

L. HND, HISTORIC NEIGHBORHOOD DISTRICT

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 and to thereby promote the cultural, economic and general welfare of the public.

2. Historic Board of Review

- a. There is established the Rushville Historic Board of Review, hereinafter referred to as the Historic Board. The Historic Board shall consist of five voting members. The voting members shall be appointed by the Mayor of the city, subject to the approval of the Common Council of the city.

Voting members shall be residents of the city who are interested in the preservation and development of historic areas or districts. In addition, at least three members shall be property owners or shareholders of a property owner of real estate located within the Historic District. Voting members shall serve for a term of three years; however, the initial terms of members shall be one member for one year; two members for two years; and two members for three years in order for the terms to be staggered. After the initial appointment, no member shall serve more than two consecutive terms without a three-year layout. In the event any member shall no longer qualify because of residency or other requirements, that member shall resign when the disqualification occurs. Vacancies shall be filled in the same manner as the appointment and only for the unexpired term of the vacant member.

- b. The Mayor may, with the approval of the Common Council, appoint advisory members to the Historic Board as the Mayor considers appropriate.
- c. Members of the Historic Board shall serve without compensation but may be paid for reasonable expenses incurred in the performance of their duties.
- d. The Historic Board shall elect from its membership a Chairman and a Vice-Chairman, who shall serve for one year and who may be reelected. The Chairman shall preside over the Historic Board

and shall have the right to vote. In the absence or disability of the Chairman, the Vice-Chairman shall perform the duties of the Chairman. The Director of the Area Plan Commission shall serve as Secretary of the Historic Board. The Historic Board shall adopt rules for the transaction of its business not inconsistent with this code. The rules must include the time and place of regular meetings and a procedure for the calling of special meetings. All meetings of the Historic Board must be open to the public and a public record shall be kept of the Historic Board's resolutions, proceedings, and actions.

- e. The Historic Board shall hold regular meetings, at least monthly, except when it has no business pending.

3. Historic Preservation Officer

The Building Inspector, who shall be the administrator, and his staff shall provide such technical, administrative, and clerical assistance as required by the Historic Board of Review.

4. Powers and Duties of Historic Board

- a. The Historic Board shall be concerned with those elements of development, redevelopment, rehabilitation, and preservation that affect visual quality in an historic district, and with controlling signage. However, the Historic Board may not consider details of design, interior arrangements, or building features, if those details, arrangements, or features are not subject to public view, and may not make any requirement except for the purpose of preventing development, alteration, or demolition in the historic district obviously incongruous with the historic district.
- b. A Historic Neighborhood District recommendation may be initiated by any one of the following groups:
 - i. Owners of property in fee simple may petition the Historic Board for consideration of inclusion in the district.
 - ii. The Historic Board may draw and submit Historic Neighborhood District maps, in accordance with subsection (c) below, as an amendment.
 - iii. A member of the Common Council may nominate a

property to the Historic Board for consideration.

- c. In order to Board establish a Historic Neighborhood District , the Historic Neighborhood Board shall perform the following:
 - i. The Board should prepare a map describing the boundaries of the proposed district. The district may be limited to the boundaries of a property containing a single building, structure or site.
 - ii. After approval, the Board will submit the map to the Common Council for approval. Upon approval by the Common Council the revised district boundaries will take effect.

5. Historic District Boundaries.

The initial Historic District Boundaries shall be those adopted by the Common Council as part of the City of Rushville Comprehensive Plan adopted in 2003 and as amended in 2007 .

6. Relationship to Zoning Districts

The historic district regulations provided in this chapter are intended to preserve and protect the historic, architecturally worthy buildings, structures, sites, monuments, streetscapes, squares, and neighborhoods of the historic 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.

7. Certificate of Appropriateness Required

A Certificate of Appropriateness must be issued by the Historic Board of Review before a permit is issued for, or work is begun on, any of the following.

- a. Within all areas of the historic district:

- i. The demolition of any building;
 - ii. The moving of any building;
 - iii. A conspicuous change in the exterior appearance of existing buildings by additions, reconstruction, alteration, or maintenance involving exterior color changes;
 - iv. Any new construction of a principal building or accessory building or structure subject to view from a public way.
- b. Within a primary area of the historic district:
 - i. A change in walls and fences or construction of walls and fences, if along public ways; or
 - ii. A conspicuous change in the exterior appearance of nonhistoric buildings subject to view from a public way by additions, reconstruction, alteration, or maintenance involving exterior color changes.
- c. A Certificate of Appropriateness shall not be required for the removal, trimming, replacement, rearrangement or addition of vegetation, except as provided for in Section 6-101-4-L-14-9.

8. Application for Certificate of Appropriateness

Application for a Certificate of Appropriateness may be made in the office of the Building Inspector on forms provided by the Historic Board of Review as provided for in section 16. Detailed drawings, plans, or specifications are not required. However, to the extent reasonably required for the Historic Board to make a decision, each application must be accompanied by sketches, drawings, photographs, descriptions, or other information showing the proposed exterior alterations, additions, changes, or new construction.

9. Action on Applications for Certificates of appropriateness

- a. The Historic Board of Review 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 Building Inspector. 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, if any, are processed. If no building or demolition permits are 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 must state its reasons for the denial, in writing, and must advise the applicant. An application 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 the 30-day limit prescribed by divisions (B) and (C) above if the applicant agrees to it.
- v. A Certificate of Appropriateness permit shall be deemed to authorize the particular changes reflected on the permit. The permit will expire if, for any reason, the change has not commenced within one year, and the construction or alteration completed within 12 months after commencement of the work.
- vi. Certificates of Appropriateness shall be granted if the Historic Board determines that the proposed action is not obviously incongruous with the historic district and shall not be granted if the proposed action is obviously incongruous with the historic district. In determining whether a particular proposal is obviously incongruous with the historic district, the Historic Board shall take into account the purposes of this chapter, the visual compatibility standards contained in this chapter, the historic and architectural significance of the structure and the effect of the proposed change in diminishing or enhancing the significance, the effect of the proposed change on the streetscape, the effect of the proposed change on surrounding structures, and the effect of the proposed change on the district as a whole. The Historic Board shall act in a manner which preserves the visual aspects of the architectural and historic

character of the district by assuring that obviously incongruous changes are not allowed.

10. 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 its current site is inconsistent with division (a) above.

11. 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 of Review fails to approve the issuance of a Certificate of Appropriateness, the building may be demolished. However, before a demolition permit is issued or demolition proceeds, notice of proposed demolition must be given for a period fixed by the Historic Board, based on the Board's classification on the approved map, but not less than 60 days nor more than one year. Notice must be posted on the premises of the building proposed for demolition in a location clearly visible from the street. In addition, notice must be published in accordance with Indiana State Code.
- b. The Historic Board may approve a Certificate of Appropriateness at any time during the notice period. If the Certificate is approved, a permit for demolition shall be issued without further delay and demolition may proceed.

- c. A decision of the Historic Board is subject to judicial review as if it were a decision of a state agency.

12. Maintenance

Historic buildings shall be maintained to meet the applicable requirements established under statute for buildings generally.

13. Visual Compatibility

The construction of a new building or structure, and the moving, reconstruction, alteration, major maintenance, or repair involving a color change conspicuously affecting the external appearance of any nonhistoric building, structure, or appurtenance within the primary area must be generally of a design, form, proportion, mass, configuration, building material, texture, color, and location on a lot compatible with buildings in the historic district, particularly with buildings designated as historic, and with squares and places to which it is visually

14. Visual Compatibility Factors

Within the primary area of the historic district, new buildings and structures, as well as buildings, structures, and appurtenances that are moved, reconstructed, materially altered, repaired, or changed in color, must be visually compatible with buildings, squares, and places to which they are visually related generally in terms of the following visual compatibility factors.

Height. The height of proposed buildings must be visually compatible with adjacent buildings.

- a. The relationship of the width of a building to the height of the front elevation must be visually compatible to buildings, squares, and places to which it is visually related.
- b. The relationship of the width of the windows to the height of windows in a building must be visually compatible with buildings, squares, and places to which it is visually related.
- c. The relationship of walls to openings in the front facade of a building must be visually compatible with buildings, squares, and places to which it is visually related.

- d. The relationship of a building to the open space between it and adjoining buildings must be visually compatible to the buildings, squares, and places to which it is visually related.
- e. The relationship of entrances and porch projections to sidewalks of a building must be visually compatible to the buildings, squares, and places to which it is visually related.
- f. The relationship of the materials, texture, and color of the facade of a building must be visually compatible with the predominant materials used in the buildings to which it is visually related.
- g. The roof shape of a building must be visually compatible with the buildings to which it is visually related.
- h. Appurtenances of a building, such as walls, wrought iron fences, evergreen landscape masses, and building facades, must form cohesive walls of enclosure along the street, if necessary to ensure visual compatibility of the building to the buildings, squares, and places to which it is visually related.
- i. The size of a building and the building mass of a building in relation to open spaces, windows, door openings, porches, and balconies must be visually compatible with the buildings, squares, and places to which it is visually related.
- j. A building must be visually compatible with the buildings, squares, and places to which it is visually related in its directional character, including vertical character, horizontal character, or nondirectional character.

15. Signs in Historic Districts

As in the case of structural alteration, new construction, and demolition, all new signage or alterations to signage shall be required to receive a Certificate of Appropriateness. The resulting high quality in both sign design and construction will strengthen the integrity of the historic district. Generally, signs may be permitted by the Historic Board in those parts of historic districts which are classified as business or industrial in the zoning code, except for home occupation uses or certain special exceptions. To afford control, the Historic Board of Review will review and approve all proposed signs and changes to signs as to their appropriateness within the

historic district. Each sign application shall be reviewed as a unique case, subject to the following criteria which shall include but not be limited to the following.

a. Allowable sign types.

- i. Flat signs. These signs always exist parallel to the building facade. They shall not be painted directly on the building surface, but shall be painted on a separate background material and applied to the facade as a unit.
- ii. Dimensional surface signs. This sign type also exists parallel to the building facade. It may consist in part (or in whole) of three-dimensional letter forms applied directly to the building surface, or applied to a separate flat background. The message may be in relief, or depressed by means of carving, etching, routing, positive or negative cutout, and the like.
- iii. Awnings. Awnings can act as an effective and decorative way to display a sign. Sign messages should be limited to the front drop flat of the awning, and might be achieved as sewn applique or inset, or by painting or silk-screening. Awning fabrics must be carefully chosen to coordinate well with the character of the building, and with adjoining buildings and awnings. The bottom of any awning shall be at least seven feet above its sidewalk.
- iv. Projecting signs. Projecting signs, except those on a corner, are those which exist 90 degrees to the building surface. In many instances, the signs' shapes could be the most effective way to express a particular service or activity. For example, the familiar shoe shape to denote shoe repair. These signs need not be thought of as strictly flat, but could have dimension. A creative approach to the hanging hardware for such signs is also encouraged, but it must be designed for maximum strength. Signs must connect to sturdy wall bracket units with an adequate gauge of steel or iron strap or chain.
- v. Banners. Banners may serve as ““soft”” versions of projecting signs (that is, bearing a message or symbol which relates directly to the business) or simply as

decorative additions.

- vi. Temporary signs. A temporary sign, valance, or display is defined as one being seasonal in nature or as one having a duration of not more than eight weeks. A temporary sign, valance, or display will be evaluated relative to its size, material, its method of attachment, and its ease of maintenance and cleaning. These signs will be considered temporary and revocable and subject to review.

b. Location and size.

- i. Flat or dimensional surface signs. Flat or dimensional surface signs shall not protrude from the primary building facade surface more than 12 inches.
- ii. Perpendicular-to-building signs. Perpendicular-to-building signs shall not exceed nine square feet in area, nor shall they extend below a point eight feet from the sidewalk surface, nor out from the facade surface more than 54 inches.
- iii. Materials. Materials such as wood, wrought iron, steel, metal, grill-work, and so forth, which were used in the nineteenth century, or replicas thereof, are encouraged. Materials such as extruded aluminum and plastics, while not prohibited, may not be appropriate. Simplicity and restraint in material selection, its method of application, or its detail construction, should be consistent with the other criteria.
- iv. Method of attachment. The sign's attachment should respect the architectural integrity of the structure and relate to or become an extension of the architecture. For example, a sign utilizing an archway should reflect the archway in its configuration.

c. Illumination.

- i. Signs may appear without illumination or may be illuminated. Lighting source, design, and placement must be as unobtrusive as possible, and the proposed method of lighting is also subject to review by the Historic Board.
- ii. Generally, signs which flash, blink, revolve, or are otherwise in motion, vary in intensity, or appear to be in motion, will not be permitted within the historic district. These illumination

methods may be accepted by the Historic Board, however, if they are deemed appropriate in a particular circumstance, for example, the traditional rotating barber pole.

- d. In general. Signs in the historic districts which are located in areas classified in the business or industrial districts in the zoning code shall be of a simple design and conform to regulations set forth herein, except that in no case will the following be allowed.

- i. Roof-top signs;

- ii. Free-standing signs or pylons which intrude on public property;

- iv. Billboards;

- v. Signs with an accumulated total of more than 100 square feet per establishment or more than 10% of the ground floor area of the wall surface.

16. Street Furniture and Utilities

- a. Where possible, and subject to the requirements of the Board of Public Works and Safety, all new utility lines shall be underground in the historic district.

- b. All light standards placed in the front yard of any structures or premises shall be of a design which is compatible with lighting throughout the historic district, and subject to the approval of the Historic Board of Review.

- c. The design and location of all items of street furniture within the City or State designated road right of way, must be approved prior to placement and subject to the approval of the Historic Board. Similar designs should be used throughout the historic district.

17. Enforcement of Historic Code

- a. Whenever the Historic Board finds that the owner of property in any historic district has neglected to keep the property and premises in a clean, sanitary, and tidy condition, or has failed to

maintain any structure in a good state of repair and in a safe condition, the Historic Board may give the owner written notice to correct the failures or violations within 30 days after receipt of notice, and if the owner fails to comply, then the Historic Board may bring appropriate enforcement actions as provided by Section 19.

- b. Enforcement: It shall be the duty of the Building Inspector to enforce this chapter of the code. He shall receive applications required by this code and furnish the prescribed Certificates of Appropriateness. He shall examine areas for which permits have been issued, and he shall make necessary inspections to see that the provisions of this code are being upheld. He may be provided with the assistance of the Chief of Police in enforcing orders and the City Attorney in prosecuting violations.
- c. Building Inspector's duties: For the purpose of this chapter of the code, the Building Inspector shall have the following duties:
 - i. Upon finding that any of the provisions of this chapter of the code are being violated, he shall notify in writing the person responsible for the violation, ordering the action necessary to correct the violation;
 - ii. Order discontinuance of any illegal work being done;
 - iii. Order removal of illegal buildings and structures or illegal additions or structural alterations; or
 - iv. Take any other action authorized by this code to ensure compliance with or prevent violation of this code. This may include the issuance of Certificates of Appropriateness and such similar administrative duties as are permissible under the law.

18. Filing Fees and Forms

- a. Applications and petitions shall be prepared on the forms provided by the Building Inspector, and accompanied by the filing fees herein specified, and shall be submitted to the Building Inspector who shall forthwith pay over the fees to the Clerk-Treasurer to the

credit of the general fund of the city.

b. Until all applicable fees have been paid in full, no application shall be filed or processed by the Building Inspector.

c. No part of any filing fee paid pursuant to this section shall be returnable to the applicant or petitioner, unless specifically authorized by the Common Council. In addition to the fees set forth herein, the applicant or petitioner shall pay the cost of publication notices and due notices to interested parties.

d. Applications for the following shall be accompanied by the following fees:

ii. Certificate of Appropriateness \$25

iii. Demolition permit \$50

19. NONCONFORMING USES

Any building, structure, or land use in existence at the time of the adoption of the historic revitalization plan that is not in conformity to or within the zoning classification or restrictions or requirements or architectural standards of this plan shall be considered to be a nonconforming use and may continue, but only so long as the owner or owners continuously maintains or maintain this use.

20. PENALTY AND REMEDY

a. Remedy. The Historic Board of Review or Building Inspector or any enforcement official of the city designated by the Historic Board, may enforce this chapter of the code and any covenants or conditions required or imposed by the Historic Board by civil action in the circuit or superior court. Any legal, equitable, or special remedy may be invoked, including mandatory or prohibitory injunction or a civil fine. These enforcement actions (except those seeking a civil fine) may also be brought by any interested person or affected owner.

b. Penalty. Any person or corporation in violation of this section may be punished subject to the provisions of I.C. 36-1-3-8, specifically: a fine of not more than \$2,500 for a violation of this chapter of the

code.