

CITY OF RUSHVILLE SUBDIVISION CONTROL ORDINANCE



Effective Date

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GENERAL PROVISIONS

1. TITLE

These regulations shall hereafter be known and cited as the Rushville, Indiana Subdivision Control Ordinance.

2. PURPOSE AND AUTHORITY

- A. Purpose. This chapter is adopted for the following purposes:
 - 1. To assist the orderly and efficient development of the City of Rushville, Indiana;
 - 2. To provide for the coordination of new thoroughfares with existing and planned thoroughfares;
 - 3. To promote the health, safety and general welfare of the residents of the city;
 - 4. To ensure the coordination with, and extension of, community facilities and utilities; and
 - 5. To secure equitable handling of all subdivision plans by providing uniform procedures and standards.
- B. Authority. This chapter 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 Whenever codes cited in this chapter refer to Indiana Code where the state statute has been amended or superseded, this chapter shall be deemed amended in reference to the new or revised Indiana Code.
- C. Waiver of requirements. The Advisory Plan Commission is hereby authorized to waive any or all requirements of this chapter when a literal enforcement of this chapter would result in unnecessary hardship and when the waiver will not be contrary to the public interest.
- D. Jurisdictional area. This chapter shall apply to all incorporated land within the City of Rushville, Indiana.

3. EXEMPT SUBDIVISIONS.

The following kinds of division of existing parcels of land are herein called exempt divisions. These divisions are exempt from the platting provisions of this chapter. Exempt division must be one of the following types of division:

- A. A division of land for the sale or exchange of tracts to correct errors in an existing legal description, provided that no additional building sites other than for accessory buildings are created by the division;
- B. A division of land pursuant to an allocation of land in the settlement of a decedent's estate or a court decree for the distribution of property;
- C. A division of land for the acquisition of street right-of-way, or easement;
- D. A division of land for the sale or exchange of additional tracts between adjoining land owners, provided that no additional building sites other than for accessory buildings are created by the division; and/or
- E. A division of land into cemetery plats for the purpose of burial of corpses.

4. DEFINITIONS

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCEPTED SCALES. One inch equals 50 feet, one inch equals 100 feet, and/or one inch equals 200 feet.

AGRICULTURAL PURPOSE. The use of a tract of land for agricultural purposes only, including farming, dairying, pasturing, agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry.

BUILDING LINE. A line drawn parallel to a lot line at a distance equal to the depth of the minimum required yard for the zone in which the lot is located, as established by the Zoning Ordinance.

COMMISSION. City of Rushville Advisory Plan Commission.

COMPREHENSIVE PLAN. A document, consistent with the requirements the Indiana Code that is a compilation of policy statements, goals and objectives, standards, maps, and statistical data for the physical, social, and economic development of the community.

CONSTRUCTION PLAN(S). The maps or drawings accompanying a subdivision plat that show the specific location and design of improvements to be installed for the subdivision in accordance with the requirements of this chapter as a condition of approval of the plan.

CROSSWALK. A strip of land dedicated to public use which is reserved across a block to provide pedestrian access to adjacent areas.

EASEMENT. A grant by a property owner to specific persons, the general public, corporations, utilities, or others, for the purpose of providing services or access to the property.

EROSION CONTROL PLANS. Written description and site of pertinent information concerning erosion control measures, as defined in the General Permit Related to Stormwater Runoff Associated with Construction Activities, as provided for in 327 I.A.C. 15-5 and the City of Rushville Stormwater Technical Manual..

FEASIBILITY REPORT. A written report prepared by a professional engineer or land surveyor pertaining to the suitability of the site for various types of water and sewer systems, for drainage retention or dispersion, and the subsoil conditions for various methods of street construction.

INCIDENTAL IMPROVEMENTS. A physical improvement, facility or fixture together with its associated public right-of-way limited to: asphalt surfacing, street lights, sidewalks, multi-use paths, monuments and markers, and landscaping.

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, transfer of ownership, or separate use.

LOT, DOUBLE-FRONTAGE. A lot having frontage on two or more non-intersecting streets.

MAINTENANCE BOND. A bond furnished to the city by a developer that guarantees all subdivision improvements against the defective workmanship or materials for a given period of time.

NO ACCESS EASEMENT. Public easement along a public right-of-way across which access to the property is not permitted.

OWNER. Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to, or sufficient proprietary interest in the land, or their legal representative.

PERFORMANCE GUARANTEE. Any guarantee which may be accepted in lieu of a requirement that certain improvements be made before the Commission approves the secondary plat, including by way of illustration but not limitation, performance bonds, escrow agreements, deposit agreements, and other similar collateral or surety arrangements approved as valid and enforceable by the city.

PLANNED UNIT DEVELOPMENT (PUD). A large-scale unified development meeting the requirements of this chapter. Generally a planned unit development provides design flexibility (e.g. mixed use) for a parcel or parcels to be developed as a single entity which does not correspond in size of lots, layout, bulk or type of buildings, density, lot coverage, and required open space to the regulations established in any zoning district of this chapter.

PRIMARY PLAT. The primary plat, pursuant to I.C. 36-7-4-700 series, is the plat and plans upon which the primary approval of a proposed subdivision is based.

PRIVATE DRIVE OR STREET. Any street which is privately owned and maintained that is used to provide vehicular access to more than one property or dwelling unit.

RESERVE STRIP. An area of land adjacent to a public right-of-way which is retained in ownership by the subdivider for the purpose of denying access to the adjacent land.

RIGHT-OF-WAY. Property occupied or intended to be occupied by a street, trail, utility transmission line, or other public utility or facility.

RIGHT-OF-WAY, APPARENT. All that area lying adjacent to and including the public road which is being used and occupied by the public and public utilities, and the area of maintenance by county or city government. The apparent right-of-way is subordinate to dedicated rights-of-way of record. The limits of the apparent right-of-way shall be defined as the greater of any of the following:

1. The existing fence of long standing;
2. The edge of existing utilities;
3. Field occupation lines, meaning plowed or tilled ground;
4. Existing woody vegetation, which may signify evidence of prior fence location; or
5. If none of the above exists, the edge of the traveled road surface, and the adjacent area of maintenance by a county or city road department.

RIGHT-OF-WAY, DEDICATED. Property conveyed to a public/governmental entity, by a private source, for public use and benefit. For the dedicated property to be valid, a public body must accept the property.

RIGHT-OF-WAY, PLANNED. The intended right-of-way where future road improvements are anticipated. Property within a planned right-of-way is often a mix of public and private land.

SECONDARY PLAT. The secondary plat, pursuant to IC 36-7-4-700 series, is the plat document of a subdivision meeting all of the requirements of the city prepared in a recordable form.

SKETCH PLAN. A sketch plan of a proposed subdivision used to show the Advisory Plan Commission the location, proposed street and lot layout, and many other significant features of the proposed subdivision.

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.

SUBDIVIDER. Any person, or other entity which initiates proceedings to create a subdivision.

SUBDIVISION. The division of any lot, tract or parcel of land into two or more lots, parcels, sites or other divisions for the purpose, whether immediate or future, of sale, transfer, gift, or lease which results in one or more new building sites, and including subdivisions requiring any new street or extension of local governmental facilities or the creation of any public improvements.

PRIMARY PLAT

1. SKETCH PLAN

Prior to the submission of a subdivision plat, the subdivider should submit a sketch plan and consult informally with the Technical Review Committee. This will enable the subdivider to become familiar with the general requirements and conditions which might affect the subdivision and thus avoid unnecessary revisions. The sketch plan should be in draft form with sufficient detail for review and comments.

2. SUBMISSION OF PLAT

At least 30 days prior to the regular meeting of the Rushville Advisory Plan Commission, the subdivider shall submit a written application for primary plat approval together with the following:

- A. Primary plat. A primary plat based on a survey in conformance with the Minimum Standards for the Competent Practices of Land Surveying administered by the Indiana State Board of Registration for Land Surveyors, or as provided for in 865 I.A.C. 1-12. Ten copies of the primary plat drawn on 24 inches by 36 inches materials at an accepted scale and encompassing all contiguous parcels of property owned by or under the control of the subdivider and showing the following:
 1. The proposed name for the subdivision;
 2. The location by civil township, section, township and range, or by other legal description;
 3. The name and address of the subdivider;
 4. The name, address and registration number of the surveyor;

5. The scale (including a graphic scale), north arrow, and date;
 6. The boundary line of the subdivision;
 7. The boundary lines of adjacent tracts of un-subdivided or subdivided land, showing ownership where possible;
 8. Existing zoning of the proposed subdivision and adjacent tracts;
 9. Topographic contours at a minimum of two-foot intervals;
 10. All existing permanent features either natural or manmade that may influence the design of the subdivision, such as watercourses, tree groves, swamps, sewers, water mains, culverts, utility lines, and fire hydrants. Where underground utilities exist within or adjacent to the tract, the approximate location, size, and direction of flow, if applicable, shall be indicated;
 11. The location, width, and names of all existing or prior platted streets or other public ways, railroad and utility rights-of-way, parks and other public open spaces, permanent buildings and structures, permanent easements, and section and corporate lines on or within 200 feet of the subdivision;
 12. The layout of all proposed and existing lots with appropriate dimensions including the minimum lot areas in square feet for the smallest lot(s) in the subdivision and the proposed front yard setback lines;
 13. The layout of streets, widths of rights-of-ways, proposed cross sections of roadways, and also the widths of cross-walkways and easements;
 14. Parcels of land intended to be dedicated or temporarily reserved for public use or set aside for use of property owners in the subdivision; and
 15. The dedicated right-of-way and, if applicable, the planned right-of-way. In the event that neither the dedicated right-of-way, nor the planned right-of-way is known, the apparent right-of-way may be used for a temporary substitute.
- B. Watershed map. A watershed map using USGS contour information and showing:
1. The delineation of the drainage area in which the subdivision is located; and
 2. The location of drainage courses or reaches within the drainage area.
- C. Drainage plan. A drainage plan in conformance with the city drainage regulations showing:
1. Natural watercourses, marshes, and the like;
 2. Existing drainage facilities, culverts and the like; and
 3. The proposed drainage plan for the subdivision and analysis of existing drainage facilities to the nearest watercourse showing culverts, retention ponds, and the like.
- D. Feasibility report. A feasibility report in conformance with the city's sewage disposal and drainage regulations including but not limited to the following:
1. The feasibility of connecting to an existing sewerage system and water supply, as determined by the City of Rushville. This portion of the study shall include the distance to the nearest public sewer, its capacity and present load, and its capacity to handle the additional sewage load created by the subdivision. The same information shall be submitted for water supply.
 2. A study of the storm water drainage of the area showing a method of dispersion or retention and the adequacy of downstream facilities. This study shall give consideration to both water entering the subdivision from adjacent land and water within the boundaries of the subdivision; and

3. A preliminary report on the type(s) of street construction based on the specifications outlined in this chapter.
- E. Preliminary erosion control plan. A preliminary erosion control plan following the guidelines as required by the general permit for construction activities, as provided for in 327 IAC 15-5. The erosion control measures shall be in accordance with standards and specifications in the State Handbook for Erosion Control in Developing Areas including, but not limited to the following:
1. Soil areas which, according to the soil maps and interpretations prepared by the U.S.D.A. Soil Conservation Service, are subject to erosion by wind or by water; and
 2. A proposed plan for adequately controlling erosion during construction, and stabilizing these areas after construction. These erosion control measures shall be in accordance with standards and specifications on files in the County Soil and Water Conservation District office (Is there a County Soil & Water Conservation District) and consistent with the general permit for construction activity administered by the Indiana Department of Environmental Management, as provided for in 326 IAC 15-5.
- F. Fee. The submission of the primary plat shall be accompanied by a fee established in the Official Fee Schedule for the City of Rushville.

3. PRIMARY PLAT PROCEDURE

- A. Pre-application meeting required. A primary plat shall only be filed after the petitioner has met with the Executive Director, to discuss the request.
- B. Staff procedure. Upon receipt of an application for primary plat approval, the Executive Director shall review the application for technical conformity with the standards fixed in this chapter. Within 30 days after receipt of the application, the Executive Director shall announce the date for a hearing before the Advisory Plan Commission, and shall provide for notice in accordance with I.C. 36-7-4-706. After the staff has announced a date for a hearing before the Advisory Plan Commission, it shall:
1. Notify the applicant in writing;
 2. Give notice of the hearing by publication in accordance with IC 5-3-1; and
 3. Provide for due notice to interested parties, consistent with Indiana State Statute, at least ten days before the date set for the hearing.
- C. Technical Review Committee procedure. The Technical Review Committee shall review the primary plat and make a report to the Advisory Plan Commission within 15 days after the date the application was filed. If the Technical Review Committee finds that the primary plat has been prepared in accordance with the terms of this chapter, they shall forward a report so stating to the Advisory Plan Commission for consideration. If the Technical Review Committee finds that the primary plat has not been prepared in accordance with the terms of this chapter, they shall return the plat to the subdivider with a written specification of the items of nonconformance and shall submit a copy of the same to the Advisory Plan Commission.
- D. Advisory Plan Commission procedure.
1. Approval. If, after the hearing, the Advisory Plan Commission determines that the application and plat comply with the standards of this and all other applicable ordinances, it

shall make written findings and a decision granting primary approval to the plat. Upon approval of the primary plat, the Advisory Plan Commission will indicate upon each copy that it has been approved. One copy shall be returned to the subdivider along with a written statement indicating the action taken by the Advisory Plan Commission. If approved with conditions, a written copy of the conditions shall accompany each copy of the approved plat. As a condition of primary approval, the Advisory Plan Commission may specify:

- (a) The manner in which public ways shall be laid out, graded and improved;
 - (b) A provision for water, sewage, and other utility services;
 - (c) A provision for lot size, number and location;
 - (d) A provision for drainage design; and
 - (e) A provision for other services, as specified in this chapter.
2. Disapproval. If, after the hearing, the Advisory Plan Commission disapproves the plat, it shall make written findings that set forth its reasons and a decision denying primary approval. If disapproved, the Advisory Plan Commission shall return to the subdivider three copies of the primary plat marked "Disapproved by the City of Rushville Advisory Plan Commission," along with a written statement indicating the reason or reasons for its disapproval.
 3. Continuation. The Advisory Plan Commission may also refer a plat back to the Technical Review Committee for review or study on a specific technical matter.
- E. Drainage Board procedure. No subdivision shall be approved nor shall an improvement location permit be issued for land zoned for residential or non-residential use unless the working drain for each lot in the subdivision and each proposed structure outlets into a regulated drain.
1. All subdivision plats shall dedicate to the city, for drainage purposes, all regulated drains, drain tile, storm sewers, retention ponds and drainage ditches which have side slopes steeper than five to one.
 2. Upon receipt of a subdivision application, the Executive Director shall refer the application to the consultant who has been retained to review the preliminary plat and determine that the property will be adequately drained and that adjoining properties and/or downstream areas will not be adversely affected by the planned development of the property.
 3. If the designed consultant finds that adjacent or intervening landowners decline to cooperate in providing these connections, and that the connections required by this section cannot therefore be made, the Executive Director and the designated consultant may waive the requirement if it determines that other adequate provisions have been made to discharge the working drains.
- F. Subsequent approvals (if necessary). Subsequent approval will be required of the engineering proposals pertaining to water supply, storm drainage, sewerage and sewage disposal, grading and gradients, roadway widths, and the surfacing of streets by the City Council, where concerned, prior to the approval of the secondary plat by the Advisory Plan Commission.
- G. Approval of primary plat does not constitute approval of a secondary plat. Approval of a primary plat shall not constitute approval of a secondary plat. Rather, it shall be deemed an expression of approval to the layout submitted on the primary plat as a guide to the preparation of the secondary plat. Approval of the primary plat shall terminate two (2) years after the date

of approval unless further extended by the Advisory Plan Commission upon written request of the subdivider, and by filing 60 days prior to the expiration of the approval and by payment of a filing fee established by the Rushville Advisory Plan Commission.

SECONDARY PLAT

1. GENERAL PROVISIONS

- A. Conformance with primary plat required. The secondary plat shall not be considered for approval until the action taken by the Advisory Plan Commission on the required primary plat has been completed, nor shall secondary approval be granted prior to the expiration of the appeal period provided for in I.C. 36-7-4-707(c). When the secondary plat submitted does not substantially conform to the approved primary plat, the subdivider shall not file an application for secondary plat approval until the primary plat has been amended in accordance with the same procedure required for primary plat approval.
- B. Construction plan(s) required. Construction drawings are to be submitted for subdivisions with the secondary plat. The construction drawings shall include, but not be limited to, the following:
 - 1. All drainage with invert and top of casting elevations, sizes, length of pipe, drainage profile, existing and proposed tile, drains, culverts, bridges, appropriate high and low water elevations of lakes and streams, flood plains and all wooded areas;
 - 2. Street information, including right-of-way width, type of material to be used, cross-sections, slope of pavement, all stationing, curve data, street profiles, curbs and gutters, and location and description of street signs;
 - 3. All information required by the Stormwater Technical Manual consistent with the City of Rushville stormwater management ordinances;
 - 4. Topography with a minimum contour interval of two (2) feet and site-grading plan for the entire subdivision;
 - 5. The title, name, address, signature, and registration number of the professional engineer and/or surveyor, and the date, including revision dates;
 - 6. A final erosion control plan, following the guidelines as required by the general permit for construction activities, as provided for in 327 IAC 15-5. The erosion control measures shall be in accordance with standards and specifications in the State Handbook for Erosion Control in Developing Areas. The plan shall be submitted to the designated consultant per the requirements of the Rushville Stormwater Management Ordinance

2. PHASING

The subdivider may request secondary plat approval for all or any portion of the approved primary plat, provided that submission of a secondary plat covering only a portion of the area contained in the approved primary plat may be permitted by the Advisory Plan Commission only after consideration of the effect of the continuity of roads, utilities and services.

3. SECONDARY PLAT SUBMISSION

- A. Pre-application meeting required. A subdivision shall only be filed after the petitioner has met with the Executive Director, to discuss the request.
- B. Submission. At least 15 days prior to the regular meeting of the Advisory Plan Commission, the subdivider shall submit for final plan approval the original drawing(s) on a material approved by the Rushville Street Department, at an appropriate scale with the scale clearly indicated and a graphic scale for reference, and five (5) prints of the plat. The secondary plat shall be accompanied by a fee as established in the City Official Fee Schedule.
- C. Materials. The secondary plat shall include:
 - 1. The name of the subdivision;
 - 2. The location by section, township and range, and the legal description of the property platted;
 - 3. The name and certification of the land surveyor preparing or certifying the plat, as set out in the appendices to this chapter;
 - 4. The scale, shown graphically and numerically, and the date and north arrow;
 - 5. The boundary of the plat, based on a boundary survey conforming with the Minimum Standards for the Competent Practice of Land Surveying administered by the State Board of Registration of Land Surveyors, as provided in 865 I.A.C. 1-12, having an unadjusted mathematical closure of 1:10,000, with angular and lineal dimensions;
 - 6. The exact locations, width and name of all streets within and adjoining the plat, and the exact location and width of all alleys and crosswalks;
 - 7. True angles and distance to the nearest established street lines or official monuments, which shall be accurately described in the plat. Also the locations of the subdivision corner points and the location of the elevation benchmarks;
 - 8. Municipal, township, county or section lines, or previously platted land accurately tied to the lines of the subdivision by distance and angles;
 - 9. The radius angle of intersection, tangent length, length of curve, point of curvature and point of tangency for curves, radii, internal angles, points and curvatures, tangent bearings, and lengths of all arcs;
 - 10. All easements for rights-of-way provided for public services and utilities;
 - 11. All lot numbers and lines, with accurate dimensions in feet and hundredths;
 - 12. Accurate location of all monuments;
 - 13. Accurate outlines of any area, other than public ways to be dedicated, reserved for public or semipublic use with the purposes indicated thereon, and for any areas to be reserved for the use of all property owners;
 - 14. Building setbacks, accurately shown with dimensions which are not in conflict with the Zoning Ordinance;
 - 15. Acknowledgment, by the owner and as required by law, of the adoption of the plat and the dedication of streets, other public areas, and utility and drainage easements;
 - 16. Each secondary plat submitted to the Advisory Plan Commission for approval shall carry a certificate signed by the owner after Technical Review Committee and Advisory Plan Commission approval but before recording;

17. A notarized statement indicating that the applicant is the owner of the land to be subdivided and that the subdivision shown on the recording plat is made with his or her free consent;
18. The proper form for the acceptance of dedications by the City Council;
19. The proper form for the approval of the Advisory Plan Commission;
20. Restrictive covenants regulating the use and development of the lots shall be lettered on the secondary plat or made a part thereof, subject to the approval of the Advisory Plan Commission. The protective covenants shall include any clause required by this chapter;
21. A note on the plat as follows: "Dedicated R/W in this subdivision consists of acres; and
22. The dedicated right-of-way and, if applicable, the planned right-of-way. In the event that neither the dedicated right-of-way, nor the planned right-of-way is known, the apparent right-of-way may be used for a temporary substitute.

4. FINANCIAL GUARANTEES

Financial guarantees shall be required for all proposed incidental improvements not completed prior to signing off of the plat by the City of Rushville Council and for all completed improvements as required by this chapter.

- A. Maintenance bond. A maintenance bond shall be required prior to the signing of a secondary plat by the City Council. It shall:
 1. Run to the Rushville City Council;
 2. Be in an amount equal to 50% (fifty-five percent) of the cost, as estimated by the Rushville City Council, of all improvements and installations as required by this chapter;
 3. Be with surety satisfactory to the Rushville City Council;
 4. Warrant the workmanship and all materials used in the construction, installation and completion of the improvements, and installations to be of good quality and have been constructed and completed in a workmanlike manner in accordance with the standards, specifications and requirements of this chapter and the satisfactory plans and specifications therefore submitted and satisfactory to the Rushville City Council;
 5. Provide that for a period of not less than 60 months after the installations and improvements have been completed or are accepted for public maintenance by the Rushville City Council, the applicant will, at his or her own expense, make all repairs to the improvements and installations or the foundations thereof, which may become necessary by reason of improper workmanship or materials; and
 6. Bear an "A" rating or better as ranked by a reputable insurance rating firm to the satisfaction of the Rushville City Council.
- B. Performance bond. A performance bond shall be required prior to the signing of the secondary plat by the Rushville City Council. It shall:
 1. Run to the Rushville City Council;
 2. Be in an amount equal to 125% of the cost, as estimated by the Rushville City Council, of all incidental improvements and installations as required by this chapter. All improvements and installations as required by this chapter, except for incidental

improvements, shall be completed and approved prior to the signing of the secondary plat by the Rushville Advisory Plan Commission. The incidental improvements shall be completed within 12 months from the date of the recordation of the plat with the exception of sidewalks and asphalt surfacing which shall be completed within 36 months from the date of the recordation of the plat.

3. Be with surety satisfactory to the Rushville City Council; and
 4. Be valid and effective until the improvements are installed to the satisfaction of the City Council, at which time all required maintenance bond(s) shall be posted for a period of not less than 60 months.
- C. Cash bond or other negotiable securities. Cash bond or other negotiable securities acceptable and assigned to the Rushville City Council may be posted with the City Council in lieu of a performance bond.
- D. Exceptions. The Rushville City Council may waive the provisions of this section upon the recommendation of the Executive Director.

5. TECHNICAL REVIEW COMMITTEE PROCEDURE

Upon receipt of an application for secondary plat approval, the Technical Review Committee shall review the secondary plat and make a report to the Advisory Plan Commission within 15 days after the final filing date. If the Technical Review Committee finds that the secondary plat has been prepared in accordance with the terms of this chapter, they shall forward a report so stating to the Advisory Plan Commission for consideration. If the Technical Review Committee finds that the secondary plat has not been prepared in accordance with the terms of this chapter, they shall return the plat to the subdivider with a written specification of the items of nonconformance and shall submit a copy of the same to the Advisory Plan Commission.

6. ADVISORY PLAN COMMISSION PROCEDURE

The Advisory Plan Commission shall, upon the filing of an application for secondary plat approval, review the secondary plat along with the accompanying data, hear the report of the Technical Review Committee, and determine whether or not the secondary plat meets all minimum requirements and standards of this chapter and of all other applicable ordinances of the city. The Advisory Plan Commission shall then take one (1) of the following actions on the secondary plat within 30 days after its submission or a mutually agreed upon extension.

- A. Approval. The Advisory Plan Commission shall approve the secondary plat for record only after it has determined that the secondary plat meets the minimum requirements of this chapter and all applicable ordinances in the city, and that sufficient financial guarantees have been submitted in accordance with this chapter. Upon final approval of the secondary plat, the Advisory Plan Commission shall indicate upon each copy that it has been approved. One copy shall be returned to the subdivider, along with the written statement indicating the action taken by the Advisory Plan Commission.
- B. Conditional approval. If the Advisory Plan Commission determines that upon the satisfactory completion of one or more specified conditions consistent with the requirements, standards, and specifications of this chapter, the secondary plat would comply with the terms of this chapter, the Advisory Plan Commission may give conditional approval to the plat. Conditional approval

of a secondary plat may include a construction agreement which is acceptable to the Advisory Plan Commission and would permit the subdivider to proceed with the installation of improvements prior to recording. Written notice of the conditional approval shall constitute formal authorization to the subdivider to construct and install all or a part of the required improvements, subject to inspection and acceptance procedures required by this chapter. The subdivider shall furnish sufficient evidence to the Advisory Plan Commission of the satisfactory completion of the conditions before the plat will be deemed "final approval for record." Upon final approval of the secondary plat, the Advisory Plan Commission shall indicate upon each copy that it has been approved. One copy shall be returned to the subdivider, along with the written statement indicating the action taken by the Advisory Plan Commission. A written copy of the conditions shall accompany each copy of the approved secondary plat.

- C. Disapproval. Should the Advisory Plan Commission decide to disapprove the plat, written notice of the action, together with reasons therefore, shall be transmitted to the subdivider. The action shall also be entered on the official records of the Advisory Plan Commission, provided that nothing contained therein shall prejudice the subdivider's ability to make reapplication for secondary plat approval according to the terms of this chapter.
- D. Continue. Should the Advisory Plan Commission have a question regarding a specific technical aspect of the plat which had not previously been studied by the Technical Review Committee, the Advisory Plan Commission may refer to the plat along with a detailed statement of the question to the Technical Review Committee for a finding.
- E. Final approval of a secondary plat not acceptance of dedications. Final approval of a plat by the Advisory Plan Commission shall not be construed as an acceptance by the public of the offer of dedication of any street improvement, way, place, structure, utility improvements, or open space improvement, within the areas shown upon the plat unless the acceptance is endorsed by the City Council upon the original tracing of the secondary plat.

7. RECORDING A FINAL PLAT

After the Advisory Plan Commission has granted final approval of the plat for record, the officers shall affix their signatures to the original tracing and the subdivider shall record the plat with the Rush County Recorder within one (1) year. If not recorded within this time, the approval shall be null and void, unless further extended by the Advisory Plan Commission upon written request of the subdivider, filed with the Advisory Plan Commission 60 days prior to the expiration of the approval and by payment of a filing fee established by the Advisory Plan Commission.

The subdivider shall pay the recording fee, and file with the Advisory Plan Commission four (4) prints of the approved secondary plat, including restrictive covenants, as recorded. One (1) reproducible print of the secondary plat, as recorded, shall be filed and retained in the Joint Planning and Zoning Office. Until the prints have been so filed, no improvement location permit, occupancy permit, or other permits shall be issued for any lot shown upon the plat.

8. COMPLETION AFFIDAVIT

Upon the acceptance of the improvements and installations by the City Council, the applicant shall obtain a completion affidavit from the Executive Director stating that the required improvements and installations have been installed in compliance with specifications of this chapter and have been accepted for public

maintenance by the City Council, subject to the terms of the maintenance bond provided by the applicant, and shall file the completion affidavit with the Advisory Plan Commission.

9. BOND FUNDS

Any funds received from the financial guarantees required by this chapter shall be used only for the purposes of making the improvements, installations or repairs for which the guarantees were provided, in accordance with the standards, specifications and requirements of this chapter.

DESIGN PRINCIPLES AND STANDARDS

1. GENERAL PROVISIONS

In determining whether an application for approval shall be granted, the Advisory Plan Commission shall determine if the plat conforms to the principles and standards required in this chapter, which shall be deemed as the minimum; and whenever the applicable requirements of other city ordinances are higher or more restrictive, those requirements shall control any application for plat approval.

- A. Natural features. In the subdividing of any land, due regard shall be shown for all natural features, such as tree growth, watercourses, historic spots, or similar conditions which, if preserved, will add attractiveness and value to the proposed development.
- B. Pollution prevention. Due consideration shall be given to the prevention of air and stream pollution, proper treatment and disposal of refuse and other waste, and the elimination of other blighting characteristics.
- C. Design. The subdivision layout shall be of a character that protects the health, safety, and general welfare of the city and its residents. In designing a street system, the subdivider shall be guided by the following principles:
 - 1. Adequate vehicular and pedestrian access shall be provided to all parcels;
 - 2. Local or residential street systems shall be designed to minimize through-traffic movement, but street connections into and from adjacent areas may be required;
 - 3. Local street patterns shall provide reasonable direct access to the primary circulation system;
 - 4. Local circulation systems and land development patterns shall not conflict with the efficiency of bordering arterial and/or collector routes;
 - 5. Elements in the local circulation system should be designed with the least amount of interruptions possible in order to function effectively and safely;
 - 6. Traffic generators within residential areas shall be considered in the design of the circulation pattern;
 - 7. Planning and construction of residential streets shall clearly relate to their local function;
 - 8. Local streets shall be designed to discourage excessive speeds;
 - 9. Pedestrian-vehicular conflict points shall be minimized;
 - 10. The number of intersections shall be minimized;
 - 11. Local streets shall be related to the topography;

12. All subdivisions shall be designed so as to facilitate the most advantages development of the entire neighboring area by protecting and enhancing the stability, character, and environment of the area;
13. All residential subdivisions shall provide specialized open space as defined in this chapter, that encourage frequent use, attention, and the presence of people through placement and design. Where possible, the natural terrain, drainage, and vegetation of a site shall be preserved;
14. Streets shall extend existing streets into and through the development. Reserve strips adjoining street rights-of-way for the purpose of preventing access are prohibited;
15. Streets and development sites should be designed to protect and preserve stands of significant trees and vistas from high ground or to water; and
16. Pedestrian and bike paths shall be designed to connect with similarly planned or existing local facilities. Streets, pedestrian paths, and bike paths shall contribute to a system of fully connected and interesting routes to all destinations. Their design should encourage pedestrian and bicycle use by being small and spatially defined by buildings, trees, and lighting, and by discouraging high speed traffic.

2. OPEN SPACE STANDARDS

Open space uses are permitted on land designated as open space within a residential subdivision.

- A. Conservation requirement. To protect and preserve the small city atmosphere of Rushville, all residential subdivisions are required to designate at least 25% of the land for open space uses.
- B. Open space uses. The uses shall maintain unobstructed views into the open space and preserve the rural atmosphere of the community.
 1. Nuisance avoidance. Open space uses shall not create a nuisance to adjoining properties due to fire hazard, electrical disturbance, noise, vibration, air pollution, heat and glare, water pollution, and waste matter.
 2. Siting. Due to the site specific nature of the relationship of open space areas to surrounding residential uses, the appropriateness of open space uses within a project shall be determined during the subdivision approval process.
 3. Written commitments. Written commitments shall be made regarding the uses permitted within the open space.
- C. Structures and parking areas. Structures and parking areas associated open space uses shall not cover more than 20% of the lot. Parking areas shall be screened from adjoining residential lots through low walls or landscaping with evergreen or densely deciduous shrubs.
 1. Walls and fences. Walls and fences shall be made of stone, wrought iron, or wood and should not exceed 3.5 feet in height.
 2. Hours of operation. The hours of operation for outdoor activities of open space uses shall be limited to 7:00 a.m. to 10:00 p.m.
 3. Open space types. Open space uses include, but are not limited to:
 - (a) Equine facilities. A building located on the premises that is used by residents of the City for stabling, riding lessons, or training equine; or an trail for which to ride equine.

- (b) Private recreation facilities. A private recreation facility includes, but is not limited to a course consisting of a large landscaped area for playing golf. The facility may also include a golf club house, equipment storage buildings, and other related structures.
- (c) Playground. Playgrounds provide sunny and shaded play areas for children as well as open shelter with benches for parents. Playgrounds may be built within parks or squares or may stand alone within a residential block. Playgrounds are recommended to be between 10,000 and 15,000 square feet in size. Trees shall be planted along the perimeter of a playground at a spacing of 15 to 40 feet on center depending upon the characteristics of the tree. A minimum of 35% of the trees must be shade trees.
- (d) Plaza. A plaza is an open area adjacent to, or part of, a civic building or facility. Plazas function as gathering place and may incorporate a variety of non-permanent activities such as vendors and display stands. Limited parking is also permitted. Plazas shall be paved in brick or other type of pavers or crushed stone. Plazas shall be level, stepped, or gently sloping (less than 3% grade). The size of the plaza depends upon the building or facility design. Sizes may range from 2,000 to 30,000 square feet. The horizontal length or width of the plaza shall not be greater than three (3) times the height of the surrounding buildings. Plazas may be left unplanted. If planted, the trees should form a frame to the plaza space or for the structure which the plaza serves. Spacing shall be a minimum spacing of ten feet on center to a maximum or 25 feet on center. A minimum of 35% of the trees must be shade trees.
- (e) Square. Squares are areas for passive recreational use. Squares shall be bounded by streets on a minimum of three (3) sides or 75% of their perimeter. Squares are encouraged to be entirely bounded by streets. They may range in size from 200 square feet to one acre. Squares may be entirely or partially paved in crushed gravel, brick pavers, or similar material. Trees shall be planted parallel to all rights-of-way at a minimum spacing of ten feet on center to a maximum or 30 feet on center. If provided, internal plantings shall be in geometric layouts. A minimum of 35% of the trees must be shade trees.
- (f) Parks and recreation facilities. Parks may be designed for passive and/or active recreational use. Parks shall be bounded by streets on a minimum 50% of their perimeter and range in size from one to three acres. The maximum park size may exceed three acres if through design, the park creates a central open space that services an entire neighborhood or group of neighborhoods or incorporates physical features that are an asset to the community (i.e. significant stands of trees, lakes, and the like) Trees shall be planted parallel to all perimeter rights-of-way a minimum spacing of 15 feet on center to a maximum or 30 feet on center. A minimum of 35% of the trees must be shade trees.
- (g) Greenway corridors. Greenway corridors are open spaces designed to incorporate natural settings, such as creeks and significant stands of trees within neighborhoods. Greenway corridors differ from parks or squares in that their detailing is natural (i.e. informally planted) except along rights-of-way and may contain irregular topography. Greenway corridors may be used for certain active non-motorized recreational uses

such as walking, jogging, or bicycling. Trees shall not be planted in any rights-of-way. Interior areas shall remain natural. A minimum of 35% of the trees must be shade trees

D. Open space ownership. Open space shall remain undivided and may be owned and managed by a homeowners association, the City, or a recognized land trust or conservancy.

1. Dedication to the city.

(a) Dedication of open space. The city shall have the first and last offer of dedication and the first and last offer for purchase of open space (including easements) in the event that the open space land is to be conveyed. Dedication shall take the form of fee simple ownership. The city may, but shall not be required to, accept open space provided:

1. Such land is accessible to the residents of the city;
2. There is no cost of acquisition other than any costs incidental to the transfer of ownership, such as title insurance; and
3. The city agrees to and has access to maintain such lands, or a satisfactory maintenance agreement is reached between the developer, property owner, and the city.

(b) Acceptance of dedication. Where the city accepts dedication of open space that contains improvements, the city may require the posting of financial security to ensure structural integrity of the improvements for a term not to exceed 18 months from the date of acceptance of dedication. The amount of financial security shall not exceed 15% of the actual cost of the improvements and installation.

2. Homeowners Association. The open space and associated facilities may be held in common ownership by homeowners association. The association shall be formed and operated under the following provisions:

- (a) The developer shall provide the Advisory Plan Commission a description of the association, including its bylaws and methods for maintaining the open space.
- (b) The association shall be organized by the developer and shall be operated with a financial subsidy by the developer before the sale of any lots within the development.
- (c) The homeowners association shall be professionally managed.
- (d) Membership in the association is automatic and mandatory for all purchasers of homes therein and their successors.
- (e) The association shall be responsible for maintenance of insurance and taxes on open space, enforceable by liens placed by the city on the association.
- (f) The members of the association shall share equitably the costs of maintaining and developing the open space.
- (g) In the event of a proposed transfer of open space or the assumption of maintenance of open space by the homeowners association to the city, notice of such action shall be given to all property owners within the development by the homeowners association.
- (h) The association shall administer common facilities and properly and continually maintain the open space.
- (i) The homeowners association may lease open space land to any other qualified person or corporation, for operation and maintenance of open space, but such a lease agreement shall provide:

1. That the residents of the development shall at all times have access to the open space contained therein.
 2. That the open space to be leased shall be maintained for the purposes set forth in this chapter; and
 3. That the operation of open space facilities may be for the benefit of the subdivision residents only, or may be open to the residents of the city, at the election of the developer and/or homeowners association, as the case may be.
 4. The lease shall be subject to the approval of the homeowner's association board and any transfer or assignment of the lease shall be further subject to the approval of the homeowner's association board. Lease agreements so entered upon shall be recorded with the Rush County Recorder within 30 days of their execution and a copy of the recorded lease shall be filed with the Advisory Plan Commission.
3. Transfer of easements to a private conservation organization. An owner may transfer easements to a private, nonprofit organization, among whose purpose it is to conserve open space and/or natural resources, provided that:
- (a) The organization is a bona fide conservation organization with perpetual existence;
 - (b) The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions; and
 - (c) A maintenance agreement acceptable to the owner is entered into by the developer and the organization.
- E. Open space maintenance standards.
1. Responsibility. The owner of the open space shall be responsible for raising all monies required for operations, maintenance, or physical improvements to the open space through annual dues, special assessments, and the like.
 2. Failure to maintain an open space. In the event that the association or any successor organization shall, at any time after establishment of a development containing open space, fails to maintain the open space in reasonable order and condition in accordance with the development plan, the city may serve written notice upon the owner of record, setting for the manner in which the owner of record has failed to maintain the open space in reasonable condition. Failure to adequately maintain the undivided open space in reasonable order and condition constitutes a violation of this chapter. The city is hereby authorized to give notice, by personal service or by United States mail, to the owner or occupant, as the case may be, of any violation, directing the owner to remedy the violation(s) within 20 days.
 3. Unpaid bills. Should any bill(s) for maintenance of open space by the city be unpaid by August 1 of each year, a late fee of 15% shall be added to such bills and a lien shall be filed against the premises in the same manner as other municipal claims.

3. STREET STANDARDS AND REQUIREMENTS, GENERAL

All street shall be constructed in conformance with the City of Rushville's Standards. Improvement for streets shall conform to the rules, regulations, and design specifications as set forth and established by the City of Rushville Street Department.

4. BLOCK STANDARDS

- A. Length and width. Block length and width or acreage within bounding streets shall be designed to accommodate the size of the lot required in the area by this chapter and to provide for convenient access, circulation control, and safety of street traffic. Blocks that are unreasonably large or small will not be approved. The maximum block length shall be 1,200 feet. In the design of blocks longer than 800 feet, the Commission may specify the provision of pedestrian crosswalks near the center, or wherever most useful to facilitate pedestrians' circulation to a school, park, recreation area, shopping center, or other significant neighborhood destination.
- B. Residential blocks. Residential blocks shall be of sufficient depth to accommodate two tiers of lots of minimum depth, except where reverse frontage lots bordering a freeway, arterial street or flood plain are used.
- C. Block shape. No specific rule concerning the shape of blocks is made, but blocks must fit easily into the overall plan of the subdivision and their design must evidence consideration of lot planning, traffic flow, and public areas.

5. LOT STANDARDS

Subdivision lots shall be adequate for the type of development and land use proposed, and shall conform to the requirements of the Zoning Ordinance.

- A. Lot lines. Side lines of lots shall be approximately at right angles or radial to the street line.
- B. Lot dimensions. The lot size, width, depth, shape, grade, location and orientation, shall be in proper relation to street and block design to existing and proposed topographical conditions.
 - 1. Depth to width ratio. The depth to width ratio of any single-family residential lot shall not be greater than three to one respectively. The width is to be measured where the lot contiguously abuts the right-of-way of a street. This standard shall apply to platted lots only.
 - 2. Setbacks. The minimum yard size, or setback lines, required for each lot shall be in conformance with the requirements of the requirements of the Zoning Ordinance.
 - 3. Road frontage. Every lot or parcel shall have sufficient frontage and access to a public street designated, designed and improved in accordance with the terms of this chapter.
 - 4. Corner lots. Corner lots shall be sufficiently larger than interior lots to allow maintenance of setback lines on both streets.
 - 5. Double-frontage lots. Double frontage lots are prohibited with the exception of the need to buffer residential development from adverse influences or to minimize the number of intersections with arterial streets and highways. A no-access screen planting buffer strip of ten feet shall be provided along the lot lines adjoining the adverse influence or arterial street.
 - 6. Lots abutting a watercourse, drainage way, channel, or stream. Lots abutting a watercourse, drainage way, channel or stream shall have additional minimum width or

depth as required to provide an adequate building site and afford the minimum usable area required for front, rear, and side yards.

6. EASEMENTS

Adequate areas of suitable size and location shall be allocated for utility easements. As a general principle, the easements shall be at least 15 feet in width, shall provide reasonable continuity from block to block and shall be located at rear lot lines and alongside and front lot lines when deemed necessary. The Advisory Plan Commission may require the reservation of a utility easement at least ten (10) feet in width, along the front yard line and parallel to the adjoining street right-of-way.

- A. Subdivisions traversed by a watercourse, drainage way, channel, or stream. Where a subdivision is traversed by a watercourse drainage way, channel or stream, adequate areas for storm water or drainage easements shall be allocated for the purpose of widening, deepening, sloping, improving or protecting the watercourses in accordance with the requirements of the City of Rushville or its agents, or the Rush County Drainage Board if the ditch is maintained by the Rush County Surveyor.
- B. Placement. Whenever practicable, the subdivider shall be encouraged to design for the placement of utility lines underground, following the required standards and specifications established by each utility company. The location of each underground utility system shall be shown by appropriate easement lines on the proposed plat.

7. ADDITIONAL PROVISIONS FOR NON-RESIDENTIAL SUBDIVISIONS

It is recognized that the subdivider, in creating non-residential subdivisions, faces unique problems of lot design not normally encountered in residential subdivisions.

- A. For this reason, the initial emphasis of the Advisory Plan Commission shall be upon street layout and block arrangement. Generally, the procedural requirements shall be for the owner to follow the regular procedure outlined in these regulations.
- B. The subdivider need show only two (2) lots along with the street and block layout.
- C. Then from time to time, as prospective buyers or users express interest in lots sized to their required specifications, the owner shall submit an amendment to the approved recorded subdivision plat for consideration.
- D. Regular procedural requirements of the Advisory Plan Commission following the receipt of a final subdivision plat shall then apply, except those streets that have been built by following an approved set of plans on the previously approved secondary plat shall not have to be rebuilt because of the adoption of new criteria by the city.
- E. This shall also apply to storm drainage facilities within the subdivision unless runoff characteristics have been changed by the newly proposed improvements or unauthorized existing improvements.

8. SOIL LIMITATIONS AND NATURAL FEATURES

Land with soils which are designated unsuitable for urban development, such as flood plains and very poorly drained organic (muck) soils, characterized by seasonal high water table at or near the surface, ponding, or frequent to occasional flooding, shall not be platted for urban development or used for nonagricultural structures.

The condition of soils, such as being unsuitable for urban development, shall be determined by soil survey data furnished by the U.S. Department of Agriculture and Soil Conservation assisting the County Soil and Water Conservation District.

IMPROVEMENTS AND INSTALLATIONS

1. IMPROVEMENTS AND INSTALLATIONS

Subdivision improvements shall be designed, furnished and installed by the subdivider in accordance with requirements of this chapter, state and city road standards, and other requirements of the state and county, and whenever the applicable requirements of any other governmental unit are higher or more restrictive those requirements shall control any application or plat approval. No final subdivision plat shall be approved by the Advisory Plan Commission unless the following improvements have been completed as herein specified and required, or the subdivider provides a financial guarantee as specified by this chapter.

2. GENERAL PROVISIONS

- A. Submission of construction drawings prior to construction. After Advisory Plan Commission approval of the primary plat and prior to any construction in the subdivision, the subdivider shall submit copies of the construction drawings for streets and drainage facilities to the city at least 45 days before construction is to begin.
- B. Supervision and construction. Supervision and inspection of construction of all required improvements shall be under the direction of the City Council. All phases of construction are to be inspected on a regular basis. Notice is to be given to the Executive Director 24 hours in advance.
- C. As-built plans required. A set of mylar "as-built" or "record" drawings shall be submitted to the Rushville Street Department after the subdivision street and drainage construction is complete. In addition, as each portion or section of a subdivision or project is platted, the developer and/or builder shall provide to the Rushville Street Department, a digital representation of all aspects of said portion or section a digital format using the Auto-Cad software or such other format as may be agreed to by the City of Rushville after consultation with the City.

3. DRAINAGE AND SANITARY SEWAGE DISPOSAL

4. WATER SYSTEM

A water distribution system shall be designed and constructed by the subdivider to provide adequate water service for all lots in the proposed subdivision. A subdivision plat shall not be considered for final approval until improvement plans for a water system by one of the following methods have been submitted:

- A. A permanent water distribution system including all pipes, fire hydrants, valves, and other appurtenances shall be provided, and the distribution system shall be connected with an approved public water system in accordance with the satisfactory plans and specifications therefore.

5. MONUMENTS AND MARKERS

Monuments and markers shall be installed by the subdivider of any subdivision of land. Where monuments as, defined below, cannot readily be set, survey points must be marked by a drill hole, cut cross, notch, railroad spike, or other similar permanent mark and referenced to any nearby objects such as building foundations, concrete head walls and the like.

- A. Permanent markers. Permanent monuments and markers shall be consistent with the Minimum Standards for Competent Practice of Land Surveying administered by the Indiana State Board of Registration for Land Surveyors, as provided in 865 IAC 1-12.
1. Timing of installation. All monuments and markers shall be installed within 30 days after acceptance of the streets by the Rushville City Council, or installation of the asphalt surface, whichever occurs last.
 2. Dimensions. Permanent monuments and markers set shall be 5/8-inch diameter or larger iron or steel rebar, copper welds, Harrison monuments or pipes weighing a minimum of one (1) pound per foot and at least 30 inches in length.
 3. Location. The markers shall be installed at:
 - (a) The perimeter plat corners;
 - (b) The beginning and end of the center lines of all streets;
 - (c) The center line intersections of all streets and cul-de-sacs;
 - (d) The radius point of cul-de-sac;
 - (e) The center line point of curvature and point of tangency of all street curves;
 - (f) The intersection of all street and alley right-of-way lines;
 - (g) All the points where lot lines intersect street or alley right-of-way lines;
 - (h) All angles formed by the intersection of lot lines;
 - (i) All perimeter lot corners; and
 - (j) All points required to delineate the location or extent of reservations, easements, or dedications not otherwise defined.
- B. Other monuments. Other monuments may be used if they are made of material of similar durability, which includes an element that can be found by a device capable of detecting ferrous or magnetic objects. All monuments, except those set in streets, shall have a substantial plastic or metal cap permanently affixed thereto showing the registered land surveyor's professional license number and/or the name or identification number of the land surveying firm or government agency.
- C. Existing benchmarks, monuments or triangulation stations. All U.S., state, county, or other official benchmarks, monuments, or triangulation stations in or adjacent to the property shall be preserved in precise position.

6. UTILITIES ADJACENT TO RIGHT-OF-WAY

No utilities shall be installed adjacent to and parallel with a right-of-way within an area closer than three (3) feet to the curb of any street.

7. DRY HYDRANTS.

The Rushville Advisory Plan Commission shall require installation of dry hydrants in subdivisions with detention facilities. The hydrants shall be installed consistent with standards maintained by the County Soil and Water Conservation District.

8. CULVERTS AND PRIVATE DRIVES.

Culverts or bridges installed as part of private drives shall be of adequate design to support firefighting apparatus.

MODIFICATIONS AND EXCEPTIONS

1. INTENT

The Rushville Advisory Plan Commission is hereby authorized and empowered to grant modifications and exceptions to the terms of this chapter as will not be contrary to the public interest, where owing to special conditions, fully demonstrated on the basis of the facts presented, strict compliance with specific provisions of the ordinance will result in extreme practical difficulties or undue misuse of property.

- A. In the exercise of this authorization the Advisory Plan Commission shall grant a modification or exception only upon the determination that:
 1. The grant will not be detrimental to the public health, safety and general welfare of the city;
 2. The grant will not adversely affect the reasonable development of adjacent property;
 3. The grant is justified because of topographic or other special conditions unique to the property involved, in contradistinction to mere inconvenience or financial disadvantage; and
 4. The grant is consistent with the objectives of this chapter and will not have the effect of nullifying the intent and purpose of this chapter.
- B. A written application for modifications or exceptions shall be submitted by the subdivider indicating the specific section of this chapter under which the modifications or exception is sought and stating the grounds on which it is requested.
- C. After the application has been docketed for hearing, proper publication of notice has been published, and due consideration has been given, the Advisory Plan Commission shall render a decision which shall be:
 1. Recorded in the minutes of the Advisory Plan Commission, which minutes shall include the reasoning on which the modification or exception was approved or disapproved;
 2. Transmitted to the subdivider and applicable governmental units in accordance with the terms of this chapter;
 3. Attached with conditions as will, in the Advisory Plan Commission's judgment, secure substantially the objectives of the requirements, standards, and specifications of this chapter so modified or excepted; and
 4. Attached with any covenants or other legal provisions as will, in the Advisory Plan Commission's judgment, assure general conformity to and achievement of the subdivision plan.
- D. Before any modification or exception shall be granted, the Advisory Plan Commission shall determine that satisfactory provision and arrangement has been made concerning the following, where applicable:
 1. Ingress and egress to the property and proposed structures thereon with particular reference to automotive and pedestrian safety, convenience, and access in case of fire or catastrophe;
 2. Automotive and pedestrian traffic flow with reference to adequacy, circulation ability and function within the broader planning unit;
 3. Off-street and on-street parking and loading areas with reference to the needs of adjoining land use;
 4. Utilities, with reference to locations, availability and compatibility;

5. Clear identification of property for land records;
6. Screening and buffering with reference to type, dimensions and character of materials.

ADMINISTRATION

1. AMENDMENT

In accordance with state statutes, the Rushville City Council may introduce and consider amendments to this ordinance as proposed by the City Council, the Advisory Plan Commission, or by a citizen's petition. Any proposed amendment shall be referred to the Advisory Plan Commission for public hearing, consideration, and report before any final action is taken by the City Council.

2. ENFORCEMENT

No plat of any subdivision shall be entitled to record in the Rush County Recorder's office or have any validity until it shall have been approved in the manner prescribed by this ordinance.

3. RECORDING OF PLATS

All plats of a subdivision, after the same have been submitted and approved, as provided in this chapter, shall be copied upon a book of plats of the county and shall be filed and kept by the county among the county records.

4. EFFECT

All ordinances or parts of ordinances in conflict with the provisions of this chapter shall not be repealed by the passage of this ordinance except where the repeal is specifically designated by ordinance, but the ordinance with the more restrictive applicable provisions shall be the ordinance that applies.

5. APPEAL

Any person feeling aggrieved at any action of the Advisory Plan Commission or the City Rushville/Rush County Joint Planning and Zoning Staff, or lack of action of the Advisory Plan Commission or the City Rushville/Rush County Joint Planning and Zoning staff, upon a proposed plat or replat, may apply in writing to the Advisory Plan Commission, prior to the next regular meeting, for modification of the action complained of, or lack of action, on the proposed plat or replat. The application shall be considered by the Advisory Plan Commission at a time and in a manner as it may determine, but within 90 days following the regular meeting.

6. PENALTY

Any person who violates any provision of this chapter shall be guilty of an ordinance violation, and upon conviction, shall be fined.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF CITY OF RUSHVILLE, INDIANA this Ordinance will be in full force and effect from and after its passage and signature by the City Council of the City of Rushville, Indiana, and as provided by law, and upon any further requirements under Indiana law.

DULY ORDERED BY THE CITY COUNCIL OF THE CITY OF RUSHVILLE this _____ day of _____, 2016.

CITY COUNCIL, CITY OF RUSHVILLE:

Robert M. Bridges

Brian G. Conner

Craig A. Smith

Bradley A. Berkemeier

Brian Sheehan

PRESENTED TO ME FOR APPROVAL AND APPROVED THIS _____ DAY OF _____ 2015,
at _____ o'clock p.m.

Michael P. Pavey, Mayor
City of Rushville, Indiana

ATTEST:

Ann L. Copley, Clerk-Treasurer