

**RULES OF PROCEDURE  
RUSHVILLE ADVISORY PLAN COMMISSION  
RUSHVILLE, INDIANA**

**COMPOSITION OF MEMBERSHIP**

Membership on the City of Rushville Advisory Plan Commission shall be in accordance with IC 36-7-4- 207, and all amendment or supplementary thereof, which at the time of adoption of these rules and regulations is as follows:

1. The City of Rushville Advisory Plan Commission shall consist of a total of seven (7) members;
2. The municipal legislative body shall appoint three (3) persons, who must be elected or appointed municipal officials or employees in the municipal government, as members;
3. The municipal executive shall appoint four (4) citizen members, of whom no more than two (2) may be of the same political party.

**QUORUM AND AUTHORIZATION**

A majority of the members of the entire Advisory Plan Commission constitutes a quorum. No action shall be official, however, unless approved by at least four (4) members of the Advisory Plan Commission at a regular or properly called special meeting.

**MEETINGS**

All meetings shall be open to the public, except as otherwise permitted by law.

**REGULAR MEETINGS**

Regular meetings shall be held on the \_\_\_\_\_ of the month, excluding holidays. A calendar of the regular meetings shall be prepared at the beginning of each year. Meetings will be called to order at the discretion of the President at \_\_\_\_\_ P.M. at the City of Rushville (Council Chamber) Meeting Room, 270 West 15<sup>th</sup> Street, Rushville, Indiana 46173. Regular meetings may be cancelled due to a lack of any agenda items.

**SPECIAL MEETING**

Special meetings shall be held upon call of the President, or by written request by two (2) members to the Secretary, or as determined at a regular meeting. The Secretary shall send to all members, at least two (2) days in advance of a special meeting, a written notice fixing the time and place of the meeting.

Only matters included in the call for a special meeting shall be considered, except by unanimous approval of all of the members of the Advisory Plan Commission.

**OFFICERS OF THE ADVISORY PLAN COMMISSION**

The President and Vice President shall be elected at the first regular meeting held each year.

The President, subject to these rules, shall decide all points of procedure unless otherwise directed by a majority of the members of the Advisory Plan Commission.

The Vice President shall serve in the absence of the President.

A temporary President shall be appointed in case both President and Vice President are absent.

The Secretary may be appointed by the Advisory Plan Commission.

The Executive Director is an employee of the City of Rushville/Rush County Joint Planning and Zoning Office and shall act on the behalf of the Advisory Plan Commission.

**DUTIES OF SECRETARY**

The Advisory Plan Commission may appoint a Secretary to direct the proceedings of the Advisory Plan Commission. The Secretary shall report at each meeting on all transactions that have not otherwise come to the attention of the Advisory Plan Commission.

The Secretary, subject to the provisions of the Zoning Ordinance, these rules, and the direction of the Advisory Plan Commission and its President, shall conduct all correspondence of the Advisory Plan Commission; send out all notices required by these rules and the order of the Advisory Plan Commission; shall attend all meetings of the Advisory Plan Commission and all hearings; shall scrutinize all applications to see that these rules are complied with; shall keep the dockets and minutes of the Advisory Plan Commission's proceedings; shall compile all required records; shall maintain the necessary files and indexes and generally supervise all clerical work of the Advisory Plan Commission.

The Secretary, under the direction of the President, may designate members of the Advisory Plan Commission to make personal inspections when necessary from time to time. The Secretary or Executive Director or his designated representative may demand from an applicant such additional information and data as may be required to fully advise the Advisory Plan Commission with reference to the application, whether such information and data are called for by the official forms or not. Any failure or refusal on the part of the applicant to furnish such additional information or data shall be grounds for dismissal of the application by the Advisory Plan Commission.

**APPLICATIONS**

An application for any requested action on behalf of the Advisory Plan Commission shall be filed on forms made available through the office of the Executive Director which shall be completed and submitted to the Executive Director along with all other required information, data and drawings as required by the Zoning Ordinance and/or Subdivision Control Ordinance of the City of Rushville, Indiana.

**FEES**

Applications and petitions shall be accompanied by the filing fees stated below. Fees shall be paid to the Planning and Zoning Office. Applications and petitions shall be accompanied by the appropriate fees listed in the Fee Schedule maintained by the Executive Director of the City of Rushville/Rush County Joint Planning and Zoning Office .

**DOCKET AND CALENDAR**

Each application filed in proper form with the required data shall be numbered serially, docketed, and shall be placed upon the calendar of the Advisory Plan Commission by the Secretary. The docket numbers shall begin anew on January First of each year and shall generally be hyphenated with the number of the year in which the application is filed and initial indicating the type of case, followed by the number of case.

Numbering will be sequential.

The following is only a suggestion.

| <u>Petition type</u>                            | <u>Docket number example</u> |
|---|------------------------------|
| Petitions for zoning map amendments             | 16-Z-01                      |
| Ordinance text amendments                       | 16-AO-01                     |
| Petitions for plat or development plan approval | 16-P-01                      |
| Petitions for right-of-way vacations            | 16-VAC-01                    |
| Commission resolutions                          | 16-01PC                      |

Applications shall be initially submitted no later than the filing deadline designated by the meeting calendar, which shall be approximately twenty-five (25) days prior to the date of the hearing, except for good cause at the discretion of the Executive Director. All applications docketed shall be set for hearing at the regular meeting corresponding to the filing deadline. If an application or the support documents are

modified after the application is set for hearing, said amended documents shall be provided to the Executive Director no later than one (1) week prior to the scheduled hearing date, and if not so provided, the hearing may be rescheduled.

Applications shall be heard in the order in which they were submitted, except that an application may be advanced for hearing by order of the Advisory Plan Commission President for good cause shown. Where all applications cannot be disposed of on the day set, the Advisory Plan Commission may adjourn from day to day, or until the next regular or special meeting, as it may order.

## **NOTICE**

No notice other than that provided for in these rules, the Zoning Ordinance, or state statute shall be required to be given to interested parties for hearings conducted by the Advisory Plan Commission.

For each application, the applicant shall assume the expense of notification and publication of notice as required by these rules, by Zoning Ordinance, or by state law.

For every application which is to be heard by the Advisory Plan Commission, notice shall be given in a newspaper published in and of general circulation in Rush County, Indiana, in the form prescribed by the Advisory Plan Commission. The applicant shall cause the notice to be published at least ten (10), but not more than thirty (30), days prior to the date set for the hearing. A proof of publication shall be made by an affidavit of the publisher and attached to a copy of the notice taken from the paper in which it was published and filed with the Secretary before the hearing. Such affidavit shall specify the City, the time when, date notice published and the paper in which the notice was published.

The published public hearing notice shall state, at a minimum:

1. Docket number and general substance of the petition;
2. General location by address or other identifiable geographic characteristic of the subject property;
3. Name of the petitioner;
4. Date, time, and place of the hearing;
5. Petition and file may be examined in the office of the City of Rushville/Rush County Joint Planning Office;
6. Legal description of the property as is on file in the office of the Executive Director;
7. Written objections to the proposal that are filed with the Executive Director of the Advisory Plan Commission before the hearing will be considered;
8. Oral comments concerning the proposal will be heard;
9. Hearing may be continued from time to time as may be found necessary; and
10. Proposal contains or would add or amend any penalty or forfeiture provisions, the entire text of those penalty or forfeiture provisions.

For all applications or proposals requiring a public hearing, excluding proposed amendments to the text of the Zoning or Subdivision Control Ordinances, the Petitioner shall notify all adjoining legal land owners within a two (2) property owner depths, or 200 feet of the subject property, whichever is greater. Such notice shall be made by certified mail return receipt requested at least twenty (20) days before the date of the hearing.

The notice to adjoining land owners shall include at least the items of the published notice as well as a detailed summary of the petition, site plan(s) or map(s), and any other information necessary to adequately describe the nature of the request. The Executive Director shall determine the information necessary based on the type and scale of the case.

The Petitioner shall also place a notice of the public hearing on-site at least twenty (20) days before the date of the hearing. The notice shall remain on-site until final action on the petition has been taken.

The on-site notice shall consist of a sign to be provided by the Executive Director. The sign must be placed

on the subject property, within 5 feet of the right-of-way line of the public street with the most traffic adjacent to the property. The sign text must be visible from the public street. The Executive Director may require additional notices to be posted for property(ies) with greater than 300 feet of street frontage. A deposit in an amount not to exceed \$50.00 for the sign may be required at the time of filing of the petition, and will be refunded upon return of the sign in good, reusable, condition to the Executive Director within seven (7) days of the date of final action. If the sign is not returned, or returned in a non-reusable condition the deposit shall be forfeited.

The petitioner shall provide a list of owners, their last known mailing address on file in the Rush County Treasurer's Office, and the certified mail return receipts or returned envelope shall be filed with the Executive Director prior to the hearing.

The Executive Director may vary the procedure for personal notification, if a departure from the rules above is justified and the intent of this rule is observed. Personal notification, if authorized by the Executive Director, shall be served upon the last known property owner, on file in the Rush County Treasurer's Office, by presenting a signed affidavit, from said owner that the notice of the public hearing was served in persons by the petitioner or the petitioner's representative, and date of such services. The personal notification document shall be in a form provided by the Executive Director.

### **TECHNICAL REVIEW**

As provided for by the Ordinance, a Technical Review Committee may review certain applications for compliance with technical specifications, adequate capacity, public safety, or other specifications.

Applications requiring Technical Review shall be submitted with 12 copies to be distributed to the committee members. Regular Technical Review Committee meeting dates and times shall be designated on the annual meeting calendar.

For any application which the committee requests to be revised, such revisions shall be filed with the Executive Director no later than seven (7) calendar days after the Technical Review Committee meeting.

If such revisions are not filed by such time, the Advisory Plan Commission may, at its discretion based on the nature of the requested revisions, continue the application to the next regularly scheduled hearing date, subject to the provision that said amended application and supporting documents be submitted to the Executive Director and staff at least thirteen (13) calendar days prior to said regularly scheduled meeting.

### **TECHNICAL REVIEW COMMITTEE**

The Technical Review Committee of the Advisory Plan Commission is hereby established and may be composed of at least the following members:

1. Two (2) Advisory Plan Commission members
2. Mayor
3. Executive Director
4. Code Enforcement Officer
5. City Utilities (Manager/Director
6. Street Department
7. Stormwater (Director)
8. Sewer/Waste Water Treatment Plant Superintendent
9. Police Chief
10. Fire Chief

This committee will serve at the pleasure of the Advisory Plan Commission and will take action and make recommendations when required by the Comprehensive Plan and Ordinances of the City of Rushville.

### **CONFLICT OF INTEREST**

Any member who has a direct or indirect pecuniary interest in, or may directly or indirectly derive a profit

from, any action taken upon any request, or meets the requirements defined by I.C. 36-7-4-223 or I.C. 35-44-1-3 shall be deemed to have a conflict of interest.

Any member may determine that they have a conflict of interest that could cause the member to be biased, partial, or unrepresentative of the community interest. Such additional conflicts of interest may include, for example, an association to the petitioner or their agent or attorney, proximity of the member's property to the subject property, etc.

Any member having a conflict of interest shall announce at the beginning of the meeting and prior to the introduction to the request the existence of said conflict, and shall thereafter refrain from comment, discussion, or participation regarding the request, including voting thereon.

## **HEARING**

The Advisory Plan Commission shall hold a public hearing on all applications at the date, time and place specified in the notice. Hearings shall be open to the public, and all Advisory Plan Commission decisions regarding any application shall be made in an open public meeting.

The applicant or other interested persons may appear in person, by agent, or by attorney and shall be entered on the record by name and address. In the absence of any personal appearance on behalf of the applicant, the application will be continued to the next regularly meeting for the first occurrence. For subsequent "no-shows", the application may be disposed of in the manner determined by the Advisory Plan Commission.

At the hearing, the order of presentation of a petition shall be as follows:

1. Presentation(s) by the Executive Director, a designated representative, and/or persons presenting information at the request of the Advisory Plan Commission.
2. Applicant's initial presentation (maximum 15 minutes).
3. Interested persons' presentations. Speakers representing groups should speak before individuals. Any speaker representing a group may speak up to 5 minutes; any individual may speak up to 2 minutes. The time for all speakers shall be a maximum 20 minutes.
4. Applicant's rebuttal (maximum 5 minutes).
5. Commission deliberation and action.

The Commission may ask questions of any presenter or speaker at any time. If asked during the timed presentations, the question and response will not count against the speaker's allotted time.

Persons with questions may raise their questions, addressed to the Advisory Plan Commission President, during the interested persons' presentations. The Advisory Plan Commission and Executive Director are not obligated to answer any question raised, but may do so to make clarifications or otherwise encourage well-informed and orderly consideration of the case.

A speaker may request additional time for good cause shown. The President may cut short any presentations that are irrelevant, repetitive, slanderous, offensive, or that are otherwise not conducive to an orderly proceeding, provided that the presenter has been admonished at least once.

Every person appearing at hearings shall abide by the order and directives of the President. Discourteous, disorderly, or contemptuous conduct shall be regarded as a breach of the privileges of the Advisory Plan Commission and shall be dealt with by the President as deemed fair and proper.

## **ACTION AND DISPOSITION**

Following the public hearing or meeting, the Advisory Plan Commission shall make recommendations, reports or take other necessary action as prescribed by the Advisory Planning Law of Indiana (I.C. 36-7-4), by the Comprehensive Plan, and by the Zoning Ordinance.

The Advisory Plan Commission may continue deliberation of an application, generally to the next

scheduled regular meeting, but it may be continued to a meeting further in the future or to a special meeting. Continuances of longer than two (2) months shall be re-noticed by the petitioner. This does not apply to cases continued from meeting to meeting.

The final disposition of any zoning text or map amendment application shall be in the form of a motion, setting forth the findings and determinations of the Advisory Plan Commission, together with any modification, specification or limitation which it makes, and the Secretary shall certify a copy of the motion along with the Ordinance within 10 days to the City of Rushville Council for action at their next regular meeting.

The final disposition of applications for approval of preliminary and record plats of subdivisions, development plans, or others that the Advisory Plan Commission is authorized to act upon, shall be in accordance with the requirements set forth in the Zoning Ordinance and Subdivision Control Ordinance of the City of Rushville, Indiana.

The final disposition of any appeal before the Advisory Plan Commission shall be in the form of an order either reversing or modifying the requirement, order, decision or determination appealed from and granting the appeal, or affirming the order and denying the appeal. The Advisory Plan Commission may dismiss a cause for lack of prosecution or lack of jurisdiction. When an applicant has failed to appear at the scheduled public meeting, the case may be dismissed for lack of prosecution.

All decisions of the Advisory Plan Commission on matters heard in public hearing shall be by recorded vote. The vote of each member shall be a matter of permanent record.

An application may not be withdrawn by the applicant after the vote has been called for by the President unless a majority of the members of the Advisory Plan Commission agree to the withdrawal.

No cause which has been withdrawn by the applicant shall again be placed on the docket for consideration by the Advisory Plan Commission within a period of six (6) months from the date of the said withdrawal, except upon the motion of an Advisory Plan Commission member, and adopted by the unanimous vote of all Advisory Plan Commission members present at a regular or special meeting.

## **REHEARINGS**

No motion for re-hearings shall be entertained, except upon a written request for re-hearing by the original applicant, and then only after a motion made by a member of the Advisory Plan Commission to reconsider the vote, the said motion being seconded and duly passed.

Said motion must be acted upon within ten (10) days after the original decision of the Advisory Plan Commission, or prior to any certification of a plan or Ordinance to the City of Rushville Council, whichever is sooner.

No additional application to the Advisory Plan Commission shall be allowed within the time period prescribed by Ordinance or, if no such time is prescribed, six (6) months, and only upon a showing of a substantial change in the circumstances affecting the property having occurred since the prior decision relating to said parcel or property.

## **ADVICE**

Informal requests for advice, or moot questions, will not be considered by the Advisory Plan Commission. Any advice, opinion, or information given by any Advisory Plan Commission member, the Secretary, or any other official or employee of the City of Rushville, shall not be binding on the Advisory Plan Commission.

Because of the annoyance caused by individuals appealing personally to members of the Commission, it is declared to be the policy of the Advisory Plan Commission to discourage any such personal appeals, and to refer such questions to the staff.

The Executive Director and staff are authorized to answer questions regarding the codes, to provide

professional interpretations of the Comprehensive Plan, to provide general assistance, and other duties, but the decisions of the Advisory Plan Commission are not bound by any staff advice, interpretations, or opinions.

### **DOCKET AND MINUTES**

The Secretary or Executive Director shall maintain a docket, in which shall be entered the number of the application; the name of the applicant; short description by street number, road or otherwise, of the premises; the nature of the application; and the final disposition of the cause has been disposed of. All continuances, postponements, dates of sending notices, and other steps taken and acts done shall be noted on the docket.

The Secretary or Executive Director shall maintain a record of the minutes, in which shall be recorded the decision relating to each application together with the vote of each member of the Commission present, those absent being so marked, together with other actions of the Commission, and including a record of the transactions at hearing. The docket and the minutes may be combined in one hard copy file for the convenience of public review.

### **MINUTES AND RECORDS**

The Advisory Plan Commission shall keep minutes of its proceedings, keep records of its examinations and other official actions, and shall record the vote on all actions taken.

All minutes and records shall be filed in the office of the City of Rushville/Rush County Joint Planning and Zoning Office and shall be a public record. The Executive Director shall provide copies of all monthly minutes to each Advisory Plan Commission member.

Regularly scheduled meetings of the Advisory Plan Commission may be recorded. If recorded, the audio, video tapes or digital files of each meeting shall be retained for five (5) years from the date of the meeting and shall be a public record.

All exhibits, whether submitted by a petitioner or other speaker, shall become the property of the Advisory Plan Commission and shall be retained and become a part of the case in which the exhibits were submitted.

### **ORDER OF BUSINESS AT REGULAR MEETINGS**

The order of business at all regular meetings of the Advisory Plan Commission shall be as follows:

1. Roll Call
2. Approval of minutes of previous meeting
3. Communications
4. Report of Committees or Consultants
5. Old business
6. New business
7. Other business

The Commission President may alter the order of business as necessary to conduct an orderly proceeding. Meeting will use basic Robert's Rules of Order.

### **PRIOR RULES**

Any rules which may have been previously passed, setting forth the procedures and duties of the Advisory Plan Commission, are hereby repealed.

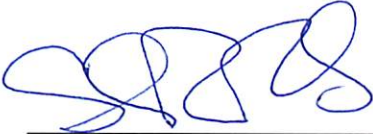
### **AMENDMENTS**

Amendments to these Rules of Procedure may be made by the Advisory Plan Commission at any regular or special meeting upon the affirmative vote of a majority of the members of the Advisory Plan Commission. The suspension of any rule of procedure may be ordered at any meeting by unanimous vote of those present.

These Rules of Procedure of the Advisor Plan Commission are hereby approved by the affirmative vote of the majority of the members of said Advisory Plan Commission at a meeting of the Advisory Plan Commission held on the 17<sup>th</sup> day of December, 2015.

RUSHVILLE ADVISORY PLAN COMMISSION  
RUSHVILLE, INDIANA

SO APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2015



STANLEY R. RICHARDS, President

ATTEST: Bradley Berkemeier  
Bradley Berkemeier, Secretary