plan Commission. (Ordinance No. 2018-31; October 2, 2018)
- b. Flood Insurance Rate Maps issued by the Federal Emergency Management Agency are on file in City of Rushville Planning Office. The maps, in conjunction with the approved Ordinance for Flood Hazard Areas for the City of Rushville shall be considered a part of this zoning ordinance and used to determine the location of Flood Hazard Areas. (Ordinance No. 2020-22; October 6, 2020)

#### **3. Zoning District Boundaries**

Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

- a. Center lines of streets and boundaries. Unless otherwise indicated, the district boundary lines are the center lines of streets, parkways, alleys, or railroad right-of-way, or such lines extended.
- b. Approximations. Boundaries indicated as approximately following section lines, half section and quarter section lines, city corporate limit lines, or platted lot lines shall be construed as following such lines.
- c. Railroad lines. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

- d. Shore lines and waterways. Boundaries indicated as following shore lines shall be construed to follow the shore lines, and in the event of change in the shore lines shall be construed as moving with the actual shore lines. Boundaries indicated as approximately following the center lines of streams, creeks, lakes, or other bodies of water shall be construed to follow such center lines.
- e. Use of scale on zone map. Boundaries indicated as parallel to or extensions of features indicated in divisions (A) through (D) above shall be so construed. Distances not specifically indicated on the official zone map shall be determined by the scale of the map.
- f. Commission may determine. Where physical or cultural features existing on the ground are at variance with those shown on the official zone map, or in other circumstances not covered by divisions (1) through (6) of this section, the Planning Commission shall interpret the district boundaries.
- g. Vacations and relocations. The vacation or relocation of rights-of-way and lot lines shall not affect the location of district boundaries. However, whenever any right-of-way is vacated by proper authority, the districts adjoining each side of such vacation shall be extended automatically to the center of such vacation.
- h. Lines splitting lots. Where a district boundary line divides a lot which was in single ownership at the time of passage of this ordinance, the Board of Zoning Appeals, on appeal, shall interpret the applicable regulations for either portion of the lot not to exceed 50 feet beyond the district boundary line into the remaining portion of the lot.

## **B. R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT**

### **1. Purpose**

The purpose of the R-1, Single-Family Residential District is intended to encourage moderate to low residential development.

### **2. Permitted Uses**

The following uses are permitted within the R-1, Single-Family Residential District:

- a. Single family dwellings
- b. Public parks and playgrounds
- c. Accessory uses
- d. Home occupations

### **3. Special Exceptions**

The following special exceptions shall be permitted within the R-1, Single-Family Residential District only as specifically authorized by the Board of Zoning Appeals:

- a. Child care homes
- b. Home Day Care
- c. Places of Worship
- d. Bed and Breakfast Home
- e. Public recreational facilities, including golf courses, swimming pools, parks, and playgrounds (Ordinance No. 2020-27 – December 15, 2020)



4. Lot and Yard Requirements

The following lot and yard requirements shall apply within the R-1, Single-Family Residential District:

- a. Minimum Lot Size
  - i. Area: 10,000 square feet
  - ii. Width: 50 feet
  - iii. Road frontage: 50 feet(Ordinance No. 2020-1; January 7, 2020)
- b. Minimum Setback Lines

Front setback lines will be based on thoroughfare classification, not zoning district.

  - i. Front:
    - 1. Major Arterial: 45 feet
    - 2. Minor Arterial: 40 feet
    - 3. Major Collector: 35 feet
    - 4. Minor Collector: 30 feet
    - 5. Local Access: 25 feet
    - 6. Cul-de-Sac: 25 feet
  - ii. Side: Each: 8 feet
  - iii. Rear: 10 feet(Ordinance No. 2020-1; January 7, 2020)
- c. Maximum height
  - i. Primary building: 35 feet
  - ii. Accessory building: 18 feet
- d. Maximum lot coverage:

Maximum lot coverage shall not exceed Sixty percent (60%). (Ordinance No. 2018-13 - July 5, 2018)
- e. Minimum Ground Floor Area for Principal use
  - i. 1,300 square feet for single-story.
  - ii. 900 square feet for two or more stories.

**C. R-2, SINGLE-FAMILY RESIDENTIAL DISTRICT**

1. Purpose

The purpose of the R-2, Single-Family Residential District is to provide for moderate residential development.

2. Permitted Uses

The following uses are permitted within the R-2, Single-Family Residential District:

- a. Single family dwellings
- b. Public parks and playgrounds
- c. Accessory uses
- d. Home occupations

3. Special Exception

The following special exceptions shall be permitted within the R-2 Single-Family Residential District only as specifically authorized by the Board of Zoning Appeals:

- a. Childcare homes
- b. Home Day Care
- c. Places of Worship
- d. Bed and Breakfast Home
- e. Public recreational facilities, including golf courses, swimming pools, parks and playgrounds (Ordinance No. 2020-27; December 15, 2020)

4. Lot and Yard Requirements

The following lot and yard requirements shall apply within the R-2, Single-Family Residential District:

- a. Minimum Lot Size:
  - i. Area: 7,200 square feet.
  - ii. Width: 50 feet.
  - iii. Road frontage: 50 feet.(Ordinance No. 2020-1 - January 7, 2020)
- b. Minimum Setback Lines:

Front setback lines will be based on thoroughfare classification, not zoning district:

  - i. Front:
    - 1. Major Arterial: 45 feet.
    - 2. Minor Arterial: 40 feet.
    - 3. Major Collector: 35 feet.
    - 4. Minor Collector: 30 feet.
    - 5. Local Access: 25 feet.
    - 6. Cul-de-Sac: 25 feet.
  - ii. Side: Each: 8 feet.
  - iii. Rear: 10 feet.(Ordinance No. 2020-1 - January 7, 2020)
- c. Maximum height
  - i. Primary building: 35 feet.
  - ii. Accessory building: 18 feet.
- d. Maximum lot coverage shall not exceed Sixty percent (60%).
- e. Minimum Ground Floor Area for Primary Use
  - i. 1,000 square feet single-story.
  - ii. 900 square feet two or more stories. (Ordinance. No. 2018-14; July 5, 2018)

## **D. RE, RESIDENTIAL – EXISTING DISTRICT**

### **1. Purpose**

The “RE”, Residential, established zoning district is intended to ensure the continued viability of neighborhoods and developments. This district should be used to maintain traditional, contextually appropriate setbacks, uses, and other standards in a manner consistent with the Comprehensive Plan. This district should not be applied to any new development. (The last statement means that new development of land cannot use this zoning classification – any new development would be required to use current zoning districts for R-1, R-2, R-3).

### **2. Permitted Uses.**

The following uses are permitted within the RE, Residential – Existing District:

- a. Single family dwellings
- b. Accessory Uses
- c. Home Occupations

### **3. Special Exception**

The following special exception shall be permitted within the RE, Residential – Existing District only as specifically authorized by the Board of Zoning Appeals:

- a. Childcare homes
- b. Home Day Care (Ordinance No. 2020-27; December 15, 2020)

### **4. Lot and Yard Requirements**

The following lot and yard requirements shall apply within the RE, Residential – Existing District:

- a. Minimum Lot Size:
  - i. Area:  
Equal to the average area of any legal lots of record within 100 feet of the subject property.
  - ii. Width:  
Equal to the average width of any legal lot of record within 100 feet of the subject property.
  - iii. Frontage:  
Equal to the average frontage of any legal lot of record within 100 feet of the subject property.

- b. Minimum Setback Lines
  - i. Front:  
Equal to the average setback provided by all other primary structures on the same side of the street on legal lots of record within 100 feet of the subject property.  
Exception: All garage vehicle entrances facing a public street shall have a minimum front setback of 25 feet.
  - ii. Side: Each
    - 1. Primary Structure: 8 feet
    - 2. Accessory Structure: 8 feet
  - iii. Rear:
    - 1. Primary Structure: 10 feet
    - 2. Accessory Structure: 5 feet
- c. Maximum Height
  - i. Primary Structure: 45 feet
  - ii. Accessory Structure: 35 feet (or the height of the primary structure on the property, whichever is less).
- d. Maximum Lot Coverage  
Equal to the average coverage of legal lots of record within 100 feet of the subject property or 75%, whichever is greater.
- e. Minimum ground floor area for Primary Use:  
Equal to the average living area of all dwellings located on legal lots of record within 100 feet of the subject property. (Ordinance No. 2020-1; January 7, 2020)

#### **E. R-3, MULTI-FAMILY RESIDENTIAL DISTRICT**

- 1. Purpose  
The purpose of the R-3, Multi-Family Residential District is for multi-family residential development.
- 2. Permitted Uses  
The following uses are permitted within the R-3, Multi-Family Residential District:
  - a. Multi-family dwellings, such as Nursing home, Assisted Living, Congregate Dwellings, Hotel/Motel, Bed and Breakfast, Lodging Homes
  - b. Two-family dwellings
  - c. Hospitals
  - d. Recreational areas, including: golf course, swimming pools, public parks and playgrounds
  - e. Schools, public or private
  - f. Accessory uses
  - g. Home occupations
  - h. Places of worship

3. Special Exceptions

The following special exceptions shall be permitted within the R-3, Multi-Family Residential District only as specifically authorized by the Board of Zoning Appeals:

- a. Childcare Homes
- b. Childcare Centers
- c. Home Day Care
- d. Funeral homes (Ordinance No. 2020-27; December 15, 2020)

4. Lot and Yard Requirements

The following lot and yard requirements shall apply within the R-3, Multi-Family Residential District:

- a. Minimum Lot Size
  - i. Area: 2 Acres (87,120 square feet)
    - 1. Multi-family: Twelve (12) dwelling units per acre
    - 2. Two-family dwelling: Six (6) dwelling unit per acre
  - ii. Width:
    - 1. Multi-family: 100 Feet
    - 2. Two-family dwelling: 50 Feet per dwelling unit
  - iii. Road frontage:
    - 1. Multi-family: 100 feet
    - 2. Two-family dwelling: 50 feet per dwelling unit
- b. Minimum Setback Lines

Front setback lines will be based on thoroughfare classification, not zoning

  - i. Front:
    - 1. Major Arterial: 40 feet
    - 2. Minor Arterial: 35 feet
    - 3. Major Collector: 30 feet
    - 4. Minor Collector: 25 feet
    - 5. Local Access: 20 feet
    - 6. Cul-de-Sac: 20 feet
  - ii. Side: Each:
    - 1. Multi-family dwelling: 20 feet
    - 2. Two-family dwelling: 10 feet
  - iii. Rear:
    - 1. Multi-family dwelling: 20 feet
    - 2. Two-family dwelling: 20 feet
- c. Maximum height
  - i. Primary building:
    - 1. Multi-family dwelling: 50 feet
    - 2. Two-family dwelling: 35 feet
  - ii. Accessory building: 18 feet
- d. Maximum lot coverage
  - i. Multi-family dwelling: Maximum lot coverage shall not exceed 60 percent
  - ii. Two-family dwelling: Maximum lot coverage shall not exceed 35 percent
- e. Minimum Ground Floor Area for Primary Use
  - i. Multi-family dwelling: 750 square feet
  - ii. Two-family dwelling: 900 square feet.

## **F. R-4, MANUFACTURED HOME COMMUNITY DISTRICT**

### **1. Purpose**

The purpose of the R-4, Manufactured Home Community District is to provide for the placement of manufactured homes within a large-scale unified development. Specific standards are included to promote developments that are Single-family dwellings.

### **2. Permitted Uses**

The following uses are permitted within the R-4, Manufactured Home Community District:

- a. Installation of Manufactured Homes constructed and certified in accordance with 24 CFR 3280.
- b. Community buildings specifically designed and operated to serve the development, including child care centers, dry cleaning, and laundry, and/or indoor recreation facilities.
- c. Manufactured home sales and management offices, when located in the interior of the community building and limited to three percent (3%) of the total community area.
- d. Home occupations
- e. Public parks and playgrounds
- f. Accessory uses

### **3. Yard Requirements**

The following lot and yard requirements shall apply within the R-4, Manufactured Home Community District:

- a. Development size
  - i. Minimum 15 acres, 1<sup>st</sup> phase minimum 5 acres
  - ii. Minimum Seven (7) manufactured homes per acre
- b. Minimum Lot Size
  - i. Area: 5,000 square feet
  - ii. Width: 50 feet
  - iii. Road frontage: 50 feet
- c. Minimum Setback Lines

Front setback lines will be based on thoroughfare classification, not zoning district.

  - i. Front:
    1. Major Arterial: 40 feet
    2. Minor Arterial: 35 feet
    3. Major Collector: 30 feet
    4. Minor Collector: 25 feet
    5. Local Access: 20 feet
    6. Cul-de-Sac: 20 feet
  - ii. Side: Each: 7 feet per side with two (2) side yard; 14 feet between structures.
  - iii. Rear: 20 feet
- d. Maximum height
  - i. Primary building: 30 feet
  - ii. Accessory building: 18 feet

- e. Maximum lot coverage
    - i. Manufactured Home: 30 percent (30%)
    - ii. All other structures: 40 percent (40%)
  - f. Minimum Ground Floor Area for Principal Use
    - i. Manufactured Home: Greater than 320 square feet
4. Development Conditions
- a. General Requirements
    - i. Prior to construction of Manufactured Home Community, a final development plan shall be submitted to the Advisory Plan Commission for review and approval.
    - ii. Manufactured homes without sanitary or cooking facilities shall not be occupied and are prohibited from being sited in a Manufactured home community.
    - iii. All manufactured home communities shall comply with the requirements set out in I.C. 16-41-7 and 410 IAC 6.
  - b. Site Conditions
 

No manufactured home shall be used for any purpose other than a single-family dwelling. No commercial businesses shall be conducted in an R-4 Manufactured Home Community District, except for those businesses permitted.
  - c. Development Standards
    - i. Landscaping
      - 1. A thirty (30) foot landscape buffer shall be provided at the perimeter property lines. Existing plantings may serve as the required landscape buffer. The landscape buffer shall be required on-of the final development plan for approval by the Advisory Plan Commission.
      - 2. Each manufactured home lot shall be provided with two (2) trees with a two (2) inch minimum trunk diameter and a height of twelve (12) inches above the finished grade at planting.
    - ii. Manufactured Home Lots
      - 1. Manufactured home communities shall be divided into lots with permanent markers indicating the corners of each lot.
      - 2. Setback lines, yard requirements and lot coverage.
        - (a) No manufactured home or accessory structure shall be located closer than forty (40) feet to the property line of the development.
    - iii. Recreation
      - 1. Manufactured home communities shall be provided with at least one (1) recreational area and be accessible to residents.
      - 2. The recreation area shall be a minimum of ten (10) percent of the development site.
      - 3. The recreation area shall not include bodies of water, detention/retention ponds, or slope lands having an average slope greater than fifteen (15) percent.
      - 4. Recreation areas shall be centrally located and away from traffic hazards.

- iv. Street and Drive Requirements
    - 1. All streets shall be constructed to the City Rushville's specifications.
    - 2. All streets and drives that appear on the on the development plans shall be assigned names and the final development plan shall be approved by the City of Rushville's Advisory Plan Commission.
    - 3. All manufactured home lots shall be assigned address for identification purposes. Addresses to be assigned by the Planning Office. (Ordinance No. 2020-22; October 6, 2020)
  - v. Permanent Structures
    - 1. Permanent Structures location shall be designated on the development plan.
    - 2. Deleted (Ordinance No. 2019-23; November 19, 2019)
  - vi. Pedestrian Ways
    - 1. A common concrete walk system shall be provided and maintained on both sides of all streets within the community. Common walks shall be a minimum of four (4) feet in width.
    - 2. All manufactured homes shall be connected by concrete or paved individual walks and shall be a minimum of three (3) feet in width and shall connect to common walks and parking areas.
    - 3. All walkways shall conform to the Americans with Disabilities Act (ADA) standards.
  - vii. Manufactured Home Installation. Manufactured home shall be installed in accordance with the manufacturer's installation manual (instructions) and the requirement set forth in 410 IAC 6.
  - viii. Storage. Accessory structure to be used for storage at each manufactured home lot shall be limited to a minimum of fifty (50) square feet
  - ix. Utilities. All utilities shall be underground except control instrumentation and substations, which must be screened by planting or ornamental walls.
  - x. Lighting. Streetlights shall be provided at all intersections and a minimum five hundred (500) foot spacing as needed between intersections.
5. Procedure for Zoning and Development Approval
- a. Preliminary Filing
 

Prior to submitting a final development plans to the City of Rushville Advisory Plan Commission for approval, the developer shall submit a preliminary development plan to allow staff an opportunity to comments.
  - b. If the proposed development property is not currently zoned R-4, Manufactured Home Community District, at the time of filing the final development plan, the developer shall make application for rezoning.
  - c. Final Development Plan
 

Twelve (12) copies shall be submitted and shall include the following items:

    - i. Name and address of applicant, name and address of owner of property if different from applicant, name and address of person preparing the plan.
    - ii. Location map and legal description of development.



- iii. Development plan of proposed area containing the following information:
  - 1. Proposed name of development;
  - 2. Date, scale and north arrow;
  - 3. Contour information at vertical intervals of not less than two (2) feet with reference to U.S. Geodetic Survey (USGS) datum;
  - 4. Indication of gross land area of development and a computation of the density of the development;
  - 5. Drawing indicating how surface water drainage will be handled;
  - 6. Drawing indicating location of available sanitary sewers, how sewage will be treated and how domestic water will be supplied, and how the park will be served;
  - 7. Location and distance between all proposed fire hydrants;
  - 8. Statement of restrictions contemplated, if any, such as:
    - (a) Placement of, storage sheds, fences and patios;
    - (b) Type of Skirting;
    - (c) Pets;
    - (d) Parking;
    - (e) Outside storage.
    - (f) Elevation of water table, percolation data and description of soil type;
    - (g) Location, width, and name of streets;
    - (h) Service building and maintenance building;
    - (i) Playgrounds and/or swimming pools;
    - (j) Manufactured home lot, including lot details;
    - (k) Parking spaces, driveways, and sidewalks;
    - (l) Property lines, fencing and landscaping buffer zone including types of plantings;
    - (m) Street lighting;
    - (n) Tentative letter from Indiana State Department of Health and the Indiana Department of Environmental Management as to sanitary sewer and water distribution system;
    - (o) Statement of review and tentative approval of all access onto public streets, from the City Street Department and,
    - (p) Any other information deemed necessary, to clarify the development.
- d. Submission to City Council and Advisory Plan Commission
  - i. The development plan shall be reviewed and approved by the City of Rushville Council and Rushville Advisory Plan Commission. As a condition of approval, the City Council and Advisory Plan Commission may require modifications to the development plan to ensure compliance with this ordinance.
  - ii. Construction of the manufactured home community shall be in accordance with the approved development plan.

- e. Amendments to Approved Development Plan
  - i. All other amendments shall be deemed major and shall be reviewed and approved by the Advisory Plan Commission and the Rushville City Council following a public hearing.

## **G. C-1 NEIGHBORHOOD BUSINESS DISTRICT**

### **1. Purpose**

The purpose of the C-1, Neighborhood Business District is to provide a mix of small commercial, office, and public uses designed to serve the convenience purposes of a neighborhood market.

### **2. Permitted Uses**

The following uses are permitted within the C-1, Neighborhood Business District:

- a. Retail sales establishments 65,000 gross square feet, or less in floor area, such as Bakeries, Furniture, Craft and hobby,
- b. Dining and Drinking Establishment, such as: Delicatessens, Restaurants, Taverns.
- c. Places of Assembly, such as: Theaters, Museums, Funeral Homes, Places of Worship
- d. Offices, such as: financial institutions, insurance real estate, general offices, government offices
- e. Personal and professional services, such as: barber and beauty shops, florists, laundromats, drycleaners, medical and dental office and clinics, funeral homes, contractor's office, excluding contractor yard;
- f. Recreational area, such as: public parks, playgrounds, golf courses, and swimming pools
- g. Essential services
- h. Schools, public or private
- i. Accessory uses

### **3. Special Exception**

The following special exceptions shall be permitted within the C-1, Neighborhood Business district only as specifically authorized by the Board of Zoning Appeals:

- a. Auto sales, service and repair
- b. Commercial recreation facilities, such as: Stadiums, auditoriums, arenas
- c. Public or private utility structure
- d. Private clubs
- e. Tattoo shop and body modification
- f. Public parking lots
- g. Cellular communications facilities
- h. Child care centers

### **4. Lot and Yard Requirements**

The following lot and yard requirements shall apply.

- a. Minimum Lot Size
  - i. Area: 11,000 square feet
  - ii. Width: 75 feet
  - iii. Road frontage: 75 feet

- b. Minimum Setback Lines  
Front setback lines will be based on thoroughfare classification, not zoning.
  - i. Front:
    - 1. Major Arterial: 45 feet
    - 2. Minor Arterial: 40 feet
    - 3. Major Collector: 35 feet
    - 4. Minor Collector: 30 feet
    - 5. Local Access: 30 feet
    - 6. Cul-de-Sac: 25 feet
  - ii. Side: Each: 20 feet
  - iii. Rear: 20 feet
- c. Maximum height
  - i. Primary building: 50 feet
  - ii. Accessory building: 25 feet
- d. Maximum lot coverage 60 percent
- e. Minimum Ground Floor Area for Primary Use: 750 square feet

## **H. C-2 COMMUNITY BUSINESS DISTRICT**

- 1. Purpose  
The purpose of the C-2, Community Business District is to provide a mix of commercial, office, public, and small-scale industrial uses.
- 2. Permitted Uses  
The following uses are permitted within the C-2, Community Business District:
  - a. All uses permit in C-1, Neighborhood Business District
  - b. Retail sales establishments, 65,000 gross square feet or more such as: bakeries, furnisher, craft and hobby, auto sales, service and repairs, farm implement sales, service, and repair
  - c. Dining and Drinking establishments, including drive-ins; such as: Restaurants, Taverns, Delicatessens,
  - d. Offices, banks, financial institutions, and insurance agencies, real estate, general office, and government offices.
  - e. Personal and professional services, such as: barber and beauty shops, florists, laundromats, dry cleaners, contractor office, including contractor yard, medical and dental offices and clinic
  - f. Recreational places, including: Public parks and playgrounds, golf course, swimming pools
  - g. Places of Assembly, such as: Museums, theaters, private clubs, Funeral Homes, Places of Assembly
  - h. Vehicle fueling stations, with or without retail sales
  - i. Drive-in businesses
  - j. Veterinary hospitals, kennels
  - k. Hospitals

- l. Mini storage buildings
  - m. Schools, Public or private
  - n. Vehicle fueling facility, with or without retail sales.
  - o. Accessory uses
  - p. Essential services
3. Special Exceptions
- The following special exceptions shall be permitted within the C-2, Neighborhood Business District only as specifically authorized by the Board of Zoning Appeals.
- a. Commercial recreation facilities, such as: Stadiums, auditoriums, arenas
  - b. Domestic Shelters
  - c. Places of Worship
  - d. Manufactured home sales
  - e. Adult entertainment businesses
  - f. Tattoo shop and body modification
  - g. Public parking lots
  - h. Public or private utility structures
  - i. Cellular communications facilities
  - j. Recreational vehicle parks
  - k. Public transportation terminals
4. Lot and Yard Requirements
- The following lot and yard requirements shall apply:
- a. Minimum Lot Size
    - i. Area: 23,000 square feet
    - ii. Width: 120 feet
    - iii. Road frontage: 120 feet
  - b. Minimum Setback Lines
 

Front setback lines will be based on thoroughfare classification, not zoning district.

    - i. Front:
      - 1. Major Arterial: 45 feet
      - 2. Minor Arterial: 40 feet
      - 3. Major Collector: 35 feet
      - 4. Minor Collector: 35 feet
      - 5. Local Access: 35 feet
      - 6. Cul-de-Sac: 25 feet
    - ii. Side: Each: 30 feet
    - iii. Rear: 30 feet
  - c. Maximum height
    - i. Primary building: 50 feet
    - ii. Accessory building: 25 feet
  - d. Maximum lot coverage 60 percent
  - e. Minimum Ground Floor Area for Primary Use: 750 square feet

## I. CBD, CENTRAL BUSINESS DISTRICT

### 1. Purpose

The CBD, Central Business District is to promote and encourage continued vitality in the established Central Business District as the primary commercial and activity center, where a complete range of goods, services, and entertainment is located. This district is intended to serve as a focal point, and to be the most intensely developed area in the community. This district is further intended to support the continued use of historic structures, to ensure a pedestrian-focused character, and to enable continued investment. (Ordinance. No. 2021-34 – November 16 2021)

### 2. Permitted Uses

The following uses are permitted within the CBD, Central Business District:

#### a. Retail uses:

- Antique Shop
- Apparel/Footwear Store
- Bakeries (retail)
- Craft/Hobby
- Consignment/Second Hand/Pawn Store
- Florist/Flower Shop
- Furniture
- Gift shop
- Grocery Store/Meat Market
- Hardware Store (less than 6,000 square feet)
- Jewelry Store
- Pet Store
- Sewing supplies/Fabric/Notions
- other retail businesses conducted entirely in enclosed structure, not exceeding 6,000 square feet.

#### b. Restaurant without drive-through windows:

- Casual Dining
- Delicatessens
- Microbrewery/Brewpub/Winery
- Taverns

#### c. Recreational Uses:

- Arcade/Billiards
- Art Studio
- Assembly/Banquet Hall
- Bowling Alley
- Cultural Facility
- Gallery
- Museum
- Music Studio
- Night Club
- Theater (indoor)

- d. Offices uses:
    - Accounting
    - Employment Firm (private)
    - Insurance Agency
    - Office for executive, administrative, professional
    - Real Estate, general offices, governmental offices
    - other Office Uses conducted entirely in enclosed structure, not exceeding 6,000 square feet.
  - e. Personal and professional services uses:
    - Barber and Beauty Shops
    - Dance Studio/Marshall Art
    - Dry Cleaner
    - Financial Institutions with drive up services, including ATM
    - Fitness Center/Health Spa
    - Funeral Home
    - Gymnastic Center
    - Investment Firms
    - Laundromat
    - Library
    - Medical/Dental/Clinic
    - Other personal and professional uses conducted entirely in enclosed structure, not exceeding 6,000 square feet.
  - f. Public/Semi Public Uses:
    - Farmer's Market
    - Fire/Police/Rescue station
    - Government Office
    - Post Office
    - Trade/Business School
  - g. Dwelling unit:
    - Secondary, on floor(s) above non-residential use at street level.
  - h. Park Use:
    - Amphitheater/Outdoor venue
    - Conservation Area/nature preserve
    - Park/playground
  - i. Essential Services
  - j. Accessory uses (Ordinance No. 2021-34 – November 16, 2021)
3. Special Exception
- The following special exceptions shall be permitted within the CBD, Central Business District only as specifically authorized by the Board of Zoning Appeals:
- Athletic complex
  - Banquet Facility/Reception Hall
  - Bed and Breakfast, upper floor(s) above non-residential use at street level
  - Boarding house, upper floors(s) above non-residential use at street level
  - Cellular communication facilities

- Cellular communication towers
- Church and customary related uses
- Commercial recreation facility/Stadium/Auditorium/Arenas
- Data processing/call center
- Domestic Shelter
- Hotel/Motel
- Lodge/Private Club
- Multifamily dwelling units
- Public or private parking as primary use
- Private utility structures
- Telecommunication facility/tower (Ordinance No. 2021-34 -November 16, 2021)

#### 4. Lot and Yard Requirements

The following lot and yard requirements shall apply within the CBD, Central Business District.

- a. Minimum Lot Size: No minimum lot size
- b. Minimum Setback Lines: Average of buildings in same block
- c. Minimum Road Frontage: No minimum road frontage required.
- d. Maximum height:
  - i. Primary building: 50 feet
  - ii. Accessory building: 25 feet
- e. Maximum lot coverage: No maximum lot coverage
- f. Minimum Ground Floor Area for Principal Use: No minimum ground floor area square footage requirement
- g. Minimum Living Area per dwelling unit:
  - i. 600 square feet (Ordinance 2022-34 – November 16, 2021)

### **J. M-1, LIGHT MANUFACTURING DISTRICT**

#### 1. Purpose

The purpose of the M-1, Light Manufacturing District is to accommodate limited manufacturing uses to allow manufacturing development access to adequate transportation and infrastructure.

#### 2. Permitted Uses

The following are permitted within the M-1, Light Manufacturing District:

- a. Accessory Uses
- b. Assembly Facility - including warehousing, and distribution.
- c. Building Supply Store.
- d. Contractor's Office, including contractor's yard.
- e. Equipment Rental Facilities.
- f. Essential Services
- g. Farm Implement Sales, and Service.
- h. Manufacturing – including retail sales, maximum of 10% gross floor area.
- i. Public Parking Lots.
- j. Research and Development Laboratory.
- k. Service businesses providing support services to manufacturing activities.
- l. Vehicle fueling facility, with or without retail sales.

- m. Vehicle repair.
- n. Vehicle sales, and service.
- o. Warehouses.
- p. Wholesale business. (Ordinance 2021-38; December 7, 2021)

### 3. Special Exceptions

The following special exceptions shall be permitted within the M-1, Light Manufacturing District only as specifically authorized by the Board of Zoning Appeals:

- a. Airports.
- b. Place of Assembly.
- c. Public or Private Utility Structures and apparatuses associated with a utility.
- d. Supply Yard.
- e. Telecommunication Antenna and Towers.
- f. Transportation Terminal.
- g. Truck Freight Terminal.
- h. Vehicle Repairs, including storage and parking lot. (Ordinance 2021-38; December 7, 2021)

### 4. Lot and Yard Requirements

The following lot and yard requirements shall apply within the M-1, Light Manufacturing District

- a. Minimum Lot Size
  - i. Area: 23,000 square feet
  - ii. Width: 100 feet
  - iii. Road frontage: 100 feet
- b. Minimum Setback Lines
 

Front setback lines will be based on thoroughfare classification, not zoning district.

  - i. Front:
    - 1. Major Arterial: 45 feet
    - 2. Minor Arterial: 40 feet
    - 3. Major Collector: 35 feet
    - 4. Minor Collector: 35 feet
    - 5. Local Access: 35 feet
    - 6. Cul-de-Sac: 35 feet
  - ii. Side: Each: 50 feet
  - iii. Rear: 50 feet
- c. Maximum height
  - i. Primary building: 50 feet
  - ii. Accessory building: 25 feet
  - iii. The maximum height requirement of 50 feet for a primary structure and 25 feet for an accessory structure in the M-2 Heavy Manufacturing Zoning District may be waived if the following conditions are met:
    - 1. Any structure exceed 50 feet for a primary structure and 25 feet for an accessory in height shall be setback at least 1.5 time the height of such structure from any adjacent property line or public way.



2. Any structure exceeding 50 feet for a primary structure and 25 feet for an accessory structure in height shall have written approval from the City of Rushville Fire Department certifying that a satisfactory plan for fire and emergency services is in place.
3. Any structure exceeding 50 feet for primary structure and 25 feet for an accessory structure in height shall comply with all Federal Aviation Administration (FAA) requirements for tall structures. (Ordinance 2021-27, August 3, 2021)
- d. Maximum lot coverage 65 percent
- e. Minimum Ground Floor Area for Primary Use: No minimum ground floor square footage required.

## **K. M-2, HEAVY MANUFACTURING DISTRICT**

1. Purpose  
The purpose of M-2, Heavy Manufacturing District is to accommodate a broad range of industrial activities, diverse in products, operational techniques, and size.
2. Permitted Uses  
The following uses are permitted within the M-2, Heavy Manufacturing District:
  - a. All uses permitted in M-1, Light Manufacturing District.
  - b. Food and Beverage Processing.
  - c. Grain Elevators.
  - d. Machine Tool and Die Shops.
  - e. Manufacturing.
  - f. Motor Freight Terminals.
  - g. Outdoor Storage Facilities.
  - h. Processing Plants.
  - i. Transportation Terminals.
  - j. Supply Yards. (Ordinance 2021-38; December 7, 2021)
3. Special Exceptions  
The following special exceptions shall be permitted within the M-2, Heavy Manufacturing District only as specifically authorized by the Board of Zoning Appeals:
  - a. Airport
  - b. Adult Entertainment Business
  - c. Batching Facility
  - d. Bulk Fuel Storage
  - e. Explosive Manufacturing and Storage
  - f. Junk Yard
  - g. Mineral Extraction
  - h. Public or Private Utility Structures and apparatuses associated with a utility
  - i. Telecommunication Antenna and Tower
  - j. Vehicle Fueling Facility, without or without retail sales.
  - k. Vehicle Repairs, including storage and parking lot. (Ordinance 2021-38; December 7, 2021)

4. Lot and Yard Requirements

The following lot and yard requirements shall apply within the M-2, Heavy Manufacturing District:

- a. Minimum Lot Size
  - i. Area: 40,000 square feet
  - ii. Width: 100 feet
  - iii. Road frontage: 100 feet
- b. Minimum Setback Lines

Front setback lines will be based on thoroughfare classification, not zoning district.

  - i. Front:
    - 1. Major Arterial: 45 feet
    - 2. Minor Arterial: 40 feet
    - 3. Major Collector: 35 feet
    - 4. Minor Collector: 35 feet
    - 5. Local Access: 35 feet
    - 6. Cul-de-Sac: 35 feet
  - ii. Side: Each: 50 feet
  - iii. Rear: 50 feet
- c. Maximum height
  - i. Primary building: 50 feet
  - ii. Accessory building: 25 feet
  - iii. The maximum height requirement of 50 feet for primary structure and 25 feet for an accessory structure in the M-2, Heavy Manufacturing Zoning District may be waived if the following conditions are met:
    - 1. Any structure exceeding 50 feet for primary structure and 25 feet for an accessory structure in height shall be setback at least 1.5 times the height of such structure from any adjacent property line or public way.
    - 2. Any structure exceeding 50 feet for a primary structure and 25 feet for an accessory structure in height shall have written approval from the City of Rushville Fire Department certifying that a satisfactory plan for fire and emergency services is in place.
    - 3. Any structure exceeding 50 feet for a primary structure and 25 feet for an accessory structure in height shall comply with all Federal Aviation Administration (FAA) requirements for tall structures.
- d. Maximum lot coverage 65 percent
- e. Minimum Ground Floor Area for Primary Use: No minimum ground floor square footage required.

## **L. PUD, PLANNED UNIT DEVELOPMENT DISTRICT**

### **1. PURPOSE, INTENT, USES, AND STANDARDS.**

- a. Purpose and intent. The purpose of these regulations is to provide greater design flexibility in the development of land when consistent with the Comprehensive Plan and the intent of the Zoning and Subdivision Control Ordinances. Planned unit development regulations are intended to encourage innovations in land development techniques so that unique opportunities and circumstances may be met with greater flexibility. Planned unit developments should be used to address unique environmental concerns, provide a unique mix of land uses, and implement the Comprehensive Plan in ways not considered by the established zoning districts. A planned unit development should not be used if the proposed development can be created using established zoning districts.
- b. Uses. All uses are subject to the discretion and approval of the Advisory Plan Commission. Once uses are approved by the Commission, they are granted by right. All land uses proposed in a planned unit development must be compatible with the intent of the Comprehensive Plan and the characteristics of surrounding land uses and zoning districts.
- c. Development requirements. Development requirements for all proposed planned unit developments shall be created by the applicant as part of the preliminary plan submittal. All proposed development requirements are subject to the review and approval of the Advisory Plan Commission and the City Council. Generally, the planned unit development shall provide standards for the development that replace:
  - i. The lot standards established in each Zoning Districts; and
  - ii. Each topic area regulated by Development Standards.
- d. Rules and procedures. All proceedings brought under this section are subject to the Rules and Procedures of the Advisory Plan Commission.
- e. Limitation of ordinance amendments. Any initiative of the Advisory Plan Commission to amend this ordinance that would affect an approved planned unit development before its completion shall not be enforced on the planned unit development. New amendments to this ordinance shall only apply to planned unit developments that have been declared abandoned, or for which an approval has expired.
- f. Origination of proposals. Any applicant may propose a planned unit development district in accordance with the procedures established in this section. A parcel or site proposed for a planned unit development may or may not be under single ownership. However, if not under single ownership, the multiple owners must have a contractual agreement:
  - i. not to develop the parcels separately, but in accordance with a single, unified plan; and
  - ii. in which the separate owners have given their express intentions to enter into such private agreements and to assure its completion as planned and to the satisfaction of the Advisory Plan Commission. The Town Council may grant an extension of such time for such a period as it deems in the public interest.

## 2. GENERAL APPLICATION REQUIREMENTS.

All applications may be obtained through the Planning Office or the City of Rushville's official web site. Fees shall be paid at the Planning Office the time the applications are submitted.

- a. Application forms. All applications shall be made on forms provided by the Planning Office. All applicants shall submit original application(s) which are completed in their entirety.
- b. Copies required. All applicants shall submit copies of application(s) and attachments as required by the applicable Rules and Procedures of the Advisory Plan Commission.
- c. Review schedule. All applications shall be assigned docket numbers by the Planning Office. Applications shall be scheduled by the Planning Office, for the appropriate public hearings based on the completeness of the application consistent with the requirements of this Article and the adopted Calendar of Filing and Meeting dates for the Advisory Plan Commission. (Ordinance No. 2020-22; October 6, 2020)

## 3. PRELIMINARY PLAN AND REZONING.

- a. Purpose and intent. The purpose of the preliminary plan is to provide a formal opportunity for the applicant and the Advisory Plan Commission to discuss the general elements of the proposed PUD. The preliminary plan prepares the Advisory Plan Commission for a future discussion of details and minimizes the risk incurred by the applicant in creating the detailed plan.
- b. Pre-application meeting required. A planned unit development preliminary plan shall only be filed after the petitioner has met with the Planning Office Staff to discuss the request. (Ordinance No. 2020-22; October 6, 2020)
- c. Application. The applicant shall submit a planned unit development preliminary plan review application, an affidavit and consent of property owner(s) (if the owner is someone other than the petitioner), a copy of the deed(s) for the property involved, the required filing fee, the preliminary plan and plat, and any other supporting information.
- d. Preliminary plan data. The preliminary plan may take the form of a booklet, or letter or legal sized paper, a set of 24-inch by 36-inch sheets, or a combination there of. The following shall be included in the preliminary plan submission:
  - i. Cover page and index. The cover sheet shall indicate that it is the preliminary plan for that particular development and include the date of submittal, and an index identifying all sections included in the preliminary plan document, and references to any separate sheets of information.
  - ii. Site description. A description of the property and applicants involved, including:
    1. Name, mailing address, e-mail address, and telephone number of the applicant;
    2. Name, mailing address, e-mail address, and telephone number of any land surveyors, engineers, or other professionals responsible for the preliminary plan design;
    3. Legal description of the subject property and common address, if common address has been assigned, of the site; and

4. The proposed name of the development (if applicable).
- iii. Common holdings map. A map of any property adjacent to the property subject to the preliminary plan owned or otherwise controlled by any or all of the petitioners.
  1. The common holdings map shall be accompanied by a general description of the future development of that property and its relationship to the area included in the preliminary plan.
  2. The general description shall be in map form and shall include, at a minimum, general land uses, general street patterns and access points, and general drainage designs.
- iv. Sewerage verification. A letter shall be provided from the City of Rushville Utility Department verifying that sanitary disposal will be available at the proposed development site.
- v. Existing site conditions. A description of all existing conditions on the subject property, including:
  1. Built features. All existing streets including, but not limited to: lanes, sidewalks, trees, rights-of-way, and the like), established open spaces, structures, wells, utility lines and facilities, fire hydrants, and street lights.
  2. Easements. All existing easements and an indication of their purpose.
  3. Topography. A topographic survey of the area with contour lines a maximum of two feet apart.
  4. Natural features. The location of natural streams regulated drains, 100-year floodplains and floodways, water courses, wetlands (as identified by IDNR, IDEM, or an individual with a US Army Corps of Engineers Regulation 4 Jurisdictional Wetland Certification), wooded areas, and isolated trees that are able to be preserved (with greater than an eight-inch DCH).
  5. Historic features. An identification of any historic features, specifically those listed as Outstanding, Notable, or Contributing on the Indiana Historic Sites and Structures Inventory – Rush County or listed in the National Register of Historic Places and/or Indiana Register of Historic Sites and Structures.
  6. Other significant features. Any other significant feature(s) that may influence the design of the development.
- vi. Proposed development. A conceptual plan of the proposed development of the property, including:
  1. Street systems. The layout and design of proposed street systems (including on-street parking, sidewalks, and landscaping).
  2. Land uses. The land use areas and number of acres within the development (including a specific list of the individual land uses permitted in each area and densities of any proposed residential uses).
  3. Open space. The proposed location, improvements to open space (including park facilities, natural areas, trail systems, and other common areas).

4. Landscaping. The conceptual design of landscaping, buffering, and/or screening proposed for the development, wooded areas to be preserved.
  5. Natural features. A description of the accommodation of natural streams, regulated drains, 100-year floodplains and floodways, water courses, wetlands (as identified by IDNR, IDEM, or an individual with a US Army Corps of Engineers Regulation 4 Jurisdictional Wetland Certification), wooded areas, and isolated trees which are able to be preserved (with greater than an eight-inch DCH).
  6. Historic features. A description of the accommodation of historic features, specifically those listed as outstanding, notable, or contributing on the Indiana Historic Sites and Structures Inventory – Rush County or listed in the National Register of Historic Places and/or Indiana Register of Historic Sites and Structures.
  7. Development requirements. Detailed text documenting the development requirements that will apply to development (including general lot size and dimensions, building setbacks, off-street parking requirements, lighting standards, sign standards, landscaping requirements, and the like).
  8. Written commitments. A description of any written commitments that are being proposed as part of the development.
  9. Covenants. A description of any private covenants and restrictions that will be established for the development.
  10. Drainage. A detailed drainage concept meeting the requirements of the City of Rushville.
  11. Lighting plan. A site lighting plan prepared by an electrical engineer by IC25 the State of Indiana drawn to an appropriate scale with the scale clearly indicated and a graphic scale for reference, showing the type and location of all exterior lighting fixtures (site and building lighting). The lighting plan shall include a photometric drawing.
  12. Project phasing. A statement of the proposed order of development of the major elements of the project, including phasing, if applicable, and the order and content of each phase.
- vii. Supplemental information. Any other information requested by the Planning Office Staff, Technical Review Committee, or Advisory Plan Commission to aid in the review of the preliminary plan. This may include but is not limited to topic areas such as traffic; utilities; tree preservation; flood hazards; and architectural design standards. (Ordinance No. 2020-22; October 6, 2020)
- e. Technical Review Committee review. The preliminary plan shall be reviewed by a Technical Review Committee.

- f. Preliminary plan/plat requirements. Planned unit developments shall be required to comply with the City of Rushville Subdivision Control Ordinance (per I.C. 36-7-4-1513) and the provisions of Development Plan Review, or this Ordinance. In no instance shall the approval of a PUD be interpreted as waiving or modifying any Subdivision Control Ordinance or site development plan processes. If a subdivision of land and/or site development plan review is required for the development, the preliminary plat and/or site development plan may be filed simultaneously as the preliminary plan for review by the Advisory Plan Commission. (Ordinance No. 2020-22; October 6, 2020)
- g. Public hearing notification. Notification for the scheduled public hearing regarding the preliminary plan shall be completed consistent with the requirements of as set out in Article 1, Administration and the Rules and Procedures of the Advisory Plan Commission.
- h. Plan Commission public hearing. The Advisory Plan Commission will, in a public hearing scheduled consistent with the adopted calendar of filing and meeting dates (but no later than 60 days following the receipt of the preliminary plan application), review the application and required supporting information.
  - i. Representation. Either the applicant or a representative of the applicant must be present at the public hearing to present the application and address any questions the Commission may have.
  - ii. Presentations. The Advisory Plan Commission shall consider a report from the Planning Office Staff and/or Technical Review Committee and testimony from the petitioner, remonstrators, and other interested parties at the hearing. The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the Rules and Procedures of the Advisory Plan Commission. (Ordinance No. 2020-22; October 6, 2020)
  - iii. Possible action. The Advisory Plan Commission will in concurrence with established rules and procedure review the application and required supporting information. The preliminary plan shall be forwarded to the City Council with a favorable recommendation, forwarded with an unfavorable recommendation, forwarded with no recommendation, or continued by the Commission. the Advisory Plan Commission may impose conditions or require written commitments from the applicant.
    - 1. Favorable recommendation. The Preliminary Plan application shall be forwarded with a favorable recommendation if it is found to be consistent with the decision criteria listed below.
    - 2. Unfavorable recommendation. The application shall be forwarded with an unfavorable recommendation if it is found to be inconsistent with the decision criteria listed below.
    - 3. No recommendation. The application may be forwarded with no recommendation only if it is found that the application includes aspects that the Commission is not able to evaluate.
    - 4. Continued. The application may be continued based on a request by the Planning Office Staff or petitioner. The application shall be continued in the case of an indecisive vote wherein the item is essentially tabled, a determination by the Advisory Plan Commission that additional

information is required prior to action being taken on the request, or if an appropriate representative of the application (Ordinance No. 2020-22; October 6, 2020)

- A. Additional legal notice shall not be required unless specified by the Advisory Plan Commission.
  - B. The continuing of all applications shall be consistent with the adopted Rules and Procedures of the Advisory Plan Commission.
- iv. Certification of recommendations. The Advisory Plan Commission shall certify its recommendation by resolution to the City Council within five (5) business days of its decision. Planning Office Staff shall forward to the City Council appropriate copies of the Advisory Plan Commission certified decision, the original application and all supporting information, any staff reports regarding the petition, and a PUD district ordinance (rezoning) meeting the requirements of IC 36-7-4- for the City Council's consideration. (Ordinance No. 2020-22; October 6, 2020)
- i. City Council meeting. The City Council shall hold a meeting and vote on the proposed planned unit development district ordinance (re-zoning) within 90 days of its certification by the Advisory Plan Commission.
  - i. Legal notice. Legal notice of action on the ordinance shall be provided.
  - ii. Possible action. The City Council may either approve or deny the PUD district ordinance (rezoning) consistent with the decision criteria provided by this section. The City Council also may approve with modifications per; such as impose conditions, require written commitments from the applicant, and/or condition the release of improvement location permits on the provision of adequate surety for any public improvements.
    - 1. Failure to act. If the City Council fails to act within the 90 day the ordinance shall become effective or be defeated consistent with the recommendation of the Advisory Plan Commission and the provisions for rezoning petitions.
    - 2. Denial. If a PUD district ordinance (rezoning) is denied by the City Council a one (1 year) waiting period shall be imposed prior to the filing of a new preliminary plan for the same development.
    - 3. Reject or amend. If the City Council rejects or amend the proposal, it shall be returned to the Advisory Plan Commission for its consideration, with a written statement of the reasons for the rejection or amendment. The Advisory Commission has 45 days in which to consider the rejection or amendment and report to the City Council as follows:
      - A. If the Advisory Commission approves the amendment or fails to act within the 45-day period, the ordinance stands as passed by the City Council as of the date of the filing of the Plan commission's report of approval with the City Council or the end of the 45-day period.



- B. If the Plan Commission disapproves the rejection or amendment, the action of the City Council on the original rejection or amendment stands only if confirmed by another vote of the City Council within 45 days after the Plan Commission certifies it disapproval. If the City Council fails to confirm its action, then the ordinance takes effect in the manner provided by IC 36-7-4-606(f).
  - 4. Approval. If the City Council approves the rezoning, the land is officially rezoned upon the recording of the rezoning ordinance and any written commitments. The Official Zoning Map must be amended to reflect the zoning change, the date of approval by the City Council, and the ordinance number.
- j. Preliminary plan signatures and filing. The implementation of an approved preliminary plan must be consistent with the following provisions:
  - i. Preliminary plan signatures. When approved, the preliminary plan shall be signed by the Advisory Plan Commission President and Secretary.
  - ii. Preliminary plan filing. The approved preliminary plan, including all development requirements serving as the zoning requirements on the subject property shall be filed with the Planning Office by the applicant. The documents must clearly state that the development requirements and any written commitments in recordable form are enforceable by the Advisory Plan Commission. (Ordinance No. 2020-22; October 6, 2020)
  - iii. Covenant recording. Any covenants for the development shall be recorded with the Rush County Recorder. The documents must:
    - 1. clearly distinguish covenants for development requirements and written commitments in recordable form; and
    - 2. indicate that covenants are private agreements that are not enforceable by the Advisory Plan Commission.
    - 3. The petitioner shall provide one copy of the recorded documents to the Planning Office Staff for the records of the Advisory Plan Commission. (Ordinance No. 2020-22; October 6, 2020)
- k. Preliminary plan decision criteria. In reviewing the planned unit development preliminary plan petition, the Advisory Plan Commission and City Council shall pay reasonable regard to the following:
  - i. Requirements and intent. The extent to which the proposal fulfills the requirements and intent of this Ordinance and the Subdivision Control Ordinance. (Ordinance No. 2020-22; October 6, 2020)
  - ii. Planning documents. The Comprehensive Plan and any other applicable, adopted planning studies or reports.
  - iii. Characteristics. The current conditions and the character of current structures and uses in each zoning district.
  - iv. Desired use. The most desirable use of which the land in each district is adapted.
  - v. Property values. The conservation of collective property values throughout the City.
  - vi. Growth management. Responsible growth and development

- vii. Overlay requirements. Consistency with the requirements of all applicable overlay districts.
  - 1. Expiration of preliminary PUD plan. The final detailed plan filing shall occur within 18 months of the date of preliminary plan approval. If no final detailed plan filing has occurred within that period, the preliminary plan approval shall expire. An extension may be granted upon request to the Advisory Plan Commission at their discretion without the need for a public hearing. If the project is phased and was part of the preliminary plan, the petitioner may submit partial final detailed plans which correspond to the phases involved.
4. FINAL DETAILED PLAN.
- a. Purpose and intent. The purpose of the final detailed plan application is to establish the details of the proposed PUD, document those details, and obtain final PUD approval from the Advisory Plan Commission and the City Council.
  - b. Pre-application meeting required. A planned unit development final detailed plan shall only be filed after the petitioner has met with the Planning Office Staff, to discuss the request. (Ordinance No. 2020-22; October 6, 2020)
  - c. Application. The final detailed plan filing shall occur within 18 months of the date of preliminary plan approval. The petitioner shall submit a final detailed plan review application, affidavit and consent of property owner(s) (if the owner is someone other than the petitioner), a copy of the deed(s) for the property involved, the required filing fee, the final detailed plan, and any other supporting information.
  - d. Final detailed plan data. The final detailed plan may take the form of a set of 24 inch by 36-inch sheets. The final detailed plan may include any graphics that will explain the features of the development. The following shall be included in the final detailed plan submission:
    - i. Cover page and index. The cover sheet shall indicate that it is the final detailed plan for that particular development and include the date of submittal, an index identifying all sections/phases included in the final detailed plan document, and references to any separate sheets of information.
    - ii. Site description. A description of the property and petitioners involved, including:
      - 1. Name, mailing address, e-mail address, and telephone number of the applicant;
      - 2. Name, mailing address, e-mail address, and telephone number of any land surveyors, engineers, or other professionals responsible for the final detailed plan design;
      - 3. Legal description of the subject property and common address of the site; and
      - 4. Proposed name of the development (if applicable).
    - iii. Vicinity map. A vicinity map showing the use and zoning of all properties within 1,320 feet (1/4 mile) of the property subject to the final detailed plan. A site location diagram shall also be included:

- iv. Common holdings map. A map of any property adjacent to the property subject to the final detailed plan that is owned or otherwise controlled by any or all of the applicants. The common holdings map shall be accompanied by a general description of the future development of that property and its relationship to the area included in the final detailed plan. The general description may be in either text or map form and shall include, at a minimum, general land uses, general street patterns and access points, and general drainage designs.
- v. Existing site conditions. A site survey of all existing conditions on the subject property, including:
  - 1. Built features. All existing streets (including travel lanes, street trees, rights-of-way, established open spaces, structures, wells, utility lines and facilities, fire hydrants, sidewalks, and street lights.
  - 2. Easements. All existing easements and an indication of their purpose
  - 3. Topography. A topographic survey extrapolated from USGS data or otherwise meeting the requirements of the City of Rushville.
  - 4. Natural features. The location of natural streams regulated drains, 100-year floodplains and floodways (extrapolated from FEMA maps), water courses, wetlands (general locations as indicated by the National Wetlands Inventory), and wooded areas.
  - 5. Utilities. The general location of utilities serving the site, including sanitary sewer, water, electricity, natural gas, and data transmission.
  - 6. Historic features. An identification of any historic features, specifically those listed on the Indiana Historic Sites and Structures Inventory – Rush County or listed in the National Register of Historic Places.
  - 7. Other features. Any other significant feature(s) that may influence the conceptual design of the development.
- vi. Proposed development. A description of the proposed development of the property, including:
  - 1. Street systems. The general plan, profile, and description of proposed street systems.
  - 2. Land uses. The general land use areas within the development, including proposed densities of residential uses.
  - 3. Open space. The general location of open space.
  - 4. Landscaping. Detailed plan areas of landscaping, buffering, and/or screening proposed for the development.
  - 5. Lighting. A site lighting plan prepared by an engineer licensed by IC 25-31 drawn to an appropriate scale with the scale clearly indicated and a graphic scale for reference, showing the type and location of all exterior lighting fixtures (site and building lighting). The lighting plan shall include a photometric drawing.
  - 6. Natural features. A description of the general accommodation of natural streams, regulated drains, 100-year floodplains and floodways, water courses, wetlands, and wooded areas identified above.

7. Historic features. A description of the general accommodation of historic features, specifically those listed on the Indiana Historic Sites and Structures Inventory – Rush County or listed in the National Register of Historic Places.
  8. Written commitments. A description of any written commitments that are being proposed as part of the development.
  9. Covenants. A general description of any private covenants and restrictions that may be established for the development.
  10. Drainage. A drainage plan meeting the requirements of the City or Rushville.
- vii. Supplemental information. Any other information requested by the Planning Office Staff or Advisory Plan Commission to aid in the review of the final detailed plan. This may include, but not be limited to, topic areas such as traffic, utilities, tree preservation, flood hazards, and architectural design standards. (Ordinance No. 2020-22; October 6, 2020)
- e. Review by staff. Upon review, the Planning Office Staff shall approve, approve with modifications, or deny the final detailed plan application.
- i. Approve. The application may be approved if it is found to be consistent with all applicable requirements and the intent of this ordinance and the Comprehensive Plan. The Planning Office Staff may accept or require written commitments in recordable form from the petitioner as part of the approval. The Planning Office Staff may require certain additional written commitments to be lettered on the plat of record.
  - ii. Approve with modifications. The application may be approved with modifications if it is generally consistent with all applicable requirements of this ordinance. Planning Office Staff may impose conditions on the approval of the final detailed plan, which shall become written commitments in a recordable format of the applicant. The Planning Office Staff may require certain additional written commitments to be lettered on the plat of record.
  - iii. Deny. The application may be denied if it is found to be inconsistent with any applicable requirements and/or the intent of this ordinance and/or the Comprehensive Plan.
  - iv. Continue. The application may be continued and referred back to the Advisory Plan Commission based on a request by the Planning Office Staff, the petitioner, or the City Council. The application shall be continued in the case of an indecisive vote wherein the item is essentially tabled, a determination by the Advisory Plan Commission that additional information is required prior to action being taken on the request, or if an appropriate representative of the applicant fails to appear at the public hearing.
    1. Additional legal notice shall not be required unless specified by the Advisory Plan Commission.
    2. The continuing of all petitions shall be consistent with the adopted Rules and Procedures of the Commission.

- v. Re-filing following denial. If the Planning Office Staff determines that there is not compliance with the ordinance, the applicant may re-file a revised final detailed plan within ninety (90) days of the date of denial. The revised final detailed plan shall be reviewed as if it were a new application. Final detailed plan applications that have been denied and not re-filed within the specified deadline shall not be re-filed for a period of one (1) year from the date of the denial. (Ordinance No. 2020-22; October 6, 2020)
- f. Recording. All approved final detailed plans and modifications thereof shall automatically expire and become null and void unless recorded in the office of the Rush County Recorder within two (2) years of approval.
  - i. Failure to record. Failure to record the plans and modifications in the time provided for above shall automatically void the approval of the final detailed plan.
  - ii. As-built drawings. If, upon completion of all development, the exact measurements as to the location of buildings or structures erected during the development are deemed desirable for public record by recording thereof, the developer shall submit a copy of the approved final detailed plan to the Planning Office Staff as an amended approved final detailed plan with the exact measurements thereon shown, and upon being satisfied that the measurements are substantially the same as indicated on the original approved final detailed plan, the Planning Office Staff shall re-approve, date, and sign the amended approved final detailed plan, which the developer shall then record. (Ordinance No. 2020-22; October 6, 2020)
- g. Improvement location permit. Final detailed plan approval is required prior to the issuance of an improvement location permit. An improvement location permit (consistent with this ordinance) is required prior to any construction activity occurring on the subject property.
  - i. Plat approval required. If a subdivision plat is required, plat approval consistent with the Subdivision Control Ordinance must also be obtained prior to the receipt of any improvement location permits.
  - ii. Supporting information. The Advisory Plan Commission may require any additional supporting information not already stated by this ordinance to be provided prior to the issuance of an improvement location permit.

## 5. WRITTEN COMMITMENTS.

The applicant in any planned unit development may make written commitments in recordable form regarding the characteristics of the proposed future use of, or the resolution of outstanding issues in existence on, the subject property. Commitments made by the applicant and conditions of approval established by the Advisory Plan Commission or City Council shall be considered written commitments for the purpose of this ordinance.

- a. Commitment proposals. Written commitments may be proposed by the applicant as an element of the initial submittal of application materials, as a response to comments made by the Planning Office Staff, or in response to any modifications requested by the Advisory Plan Commission or City Council.

- b. Consideration of commitments. Any commitments shall be considered by the Advisory Plan Commission and City Council if they have been established at the time of the review. Written commitments shall be included as an element of the PUD district ordinance (rezoning) establishing the PUD zoning and shall be recorded in the office of the Rush County Recorder by the petitioner. A copy of the recorded commitments shall be provided to the Planning Office.
- c. Enforcement of commitments. The written commitments shall be considered part of this Ordinance binding on the subject property.
  - i. Applicability. The written commitments shall be binding on the owner(s) of the subject property, any subsequent owners of the subject property, and any property owner(s) or entity that acquires an interest in any portion of the subject property.
  - ii. Enforcement. The written commitments shall be enforceable by the Advisory Plan Commission or Board of Zoning Appeals consistent with the adopted provisions for the enforcement of this Ordinance.
  - iii. Modification. The recorded written commitments may be modified only through the planned unit development process described by this Ordinance. (Ordinance No. 2020-22; October 6, 2020)

## 6. COVENANTS.

Covenants shall be set forth in detail. The Advisory Plan Commission may review covenants that pertain to any written commitments, development requirements and/or common areas, swales, or drainage systems. A copy of the recorded covenants shall be provided to the Planning Department by the petitioner for the records of the Advisory Plan Commission.

- a. Lot owner's association. Adequate provision shall be made for a private organization (e.g., lot owner's association) with direct responsibility to, and control of, the lot owners involved. The lot owner's association shall provide for the operation and maintenance of all common facilities, such as any common areas and ponds, in the best possible manner. Legal assurances shall be provided which show that the private organization is self-perpetuating.
- b. Service access to common areas. The covenants shall state that all common facilities and drainage systems not dedicated to the public shall be maintained by the private lot owner's organization in such a manner that adequate access is provided for fire, police, health, sanitation, and public utility vehicles to provide service. All streets, roadways, and common facilities not dedicated to the public shall be operated and maintained at no expense to any governmental unit.
- c. Enforcement. Covenants shall be distinguished from written commitments and development requirements. Written commitments and development requirements are elements of the PUD approval and are enforceable by the Advisory Plan Commission. Covenants are private agreements that are not enforceable by the Advisory Plan Commission.

## 7. MODIFICATIONS.

- a. Minor modifications.
  - i. Administration. The Planning Office Staff may from time to time approve minor modifications of the preliminary plan and/or final detailed plan without a public hearing. The modifications shall be consistent with the purpose and intent of the overall development and the approved preliminary plan. Such modifications shall not include any change in type of use, any increase in density, any lessening of aesthetic treatments, any alteration of frontage or building location, any change in access points, or any alteration of the development requirements.
    - 1. Procedure. To request a minor modification, the property owner(s), developer, or applicant shall provide the Planning Office Staff with a letter that identifies the PUD and the requested minor modification. The letter shall be accompanied by any necessary supporting drawings or other materials. The Planning Office Staff shall provide a written response within 15 business days informing the applicant if the minor modification has been approved. All materials relating to the minor modification shall be kept on file with the other PUD materials in the office of the Advisory Plan Commission. (Ordinance No. 2020-22; October 6, 2020)
    - 2. Public notice. In addition to that which may be required by the Rules and Procedures of the Advisory Plan Commission, notice to adjacent property owners shall be required for the review or approval of minor modifications. The notice shall be as prescribed by, Notice of Public Hearing, of this ordinance.
      - (a) Appeal. Any affected party may appeal any minor modification decision by the Advisory Plan Commission within 30 days of the determination.
      - (b) Rules and procedures. The Advisory Plan Commission may, through its Rules and Procedures, establish rules governing the nature of proceedings and notice required to make a minor modification under this Ordinance. (Ordinance No. 2020-22; October 6, 2020)
- b. Major modifications. Major modifications that may include any change in type of use, any increase in density, any lessening of aesthetic treatments, any alteration of frontage or building location, any change in access points, or any alteration of the development requirements shall require a public hearing to be conducted in the same manner as that for initial approval of either the preliminary plan or detailed plan, whichever is being modified. Notice of the hearing must be given as prescribed by this ordinance.

8. EXPIRATION, ABANDONMENT, AND EXTENSIONS.

- a. Expiration. Approval of a final detailed plan shall expire after a period of five (5) years from the approval of the Preliminary Plan, unless the development is fifty percent (50%) completed in terms of improvements including streets, parks, walkways, utility installations, and sanitary sewers. Determination of the amount of completion shall be made by the Advisory Plan Commission upon a recommendation by the Planning Office Staff.
  - i. Following expiration of a final detailed plan, the City Council or the Advisory Plan Commission may declare the bond to be in default and cause all public improvements to be installed according to the final detailed plans.
- b. Abandonment. The planned unit development may be considered officially abandoned if, in the written opinion of the Planning Office Staff, the development is incomplete and no, or minimal, construction activity has occurred for a period of five (5) consecutive years. (Ordinance No. 2020-22; October 6, 2020)
  - i. Any outstanding surety for the project may be utilized by the City Council in any manner deemed appropriate and associated with the project.
- c. Extensions. An extension, not to exceed six (6) months, for accomplishing any processes required by this ordinance, or for resuming construction activity in an abandoned development may be granted by the Advisory Plan Commission upon a written request from the petitioner. All requests for extensions shall occur a minimum of 30 days prior to the applicable deadline.
- d. Advisory Plan Commission rezoning. The Advisory Plan Commission may initiate a rezoning for any property included in a planned unit development that has been abandoned or for which the final detailed plan approval has expired. Any rezoning by the Advisory Plan Commission shall meet all applicable requirements for the rezoning process provided by this ordinance.



## **ARTICLE IV OVERLAY DISTRICTS**

### **A. CO, CORRIDOR OVERLAY**

#### **1. Purpose**

- a. Certain arterial roadways within the City of Rushville have been identified as important gateways and areas of economic opportunity to promote the goals of the Comprehensive Plan. In addition, these roadways serve a vital traffic carrying function for Rushville. The roadways within the Corridor Overlay have unique traffic management needs, development demands, and aesthetic characteristics that require the establishment of development and redevelopment standards and regulations to ensure that future development does not inhibit infrastructure improvements and safeguard property values, promote economic development, minimize distractions, and establish a high-quality and inviting image for the City of Rushville.
- b. The establishment of the Corridor Overlay stipulates standards for development and redevelopment of property, including buildings or structures.
- c. Pertinent to development and redevelopment of property within the Corridor Overlay are aesthetics through the design of the site, buildings, structures, plantings, signs, street hardware, and other miscellaneous objects that are observed by the public. The characteristic of the Corridor Overlay commands the highest standards of development and redevelopment to stimulate substantial capital investments, encourage efficient land use, promote coordinated development, permit innovative site designs, and preserve the integrity of the City of Rushville. (Ordinance 2021-8; March 2, 2021)

#### **2. Applicability**

- a. Boundaries.
  - i. The Corridor Overlay District as indicated on the official Corridor Overlay map shall apply to all property along the entire lengths and within six hundred (600) feet of the centerline on either side of the following roads:
  - ii. State Road 3, also known as Main Street;
  - iii. State Road 44, also known as 1st Street and 2nd Street;
  - iv. U.S. Highway 52, also known as Main Street and West 3rd Street.
  - v. If the property of a proposed or existing development is located within and outside the defined Corridor Overlay boundaries the Corridor Overlay shall apply to the entire property.
  - vi. In the event a property is located within one or more overlay districts, the property shall be subject to the requirements of each applicable overlay district.
- b. Exceptions to Boundaries.
  - i. Properties located along said roads in the Central Business Zoning District shall only be included for purposes of “Section 9. Public Spaces and Community Art.” The requirements of such section shall apply to properties in the Central Business District that otherwise fall within the Boundaries set forth above and shall be excluded for all other purposes. Relation to Underlying Zoning District. (Ordinance 2021-8; March 2, 2021)

3. Relation to Underlying Zoning District.
  - a. The requirements of the Corridor Overlay are in addition to and shall supplement the requirements of the applicable zoning district as set out in this Ordinance.
  - b. These regulations supersede all conflicting regulations of the underlying district to the extent of such district. (Ordinance 2021-8; March 2, 2021)
4. Permitted Uses.

Permitted uses shall be regulated by the underlying zoning district and the review and approval process applicable in the underlying zoning district or another relevant section of this Ordinance shall be followed. (Ordinance 2021-8; March 2, 2021)
5. Accessory Buildings and Uses.
  - a. All accessory buildings and uses which are permitted in the underlying zoning district(s) shall be permitted within the Corridor Overlay.
  - b. Detached accessory building shall on all sides have the same architectural features or shall be architecturally compatible with the principal building(s). (Ordinance 2021-8; March 2, 2021)
6. Regulated Development.
  - a. The regulation of the Corridor Overlay shall apply in the circumstances cited below; except single-family and two-family homes are exempt from the requirements but shall conform if the use changes to a non-single family or non-two-family home.
  - b. Construction of any new building or structure;
  - c. Additional or expansion of any existing building or structure by more than 20 percent (20%) of the building or structure's gross floor area.
  - d. Proposed subdivision of land, except for single-family residential lots, or;
  - e. Proposed construction or expansion of a parking lot by more than five (5) spaces. (Ordinance 2021-8; March 2, 2021)
7. Improvement Location Permit.
  - a. Prior to the issuance of an Improvement Location Permit for the development or re-development within the Corridor Overlay the applicant shall submit a development plan for review to determine compliance with the requirements of the Corridor Overlay.
  - b. Development Plans that conform to the requirements outlined in this Section, shall be issued an Improvement Location Permit.
  - c. The issuances of an Improvement Location Permit does not absolve the applicant from obtaining additional permits, as outlined in Ordinance. (Ordinance 2021-8; March 2, 2021)
8. Development Plan
  - a. As outlined in this Section the development plans or re-development plans shall include:
    - i. Building or Structure Design, including the roof design and materials.
    - ii. Site Design, including
    - iii. Access Management (Driveway spacing)
    - iv. Parking

- v. Pedestrian circulation.
- vi. Public spaces and community art
- vii. Landscaping
- viii. Lighting
- ix. Outdoor display, storage, and sale of merchandise.
- x. Refuse, trash collection or compaction.
- xi. Parking, loading areas and service areas.
- xii. Drive-through Windows
- xiii. Signage
- xiv. Drainage Plan
- xv. Utility Plan

(Ordinance 2021-8; March 2, 2021 - Ordinance No 2021-17; June 15, 2021)

b. Building or Structure Design Standards

- i. The following architectural standards shall apply to all development within a Corridor Overlay except single-family and two-family home uses.
- ii. The following architectural standards are in addition to any architectural design standards imposed by an underlying zoning district or any other overlay district.
- iii. Architectural style is not restricted. Evaluation of the appearance of a project shall be based on the quality of its design and relationship to surrounding area.
- iv. Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form, and siting shall be used to provide visual interest. In multiple building projects variable siting or individual buildings shall be used to prevent a monotonous appearance.
- v. Materials shall be selected for suitability to the type of buildings and the design in which they are used. Buildings shall have the same materials, or those that are architecturally harmonious, used for all building walls and other exterior building components wholly or partly visible from public ways.
- vi. Exterior construction materials shall be of durable quality on all buildings and shall include only the following:
  - (1) Brick (Kiln-fired)
  - (2) Masonry
  - (3) Stone
  - (4) Exposed aggregated, bush-hammered, sand blasted or similar concrete (including precast panels) finish, or
  - (5) Glass curtain walls or glass block.
  - (6) Stone material used for masonry construction may consist of granite, sandstone, slate, limestone, marble, or other hard or durable all-weather stone. Ashlar cut stone and dimensioned stone construction techniques are acceptable.
  - (7) Other Materials may only be used as accent materials, as follows:
    - A. Wood or fiber cement siding, not exceeding fifteen percent (15%) of the area of any exterior building elevation; or
    - B. Exterior Insulation and Finish System (E.I.F.S.), not exceeding twenty-five percent (25%) of the area of any first-floor exterior building elevation.

- vii. Doors, windows, or other architectural features shall be used to break large wall plans into smaller components. No more than thirty percent (30%) of the continuous façade that is oriented to and visible at ground level from a public right-of-way may remain unbroken by doors, windows or other architectural features.
  - viii. Entryway features shall be required at the primary entrance to the building or structure and shall include one (1) of the following design elements:
    - (1) Raised corniced parapets over the door;
    - (2) Peaked roof forms having an average slope greater than or equal to a minimum 5:12 pitch,
    - (3) arches, or;
    - (4) Architectural details such as tile work and moldings that are integrated into the building structure and design;
  - ix. Enhanced exterior lighting such as wall sconces, building mounted accent lights, or decorative pedestal lights;
  - x. Pilasters projecting from the plane of the wall by a minimum of eight (8) inches and/or architectural or decorative columns to create visual breaks and interest in the façade walls.
  - xi. Exterior wall colors shall be low reflectance and subtle tones. The use of high intensity, primary, metallic, black, or fluorescent colors shall be prohibited.
  - xii. Building trim and accent areas may feature brighter colors not to exceed ten percent (10%) of any single exterior wall area excluding all windows, doors, and glass construction materials.
- c. Roofing design and material.
- i. Roof design:
    - (1) Pitched roof shall be a Minimum of 4 vertical units to 12 horizontal units.
    - (2) Roofs may be flat, provided the roof is surrounded by parapets that:
      - A. Do not exceed four (4) feet vertically measured from the roof deck, and;
      - B. In proportion to the supporting walls.
    - (3) Rooftop equipment, or other utility hardware, excluding vents and stairwell accesses, visible at ground level from the centerline of abutting public right-of-way, shall be screened from view through use of parapet walls, screens, or other exterior building elements. (Ordinance No. 2018-30 – October 2, 2018)
  - ii. Roofing materials.
    - (1) Sloped roof shall be of one of the following materials:
    - (2) Architectural/dimensional metal low-gloss and a base color;
    - (3) Architectural/dimensional shingles;
    - (4) Cedar shake with fire protection;
    - (5) Tile; or
    - (6) Slate.
  - iii. Low-sloped or flat roof shall be of one (1) of the following materials:
    - (1) Single-ply roofing membrane (Rubber or PVC)
    - (2) Modified Built up; or,
    - (3) Built up. (Ordinance 2021-8; March 2, 2021)

9. Site Design Standards.

a. Access and Management Standards

i. Driveway Location; General

- (1) Driveway(s) and/or curb cuts on streets within the Corridor Overlay under the jurisdiction of the State of Indiana Department of Transportation (INDOT) shall be installed in accordance with INDOT requirements. A copy of the driveway and/or curb cut permit issued by INDOT shall be provided.
- (2) Driveway(s) and/or curb cuts on streets within the Corridor Overlay District under the jurisdiction of the City of Rushville shall be installed in accordance with the City's requirements. A copy of the City's approval shall be submitted.
- (3) Driveways shall be located to minimize interference with the free movement of traffic, to provide adequate sight distance, and to provide the most favorable driveway grade. This may be accomplished using frontage roads, or access roads.
- (4) There shall be sufficient on-site storage to accommodate at least three (3) vehicles waiting to park or exit without using any portion of the street, or highway right-of-way or in any other way interfering with street or highway traffic.
- (5) Driveway entrances shall be able to accommodate all vehicle types having occasion to enter the site, including delivery vehicles.
- (6) Driveway design shall be such that an entering vehicle will not encroach upon the exit lane of a two-way driveway. Also, a right-turning exiting vehicle will be able to use only the first through traffic lane available without encroaching into the adjacent through lane.
- (7) Driveway designs shall allow an entering vehicle a turning speed of fifteen (15) miles per hour (mph) to help reduce interference with through street traffic.

ii. Driveway Spacing Standard.

- (1) Minimum spacing requirements between a proposed driveway and a street intersection, either adjacent to or on the opposite side of the street, may be set on a case-by-case basis, but in no instance shall the spacing be less than the distances listed in Table 9.a. ii. (1)
- (2) Measurement are from the near edge of the proposed driveway, measured at the intersection with the right-of-way line, to the near lane edge of the intersection street or pavement edge for uncured sections.

<b>Table 9.a.ii (1) - Minimum Driveway Spacing from Street Intersections</b>		
<b>Location of Driveway</b>	<b>Minimum Spacing for a Full movement Driveway</b>	<b>Minimum spacing for a channelized driveway restricting left turns</b>
Along arterial; intersection street is an arterial	300 feet	125 feet
Along arterial; intersection street is not an arterial	200 feet	125 feet
Along non-arterial street; intersection street is an arterial	125 feet	75 feet
Along on-arterial street; intersection street is non-arterial	100 feet	75 feet

- (3) Minimum spacing between two driveways lying within the Corridor Overlay shall be determined based upon posted speed limits along the frontage of the proposed development. The minimum spacing indicated in Table 9.a.ii (3) is measured from the centerline to centerline of the driveways.

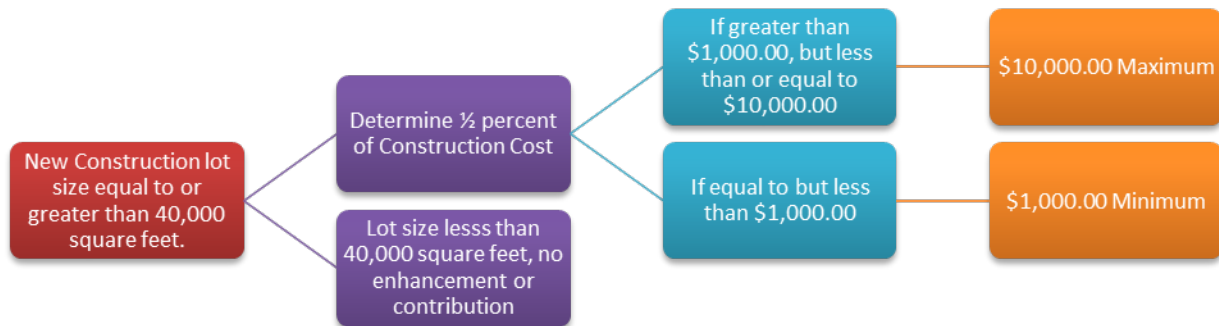
<b>Table 9.a. ii. (3) Minimum Driveway Spacing from Another Driveway Along the Same Side of Street</b>		
<b>Posted Speed Limit (mph)</b>	<b>Arterial Street</b>	<b>Collector or Local Street</b>
<b>25</b>	130	90
<b>30</b>	185	120
<b>35</b>	245	150
<b>40</b>	300	185
<b>45</b>	350	230
<b>50</b>	395	275
<b>55</b>	435	300

- (4) To reduce left-turn conflicts, new driveways shall be aligned with those across the street, where possible. If alignment is not possible, driveways shall be offset from those on the opposite side of the street a minimum of 200 feet.

- b. Pedestrian circulation.
- The following provisions are intended to maximize safety for vehicular and pedestrian users.
  - A designated continuous pedestrian walkway shall be provided to the primary customer entrance from the perimeter public sidewalk or public right-of-way where there are no sidewalks not less than six (6) feet in width.

- iii. The surface of the pedestrian walkways shall be distinguishable from the vehicle driving surfaces by use of one or more of the following:
      - (1) special pavers,
      - (2) bricks,
      - (3) decorative weather appropriate paint, or
      - (4) scored concrete.
    - iv. The designated continuous pedestrian walkway shall be maintained.
    - v. Where decorative weather appropriate paint is applied, the decorative weather appropriate paint shall be maintained and reapplied to maintain a distinguishable walkway.
    - vi. Sidewalk not less than eight (8) feet in width shall be provided along exterior walls with a customer entrance.
  - c. Parking, loading areas and service areas.
    - i. The required number of parking spaces shall be as set out in Article VIII of this ordinance.
    - ii. Parking is discouraged between the required front setback and the building/structure(s) when other suitable area for parking exist on the property.
    - iii. A maximum of fifty percent (50%) of required parking may be permitted in the area between the front yard setback and the building/structure(s).
    - iv. Efforts to break up large expanses of pavement are to be encouraged by the interspersing of appropriate planting areas, as required by the Article IX of this ordinance.
    - v. Areas for truck parking, loading, and unloading, or other such areas shall not be visible from the public right-of-way or an adjacent residential zoned district.
    - vi. The requirement for loading and unloading areas shall be as set out in Article VIII of this ordinance.
    - vii. Service areas such as loading docks, truck courts, and automobile service bays shall be oriented away from the view of any public street, unless the entire length of the area is screened in accordance with Article IX, C. (Ordinance 2021-8; March ,2 2021 - Ordinance No. 2021-17, June 15, 2021)
  - d. Public spaces and community art.
    - i. For the purposes on this section construction costs are expenses incurred by a contractor for labor, material, equipment, financing, services, utilities, etc., plus overhead and contractor profit. Construction costs do not include cost of land, architectural design, consultant, and engineering fees.
    - ii. This section is not applicable to façade renovations, or interior remodel/renovations confined to the existing building footprint.
    - iii. New Construction.
      - (1) Proposed developments or projects where the lot area is greater than 40,000 square feet shall contribute to the enhancement of the community and its public spaces by providing enhancements that are aesthetically consistent with the development standards set out in the corridor overlay district.

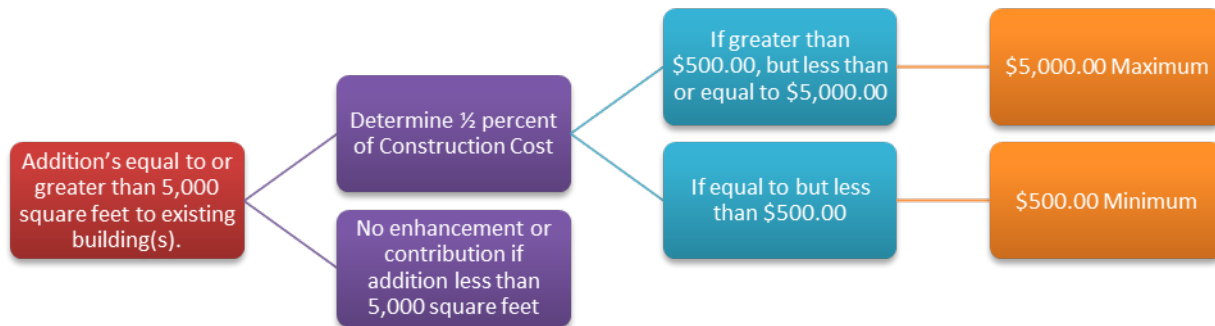
- iv. Each proposed development or project shall contribute to the establishment or enhancement of the community and public spaces by providing at a minimum two (2) of the following:
  - (1) Landscaped patio/seating area; or,
  - (2) Pedestrian plaza with benches; or,
  - (3) Window shopping walkway; or,
  - (4) Outdoor playground area; or,
  - (5) Water feature, not related to required detention or retention ponds; or,
  - (6) Architectural elements as part of the primary entrance; or,
  - (7) Another deliberating shaped area or focal feature or amenity that, in the Planning Office Staff, or Rushville Board of Public Works adequately enhances the environment, public spaces or aesthetic quality of the development.
- v. If the developer of the proposed project wishes in lieu of providing any item listed in (iv) above, may choose to contribute to the City of Rushville's Art Commission as follows:
  - (1) Based on one-half percent (1/2%) of the total construction cost of the project, but not less or greater than (A) or (B):
    - A. If one-half percent (1/2%) of total construction cost is less than \$1,000.00 the total contribution shall not be less than \$1,000.00
    - B. If one-half percent (1/2%) of total construction is greater than 10,000.00, total contribution shall not exceed \$10,000.00.



- vi. Additions to existing buildings.
  - (1) Proposed addition(s) equal to or greater than five thousand (5,000) square feet shall contribute to the enhancement of the community and its public spaces by providing enhancements that are aesthetically consistent with the development standards set out in the corridor overlay and are useable by the public.



- (2) Each proposed development or project shall contribute to the establishment or enhancement of the community and public spaces by providing at a minimum one (1) of the following:
- A. Landscaped patio/seating area; or,
  - B. Pedestrian plaza with benches; or,
  - C. Window shopping walkway; or,
  - D. Outdoor playground area; or,
  - E. Water feature, not related to required detention or retention ponds; or,
  - F. Architectural elements either as part of the primary entrance; or,
  - G. Another deliberating shaped area or focal feature or amenity that, in the Planning Office Staff or the Rushville Board of Public Works judgement, adequately enhances the environment, public spaces or aesthetic quality of the development.
- vii. If a developer of a proposed projects wishes in lieu of providing any item listed in (vi) above, may choose to contribute the City of Rushville's Art Commission as follows:
- (1) Based on one-half percent (1/2%) of the total construction cost of the project, but not less or greater than (A) or (B):
- A. If one-half percent (1/2%) of total construction cost is less than \$500.00 the total contribution shall not be less than \$500.00
  - B. If one-half percent (1/2%) of total construction is greater than \$1,000.00, total contribution shall not exceed \$5,000.00.



- viii. In lieu of (iv) or (vi) above the proposed development or project for new construction or additions may wish to contribute to the purchase of art on behalf of the City of Rushville's Art Commission.
- (1) The estimated value of proposed art to be purchased is to have an estimated value of:
- A. New Construction: lot area equal to or greater than 40,000 square feet: Ten Thousand Dollars (\$10,000.00).
  - B. Addition(s): equal to or greater than five thousand (5,000) square feet: Five Thousand Dollars (\$5,000.00).

(2) Proposed art to be purchased shall be as follows:

- A. Develop a design;
- B. Present proposed design, including estimated value to the City of Rushville's Art Commission;
- C. Present City of Rushville's Art Commission approved design and estimated value to the Planning Office Staff.

ix. A plaque will be affixed to the art purchased by the developer or designated person(s) in recognition of their contribution.

(1) Public art shall be displayed in a location that is visible from U.S. Highway 52, State Road 3 or State Road 44 or other crossing streets or a public plaza. (Ordinance 2021-8; March 2, 2021)

#### 10. Landscaping

- a. Landscaping shall be as set out in Article IX of this ordinance. (Ordinance 2021-8; March 2, 2021)

#### 11. Lighting.

- a. All exterior lighting shall be shielded and coordinated throughout the development, redevelopment, or project to be of uniform design, materials, and color.
- b. Maximum height of light standards shall not exceed the building height, or 25 feet, whichever is less.
- c. Light standards shall not exceed fifteen (15) feet in height when abutting or are within ninety (90) feet of a residential zoned district.
- d. All exterior architectural display, decorative and sign lighting shall be generated from concealed, low level light fixtures.
- e. The average illumination for site lighting shall be a maximum of three (3) foot candle.
- f. All site lighting shall be designed to not exceed 0.3-foot candle at the property line in commercial or manufacturing zoned districts and 0.1 foot-candle at the property line adjoining residential uses.
- g. Illuminated tubing (e.g., neon) which outlines a building, fence or other similar structure or part thereof, measuring more than twenty (20) linear feet, or enclosing any area greater than twenty (20) square feet is prohibited. (Ordinance 2021-8; March 2, 2021)

#### 12. Outdoor display, sale, and storage of merchandise.

- a. The outdoor display, sale and storage of merchandise in the corridor overlay, shall be limited to vehicles, motorcycles, recreational trailers and agriculture implements, as part of dealership.
- b. The area dedicated to outdoor display or sales shall not exceed 10 percent (10%) of allowable lot area of the underlying zoning district.
- c. Parking of vehicles, motorcycles, recreational trailers and agriculture implements shall not exceed seventy-five (75) percent of the area between the front yard setback and the front wall of the building/structure.
- d. Display lots are the same as parking lots and shall comply with Article IX. Landscaping and Screening.
- e. Display lots shall be hard surfaced.

- f. Storage of items not intended for display or sale shall be screened as set out in Article IX., C. (Ordinance No 2021-8; March 2, 2021 - Ordinance No. 2021-17, June 15, 2021)
- 13. Refuse, trash collection or compaction.
  - a. No outside, unenclosed storage of refuse (whether in containers), or compactor shall be permitted.
  - b. All refuse and recyclables containers, dumpsters, etc., shall be contained within an enclosure of walls (similar to architecture of the structure), mound, or similar means of enclosing.
  - c. Enclosures shall be a minimum of six (6) feet in height. Refuse, recyclable containers, dumpsters, or compactor that exceeds six (6) in height, the enclosure shall be a minimum of two (2) feet above the highest container, dumpster, or compactor.
  - d. Enclosures shall have doors or gates that are opaque. (Ordinance 2021-8; March 2, 2021)
- 14. Sign(s)
  - a. Signage permitted in the Corridor Overlay shall be in accordance with Article X of this ordinance. (Ordinance 2021-8; March 2, 2021)
- 15. Drainage Plan
  - a. Drainage Board approval shall be required for all new development within the Corridor Overlay.
  - b. Drainage Board approval shall be required for all redevelopment project where additions to existing building are five thousand (5,000) square feet or greater.
  - c. Drainage board approval is not required for façade renovations, or interior remodel/renovations confined to the existing building footprint. (Ordinance 2021-8; March 2, 2021)
- 16. Utility plan
  - a. New development and Redevelopment projects within the Corridor Overlay where additions to existing building are five thousand (5,000) square feet or greater shall provide documentation from the servicing utility that the development plan or redevelopment plan has been approved by the serving utility stating that service is available, and the utility has sufficient infrastructure to support the needs for the proposed development or redevelopment.
  - b. Interior remodel/renovation includes any changes to currently provided utilities shall provide documentation from the servicing utility that the proposed interior remodel/renovation providing that utilities service is not adversely affected by the proposed interior remodel/renovation.
    - i. If the interior remodel/renovation includes adding utilities not currently installed shall provide documentation from the servicing utility state that service is available and sufficient infrastructure is available to support the needs of the propertied interior remodel/renovation. (Ordinance 2021-8; March 2, 2021)

17. Technical Review Committee.

The Planning Office Staff is hereby authorized to utilize the Plan Commission's Technical Review Committee to review proposed development(s) within the Corridor Overlay for the purpose of making recommendations on the proposed development. (Ordinance 2021-8; March 2, 2021)

18. Variances.

- a. Any variance granted by the Board of Zoning Appeals prior to the effective date of the adoption of this Ordinance shall stand as approved.
- b. Variances from any requirement of this Ordinance shall obtain approval from the Rushville Board of Zoning Appeals. (Ordinance 2021-8; March 2, 2021)

19. Special Exception

- a. Special exceptions shall be regulated by Article VII, Special Exception specified in the underlying zoning district(s).
- b. Special Exception approval shall be obtained from the Rushville Board of Zoning Appeals.
- c. Special Exceptions, once approved by the Rushville Board of Zoning Appeals shall remain in full force and effect, until such time the requested Special Exception Use is abandoned, vacated, or no longer used by the original applicant. The Special Exception shall become null and void.
- d. Special Exceptions approved by the Rushville Board of Zoning Appeals or the previous Board of Zoning Appeals prior to the effective date of the adoption of this Ordinance shall remain in full force and effect, unless the Special Exception for which the Special Exception was approved has been abandoned, vacated or no longer in use for a period of six (6) months, shall be null and void. (Ordinance 2021-8; March 2, 2021)

## **B. HN, HISTORIC NEIGHBORHOOD**

1. Purpose and Intent

The intent of this section is to provide for the implementation of a plan to preserve, protect and to encourage rehabilitation and preservation of sites, structures and districts of historic interest within the City of Rushville.

2. Historic Preservation Officer

The Code Enforcement Officer, or his designee, shall be the administer. The Code Enforcement Officers staff shall provide technical, administrative, and clerical assistance as required by the Historic Board.

3. Historic District Boundaries

Historic District is bounded by 12th Street

4. Relationship to Zoning Districts

Zoning districts lying within the boundaries of the historic district are subject to the regulations for both the zoning district and the historic district. If there is a conflict between the requirements of the historic district and the zoning district, the more restrictive requirements shall apply.

5. Certificate of Appropriateness Required  
The Historic Board shall issue Certificate of Appropriateness prior to the issuance of any permit relating to any of the following actions:
  - a. Demolition of any building;
  - b. Moving of any building
  - c. Any change to the exterior color by additions, reconstruction, alteration, or maintenance. Construction of a new primary or accessory building that is viewable from the public right-of-way.
  - d. Changes to existing walls and fences
  - e. Construction of walls and fences, at public rights-of-way; or
6. Application for Certificate of Appropriateness
  - a. Application for a Certificate of Appropriateness may be made in the office of the Code Enforcement Officer on forms provided by the Historic Board
  - b. Drawings, sketches, plans, photographs, descriptions, or other information showing the proposed exterior, alterations, additions, changes, or new construction shall be reasonable clear for the historic Board to render a decision.
7. Action on Applications for Certificates of Appropriateness
  - a. The Historic Board may advise and make recommendations to the applicant before acting on an application for a Certificate of Appropriateness.
  - b. If an application for a Certificate of Appropriateness:
    - i. Is approved by the Board; or
    - ii. Is not acted on by the Board within 30 days after it is filed, a Certificate of Appropriateness shall be issued by the Code Enforcement Officer
      1. If the Certificate is issued, the application shall be processed in the same manner as applications for building or demolition permits required by the city.
      2. If a building or demolition permits not required by the city, the applicant may proceed with the work authorized by the Certificate.
    - iii. If the Historic Board denies an application for a Certificate of Appropriateness within 30 days after it is filed, the Certificate may not be issued. The Historic Board shall state its reasons for the denial, in writing, and shall advise the applicant.
      1. An applicant that has been denied may not be processed as an application for a building or demolition permit and does not authorize any work by the applicant.
    - iv. The Historic Board may grant an extension of 30 day for just cause.
    - v. The Certificate of Appropriateness shall expire in one (1) year, the demolition, construction, or alteration has not been completed within one (1) year after commencement of the work.

8. Development Standards

- a. A historic building or structure, or any part of or appurtenance to such a building or structure, including stone walls, fences, light fixtures, steps, paving, and signs, may be moved, reconstructed, altered, or maintained only in a manner that will preserve the historical and architectural character of the building, structure, or appurtenance.
- b. A historic building may be relocated to another site only if it is shown that preservation on the building's current site is inconsistent of this ordinance.

9. Preservation Rights, Demolition, and Appeal

The purpose of this section is to preserve historic districts that are important to the education, culture, traditions, and economic values of the city and to afford the city's historical organizations, and other interested persons, the opportunity to acquire or to arrange for the preservation of these buildings.

- a. If a property owner shows that a historic building is incapable of earning an economic return on its value, as appraised by a qualified real estate appraiser, and the Historic Board fails to approve a Certificate of Appropriateness, the building may be demolished.
- b. Prior to the issues of a demolition permit or demolition proceeds, a notice of proposed demolition shall be given for a period sixty (60) days
- c. Notice shall be posted on the premises of the building proposed for demolition in a location clearly visible from the street and notice shall be published in the paper of general, daily circulation for the City of Rushville. The applicant shall provide proof of notifications publication to the Historic Board.

10. Visual Compatibility Factors

New construction moved, reconstructed altered, repaired, shall be visually compatible with existing buildings, within the boundaries of the historic district, as to:

- a. Height.
- b. Proportion of building's front façade.
- c. Proportion of openings into the facility.
- d. Front facades appearance.
- e. Spacing of buildings
- f. Entrance and porch projections.
- g. Material, texture, and color
- h. Roof shapes.
- i. Scale of a building.

11. Filing Fees and Forms

Applications for a Certificate of Appropriateness shall be on a form prescribed by the Historic Board and available from the Code Enforcement Officer. The Certification of Appropriateness application shall be submitted to the Historic Board, through the Code Enforcement Office and filing fees shall be submitted to the City of Rushville's Clerk-Treasurer and said filing fees are to be deposited in the Historic Board's non-reverting fund. (Ordinance No. 2020-27 – December 15, 2020)

## **ARTICLE V. DEVELOPMENTAL STANDARDS**

### **A. APPLICABILITY**

All uses shall comply with the following development standards in the interest of protecting public health, safety and welfare, and lessening injury to property. No use in existence on the effective date of this Ordinance shall be so altered or modified as to conflict with these standards.

### **B. ONE PRIMARY BUILDING PER LOT**

There shall be no more than one (1) primary building constructed on any lot, tract, or parcel of land. Except: apartments, assisted living, nursing homes, strip/shopping centers, mall.

### **C. ACCESSORY USES AND STRUCTURES**

1. Accessory uses and structures are permitted in all zone districts in accordance with the provisions of this Section.
2. Accessory uses and structures shall be incidental and subordinate to, and commonly associated with, the operation of the primary use of the property; and shall be operated and maintained under the same ownership
3. Accessory uses shall be clearly subordinate in height, area, bulk, extent, and purpose to the primary use and shall not exceed fifty (50) percent of the square footage of the primary building and shall not exceed eighteen (18) feet in height.
4. Accessory structures shall not contain a dwelling unit, or habitable room(s).
5. Fences, hedges, walls, driveways, curbs, retaining walls, lattice work, screens, trees, flowers, plants, mail boxes, nameplates, lamp posts, bird baths, benches, landscaping, and items similar in nature, are permitted in any required front, side, or rear yard, provided they do not violate the requirements of this Ordinance.

### **D. ESSENTIAL SERVICES**

Essential services shall be allowed in the zoning district permitted, authorized, or regulated by law or other ordinance. Buildings required in conjunction with an essential service may be permitted in the appropriate zoning district. Essential service buildings shall comply with requirements of the zoning district regarding lot coverage, setback, etc.

### **E. OUTDOOR STORAGE OF VEHICLES AND OTHER MATERIALS**

1. No unlicensed, inoperable, or partially dismantled vehicle may be stored, except in those zoning district in association with vehicle body repair.
2. No person shall dump or allow the accumulation of solid waste on his/her property with the exception of compost piles and materials defined as inert solid waste to be used during fill operations and not for longer than ten (10) days.
3. No person shall dump any solid waste or inert solid waste along City streets or within City property
4. No Parking or outdoor storage of trucks and/or trailers over one (1) ton rated capacity, step vans, cargo vans, buses, except as temporary parking for the delivery of goods and/or services.

5. Construction dumpsters or containers that are to be left in an alley or street overnight must receive approval from the Rushville Board of Works and be marked with reflective or lighted barricades or barrels.

#### **F. VISUAL CLEARANCE ON CORNER LOTS**

1. No fence, wall, hedge, tree, shrub, or other object shall be placed, planted or permitted to remain which obstructs sight lines and elevations between two and one-half (2 1/2) and seven (7) feet above the street,
2. At corner lots sight lines shall be determine using the triangular area formed by the street right-of-way lines and a line connecting points thirty-five (35) feet from the intersection of said street lines, or in the case of a rounded property corner, from the intersection of the street right-of-way lines extended.
3. Private driveway on corner lots shall not be permitted within seventy (70) feet of the centerline if intersecting streets.

#### **G. TEMPORARY USES OF LAND AND STRUCTURES**

1. General Regulations  
A permit for a temporary structure or land use such as a carnival, revival meeting, construction facility, seasonal sale, or use of a similar nature may be issued by the Code Enforcement Officer: providing the following conditions are met:
  - a. The temporary use will terminate ~~at~~ on a specific date.
  - b. The proposed site is of adequate size to accommodate the use without creating congestion in the streets or inadequate circulation for fire and other emergency vehicles.
  - c. Adequate access and off-street parking facilities shall be provided in accordance with the ordinance and shall not interfere with traffic movement on adjacent streets.
  - d. No banners, pennants, or noise-producing devices of a disruptive nature shall be permitted in a residential district.
  - e. Outdoor lighting shall be shielded or directed away from adjoining residential property and streets.
  - f. Neighboring uses shall not be adversely affected.
  - g. The property shall be returned to its original condition, devoid of temporary use remnants, upon termination of the temporary use period.
2. Regulations Specific to Particular Temporary Uses
  - a. Sales offices, model homes, or model apartments may be approved for a maximum period of twenty-four (24) months.
  - b. Extensions shall be approved by the Board of Zoning Appeals. A request for an extension shall be submitted following the adopted calendar for petition submission.
  - c. Parking lots designed for a special event in any zoning district may be approved for a maximum of thirty (30) days.
  - d. Yard sales, garage sale, or similar sale, shall be limited to ten (10) days per calendar year. No permit is required.



## **ARTICLE VI PERFORMANCE STANDARDS**

All uses established after the effective date of this Ordinance shall comply with the following performance standards. No use in existence on the effective date of this Ordinance shall be so altered or modified as to conflict with these standards.

### **A. Lighting**

1. All exterior lighting shall be shielded to avoid casting light above three tenths (0.3) footcandle or glare upon any property located in a residentially zoned district or used for residential purposes
2. All exterior lighting shall be shielded to avoid casting light above one-half (0.5) footcandle or glare upon any non-residential adjacent property.
  - i. Exception: shall not apply to temporary events such as fairs, athletic events, fireworks displays, or similar events.
3. All exterior lighting shall be shielded as to not direct light in to the right-of-way of any public street.
4. Intensity of illumination shall be measured at the property line.

## **ARTICLE VII REGULATIONS APPLICABLE TO SPECIFIC USES**

### **A. SWIMMING POOLS**

Swimming pools and hot tub shall be permitted as accessory structures.

1. Swimming pools and or hot tubs shall comply with the required yard setbacks applicable to the zoning district in which they are located.

### **B. HOME OCCUPATIONS**

Purpose and intent. The purpose of home occupation standards is to establish minimum requirements for home-based businesses in order to protect the residential character of the City of Rushville, preserve property values, and prevent the hazards to persons and property that can result from residential-commercial land use conflicts

1. The home occupation shall be conducted by a member of the family residing in the dwelling unit
2. The home occupation shall have no employees other than the family member which reside in the dwelling unit.
3. The home occupation shall be conducted on wholly within the primary structure and shall be clearly incidental and subordinate to its use for residential purposes.
4. The home occupation shall not exceed a total area of 500 square feet. The home occupation must utilize no more than twenty-five (25) percent of the gross floor area of any dwelling unit.
5. No face-to-face wholesale/retail sale of stocked inventories is permitted, except for incidental sales that do not exceed 25% of total home occupancies sales. A mail-order/telephone/internet sale, as well as distribution of sold merchandise, is permitted. Manufacturing activities are not permitted.
6. There shall be no change in the outside appearance of the primary structure or premises, or other visible evidence of the conduct of such home occupation.

7. No additional entrances to the primary structure for the home occupation shall be permitted
8. There shall be no alterations to the interior of the primary structure to accommodate the home occupation.
9. Signage is prohibited.
10. Levels of noise, vibration, smoke, dust, electrical disturbance, odors, heat or glare in amounts greater than those normally associated with a residential use shall be produced.
11. No toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive or other restrictive materials shall be used or stored on the site in amounts greater than those normally associated with a residential use.
12. Vehicles associated with the home occupation shall be limited to not more than one (1) vehicle and shall not be larger than one (1) ton.
13. The home occupation shall not necessitate the installation of any additional off-street parking spaces in addition to off-street parking provided for the residential structure prior to the on-set of the home occupation.
14. The home occupation not require increasing or enhancing the size, capacity or flow of water, gas, sewer or electrical systems beyond what is present in the primary structure at the on-set of the home occupation.
15. Service or other small package carries. For the purposes of this Section a commercial vehicle is any vehicles in excess of 16,000 pounds.

### **C. BED AND BREAKFAST HOMES**

A bed and breakfast home is not intended to change the character of the residential neighborhood, but to coexist with the existing residential neighborhood. The following provisions shall apply to bed & and breakfast homes:

1. A Bed and Breakfast Home shall not be considered a Home Occupation.
2. Bed and Breakfast Home shall be owner occupied
3. The number of employees shall be limited to two (2).
4. Bed and Breakfast Home guests shall be considered transient in nature and accommodations shall not be provided to guests exceeding a period of Thirty (30) consecutive days.
5. Food and drink shall be offered to overnight guests only.
6. There shall be no changes in the exterior of the residence.
7. There shall be no more than five (5) guest rooms.
8. Parking:
  - a. All parking shall be in addition to the parking for the residence in which the Bed and Breakfast is located.
  - b. All parking shall be screened from adjoining property by landscaping or fencing to a height of five (5) feet.
  - c. One (1) parking space per employee plus
  - d. One (1) parking space per guest room
  - e. Illumination:
    - i. Adjacent to residential zones property, maximum three tenths (0.3) footcandle

- ii. Adjacent to commercial property, maximum five-tenths 0.5-foot candles
  - iii. Illumination shall be down directed and shielded
  - iv. Light standard (pole) shall not exceed eighteen (18) feet and in keeping with a style compatible with the lights in the location of the bed and breakfast home.
  - v. A lighting plan shall be submitted.
- 9. Signs:
  - a. One (1) non-illuminated sign
  - b. Wall mounted parallel to the face of Bed and Breakfast Home
  - c. Maximum size of twelve (12) square feet.
  - d. No additional signage is permitted
- 10. An improvement to location permit shall be obtained.

#### **D. ADULT ENTERTAINMENT FACILITIES**

- 1. All adult uses shall be located a minimum of 2,000 feet from church, school, park, child care facilities, residentially zoned areas, public or cultural facility (such as; City Hall, libraries), or any other established adult use.
- 2. The distance shall be measured in straight lines, without regard to intervening structures or objects from the closest property lines of the lot on which each use is located.

#### **E. RECREATIONAL VEHICLES**

- 1. Location Requirement. All recreational vehicles shall be stored on a paved surface, either behind or alongside the primary structure on the property and no portion of the recreational vehicle shall project beyond the front setback of the primary structure or the minimum side or rear yard setback required on the lot..
- 2. Loading and Unloading. This provision, however, shall not prohibit parking such vehicle on a paved area in the front yard for up to 48 consecutive hours for the purpose of loading, unloading, cleaning, packing, unpacking or other similar maintenance or preparations
- 3. Occupancy Restriction. Recreational vehicles shall not be connected to electric water, gas, or sanitary sewer facilities, and shall not be used for living or housekeeping purposes.
  - i. Temporary electrical power may be supplied for battery charging purposes only.

#### **F. RECREATIONAL VEHICLE PARK**

- 1. This Ordinance does not set aside the requirements of the Indiana State Board of Health as set out in 410 IAC 7.1
- 2. Recreational vehicle parks shall have direct access to a public right-of-way.
- 3. A minimum of five (5) areas shall be required to develop a recreational vehicle park
- 4. Recreational vehicle park shall not exceed fifteen (15) recreational vehicle spaces per gross acre of the site.
- 5. There shall be a minimum of 10 feet between recreational vehicles in their fully open position (including slides).

6. The minimum required side and rear yard setbacks for recreational vehicle park shall be twenty-five (25) feet from property lines.
7. A minimum of one (1) centralized recreational area shall be provided. The size of the recreational areas shall be calculated at eight percent (8%) of the net area (excludes street, parking areas, service facilities) of the recreational vehicle park.
8. Retail sales related to the recreational vehicle park, such as: convenient store, fueling (propane, gasoline or diesel), laundromat, office, are permitted as accessory uses to the recreational park.
9. Information signs for directing the flow of traffic, identifying accessory uses and recreational vehicles spaces are permitted and limited to a maximum size of twelve (12) square feet and may be either internally or externally illuminated.

#### **G. AMATEUR RADIO SUPPORT STRUCTURES**

1. Amateur radio antennas are considered accessory to the primary structure.
2. Amateur radio antennae shall not exceed seventy-five (75) feet in height above average grade.
3. Antennae and/or guy wires or anchors shall not be permitted in the front yard setback.
4. Antenna guy wires and support anchors may be permitted in the required side or rear yard setback.

#### **H. TELECOMMUNICATIONS FACILITY STANDARDS**

1. Purpose and intent. The purpose of telecommunication facility standards is to provide for adequate, reliable public and private telecommunications service while maximizing the use of transmission towers and tower sites. These requirements also seek to minimize the adverse, undesirable visual impact of towers through minimizing needed towers and tower sites, careful design and siting, and screening.
2. Required approvals. The placement of telecommunications facilities shall be by Special Exception granted by the City of Rushville Board of Zoning Appeals and shall comply with the following requirements:
  - a. Installation of new antenna. The installation of new antenna(s) on existing towers, including legal non-conforming towers, and existing alternative structures (such as water towers, buildings, or church steeples) may be approved by the Board of Zoning Appeals subject to compliance with all applicable requirements of this ordinance.
  - b. New antenna(s) that will add any height to an existing tower, or extend over ten (10) feet above the highest point of any alternative structure shall be subject to the provisions of this section for the installation of new towers as described.
  - c. Installation of new accessory structures. The installation of new accessory structure(s), such as equipment buildings, to support the installation of antenna on existing towers or alternative structures are subject to approval of a Special Exception by the City of Rushville Board of Zoning Appeals.
  - d. Installation of new tower. The installation of any new tower(s) shall be reviewed by the Board of Zoning Appeals as a special exception use.

3. Abandonment. Abandoned or unused towers or portions of towers shall be removed. The owner of a wireless facility shall file annually a declaration with Planning Office Staff as to the continuing operation of every facility installed subject to these regulations and purchase an improvement location permit under the guidelines of this Ordinance. (Ordinance No. 2020-22 – October 6, 2020)
  - A. The owner shall file annually a certificate of insurance from the owner's insurance carrier listing The City of Rushville and the City Council as additional insureds for the purposes of general liability with regard to bodily injury, personal injury and property damage from all possible risks in an aggregate amount of not less than \$5,000,000 per incident with a further provision that the insurance carrier shall notify the City of Rushville the City Council 30 days in advance of either cancellation and/or non-renewal of the policy of insurance. Failure to do any of the above requirements shall be determined to mean that the facility is no longer in use and considered abandoned, thus subject to the following:
    - i. Removal. All abandoned or unused towers and associated facilities shall be removed within 180 days of the cessation of operations at the site unless a time extension is approved by the Planning Office Staff. A copy of the relevant portions of a signed lease which requires the applicant to remove the tower and associated facilities upon cessation of operations at a site shall be submitted at the time of application. (Ordinance No. 2020-22 – October 6, 2020)
    - ii. In the event that a tower is not removed within 180 days of the cessation of operations at a site, the tower and associated facilities may be removed by the city and the costs of removal, enforcement including attorney's fees shall be assessed against the property; and/or the property owners.
    - iii. Time constraint. Unused portions of towers above a manufactured connection shall be removed within 180 days of the time of antenna relocation. The replacement of portions of a tower previously removed requires the issuance of a new wireless facility permit.
4. Required documentation. In addition to the requirements provided elsewhere in this ordinance for the receipt of a special exception use approval and an improvement location permit, applications for new towers shall include the following:
  - a. Engineer's report. A report signed and sealed from a professional engineer licensed in accordance with IC 25-31
    - i. Describes the tower height and design including a cross-section, latitude, longitude, and elevation;
    - ii. Documents the height above grade for all potential mounting positions for co-located antenna and the minimum separation distance between antenna;
    - iii. Describes the tower's capacity, including the type and number of antenna it can accommodate;
    - iv. Documents what steps the tower owner will take to avoid interference with established public safety telecommunication facilities;

- b. Letter of intent. A letter of intent committing the tower owner, property owner, and their successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.
  - c. Proof of compliance. Proof of compliance with all applicable Federal Communications Commission (FCC), Federal Aviation Administration (FAA) and Indiana Department of Transportation (INDOT) regulations.
  - d. Removal affidavit. A letter committing the property owner and their successors to remove the tower and all related accessory structures, fences, landscaping, and equipment if the tower is abandoned (unused for a period of one (1) year).
  - e. Additional insured. The tower owner shall name the City of Rushville and the City Council as an additional insured.
  - f. Determination of new tower need. Any proposal for a new telecommunications tower shall only be approved if the applicant submits verification from a professional engineer licensed in the accordance IC 25-31 that the antennas planned for the proposed tower cannot be accommodated on any existing or approved towers or other structures within a two (2) mile radius of the proposed tower location due to one (1) or more of the following reasons:
    - i. Inadequate structural capacity. The antennas would exceed the structural capacity of the existing or approved tower or other structure, and the existing or approved tower, building or other structure cannot be reinforced, modified, or replaced to accommodate the antennas at a reasonable cost.
    - ii. Interference. The antennas would cause interference impacting the usability of other existing or planned equipment at the tower site and the interference cannot be prevented at a reasonable cost.
    - iii. Inadequate height. The existing or approved towers or structures within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably.
    - iv. Unforeseen circumstances. Other unforeseen reasons that make it unfeasible or impossible to locate the planned telecommunications equipment upon an existing or approved tower or structure.
    - v. Commonly reasonable lease agreement. The proposed tower owner is unable to enter a commonly reasonable lease term with the existing tower owner or landowner.
    - vi. Land availability. Additional land area is not available (when necessary).
5. Design requirements. All telecommunications facilities shall meet the following design requirements.
- a. Contextual design. Towers and antennas should generally be designed to blend into the surrounding environment through the use of color, camouflaging and architectural treatment, except in an instance where the color is dictated by federal or state authorities such as the Federal Aviation Administration.

- i. Wireless telecommunication towers should generally be of a monopole design and, when located within or adjacent to an environmentally or aesthetically sensitive area, or a residential district, be designed to architecturally camouflage the wireless telecommunication tower as much as reasonably practical to blend into the surroundings.
    - ii. The use of residentially compatible materials such as wood, brick, or stone is required for associated accessory structures, which shall be designed to architecturally match the exterior of any adjacent residential or commercial structures within the neighborhood or area.
  - b. Lighting. Only when lighting is for safety or security reasons or required by the FAA or other federal or state authority will lighting be permitted. All ground level security lighting shall be oriented inward so as not to project onto surrounding properties, and shall have 90-degree cut-off luminaries (shielded down lighting).
  - c. Co-location. All telecommunication towers shall be designed, and engineered structurally, electrically and in all other respects to accommodate both the applicant's equipment and at least one additional user for every 50 feet in total tower height in excess of 75 feet.
    - i. Each additional user shall be assumed to have an antenna loading equal to that of the initial user.
    - ii. Towers must be designed to allow for rearrangement of antennas and to accept antennas mounted at varying heights.
  - d. Tower height. All towers and antenna shall be in compliance with all FAA tall structure requirements. Tower height shall be expressed as, and measured from finished ground level in all instances.
    - i. In any commercial zoning district the maximum height of the tower shall be 150 feet. The maximum height of any accessory structure shall be 18 feet.
    - ii. In any manufacturing zoning district the maximum height of the tower shall be 200 feet. The maximum height of any accessory structure shall be 18 feet.
    - iii. In any residential district the maximum height of the tower shall be 100 feet. The maximum height of any accessory structure shall be 18 feet.
  - e. Interference with public safety facilities. No new telecommunications facility shall result in any interference with public safety telecommunications.
  - f. Signs. Signs for all telecommunications facilities shall be on site and limited to two (2) square feet per structure.
- 6. Site requirements. All telecommunications facilities shall meet the following site requirements:
  - a. Residential areas. No tower shall be placed closer than 500 feet to any property included in a residential zoning district.
  - b. On-site staff. All telecommunications facilities shall be fully automated and unattended on a daily basis, and shall be visited only for periodic maintenance and emergencies.

- c. Vehicular access. Vehicular access to the tower and equipment building shall, whenever feasible, be provided along existing driveways. Vehicle access drives shall be paved. Any portion of the entrance located in an existing or planned public right-of-way shall meet the applicable public street design, construction, and pavement requirements.
- d. Site area. The lot where the tower is located (or lease area) shall be large enough to accommodate all future anticipated accessory structures needed by future antenna users. The size of the site shall also be of sufficient area to allow the location of one additional tower and associated support facilities. At a minimum, the width and depth of the tower site shall be distances equal to 1/2 the tower height.
- e. Setback. The minimum front, side, and rear yard setback for all towers shall be 50 feet from all property lines, measured from the planned or existing right-of-way.
  - i. No part of a wireless telecommunications facility, including the security fence, any required guide wires or bracing, and required landscape screening shall be permitted in any required front yard setback.
  - ii. Landscape screening in addition to the requirements of this section may be provided in the setback area.
- f. Encroachment. No part of any wireless telecommunications facility nor associated lines, cables, equipment, wires or braces shall at any time extend across or over any part of an existing or planned public right-of-way, street, highway, sidewalk, or property line.
- g. Delete (Ordinance No. 2019-23 – November 19, 2019)
- h. Landscape screening. Evergreen buffer plantings shall be located around the outermost perimeter of the security fence of all wireless telecommunications facilities, including any wires and anchors.
  - i. If evergreen hedges are used they shall be a minimum of two (2) feet tall at the time of planting (measured from finished ground level) and shall be planted a maximum of three (3) feet on center.
  - ii. If evergreen trees are used, they shall be a minimum of five (5) feet tall at the time of planting (measured from the top of the root ball), and shall be planted a maximum of ten (10) feet on center.
  - iii. Existing vegetation (trees and shrubs) shall be preserved to the maximum extent possible.
- 7. Construction requirements. All antennas, towers and accessory structures shall comply with the following construction requirements:
  - a. General state/federal requirements. All facilities shall meet the applicable provisions of the Indiana Building Code and/or the Federal Communications Commission.
  - b. Wind loading/Building Code requirements. All facilities shall meet the structural standards and wind loading requirements of the Indiana Building Code and/or the Federal Communications Commission, which ever one is more restrictive.



- c. Electrical requirements. All facilities shall comply the accepted electrical engineering methods and practices and comply with the provisions of the Indiana Electric Code.
  - d. OSHA requirements. All facilities shall meet the requirements of Occupational Safety and Health Administration.
  - e. Engineer's certification. An engineer's certification shall be submitted to document and verify the design specifications including but not limited to, the foundation for the tower, anchors for the guy wires if used, co-location, and strength requirements for natural forces; ice, wind, earth movement.
  - f. FAA requirements. All facilities shall be in compliance with all lighting and marking requirements of the Federal Aviation Administration.
8. Existing facilities. The following shall apply to existing antennas and towers:
- a. Replacement of existing towers. Existing legal nonconforming towers may continue in use for their current purpose but may not be replaced unless either the replacement tower is an exact match to the height, setback, and other features of the removed tower, or the replacement tower complies in all respects to the requirements in this ordinance.
  - b. If such towers are hereafter damaged or destroyed due to any reason or cause whatsoever, the tower may be repaired and restored to its former location and physical dimensions upon obtaining an improvement location permit.
  - c. Expansion of existing facilities. Any expansion resulting from a specific co-location shall be exempt from the provisions of this ordinance requiring compliance with this ordinance in the case of substantial expansions.
  - d. Installation of additional antennas. Any request submitted to the Board of Zoning Appeals to install an antenna to be located on an existing approved or "grandfathered" tower shall require an improvement location permit, a copy of the contract between the applicant company and the owner of the tower, and all required documentation. If the antenna will add height to an existing tower or exceed the height of any alternative structure by more than ten feet it shall be considered a new tower for the purposes of this Ordinance. (Ordinance No. 2020-22 – October 6, 2020)

## **ARTICLE VIII OFF-STREET PARKING REQUIREMENTS**

### **A. GENERAL PROVISIONS**

Purpose and intent.

The purpose of these parking standards is to reduce street congestion, ensure proper vehicular and pedestrian circulation, and therefore improve public safety by identifying the appropriate number and location of off-street parking spaces.

1. All buildings, structures and uses of land established after the effective date of this Ordinance, off-street parking and off-street loading shall be provided.
2. When an existing use of a building or structure is changed to a new use, off-street parking and off-street loading shall be provided as required for such new use.
3. Off-street parking shall not be used for the repair, dismantling, or wrecking of any vehicles, equipment, or material.
4. Off Street parking and off-street loading shall be provided on the same lot as the primary uses.
5. Legally existing off-street parking facilities in existence at the date of adoption of this ordinance shall not be reduced as to place existing parking facilities into nonconformance.
6. Properties located within the Central Business District (CBD) zoning district without dwelling units are not required to provide Off-Street Parking. (Ordinance No. 2021-34 – November 16 2021); (Ordinance No. 2022-28; October 4, 2022)

### **B. PLAN REVIEW**

1. Plans for off-street parking lot or loading areas shall be submitted to the Planning Office for review and approval. Submitted plan shall be dimensioned, and indicate property lines and structures
  - a. Total number of parking spaces: current, existing, and proposed;
  - b. Width of parking aisles;
  - c. Vehicle circulation;
  - d. Ingress and egress;
  - e. Sidewalks and pedestrian circulation;
  - f. Signage;
  - g. Lighting;
  - h. Storm water detention retention areas;
  - i. Landscape and buffer areas with types of vegetation to be planted. (Ordinance No. 2020-22 – October 6, 2020); (Ordinance No. 2022-28; October 4, 2022)
2. Parking lot drainage shall comply with the City of Rushville Stormwater Technical Manual. (Ordinance No. 2022-28; October 4, 2022)

## **C. PARKING LOT REQUIREMENTS AND CALCULATION OF REQUIRED PARKING.**

1. Access
  - a. Ingress and egress to off-street parking lots shall be located a minimum of seventy (70) feet from the centerlines of intersecting streets.
  - b. Ingress shall be designed to prevent vehicle backup on the adjacent street(s).
  - c. Off-street parking lot ingress and egress shall be consolidated, when possible, to limit the number of access points to the site.
  - d. Curb cut permits shall be obtained from the City of Rushville Street Department for city street access and from Indiana Department of Transportation (INDOT) for State Highways and US Highways.
  - e. Ingress and Egress to off-street parking lots that are one hundred (100) feet or more in width shall have ingress and egress spaced a minimum of fifty (50) feet apart.
2. Off-street Parking Lot Design
  - a. Maneuvering within parking lots shall not be permitted in the public right-of-way.
  - b. Off-street parking lots shall be setback twenty (20) feet from property line.
  - c. Off-street parking lots shall be provided with circulation aisles to ensure efficient internal circulation. Circulation aisles shall comply with Table 2-A, Circulation Aisles.
  - d. Off-street parking lots shall be free of impediments that would prevent a motor vehicle from maneuvering without moving another motor vehicle.
  - e. Parking lot surfaces shall be separated from non-parking lot surfaces by a continuous curb a minimum of six (6) inches in height.
  - f. Driveway Aprons shall be a paved surface.
  - g. Parking Lot Surface Materials.

The following parking lot surface materials are permitted:

    - i. Concrete
    - ii. Porous concrete
    - iii. Bituminous (asphalt)
    - iv. Porous Bituminous (asphalt)
    - v. Bricks
    - vi. Paving Blocks
    - vii. Reclaimed Asphalt Pavement is permitted as set out in items 1. through 3. below.

Parking lot surface material for areas not specified in items 1. through 3. shall be of parking lot surface materials listed in items i. through vi. above.

    1. Equipment Sales and Rentals limited to the display and storage area.
    2. Farm Implement and Machinery Sales display and storage areas.
    3. Semi-truck Parking Areas

- h. Off-street Parking Lot Drive and Circulation Aisles:  
Parking lot drives and circulation aisles shall be of the same paved surface as the parking lot.
- i. Off-street Parking Requirements:  
The minimum number of off-street parking spaces shall be provided for each building, structure, or use, which exists or is hereinafter constructed, established, erected, enlarged, or altered for any of the following purposes:
  - i. The required number of parking spaces shall be provided as set out in Table 2-B; Parking Spaces Required Determined by Use.
  - ii. For uses not specified in Table 2-B, Off-street Parking Spaces Required Determined by Use shall be determined by the number of parking spaces as determined by the Planning Office Designated Staff on the basis of similar requirements, the number of persons served, or employed, and the capability of adequately serving the visiting public.
  - iii. When the calculation of parking spaces is a fraction, it shall be based on the next whole number.
  - iv. Unless noted in Table 2-B the number of required parking spaces shall be considered the minimum allowable number of parking spaces for any particular use.
  - v. Parking spaces shall be delineated by striping and shall have a minimum width of ten (10) feet and a minimum length of twenty (20) eighteen (18) feet.
  - vi. Parking Stops (wheel/bumper guards).  
Each parking space shall be provided with parking stop, except where a six (6) inch curb is provided, as follows:
    - 1. Where off-street parking spaces are adjacent to the exterior line of the off-street parking lot at street right-of-way, so no part of the vehicle extends beyond the parking space.
    - 2. Off-street parking spaces adjacent to landscaping to protect landscaping from vehicular damage.
  - vii. Parking for one- or two-family dwellings shall not exceed fifty (50) percent of the front yard.
  - viii. Accessible parking space shall be provided as set out in:
    - 1. American with Disability Standards for Accessible Design;
    - or;
    - 2. IC 5-16-9
  - ix. Mixed uses in the same building or structure, may provide joint off-street parking spaces provided the total number of spaces is not less than the sum of requirements for the various uses. the total requirement of off-street parking spaces shall not be considered as providing required parking spaces for any other uses.
  - x. Collective off-street parking facilities lots for two [2] or more buildings, structures, and their or uses shall not be less than the sum of the required parking spaces for the individual uses computed separately.

- j. Design Flexibility.  
Mixed uses in same buildings or where there are two (2) or more buildings only.  
Due to particularities of any given development, the inflexible application of required parking spaces may result in parking spaces in excess of need. Upon the written request by the owner, the Planning Office Designated Staff may authorize a reduction in the number of required parking spaces not to exceed twenty percent (20%) if there is documentation justifying the reduction for the type of use is provided. Approval of a reduction in number of required parking spaces by the Planning Office Designated Staff shall be in writing and shall include justification for allowing such reduction
- k. Maintenance: Drive Apron, Driveways and Off-street Parking Lots:
  - i. Paved surfaces shall be maintained as follows:
    - 1. In a good condition, free of broken or missing material;
    - 2. Compaction failures allowing water ponding are to be repaired;
    - 3. Free of weeds, trash, debris, and dust.
  - ii. Reclaimed Asphalt Pavement shall be maintained as follows:
    - 1. In a good condition,
    - 2. Repair damage to reclaimed asphalt pavement to the same as original installation.
    - 3. Free of weeds, trash, and debris.
- l. Signage: See Article X of this ordinance.
- m. Lighting: See Article VI of this Ordinance.
- n. Bicycle parking requirement.
  - i. Number of Bicycle Spaces  
All non-residential uses are encouraged to provide bicycle parking based on the number of required automobile parking spaces in accordance with Table 2-C Bicycle Parking Requirements.
  - ii. Bicycle Racks:
    - 1. Bicycle racks shall support the bicycle upright by its frame in two (2) places above the bicycle's center of gravity;
    - 2. Bicycle racks shall enable the frame and one (1) or both wheels to be secured with a lock and shall not require the lifting of the bicycle to use any of the rack's parking positions.
    - 3. See Appendix (B) for examples of acceptable Bicycle Racks.

TABLE 2-A		
CIRCULATION AISLES		
PARKING ANGLES	CIRCULATION AISLE WIDTH	ONE- OR TWO-WAY CIRCULATION
Parallel Parking	12-feet	One
30-degrees	12-feet	One
45-degrees	14-feet	One
60-degrees	18-feet	One
90-degrees	24-feet	Two

TABLE 2-B	
REQUIRED NUMBER OF PARKING SPACES DETERMINED BY USE.	
TYPE OF USE	NUMBER OF SPACES
<b>Residential Uses</b>	
Single-family or Two-Family	Two (2) spaces per dwelling unit.
Multifamily	One point Five (1.5) spaces for each one-(1) bedroom or efficiency unit, Two (2) spaces for each two-bedroom units, plus 0.25 guest spaces per unit.
Dwelling Unit - Central Business District	One (1) space for each dwelling unit. *
Home Occupation	One (1) space in addition to single-family dwelling unit requirement.
<b>Group Living</b>	
Assisted Living Facility	One (1) space for each Three (3) dwelling units Plus, one (1) space for each employee on the largest shift.
Group Housing or Rooming or Boarding House	One (1) space for each sleeping room, Plus, one (1) for each two (2) employees, Plus, one (1) for each 200 square feet of assembly or common areas.
Long-Term Care Facility; Convalescent Care	One (1) space per two (2) bed, Plus, one (1) space per employee on the largest shift.
<b>Community and Cultural Facilities</b>	
Auditoriums, Performing Arts	One (1) space for each four seats, Plus (1) space for each 100 square foot of concession (food/drink/retail sales, etc.) space.
Church/Place of Worship	One (1) space for each 200 square feet of gross floor area
Social Club, Lodge, Fraternal Organization	One (1) space for each four (4) seats in main assembly area, Or Five (5) spaces for each 1,000 square feet of gross floor area, Whichever is greater
Community Center	One (1) space for each 500 square feet of assembly floor area, Plus, One (1) space for each employee.
Conference; Convention Center	Two (2) spaces for each 1,000 square feet of gross floor area.

Funeral Home/Mortuary	One (1) space for each 35 square feet of seating area, Plus, One (1) space for each employee.
Library/Museum	One (1) space for each 100 square feet of gross floor area, Plus, One (1) space for each employee based upon largest shift.
Police, Fire or Rescue Station	One (1) space for each employee, Plus, One (1) space for each stored vehicles (not located inside the building), Plus One (1) space for each 500 square feet for public parking.
Educational Uses	
Elementary or Middle School	Three (3) spaces for each classroom.
High School	Eight (8) spaces for each classroom.
University/College Vocational/Trade School	One (1) per four (4) students, based upon the maximum enrollment, Plus, One (1) per 200 square feet of office area.
Day-Care [Adult or Child] Caring Facilities include: Child care uses, including children's homes, day care centers, ministry day-care; nurseries; kindergartens and pre-school or similar uses.	One (1) space for each 350 square feet of gross floor area, Plus, One (1) space for each employee.
Entertainment and Recreation	
Amphitheaters	Two point Five (2.5) spaces for each 1,000 square feet of site designated as seating, Plus, One (1) space for each 100 square feet of concession (food/drink/retail sales, etc.) floor area for employees.
Arcade, Gaming Centers	One (1) per 200 square feet of gross floor area
Athletic Complex (outdoor)	Twenty-four (24) spaces for each athletic field, Plus, one (1) space for each 100 square feet of concession (food/drink/retail sales, etc.) floor area for employees.
Billiard Hall	Two (2) per billiard, Plus, One (1) space for each employee.
Bowling Center	Four (4) spaces for each lane, Plus, one (1) per six (6) spectator seats, Plus, One (1) space for each employee.

Movie Theater - Drive in	One (1) space for each 1,000 square feet of area designed as viewing area on the site plan, Plus, One (1) space for each 100 square feet of concession (food/drink/retail sales, etc.) floor area for employees.
Movie Theater/Cinema (indoor)	One (1) per two (2) seats, Plus, One (1) space for each 100 square feet of concession (food/drink/retail sales, etc.) floor area for employees.
Sports Arenas; (indoor)	One (1) space for each four seats, Plus (1) space for each 100 square feet of concession (food/drink/retail sales, etc.) space.
Recreation Building	One (1) space for each 500 square feet of assembly floor area, Plus, One (1) space for each 100 square feet of concession (food/drink/retail sales, etc.) floor area for employees.
Skating rinks (Roller or Ice)	One (1) space for each 100 square feet of rink floor area
Swimming pool	One (1) space for each Five (5) people of swimming pool Capacity, Plus, One (1) space for each Four (4) seats, Or One (1) space for each 30 square feet of floor area used for seating purposes, Whichever is greater.
Food, Beverage, and Lodging	
Banquet Facility	One (1) space for each 100 square feet of gross floor area.
Bar, Lounge, Tavern, or Nightclub	One (1) space for each 75 square feet of net square footage, Or One (1) space for each Two (2) seats, Whichever is greater of the two (2) calculations.
Brewpub, distillery, and winery	One (1) space for each 75 square feet of net square footage Or One (1) space for each Two (2) seats Whichever is greater of the two (2) calculations.
Restaurants	One (1) space for each Four (4) seats, Plus, One (1) space for each employee.



Restaurants with Drive-through	One (1) space for each 75 square feet of gross floor area Plus, stacking spaces as required by Section E
Bed and Breakfast	Two (2), plus one (1) additional space per guest room.
Hotel/Motels	One (1) space for each guest room, Plus, One (1) space for each employee
Healthcare Facilities	
Hospital	One (1) space for each patient bed, Plus, one (1) space for each employee on the largest shift.
Medical Office or Dental Office	One (1) space for each exam room or dental chair; Plus, one (1) space for each employee,
Out Patient Surgery Center	One (1) space for each out-patient bed; Plus, one (1) space for each employee on the largest shift.
Urgent Care Facility	One (1) space for each patient exam room, Plus, one (1) space for each employee on the largest shift.
Industrial, including manufacturing – NO Wholesale or Retail Sales.	
Light and Heavy Industrial uses; Manufacturing and Assembly of products; Warehousing; Distribution Warehouses	One (1) space for each Two (2) employees on the largest shift for which the building is designed, Plus, one (1) space for each vehicle used in the operation. Exception: Vehicles used in the facility operation are parked inside an entirely enclosed building at all times when not in use.
Institutional	
Jail; Detention Center; Correctional Institutions	One (1) space for each Ten (10) offenders, Plus, One (1) space for each employee, Plus, One (1) space for each vehicle used in the operation of the Jail, Detention Center, or Correctional Institution. Exception: Vehicles used in the facility operation are parked inside an entirely enclosed building at all time when not in use

Miscellaneous	
Pet Grooming	One (1) space for each grooming station and bating tub, Plus, One (1) for each employee.
Veterinary Clinic	One (1) space for each 500 square feet of gross floor area.
Offices, Business and Professional	
Financial Facility/Bank; including Check Cashing without Drive-up Facility	One (1) space for each 400 square feet of gross floor area.
Financial Facility/Bank; including Check Cashing -with Drive-up Facility	One (1) space for each 400 square feet of gross floor area, Plus, Stacking Lanes per Section E
Florists	One (1) space for each 300 square feet of gross floor area.
General Office or Professional Uses	One (1) space for each 250 square feet of gross floor area.
Health club uses, including athletic clubs and spas	One (1) space for each 400 square feet of gross floor area.
Personal Service Uses e.g. Beauty Shop; Barber Shop; Nail Salon; Tattoo/Piercing shop	Two (2) spaces for each stylist chair or manicure or pedicure station, Plus, One (1) space for each employee.
Post Office	One (1) space per 350 square feet of gross floor area.
Open Air Uses	
Farmer's Markets	One (1) space for each 1,000 square feet of outdoor display area.
Retail Uses	
Building Suppl Story	Two (2) spaced per 1,000 gross square feet of floor area.
Convenience Stores, associated with the sale of fuel Fuel island fueling aisles are not included in the parking space requirement calculation.	One (1) space for each 200 square feet of gross floor area.
Grocery or Supermarket	Five (5) spaces for each 1,000 square feet of gross floor area.
Retail space less than 50,000 gross square feet	One (1) space for each 200 square feet of gross floor area.
Retail space greater than 50,001 gross square feet	One (1) space for each 500 square feet of gross floor area.

Vehicle Service	
Vehicle Repair; including muffler shops, tire shops, quick lubricating, and other similar uses	Two point Five (2.5) spaces for each service bay.
Vehicle Repair; including removal and replacement of vehicle body components.	One (1) space for each area designated on floor plan for removal and replacement of vehicle body components, Plus, One (1) space for each employee.
Vehicles. Fam Implements, Motorcycles, Recreational Vehicles, or Trailer Sales	One (1) space for each 400 square feet of sales room floor area.
Warehouse	
Self-Storage/Mini Warehouse	One (1) space for each two employees.
Warehousing	One (1) space for each per 2,500 square feet of gross floor area.

\* If the size of the legal lot does not provide lot area to accommodate a legal-size parking space, ten (10) feet by eighteen (18) feet per dwelling unit, no off-street parking is required to be provided. (Ordinance 2021-34; November 16, 2021);

TABLE 2-C	
Total Vehicle parking Spaces Required	Bicycle Spaces Required
1- 25 Parking Spaces	1
26 – 250 Parking Spaces	2
Over 250 Parking Spaces	4

(Ordinance No. 2022-28; October 4, 2022)

#### **D. OFF-STREET LOADING/UNLOADING REQUIREMENTS**

1. Uses and buildings shall provide with adequate receiving area, so as not to obstruct the free movement of pedestrians and vehicles over a sidewalk, street or alley.
2. Loading spaces shall have a minimum length of 55 feet, a minimum width of 12 feet, and a minimum height clearance of 15 feet
3. Off-street loading/unloading areas shall be calculated based upon the building/structure's gross square feet.
4. Off-street loading spaces shall have a minimum length of fifty (55) feet, a minimum width of twelve (12) feet, and a minimum clear height of fifteen (15) feet.
5. All off-street loading/unloading areas shall be accessed by a driving aisle that is a minimum of twenty-four (24) feet in width for two-way traffic or thirteen (13) feet in width for one-way traffic at all points between the accessed public street and the off-street loading/unloading area.

6. Uses and buildings shall provide off-street loading areas in accordance with the following Table 6-A.

TABLE 6-A Off-street Loading/Unloading Spaces	
Gross Square feet	Minimum Number Off-street loading/unloading areas.
0 to 1,400 square feet	None Required
1,401 to 20,000 square feet	1 space
20,001 to 100,000 square feet	1 space plus 1 space for each 40,000 square feet in excess of 20,000 square feet.
100,001 to 500,000 square feet	3 spaces plus one 1 space for each 40,000 square feet in excess of 100,000 sq. ft.
Over 500,000 square feet	15 spaces plus 1 space for each 80,000 square feet in excess of 500,000 square feet

(Ordinance No. 2022-28; October 4, 2022)

#### E. STACKING LANES

1. For building/structure where the use provides drive through service, shall be provided with vehicle stacking to prevent vehicles from obstruct the public right-of-way.
2. Stacking space shall be a minimum of eight (8) feet by twenty (20) feet.
3. Vehicle stacking spaces shall be provided as set out in Table 3-A

Vehicle Stacking Lanes Table 3-A		
Use	Minimum number of Stacking Spaces.	Measured from to public right-of-way
Bank teller lane	4	Teller or window
Automated teller machine	3	Automatic Teller Machine Key Pad
Restaurant drive-through	6	Order box
Restaurant drive-through	4	Order box to Pick-up window
Car wash stall, automatic	6	Entrance
Car wash stall, self-service	3	Entrance
Gasoline pump island	2	Pump island
Other	Minimum of 2 per window	

(Ordinance No. 2022-28; October 4, 2022)

## **ARTICLE IX LANDSCAPING AND SCREENING REQUIREMENTS**

### **A. GENERAL**

1. Purpose and intent. It is the intent of the city to promote the health, safety and welfare of its existing and future residents by establishing minimum standards to:
  - a. Protect, preserve and promote the aesthetic character of the roadway network and surrounding neighborhoods;
  - b. Improve environmental quality through reduction of visual pollution, improved air quality, and reduction of storm water runoff;
  - c. Mitigate impacts created between incompatible land uses; and
  - d. Enhance the community's natural resources through tree preservation and increased green space.
2. Applicability. The provisions of this section shall apply to the following activities:
  - a. Any new building, structure, or impervious surface (including gravel) used for vehicles;
  - b. Expansion or reconstruction of an existing building footprint, structure or impervious surface used for vehicles by 20% or greater;
  - c. Any subdivision of land resulting in the creation of three or more lots from a single parent tract over any period of time.
  - d. Properties located within that area zoned as Central Business District, shall be exempt from landscaping and screening requirements (Ordinance No. 2017-32 - November 21, 2017)

### **B. LANDSCAPE PLAN**

1. Materials standards. The following standards shall apply to all plant material used to satisfy the requirements of this Ordinance: (Ordinance No. 2020-22 – October 6, 2020)
  - a. Trees and shrubs shall meet the minimum requirements of the American Standard for Nursery Stock (ANSI Z60.1, Current edition). Trees roots are preferred to be balled and burlapped. The planting minimum for trees is one (1) growing season in a five (5)gallon container. Shrubs shall be well-rooted in a three (3) gallon container or greater.
  - b. Deciduous trees at the time of planting shall be a minimum of 1.5 inches in diameter measured four (4) feet from the finished grade ground. Evergreen trees shall be a minimum of six (6) feet tall at the time of planting.
  - c. Shrubs shall be a minimum of 24 inches tall at the time of planting.
  - d. Trees used to meet Street Tree requirements shall be reviewed and approved by the Planning Office. (Ordinance No. 2020-22 – October 6, 2020)
  - e. Up to one third (1/3) of the trees selected to meet Vehicle Use Area (VUA) landscape requirements may be of a variety considered to be ornamental (such as Flowering Dogwood). No trees used to meet VUA landscape requirements may be fruit producing (such as apple trees).
  - f. Plants used to meet requirements shall be permanently maintained. Any plants used to meet requirements that are lost, damaged, or die shall be permanently maintained and replaced with a similar species at the landowner's expense.

2. Technical standards. The technical standards contained in this ordinance represent the minimum requirements for buffer areas and plant material. Plant material provided for any development proposal beyond the minimum standards listed below is encouraged and is not subject to the review and approval process.
  - a. Landscape buffer areas (LBAs) shall be provided for all common property boundaries as indicated in the table below. LBAs shall not be required within the CBD Zoning District.
  - b. Street trees are required for any new subdivision or new development site where adjacent to an existing or proposed right-of-way. Street trees shall be planted at a rate of one (1) tree for every linear 75 feet for non-residential zones and at a rate of one (1) tree for every 50 feet for residential zones. Trees may be grouped or staggered but shall not be planted closer than 25 feet apart.
  - c. One (1) tree per 4,000 square feet of vehicular use area (VUA) shall be provided within landscape islands or immediately adjacent to VUAs. Trees shall be generally distributed throughout the VUA and not concentrated in just a few small areas. Landscape islands shall be a minimum of 150 square feet in area and nine (9) feet in width. (Ordinance No. 2019-23 – November 19, 2019)

Minimum Required Plant Material

Proposed use/zone	Adjoining use/zone	Minimum LBA	Required plant material (along common boundary)
Community Business	Residential	10 feet	Trees per technical standards plus a six (6) foot continuous screen <sup>1</sup>
Any	Street	5 feet (Zero feet in CBD)	Trees per technical standards
Multi-family	Single-family	10 feet	Trees per technical standards
Manufacturing District	Residential	15 feet	Trees per technical standards plus a six (6) foot continuous screen <sup>1</sup>
Manufacturing District	Community Business	10 feet	Trees per technical standards plus a six (6) foot continuous screen <sup>1</sup>

1. Continuous screen shall consist of a hedge, fence, wall, earth mound, or combination thereof that creates a visually continuous barrier. Evergreen trees may be used to satisfy both the tree and screen requirements.

- d. Trees for the property perimeter may be planted in the right-of-way as a street tree with the permission of the Rushville Board of Public Works and Safety.
- e. Existing trees in good health greater than four (4) inches in diameter can be counted toward the total trees required for a site. Every four (4) inches of diameter may be applied toward one (1) required tree (e.g., an existing tree in good health with a 12-inch diameter measured four (4) feet above finished grade may equal three (3) required new trees).

- f. Shrubs that will reach a minimum height of three (3) feet shall be planted adjacent to all VUAs where parking is visible from a public/private street or a residential use or zone. Shrubs used to meet this requirement shall be planted a maximum of five (5) feet apart and shall create a visually continuous screen at maturity.
  - g. Plants shall be kept three (3) feet from edge of any VUA as protection from vehicle overhang.
  - h. Plants greater than three (3) feet in height shall not to be planted with in the sight distance triangle (measured from the edge of the drive lanes) at intersections and access points.
  - i. Dumpsters shall be screened on at least three (3) sides with either wood fencing or masonry walls to establish a visually opaque screen so as not to be visible from the street or adjacent properties. Screening shall be constructed a height of six (6) feet or 12 feet above the height of the dumpster, whichever is greater. The dumpster enclosure materials shall be consistent with or complementary to the building materials of the primary structure.
  - j. Loading/unloading areas shall be screened from adjacent properties with either evergreen plantings (six (6) feet in height or greater at installation), wood fencing, a masonry wall, or combination thereof.
  - k. Utility pedestals/transformers, air conditioning units or similar equipment shall be screened to establish a visually opaque screen so as not to be visible from the street or adjacent properties.
  - l. Where plantings are used to satisfy this requirement, they must be able to achieve a mature height at least equal to the height of the item being screened.
3. Tree protection. Existing trees used to meet tree requirements shall meet the following criteria:
- a. Shall be healthy, less than 15% dead branches, no visible wounds or girdling roots, and free from obvious signs of disease.
  - b. Shall be four (4) inches in diameter or greater, measured four (4) feet from finished grade. Trees smaller than four (4) inches may still be preserved, but will not count toward the required tree plantings.
  - c. Tree protection fence shall be erected three (3) feet beyond the canopy to form a tree protection area (TPA) prior to any construction activity.
  - d. No material storage, parking, grading, fill or other construction activity shall take place inside of the TPA.
  - e. The tree protection fence may be removed only after all construction is completed.
  - f. Removal understory plants, weeds and groundcovers inside the TPA may take place after the tree protection fencing is removed. Care shall be taken to minimize damage to surface roots. Replanting of the TPA with sod, annuals, perennials or mulch is permitted.
  - g. Should a preserved tree that was used to meet tree planting requirements dies, the tree shall be re-planted with a similar tree species. If the size of the existing tree allowed for the tree to count as more than one (1) required tree, a comparable number of replacement trees shall be installed.

4. Timing of installation. All plant material used to meet these requirements shall be planted prior to occupancy or, when no structure is involved, prior to use.
  - i. When weather conditions preclude the timely installation of the landscape materials, planting may be delayed for a period not to exceed six (6) months, provided that a financial guarantee in an amount equal to 110% of the installed cost of the materials is posted with the city prior to occupancy or use of the site.
5. Maintenance. All landscaping shall be properly maintained. Dead plant materials shall be replaced in a timely manner, and landscaped areas shall be kept free of weeds and debris. Failure to maintain landscaping properly shall constitute a violation of this Ordinance.
6. Landscape plans shall be approved by the Planning Office Staff. (Ordinance No. 2020-22 – October 6, 2020)

## **C. FENCES, HEDGES AND WALLS**

1. GENERAL.
  - a. Fences, hedges and walls shall be permitted in all zoning districts.
  - b. Additional fencing and/or screening requirements for specific uses as outlined in this chapter.
  - c. Electrical charged fences, walls, or hedges are prohibited, except as permitted for correctional institutions.
  - d. All fences shall be constructed so that all structural members shall be located on the inside of the fence. The inside shall be the side that faces the interior of property where the fence is to be built.
2. MATERIALS.
  - a. Fences, hedges and walls may be of one (1) or more of the following materials:
    - i. Brick
    - ii. Chain Link (PVC coated or non-coated)
    - iii. Live Hedges of a non-noxious nature
    - iv. Masonry (architectural finish)
    - v. Ornamental wrought iron
    - vi. PVC/Vinyl/Composite (stockade, split-rail, picket, lattice)
    - vii. Stone
    - viii. Treated Wood (stockade, split-rail, picket, lattice)
  - b. The following materials are specifically prohibited as fence materials:
    - i. Barbed Wire (including concertina, or razor, except correctional facilities)
    - ii. Chicken wire
    - iii. Construction fence (except during construction)
    - iv. Pallets/skids (composite/wood/PVC)
    - v. Plastic or fiberglass sheets
    - vi. Plywood/oriented strand board (OSB)
    - vii. Scrap lumber
    - viii. Sheet metal
    - ix. Woven wire
  - c. No fence or wall shall be constructed of or contain broken glass, spikes or sharp dangerous objects, except blunted decorative spikes that are part of an ornamental wrought iron shall be permitted.



- d. See Appendix (A) for example of each fence material as well as type.
3. MAINTENANCE.
- a. All fences shall be maintained to the standards to which they were designed and installed.
  - b. Maintenance of fences, walls or live hedges is the responsibility of the property owner or occupant.
  - c. Failure to maintain fences, walls or live hedges shall constitute a violation of this ordinance.
4. LOCATION.
- a. Yard – Front
    - i. Properties located at corners of intersecting street are considered as having two (2) front yards.
    - ii. No fence, walls, or hedge shall be permitted to encroach into the required visual clearance on corner lots, as outline in Article IV, Section F.
    - iii. Fences permitted in front yards shall be split rail, ornamental wrought iron, chain link, or picket fences, with forty percent (40%) open spacing, not to exceed three (3) feet in height.

*(Note: Diagrams are provided for reference purposes only as examples to assist with clarity. The Written text withing this ordinance shall govern.)*

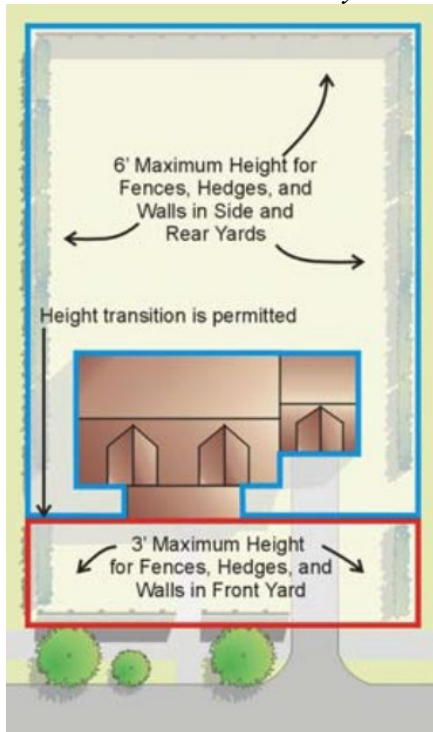


Figure 1 Front Yard Setback

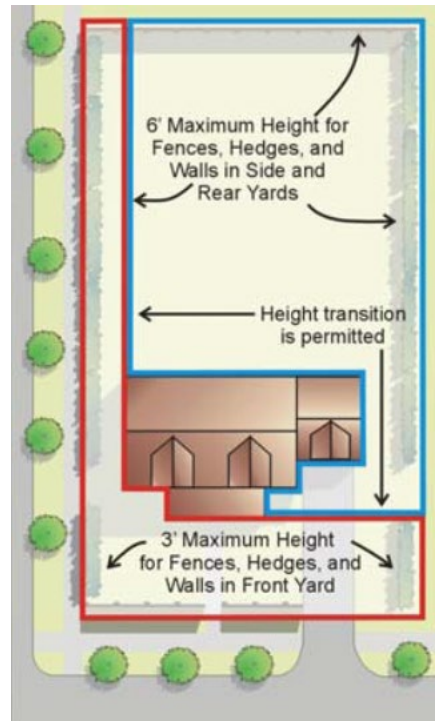
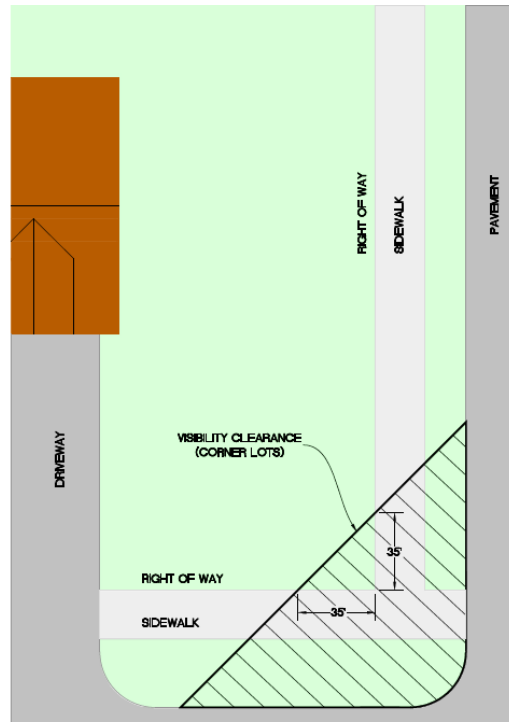


Figure 2 Front Yard Setback  
(frontage on two (2) streets)



*Figure 3 Visual Clearance - Corner Lots*

- b. Yard – Sides and Rear
  - i. Fences, hedges or wall may be placed on the property line if a boundary survey certified by an Indiana Registered Land Surveyor verifying location of property lines is submitted to the Planning Office for the issuance of the Improvement Location Permit. (Ordinance No. 2020-22 – October 6, 2020)
  - ii. When there is no boundary survey certified by an Indiana Registered Land Surveyor, said fence, hedge or wall shall be a minimum of two (2) feet from the property line.
5. RIGHT-OF-WAY, PUBLIC
  - a. No fence, hedge or wall shall be constructed in or allowed to encroach upon any public right-of-way.
  - b. Fences, hedges or walls shall be a minimum of five (5) feet from any public right-of-way.
6. EASEMENT.
  - a. No fence, hedge or wall shall cross a public or private easement without the written permission of the easement holder
  - b. No fence, hedge or wall shall be located within a utility or drainage easement.
7. MEASURING.
  - a. Fences, hedges, and walls shall be measured vertically from the surrounding grade, including the base of any berms, to the top of the fence.
  - b. Fence post or column may extend six (6) inches above the top of the fence.

- c. Fences on Retaining Walls
    - i. Combination of retaining walls and fences shall be permitted.
    - ii. The retaining wall portion may be erected vertically to the higher level of finished grade.
    - iii. The fence atop a retaining wall shall be of materials identified in this ordinance and to a height of six (6) feet.
    - iv. Measurement of the fence shall be taken vertically from the top of the retaining wall to the top of the fence.
8. REQUIREMENTS SPECIFIC TO ZONING DISTRICTS AND SPECIFIC USES
- a. R-4 – Manufactured Home Community District.
    - i. Storage of residents’ boats, recreational vehicles (RV), snowmobiles, travel trailers, trailers, shall only be stored in designed storage areas that are separated by fences, screens or otherwise enclosed to a height of six (6) feet.
  - b. CO – Corridor Overlay District:
    - i. Chain-link fence, unpainted or unfinished masonry walls are prohibited. Masonry walls visible from the public right-of-way or adjacent lots shall be architecturally finished.
    - ii. Outdoor storage shall be screened on all sides by a masonry walls or, opaque fence, constructed of materials compatible with the architecture of the primary structure six (6) feet in height.
    - iii. The exterior side of the screening walls or fences shall be planted with landscaping materials to create a landscape buffer that is at least four (4) feet in height at the time of planting. (Ordinance 2021-17, June 15, 2021)
  - c. Government, public utilities or essential service buildings:
    - i. May be secured with fences, walls or hedges at side and rear property line to a minimum height of eight (8) feet and maximum height of ten (10) feet.

Exception: Correctional Facilities
  - d. Manufacturing facilities storage area:
    - i. Manufacturing facilities on-site storage of production materials, waste containers shall be effectively screened on all sides by an opaque fence, wall or hedge to a minimum height of eight (8) feet and a maximum height of ten (10) feet.
    - ii. All access points shall be gated and closed at all times when not in use.
      - 1. Gates shall be opaque and be a minimum height of six (6) feet.
      - 2. Gate material shall match the style of the fence, wall or hedge.
  - e. Outdoor storage, display and/or sales areas:
    - i. For all zoned district, except as further specified in this section, all outdoor storage, display, sales areas shall be effectively screened on three (3) sides by an opaque fence, wall or hedge to a minimum height of eight (8) feet and maximum height of the ten (10) feet.

- f. PUD, Planned Unit Development:
  - i. Fences, hedges or walls not permitted herein but established in conjunction with a planned unit development (PUD) plan may be authorized as part of that planning unit development (PUD) plan.
- g. Telecommunications Facility Sites:
  - i. Telecommunication facilities shall be provided with security fencing as follows:
    - 1. Completely surround the tower and equipment buildings;
    - 2. Opaque of wood, brick, masonry, or stone;
    - 3. Minimum height of eight (8) feet and a maximum height of ten (10) feet;
    - 4. Access gate of permitted materials a minimum height of eight (8) feet.
- h. Junk Yards, Vehicle Salvage/Repair, Vehicle Impoundment Yards, Scrap or Recycling facilities:
  - i. Junk yards, vehicles salvage yards, vehicles repair, vehicle impoundment yard, scrap or recycling facilities shall be screened by an opaque fence, wall, or hedge to a minimum height of eight (8) feet and a maximum height of fifteen (15) feet in height.
  - ii. Fences, walls or hedges shall be setback fifteen (15) feet or more from property lines.
  - iii. All access points shall be gated and closed at all times when not in use.
  - iv. Gates shall be opaque and be a minimum height of six (6) feet.
  - v. Gate material shall match the style of the fence, wall or hedge.  
(Ordinance No. 2019-23 - November 29, 2019)

## **ARTICLE X SIGNS**

### **A. SIGN STANDARDS.**

The intent of this Section is to avoid the proliferation of signage encourage signs to be compatible with the scale of buildings, and the surrounding features maintain and enhance the aesthetic environment of the community eliminate potential hazards to motorists, and pedestrians resulting from signs; and promote the health, safety, and welfare of the residents of the City of Rushville. Anyone wishing to vary from the following standards is required to obtain a development standards variance from the Board of Zoning Appeals pursuant to this ordinance.

### **B. GENERAL SIGN STANDARDS.**

It shall be unlawful for any property owner(s) to erect, construct, enlarge, move or convert any sign within the City of Rushville, or cause the same to be done without first obtaining a sign permit. The following general sign standards apply to all signs within the City of Rushville.

1. Measuring sign area and height. The sign area shall be calculated by multiplying the maximum vertical dimension by the maximum horizontal dimension including the extreme limits of characters, lettering or figures. The sign height shall be measured from finished grade at the edge of the adjacent right-of-way to the highest point of the sign, and include any poles or other supports. Sign height shall not be measured from the top of any berm or other artificial grade.
2. Inspection. Signs may be inspected periodically to determine continued compliance with this Ordinance.
3. Removal of sign. The Executive Director may order the removal of any sign erected or maintained in violation of this Ordinance, at the cost of the property owner(s).
4. Maintenance. All signs and their components shall be kept in good repair and in safe, neat, clean, attractive, and structurally sound condition. Owners shall repair or otherwise cause any sign not found to be in good repair or in a safe, neat, clean, attractive and structurally sound condition to be brought into compliance with this ordinance within ten (10) days of notice of violation. Within thirty (30) days of the removal of a sign, the owner(s) shall, at the owner's expense, repair damaged areas when signs are removed.
5. Abandoned sign structures. Signs unused for a period six (6) months shall be deemed as abandoned. Sign structure(s), including poles, frames, supports, and other structural elements, including, electrical, or mechanical, or any other element(s), shall be removed at the owner's expense.
6. Illuminated signs. Illuminated signs, either internal or external shall comply with the following:
  - a. Illuminated signs shall comply with the requirements of the Indiana Electric Code.
  - b. Illuminated Sign. Sign components shall be certified by Underwriters Laboratories (UL).
  - c. All illuminating elements shall be kept in satisfactory working condition or immediately repaired or replaced.

- d. Neither the direct nor reflected light(s) from illuminated sign(s) shall not create a reflection that would create a traffic hazard to operators of motorized vehicles on any roadway.
- e. Illumination from any sign shall be shaded, shielded, or directed to prevent spillage onto adjacent properties. In no instance shall the light intensity or brightness exceed three-tenths (0.3) foot-candles at the property line of any adjacent property located in a residential zoning district, or five-tenths (0.5) foot candles at the property line of any adjacent property located in a non-residential zoning district.

List of permitted signs, by zoning district shall be as follows:

Sign Standards						
Standards	Zoning District					
	R-3 R-4	CBD	C-1	C-2	M-1	M-2
<b>Step 1 - Sign Area Calculations</b>						
Building Frontage/Wall Sign Size Ratio (the total sign area permitted, per use)	1.5 square feet for each linear foot of building frontage	1.5 square feet for each linear foot of building frontage	2 square feet for each linear foot of building frontage	2 square feet for each linear foot of building frontage	2 square feet for each linear foot of building frontage	2 square feet for each linear foot of building frontage
Aggregate Sign Area (max.) (square feet)	100	200	200	200	200	200

<b>Step 2: Permitted Sign Types</b>						
Wall Sign		P	P	P	P	P
Awning Sign		P	P	P	P	P
Projecting Sign, provided there is only one per business		P	P	P	P	P
Window Sign			P	P	P	P
Free-standing/Pylon Sing			S	S	S	S
Ground/monument Sign	P	P	P	P	P	P
Changeable Copy Sign			P	P	P	P
Electronic Message Board		P	P	P	P	P
Time & Temperature Sign Component			P	P	P	P
<b>Step 3: Determine General Sign Standards</b>						
Maximum Wall Sign Size (square feet)		100	200	200	200	200
Maximum Projecting Sign Size (square feet)		24	24	24	24	24
Maximum Ground/Monument Sign Height (feet)	6	6	6	8	8	8
Maximum Free-standing/Pylon Sign Area (square feet)	32	32		50	50	50
Maximum Multi-tenant Joint Sign Area (square feet)			+25%	+25%	+25%	
Maximum Multiple-floor Sign Area (square feet) (separate tenant 1 square foot per 1 linear feet of		50	50	50	N/A	N/A

frontage)						
Maximum Window Sign Area Coverage		25%	25%	25%	25%	25%

P = Permitted

S = Special Exception

### C. SIGNS FOR GROUND FLOOR USES.

The following standards shall be applicable to any ground floor occupancy, including uses that occupy multiple floors.

1. Sign area. The sign area shall be equivalent to one and one-half (1 ½) square feet for everyone (1) linear foot per tenant/business use with frontage on a public right-of-way or private street.
  - a. Sign aggregate area shall not exceed 100 square feet for each tenant/business.
2. Number of signs. Only one (1) sign, from the list below, shall be permitted per tenant/business use.
3. Sign types permitted. Any combination of signs, from the list below, may be used for each ground floor use provided they are consistent with the total area allowed per use, the total number of signs permitted per use.
  - a. Wall sign;
  - b. Awning sign;
  - c. Window sign;
  - d. Free-standing/unified development sign;
  - e. Ground/monument sign;
  - f. Changeable copy;
  - g. Electronic message board; or
  - h. Time and temperature sign component.

### D. SIGNS FOR UPPER-FLOOR USES.

1. Signage for an upper-floor use may be permitted provided:
  - a. The upper floor of the structure is occupied by a single use that is separate and distinct from the use located on the ground floor;
  - b. There is only one (1) square foot of sign area for every one (1) linear foot of building frontage; and
  - c. The total square footage of signs on upper floor(s) shall not exceed 50 square feet
2. In the event that the upper-floor sign is a wall sign, the wall sign shall be located on the structure between the eaves, cornice or other roof element and the top of windows on the uppermost floor.



## **E. SIGN DESIGN AND CONSTRUCTION REQUIREMENTS, GENERAL.**

1. Design. All signs shall be designed to be an integral part of the architecture and landscape.
2. Compatibility. The colors, materials, and style of signage shall be architecturally compatible and accentuate the buildings and landscaping on the site. The colors, materials, and lighting of sign(s) shall be restrained and harmonious with the building and site to which it principally relates. Signs shall not compete with or obstruct the visibility of sign(s) on adjacent property.
3. Scale and proportion. Every sign shall be designed to be proportionate with the scale and design of the principle building to which the sign it related and the surrounding area.
4. Franchise signs. Identification signs of standardized design, such as corporation logos, shall comply with the criteria of this ordinance.

## **F. SIGN DESIGN AND CONSTRUCTION REQUIREMENTS, BY TYPE.**

1. Unified development sign.
  - a. Freestanding unified development signage shall be ground mounted and monument-type.
  - b. Pylon signs, may be allowed as a freestanding development sign as a special exception,
  - c. Unified developments under common ownership or management with shared parking, with or without out lots, shall only be allowed to construct a free-standing unified development sign rather than individual free-standing signs.
    - i. All other signage for the development shall be as prescribed by this ordinance.
    - ii. All free-standing unified development signs shall comply with the following provisions:
      1. Free-standing unified development signs. Free-standing unified development signs should be monument style signs. In the event that a monument style sign is not feasible, as determined by the Planning Office Staff a pylon sign may be used instead, provided that it is approved as part of a site development plan, and meets the following standards: (Ordinance No. 2020-22 – October 6, 2020)
        - A. The maximum height of a free-standing unified development sign shall be eight (8) feet. A free-standing unified development sign shall not exceed the height of the tallest building.
        - B. A free-standing unified development sign shall not exceed 200 square feet.
  - d. Wall-mounted unified development signs.
    - i. Wall-mounted unified development signs shall be permitted for unified developments in non-residential districts, provided the following standards are met:
      1. The total area of a wall-mounted unified development sign shall be limited to 10% of the façade of the building, or 40 square feet, whichever is the less.

2. Each portion of the sign identifying an individual business shall not exceed six (6) square feet.
  3. Wall-mounted unified development sign shall not extend above the roofline of the building on which the sign is located.
2. Subdivision entry sign.
    - a. One (1) double-sided or two (2) single-sided ground/monument type signs shall be permitted at each entrance to a subdivision, apartment complex, or other residential development. Subdivision entrance signs, landscaping, and decorative walls shall be shown on development plans, site plans, and subdivision plats.
      - i. Sign area. Subdivision entry sign(s) are limited to 32 square feet.
      - ii. Height. Subdivision entry signs are limited to six (6) feet in height, measured from finish grade. The natural grade shall not be altered by mounding, landscaping or other similar alterations to determine maximum height above finished grade.
      - iii. Setback. Subdivision signs shall be setback a minimum of two (2) feet from any right-of-way, except when placed in a median of a boulevard.
        1. Subdivision entry sign(s) shall not be placed in areas required visible sight distance.
      - iv. Features. Ground/monument subdivision entry signs shall incorporate design features into the structure such as decorative brick or stone walls, lighting and landscaping.
      - v. Landscaping. For every one (1) square foot of sign area there shall be a minimum of two (2) square feet of landscaping consisting of shrubs and perennial ground cover at the base of the sign structure.
  3. Street sign. Street name signs shall be a minimum of 36 inches wide by a minimum of eight (8) inches tall. The letters on the sign shall be a minimum of six (6) inches in height.
  4. Awning sign. Awning signs shall be considered as wall sign and shall count toward the total square footage of wall signs permitted.
    - a. Awning signs shall contain printing or sewn on lettering.
    - b. Awnings signs shall be mounted on the façade of the principle structure.
    - c. Awning sign shall not be backlit, nor shall the awning be closer than eight and one-half (8 ½) feet above finished grade level.
  5. Wall sign. Wall signs shall be located on the facade of the primary structure facing a public or private street.
    - a. Wall sign shall not exceed 50% of the maximum sign area, nor shall a wall sign project more than 12 inches from the wall.

6. Double-faced sign. Unless otherwise prohibited by this ordinance, all signs permitted by this ordinance may be constructed as a double-faced sign.
  - a. When a sign is double-faced (two (2) sided), only the sign square footage of one side shall be used to calculate the signs total square footage, provided that the two sides are identical and placed back-to-back.
    - i. The maximum distance between the two (2) sides shall not exceed two (2) feet at any point.
7. Ground/monument sign structure. One (1) ground/monument sign per lot shall be permitted provided the ground/monument sign does not exceed 36 square feet or six (6) feet in height above finished grade level.
  - a. Ground/monument signs shall be ten (10) feet from any public right-of-way.
  - b. An increase in square footage may be allowed for multiple tenant usage.
  - c. All ground/monument sign structures shall be constructed of decorative brick, stone, or other masonry, stucco, wood or metal, with the base of the structure constructed of decorative brick, stone, or masonry.
  - d. A minimum of two (2) square feet of landscaping consisting of shrubs and perennial groundcover shall be required for every one (1) square foot of sign square footage.
8. Changeable copy signs. Changeable copy signs are permitted provided the changeable copy display is static, and the copy is manually changed. Changeable copy signs are those such as theater marquee, or free-standing sign displaying fuel prices or such similar signs. (Ordinance No. 2020-22 – October 6, 2020)
9. Electronic message board. Electronic message boards shall be permitted subject to the following:
  - a. Location.
    - i. Electronic message board shall not be permitted in residential zoned districts.
    - ii. Electronic message board shall not be permitted within 125 of a signalized intersection.
    - iii. Electronic message board shall be located on the site of the use identified or advertised by the sign.
  - b. Setback from residential districts. The leading edge of any electronic message board shall be 100 feet from an adjacent residential zoned district.
  - c. Setback from other electronic message boards. Electronic message board shall be separated from all other electronic message boards at a minimum of 35 feet.
  - d. Orientation. Electronic message board that are within 150 feet of residential uses shall be oriented such that no portion of the electronic message board is visible from a residential use that is located in a residential zoned district.
  - e. Duration. The message copy shall not change more than once every twelve (12) seconds. (Ordinance No. 2020-22 – October 6, 2020)
  - f. Hours of operation. Electronic message board located within 600 feet of a residential use shall not be illuminated between the hours of 10:00 p.m. and 6:00 a.m.

- g. Brightness. Electronic message board shall not exceed 460 foot-candle during daylight hours or 46 foot-candles for the time period between 1/2 hour before sunset and 1/2 hour after sunrise.
    - i. All electronic message boards shall be equipped with an ambient dimmer control and a black background.
- 10. Time and temperature sign components. Time/temperature sign components shall be permitted and count toward the total sign footage, and shall meet the development standards that are consistent with the manner in which they are mounted.
  - a. The illumination of the copy shall not cause glare to be inflicted upon adjacent property owners or the traveling public.
  - b. Time and temperature sign components shall not be subject to the duration limitations placed on electronic message boards.
- 11. Model home/temporary sales facility sign.
  - a. Wall, awning, or ground signs shall be permitted on the lot of the sales facility and limited to a total of 32 square feet.
  - b. In addition, individual model homes may have one (1) sign not to exceed four (4) square feet and shall be placed a minimum of ten (10) feet from a public right-of-way and ten (10) feet from an adjacent property line.
  - c. Signs shall not be located in the required sight distance at intersections.
- 12. Traffic signs and pavement marker.

Private directional traffic signs and pavement markings intended to direct and control the movement of traffic into, out of, and within the site shall comply with the Manual on Uniform Traffic Control Devices as published by the Indiana Department of Transportation.
- 13. Warning sign.
  - a. "No Swimming" and "No Ice-Skating" signs shall be posted at all detention and retention ponds in all developments.
  - b. Where a pond is stocked with fish or where fishing may otherwise be possible, a sign shall be posted warning that "anyone under the age of 18 must be accompanied by an adult."
- 14. Construction signs. Signs posted on a construction site shall be permitted, provided that:
  - a. Shall not be located in a right-of-way;
  - b. No more than two (2) construction signs per property;
  - c. No single sign shall exceed six (6) square feet if located in a residential zoned district, or 32 square feet if located in a non-residential zoned district; and
  - d. All construction signs shall be removed when construction activity ceases.

## **G. TEMPORARY SIGNS.**

1. Temporary signs shall require a permit for a specified length of time.
2. Temporary signs shall comply with the following:
  - a. Duration. Temporary signs for non-residential use are limited to seven (7) consecutive days. Four (4) times in one (1) calendar year.
  - b. Illumination. Illumination of temporary signs shall comply with Illumination portion of this ordinance. Temporary signs shall not use any flashing, or blinking lights or other effect,
  - c. Height and area. Temporary sign shall not exceed 12 square feet or four (4) feet in height, measured from finished grade.
  - d. Setback. Temporary signs shall be placed a minimum of ten (10) feet from right-of-way and property lines.
  - e. Conversion to a permanent sign. No Temporary sign shall be used as a permanent sign.
  - f. Sandwich board signs. One (1) sandwich board sign may be permitted, provided the Sandwich board sign does not exceed four (4) feet in height, two (2) feet in width, or eight (8) square feet
    - i. Each sandwich board sign shall be located within ten (10) feet of the primary entrance of the business using the sandwich sign board.

## **H. EXEMPT SIGNS.**

The following signs are exempt from the provisions of this ordinance if in compliance with the conditions specified.

1. Integral identification features. Names of buildings, date of erection, monumental citations, commemorative tablets and the like when carved into stone, concrete or similar material or made of bronze, aluminum, or other permanent type construction and made an integral part of the structure.
2. Public signs erected by or on the order of public official(s) in the performance of public duty, such as signs to promote safety, no trespassing, or traffic signs; memorial plaques; signs of historical interest; and signs directing people to public facilities.
3. Utility marker signs necessary to mark cables and lines for public and private utilities.
4. Real estate signs, located on the premises outside of the right-of-way, do not exceed more than two (2) per property, and do not exceed of six (6) square feet per sign in residential zoned districts and 32 square feet per sign in all other zoning districts.
  - a. Subdivision (defined as the area included in each primary and preliminary plat) shall be permitted one (1) temporary sign, not exceeding 32 square feet.
5. Emergency signs, such as those used and authorized by the Board of Public Works.
6. Sponsorship signs, such as those located inside athletic fields and at other athletic facilities and community facilities, provided such signs are oriented to those visiting and using the facility. Sponsorship sign are permitted not to exceed 90 days in one (1) calendar year.
7. Pennants, streamers and any combination of such signs, provided that they are not located in a right-of-way and their use is temporary and does not exceed 30 days in any three (3) month period.
8. One banner shall be permitted per business, provided it does not exceed 24 square feet, and is limited to 30 days of use in any four (4) month period.

9. Directional signs that are located on premise are permitted and are limited to a height of four (4) feet above finished grade or eight (8) square feet in area. On-premise directional signs shall be setback a minimum of two (2) feet from all public rights-of-way, measured from the right-of-way, and shall be free of advertising.
10. No window sign shall exceed 10% of the window area, nor shall any individual letter be greater than three (3) inches in size.
11. Temporary non-commercial opinion signs are permitted, as following:
  - a. All opinion signs shall be placed a minimum of five (5) feet from the property line. Political signs shall not be placed within public right-of-way.
  - b. Opinion sign shall not be illuminated.
  - c. The sign shall be less than nine (9) square feet and three (3) feet in height measured from the ground.
  - d. No more than two (2) opinion signs per residential unit shall be permitted throughout one (1) calendar year.
  - e. No opinion shall be erected for a period exceeding six (6) consecutive months in any one (1) calendar year.
12. In all zoned districts, political signs shall be permitted for 60 days for primary or general election, including special elections.
  - a. Political sign shall be removed from the property within five (5) days of the conclusion of the Election Day.
  - b. The maximum number of political and /or opinion signs permitted shall be equal to the number of offices and issues on the local ballot.
  - c. Political signs located in residential zoned areas shall be limited to six (6) square feet.
  - d. Political signs located in non-residential zoned areas shall be limited to 32 square feet.

## **I. PROHIBITED SIGNS.**

The following types of signs are hereby expressly prohibited.

1. Off-premise signs
2. Individual pole signs.
3. Portable signs.
4. Animated signs utilize any flashing lights, motion picture, laser, or visual projection of images or copy in conjunction with any business or advertisement.
5. Signs that emit audible sound, odor or visible matter.
6. Signs that purport to be, are an imitation of, or resemble an official traffic sign or signal or which bear the words "Stop", "Slow", "Caution", "Danger", "Warning", or similar words.
7. Signs that may be construed as a light of an emergency or road equipment vehicle.
8. Signs that hide any traffic or roadway sign, signal or device from view, or that interfere with sight visibility
9. Signs that are located in any right-of-way including those posted on utility poles or street signs are prohibited.
10. Signs that obstruct any door, fire escape, stairway, or any opening intended to provide entrance or exit for any structure.

11. Signs placed on vehicles or trailers parked on public or private property primarily for the purpose of displaying the sign.
  - a. Prohibited vehicle signs do not include those displayed on vehicles parked for the purpose of lawfully making deliveries, or sales or service calls.
  - b. Prohibited signs do not include vehicles which are customarily used for transporting persons or properties, or vehicles parked at a driver's place of residence during non-business hours.
12. Posters, placards and other similar signs attached to light poles, gas station canopy supports, trees, and elsewhere outdoors.
13. Signs that are mounted to the roof of a structure or are mounted to the wall of a structure and extend higher than the wall of the structure.
14. Home occupation signs.
15. Inflatable signs.

## **ARTICLE XI NON-CONFORMING USES**

Lawful existing uses which would be prohibited or restricted under the terms of this Ordinance, or future amendments. And which do not conform to the regulations of the district in which they are located, shall be subject to certain limitations. The regulations set forth below are intended to provide a means whereby nonconforming uses can be gradually eliminated and re-established in more suitable locations in the City.

### **A. GENERAL**

1. Purpose and intent. Nonconforming uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. It is the general policy of the city to allow legally existing uses and structures to continue in productive use, but also to bring these uses as nearly into compliance with existing regulations as is reasonably possible.
  - a. These regulations are intended to do the following:
    - i. Recognize the interests of property owners in continuing to use their property;
    - ii. Promote reuse and rehabilitation of existing buildings; and
    - iii. Place reasonable limits on the expansion and alteration of nonconformities that have the potential to adversely affect surrounding properties or the community as a whole.
  - b. Applicability. This ordinance applies to nonconformities created by initial adoption or amendments to this ordinance. It also applies to nonconformities that were legal nonconformities under previously applicable ordinances, even if the type or extent of nonconformity is different.
  - c. Authority to continue. Any nonconformity that legally exists on the effective date of this ordinance or that becomes nonconforming upon the adoption of any amendment to this ordinance may be continued in accordance with the provisions of this ordinance.
  - d. Determination of nonconformity status.
    - i. The burden of establishing that any nonconformity is a legal nonconformity shall in all cases be solely upon the owner of such nonconformity.
    - ii. Illegal nonconforming use shall not be validated by the adoption of this ordinance.
    - iii. The casual, intermittent, temporary or illegal use of land, buildings or premises shall not be sufficient to establish the existence of a nonconforming use and the existence of a nonconforming use on part of a lot or tract shall not be construed to establish a nonconforming use on the entire lot or tract.



- e. Minor repairs and maintenance. Incidental repairs and normal maintenance of nonconformities shall be permitted unless such repairs increase the extent of nonconformity or are otherwise expressly prohibited by this ordinance. Nothing in this ordinance shall be construed to prevent structures from being structurally strengthened or restored to a safe condition, in accordance with an order of a by the city.
- f. Change of tenancy or ownership. Change of tenancy or ownership shall not affect the nonconforming status of a property or use, provided that there is no change in or expansion of the use or nonconformity.

## **B. NONCONFORMING USES.**

- 1. Existing nonconforming use.
  - a. The lawful nonconforming use of a structure, or existing at the time of the adoption or amendment of this ordinance may be continued although the use does not conform to the provisions of this ordinance.
  - b. Only the portion of the land in actual use may be so continued, and the structure or area within which the use is contained may not be extended, enlarged, reconstructed, substituted, moved, or structurally altered except when required to do so by law or official order, so as to comply with the provisions of this ordinance.
- 2. Total lifetime structural repairs. Total lifetime structural repairs or structural alterations to a structure with a nonconforming use shall not exceed 50% of the assessed value of the structure at the time it became a nonconforming structure and use unless it is permanently changed to conform to the use provisions of this ordinance.
- 3. Change of use.
  - a. Change to conforming use.
    - i. A nonconforming use may be changed to any use that is allowed in the zoning district in which it is located, subject to standards and requirements applicable to the new use.
    - ii. When a nonconforming use is converted to a conforming use it may not be changed back to a nonconforming use.
  - b. Change to other nonconforming use.
    - i. The Board of Zoning Appeals may approve a change of use to a use not otherwise allowed in the underlying zoning districts if it finds that the new proposed use will be no more injurious than the previous use or will decrease the extent of the nonconformity.
    - ii. If the Board approves such a change of use, it shall be authorized to impose conditions it deems necessary to reduce or minimize any potentially adverse effect upon other property in the neighborhood, and to carry out the general purpose and intent of this ordinance.
  - c. Substitution of new equipment. The Board of Zoning Appeals may permit the substitution of new equipment (e.g., fencing, mechanical equipment) if such equipment will reduce the incompatibility of the nonconforming use with neighboring uses.

## **C. NONCONFORMING STRUCTURES**

1. Continuance.
  - a. The conforming use in a nonconforming structure existing at the time of adoption or amendment of this ordinance may be continued.
  - b. Additions or enlargements of such structures are permitted provided that the structure with such addition or enlargement complies with the setback, height, parking and loading requirements of this chapter.
2. Damage or destruction
  - a. Limitation on reconstruction. Existing nonconforming structures with a conforming use that are damaged or destroyed by fire, explosion, flood, or other disaster, to the extent that the cost of repairs exceeds 50% of its assessed value at the time it became nonconforming, may be reconstructed and shall conform with the established building setback lines, height, parking, loading, and access provisions of this ordinance.
  - b. Residential use exception. Notwithstanding division (B)(1) above, a single-family residential structure that is damaged or destroyed by fire, explosion, flood or other disaster maybe reconstruction using the same building footprint as the damaged or destroyed structure.
3. Abandonment or discontinuance. If a nonconforming use other than a single-family residential use is discontinued or terminated for a period of 12 months, any future use of the structure, or land shall conform to the provisions of this ordinance.

## **D. NONCONFORMING LOTS.**

1. Legal lots of record.
  - a. In any zoned district in which a primary use is permitted, a primary use and customary accessory uses may be erected on any single lot on record at the effective date of this ordinance or amendment, notwithstanding limitations imposed by other provisions of this ordinance; provided, that such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership.
  - b. The provision of (A)(1) of this section shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that setback dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of setback requirements shall be obtained only through action of the Board of Zoning Appeals.
  - c. No division of land shall be made after the effective date of this ordinance which creates a lot with width or area below the requirements stated in this ordinance.
2. Nonconforming sites.
  - a. The provisions of this section apply to properties containing permitted uses but which do not comply with development standards of this ordinance, such as landscaping, parking, loading, or signs.

- b. Whenever a nonconforming use of a structure or a nonconforming structure is expanded or changed in such a manner as to require landscaping, such landscaping shall be installed before a certificate of occupancy is issued, unless a financial guarantee is posted under the terms of Article IX, Landscaping Plan (D)(9).

#### **E. NONCONFORMING SIGNS.**

- 1. Continuance.
  - a. Any legal nonconforming sign existing at the time of adoption or amendment of this ordinance may be continued.
  - b. Such sign shall not be relocated, moved, damaged and reconstructed, extended, enlarged, changed (including changing the sign face), altered, or modified unless it is brought into conformance with the provisions of this ordinance.
- 2. Signs in the right-of-way. No sign located in a public right-of-way shall be considered to be a legal nonconforming sign.

## **ARTICLE XII SPECIAL EXCEPTION**

### **A. PURPOSE.**

Special exception uses are uses of land specifically permitted within a zoning district only with the approval of the Board of Zoning Appeals, following a review of the use and its potential impact on its surroundings.

These uses are generally consistent with the purpose of the zoning district in which they are permitted but, due to unique operational characteristics, may not be desirable or compatible in all locations within the district.

Factors such as traffic, hours of operation, noise, odor, or similar potential nuisance effects require that the special exception use be evaluated relative to its appropriateness on a case-by-case basis.

This chapter establishes the review procedure for special exception uses and the statutory criteria that must be met for all special exception uses.

In addition, more specific requirements are established for certain individual uses, as necessary, to mitigate their potential negative impacts

### **B. APPLICATION.**

An application for a Special Exception Use shall be made on forms provided by the Planning and Zoning Office and available on the City of Rushville's official web site.

Applicable fees shall be paid at the time the Special Exception Use application filed with the Planning and Zoning Office.

### **C. GENERAL REVIEW CRITERIA.**

Applicant(s) requesting a special exception use shall have the burden to demonstrate that each of the following review criteria is satisfied, in addition to any specific requirements for the particular use specified in this ordinance.

1. Compatibility: The proposed Special Exception Use is in harmony with adjacent land uses.
2. Traffic. The Special Exception Use will not affect public street or right-of-way will not interfere with traffic flow or restrict access for emergency vehicles.
3. Parking: Off-street parking and loading areas are provided on the property of the Special Exception Use as set out in Article VIII Off-Street Parking Requirements of this Ordinance.
4. Refuse and service areas shall be located on the property of the Special Exception Use.
5. Impact to adjacent area: The Special Exception Use will not affect the value of adjacent properties in a substantially adverse manner.

## **D. SPECIFIC REQUIREMENTS**

### **1. Place of Worship**

The purpose of these requirements is to integrate places of worship into the fabric of the City's neighborhoods, but not at the expense of the residential character of the area. Therefore, the scale of the church, parking lots and related uses shall be compatible with abutting homes and in character with the surrounding neighborhood.

- a. The minimum lot area shall be one acre.
- b. Minimum lot width shall be 150 feet.
- c. Access: Primary access to the site shall be from a Public Street.
- d. Parking. The required number of off-street parking spaces shall be provided as set out in Article VIII, Off-Street Parking Requirements.
  - i. The required number of off-street parking facilities may be reduced at a rate of one (1) off street parking space for each lineal twenty-five (25) feet of street frontage for parallel parking provided the frontage street width from curb to curb measurement is not less than thirty-two (32) feet; and shall not be permitted in the following areas:
    1. Frontage within twenty (20) feet of a corner
    2. Frontage within ten (10) feet of each side of a driveway or alley
    3. Frontage within a fire hydrant zone.
- e. Lighting. Shall comply with Article V. Performance Standards; A. Lighting
- f. Dumpsters, trash containers, and services areas shall be screened as follows:
  - i. Screened on at least three (3) sides with either wood fencing or masonry walls to establish a visually opaque screen so as not to be visible from the street or adjacent properties.
  - ii. Screening shall be constructed a height of six (6) feet above the height of the dumpster, trash containers and service area.
  - iii. The dumpster enclosure materials shall be consistent with or complementary to the building materials of the primary structure.

### **2. Bed and Breakfast Homes**

Bed and Breakfast Homes as a Special Exception Use shall comply with the requirements set out in Article VII; C. Bed and Breakfast Homes.

## **E. COMMITMENTS AND CONDITIONS.**

1. The Board of Zoning Appeals may require the owner to make a written commitment.
2. Any such commitment shall be recorded in the Rush County Recorder's Office. A copy of any recorded commitments shall be provided to the Planning and Zoning Office for inclusion in the application file.

## **F. CONDITIONS:**

The Board of Zoning Appeals may impose reasonable conditions upon its approval as deemed necessary.

## **G. SPECIAL EXCEPTION USE EXPANSION.**

A structure or the area on a lot approved the Board of Zoning Appeals for Special Exception Use shall not be expanded, extended, or enlarged unless reauthorized by the Board of Zoning Appeals for granting a special exception.

#### **H. EXPIRATION OF SPECIAL EXCEPTION:**

If special exception use has not been established within one (1) year from the date the Special Exception Use was granted by the Board of Zoning Appeals, the approval shall be null and void.

#### **I. TERMINATION:**

A Special Exception Use may be terminated by the Board of Zoning Appeals under the following procedure:

1. Notice to Affected Party and Public Hearing:
  - a. Upon determination by the Planning and Zoning Office that possible grounds for termination exist, the matter shall be placed on the Board of Zoning Appeals agenda for a public hearing.
  - b. The Planning and Zoning Office shall notify the affected party of the hearing via Certified Mail a minimum of ten (10) days prior to the public hearing at which the case will be heard.

#### **J. GROUNDS FOR TERMINATION**

At the public hearing, the Special Exception Use shall be revoked if a finding is made by the Board of Zoning Appeals that one (1) or more of the following is true:

1. The facts on which the approval was based has substantially changed,
2. The execution of the approval is not consistent with a condition of approval,
3. The execution of the approval is not consistent with a written commitment, or
4. The approved was the result of fraud or the misrepresentation of facts. (Ordinance No. 2020-27 – December 15, 2020)

## **ARTICLE XIII ENFORCEMENT AND REMEDIES**

### **A. AUTHORITY TO ENFORCE**

The Planning Office Staff is hereby authorized to take those lawful actions necessary to enforce the terms of this Ordinance as well as conditions imposed by Advisory Plan Commission and Board of Zoning Appeals.

1. Inspections.
  - a. The authority to perform inspections, review applications and issue improvement location permits, and citations is hereby delegated to the Planning Office Staff.
  - b. The Planning Office Staff is authorized to make inspections of all lands located within the jurisdiction of the Advisory Plan Commission in order to enforce this ordinance.
  - c. In order to execute inspections, the Planning Office Staff shall have the right to enter upon any premises at any reasonable time for the purpose of carrying out their duties in the enforcement of these regulations.
  - d. If the owner or occupant of the premises refuses to permit entry, the Planning Office Staff may make application to any judge of the Circuit or Superior Courts of Rush County, Indiana, for the issuance of an administrative search warrant.
  - e. Such application shall identify the premises upon which entry is sought and the purpose for which entry is desired.
  - f. The application shall state the facts giving rise to the belief that a violation of this ordinance exists on such premises. (Ordinance No. 2020-22 – October 6/2020)
2. Stop-work orders. The Planning Office Staff is hereby granted the authority to issue a stop work order, as it relates to an Improvement Location Permit issued for any activity that is commenced without an Improvement Location Permit required by this ordinance or for any activity that is being carried out in a manner that violates this ordinance. (Ordinance No. 2020-22 – October 6, 2020)

### **B. VIOLATIONS.**

1. Complaint.
  - a. Whenever a violation of this ordinance occurs or is alleged to have occurred, any person may file a written complaint.
  - b. Such complaint stating fully the causes and basis thereof shall be filed with the Planning Officer.
  - c. The Planning Office Staff shall properly record such complaint and investigate in a timely manner.
  - d. If acts elicited by such investigation are sufficient to establish a reasonable belief that a violation has occurred on the part of the party investigated, such official shall issue a citation in accordance with this section and/or file with the City Attorney a complaint against such person requesting action thereon as provided by this ordinance and in accordance with law. (Ordinance No. 2020-22 – October 6, 2020)

2. Nuisance declared. Any buildings erected, raised or converted, or land or premises used in violation of any section of this ordinance or regulation thereof is hereby declared to be a common nuisance and the owner thereof shall be liable for maintaining a common nuisance, which may be restrained or enjoined or abated in any appropriate action or proceeding.
3. Injunction.
  - a. The Advisory Plan Commission, the Board of Zoning Appeals or the Planning Office Staff may institute a suit or injunction in the Circuit or Superior Court of Rush County to restrain any person from violating the sections of this ordinance. (Ordinance No. 2020-22 – October 6, 2020)
  - b. The Advisory Plan Commission or the Board of Zoning Appeals may institute a suit for mandatory injunction directing a person to remove a structure erected in violation of the sections of this ordinance or to make the same comply with its terms. If such Advisory Plan Commission or Board of Zoning Appeals is successful in its suit, the respondent shall bear the costs of the action including reasonable attorney's fees.
4. Other remedies. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

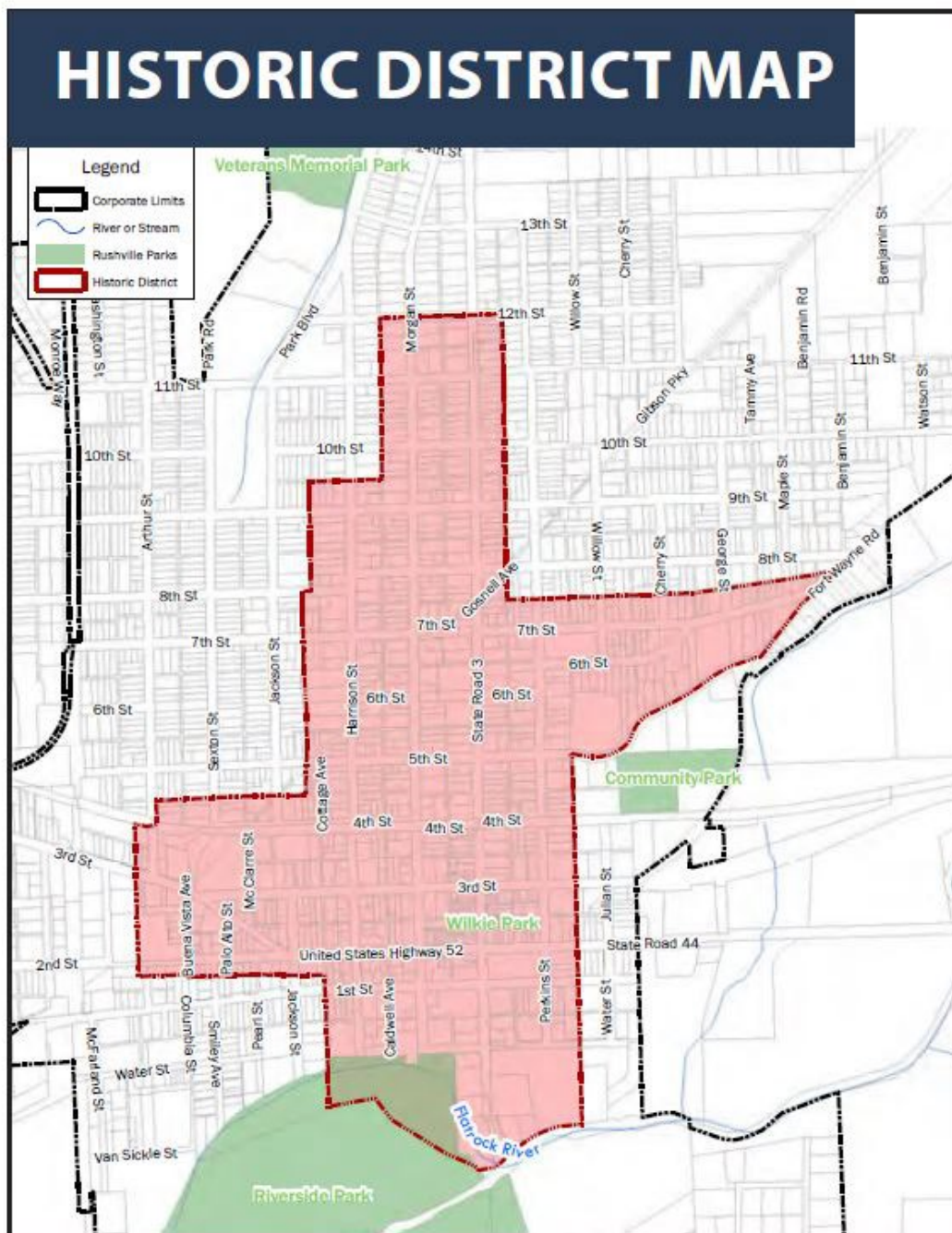
#### **C. PENALTY.**

1. Any person who violates any section of this ordinance or regulation thereof or fails to comply with any of its requirements, including violations of conditions and safeguards established in connection with this ordinance, shall be guilty of an ordinance violation and upon conviction, shall be fined in a sum not less than \$25 nor more than \$500 for each day's violation. Each day constitutes a separate day violation.
2. The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, realtor, agent or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offence and suffer the penalties herein provided.
  - a. Penalty for violations:
    - i. First offense: Written warning
    - ii. Second offense: \$100 fine
    - iii. Third offense: \$250 fine
    - iv. Fourth offense: \$500 fine
  - b. All fines collected shall accrue to the General Fund of the city. If not paid within 30 days, the offender is subject to court summons, with a maximum fine of up to \$2,500, attorney's fees, and court costs. (Ordinance No. 2020-27 – December 27, 2020)



## APPENDIX

## Historic District Map



## APPENDIX A – FENCING MATERIAL

Images and diagrams are provided for reference purposes only as examples to assist with clarity. The written text within the ordinance shall govern.

### Section 2 a – Examples of permitted materials:



*Figure 1 Brick*



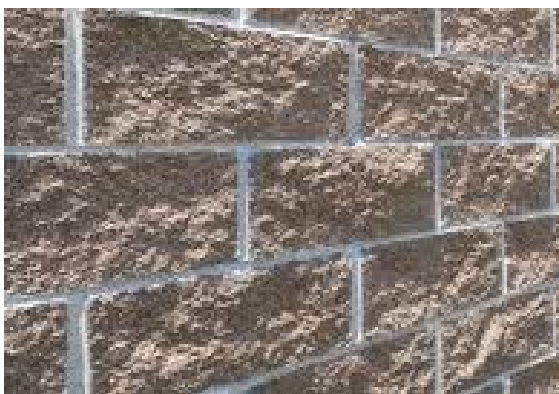
*Figure 2 Chain Link (PVC coated or non-coated)*



*Figure 3 Live Hedge (non-noxious nature)*



*Figure 3a Live Hedge (non-noxious nature)*



*Figure 4 Masonry (Architectural Finish)*



*Figure 5 Masonry (Decorative)*

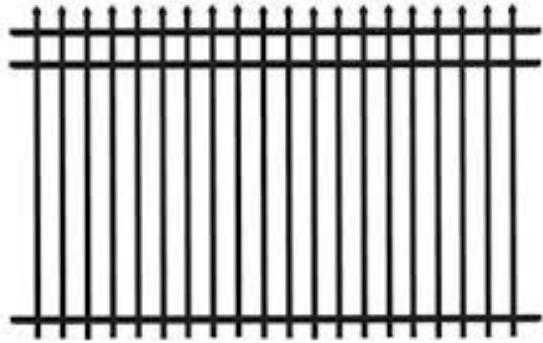


Figure 6 Ornamental Wrought Iron

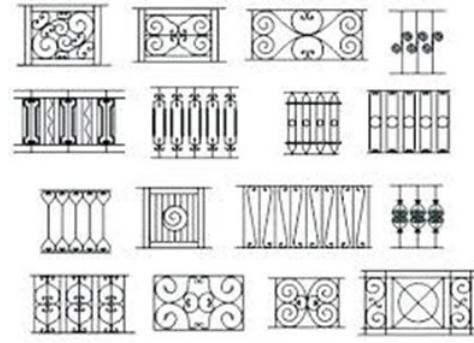


Figure 6a Variations Ornamental Wrought Iron



Figure 7 Stone



Figure 8 PVC/Vinyl



Figure 9 Treated Wood (stockade)



Figure 9a Treated Wood (picket)



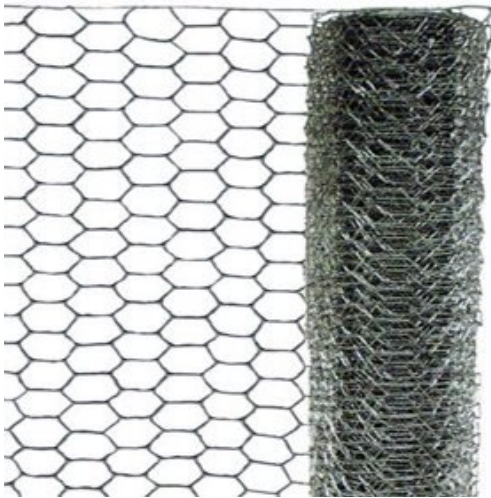
## Section 2 b – Examples of Prohibited Materials



*Figure 1 Barbed Wire*



*Figure 1a Concertina or Razor Wire*



*Figure 2 Chicken Wire*



*Figure 3 Construction Fence*



*Figure 3a Construction Fence*



*Figure 4 Pallet/Skid*



*Figure 5 Fiberglass Sheet Panel*



*Figure 5a Fiberglass Sheet Panels*



*Figure 6 Plywood*



*Figure 6a Oriented Strand Board (OSB)*



*Figure 7 Scrap Lumber*



*Figure 8 Sheet Metal*



*Figure 9 Woven Wire*

Examples of various “Types” of fencing:



*Figure 4 Decorative (wood)*



*Figure 5 Decorative (PVC/Vinyl)*



*Figure 6 Decorative (metal insert)*



*Figure 7 Decorative or Privacy (PVC/Vinyl)*



*Figure 8 Decorative or Privacy (PVC/Vinyl)*



*Figure 9 Decorative or Privacy (Treated Wood)*





*Figure 10 Decorative or Privacy (PVC/Vinyl)*



*Figure 11 Picket Fence (Treated Wood)*



*Figure 12 Picket Fence (PVC/Vinyl)*



*Figure 13 Split Rail (PVC/Vinyl)*



*Figure 14 Split Rail (Treated wood)*



*Figure 15 Stockade (Treated Wood)*



*Figure 16 Stockade (PVC/Vinyl)*



*Figure 17 Stockade (Treated Wood)*

(Ordinance No. 2019-23 – November 19, 2019)



## APPENDIX B – BICYCLE RACKS

Images and diagrams are provided for reference purposes only as examples to assist with clarity. The written text within the ordinance shall govern.

### *Standard Style Bike Rack*



*Figure 1 "U" Bike Rack*



*Figure 2*



*Figure 3. Circular Bike Rack*



*Figure 4. Circular Bike Rack*



*Figure 5. Post and Loop Bike Rack*



*Figure 6. Ballard and Loop Bike Rack*



*Figure 7. Loop Bike Rack*



*Figure 8. Loop Bike Rack*



*Figure 9.*



*Figure 10. Spiral Bike Rack*

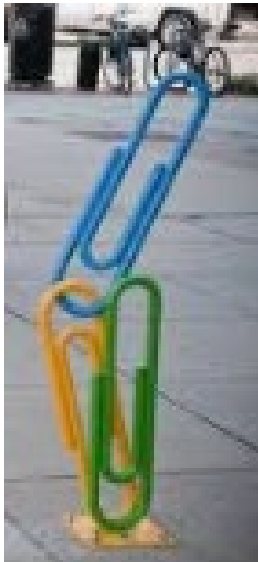


*Figure 11.*



*Figure 12.*

### *Architectural Custom Design Bike Racks*



*Figure 13. Paper Clip Bike Rack*



*Figure 14 Heart Bike Rack*



*Figure 15. Bicycle Bike Rack*



*Figure 16 "C" Bike Rack*