

SUBDIVISION ORDINANCE  
DELAWARE COUNTY, INDIANA

AN ORDINANCE ESTABLISHING CERTAIN MINIMUM STANDARDS AND PROCEDURES GOVERNING THE SUBDIVISION OF LAND IN THE UNINCORPORATED TERRITORY OF DELAWARE COUNTY, INDIANA, AND REPEALING ALL OTHER ORDINANCES ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, INDIANA, UNDER I.C. 18-7-5-1 ET. SEQ. AS AMENDED.

THE BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, INDIANA, HEREBY ORDAINS, ENACTS AND PUBLISHES AS FOLLOWS:

**ARTICLE I TITLE**

This Ordinance shall be known as the "Subdivision Ordinance of Delaware County, Indiana."

**ARTICLE II PURPOSE**

This Ordinance is enacted with the purpose of protecting and providing for the health, safety and general welfare of Delaware County; to guide its future growth in accordance with a comprehensive plan; to secure for all its citizens safety from fire, flood, and other dangers; to prevent the overcrowding of its lands; to protect its character and its social and economic stability; to protect and conserve the value of its lands, its buildings; to guide public and private policy in providing adequate and efficient transportation and other needs; to avoid congestion of traffic on its streets and highways; to establish reasonable standards of design and procedures for subdivisions and resubdivisions; to insure that new subdivisions are furnished with adequate facilities and services; to prevent the pollution of its air, streams and ponds; obtain improved drainage; to encourage the careful use and management of its natural resources.

**ARTICLE III JURISDICTION**

The provisions of this Ordinance shall apply to all subdivisions of land as herein defined, located in the unincorporated territory of Delaware County, Indiana. No land shall be subdivided within the unincorporated territory of Delaware County, Indiana until the subdivider or his agent has obtained approval of a proposed subdivision from the Delaware-Muncie Metropolitan Plan Commission and the approved plat of the subdivision has been filed with the Delaware County Recorder. No building permit, zoning certificate of occupancy shall be issued for any parcel or plot of land which was created by subdivision after the effective date of, and not in conformity with, the provisions of this Ordinance. No excavation of land or construction of any public improvements shall take place or be commenced except in conformity with this Ordinance.

**ARTICLE IV INTERPRETATION**

In the interpretation and application of the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of public health, safety, and general welfare.

#### **ARTICLE V CONFLICT**

This Ordinance is not intended to interfere, abrogate, annul any other ordinance, rule or regulation, statute, or other provision of law. Where any provision of this Ordinance imposes restrictions different from those imposed by any other provision of this Ordinance or any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control. This Ordinance is not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of this Ordinance are more restrictive or impose higher standards; the requirements of this Ordinance shall govern.

#### **ARTICLE VI SEPARABILITY**

If any provision of this Ordinance or the application thereof to any person or circumstances is invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

#### **ARTICLE VII SAVING PROVISION**

This Ordinance shall not be construed as abating any action now pending under, or by virtue of, prior existing ordinances controlling the subdivision of land, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of Delaware County under any section or provision existing at the time of the adoption of this Ordinance, or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the county except as shall be expressly provided in this Ordinance.

#### **ARTICLE VIII AMENDMENTS**

The Delaware-Muncie Metropolitan Plan Commission may, from time to time, initiate amendments to any provision of this Ordinance in a manner as prescribed by law.

#### **ARTICLE IX CONDITIONS**

The attachment of reasonable conditions to the approval of any subdivision on which the Commission shall render a judgment is considered as a valid exercise of police power. The

subdivider has the duty of compliance with reasonable conditions of design, dedication improvement, and restrictive use of land.

## **ARTICLE X RESUBDIVISION**

If any approved or recorded subdivision is proposed to be changed or altered, and such changes and alterations as may be sought affect the street layout, or an area reserved for public use; or if the legality of the subdivision is affected as far as its conformity with the provisions of this Ordinance, the said subdivision shall require the approval of the Commission by the same procedure, rules and regulations as for a new subdivision.

If a parcel of land is subdivided and the subdivision plat shows one or more lots containing more than one (1) acre of land and indications are that such lots eventually will be resubdivided into smaller building sites, the Commission may require that such parcel of land allow for the future opening of streets and the ultimate extension of adjacent streets. Easements providing for the future opening and extension of such streets may be made a requirement of the plat.

## **ARTICLE XI VACATION OF PLATS**

Any plat or any part of any plat may be vacated as now provided by the laws of the State of Indiana.

## **ARTICLE XII VARIANCES**

Where the Commission finds that extraordinary hardship or practical difficulty may result from strict compliance with the provisions of this Ordinance, it may approve variances to this Ordinance so that substantial justice may be done and the public interest secured. The Commission's findings shall convincingly show evidence that the granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other property; that the conditions upon which the request for variance is based are unique to the property for which the variance is sought and are generally applicable to other property; that, because of the particular physical surroundings, shape, topography of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of this Ordinance is carried out; that the variance will not in any manner vary the provisions of the Delaware County Comprehensive Zoning Ordinance, the Master Plan, or the Official Thoroughfare Plan. A petition for any such variance shall be submitted by the subdivider at the time when the Preliminary Plan is filed, and it shall state fully the grounds for the application and all the facts relied upon by the subdivider.

## **ARTICLE XIII ADMINISTRATION**

Appropriate actions and proceedings may be taken to prevent any violation of the provisions of this Ordinance. No building permit shall be issued for the construction of any building or structure located on a lot or plat subdivided or sold in violation of the provisions of this Ordinance.

No owner or agent of the owner of any parcel of land located in a proposed subdivision shall transfer or sell any such parcel before a plat of such subdivision has been approved by the Commission in accordance with the provisions of this Ordinance. The subdivision of any lot or any parcel of land by use of metes and bounds description for the purpose of sale, transfer, or lease with the intent of evading the provisions of this Ordinance, shall be subject to the enforcement provisions of this Ordinance.

For the purposes of this section the term "proposed subdivision" shall mean any real estate for which a preliminary plat has been filed as hereinabove provided.

## **ARTICLE XIV PROCEDURE**

### **SECTION 1. CONSULTATION**

Whenever any subdivision of land is proposed, before any contract is made for the sale of any part thereof, and before any improvements are initiated or structures erected in such proposed subdivision, the subdivider or his authorized agent may discuss his plans with the Director of Planning or his designee. This will provide him with information relating to current procedures and policies, the applicable subdivision standards, the provisions of the current subdivision ordinance, and the requirements of the Official Thoroughfare Plan of Delaware County. The subdivider will have the opportunity to discuss the layout of his subdivision, reservations of land, street improvements, drainage, sewerage and similar matters. The Director will advise the subdivider to discuss his subdivision plans with those officials who must eventually approve aspects of the subdivision within their jurisdiction.

### **SECTION 2. PRELIMINARY PLAN**

- A. Following the consultation between the subdivider and the Director of Planning or his designee, the subdivider shall submit a Preliminary Plan in such numbers as may be required, and in full compliance with existing schedules and procedures existing at the time. The subdivider shall, together with copies of the Preliminary Plan, submit an application for approval made on forms available at the Plan Office. Both, the Preliminary Plan and the application together shall constitute the basic instruments for requesting approval.
- B. The Preliminary Plan shall be prepared by a licensed land surveyor or a professional engineer at a convenient scale not more than one (1) inch equals one hundred (100) feet. Said plan shall be clearly drawn and, if in more than one sheet, the same shall be numbered in sequence.

C. The Preliminary Plan shall contain the following information:

- (1) Location of the subdivision by section, quarter section, township, range, county, State.
- (2) The proposed name of the subdivision not to duplicate be the same in spelling or alike in pronunciation with the name of any other subdivision.
- (3) Names and addresses of the subdivider, the owner of the land, and the registered land surveyor or licensed engineer, along with the latter's registration number.
- (4) Scale of the plan including graphic scale, North Point, and date.
- (5) Boundary lines of the proposed subdivision indicated in heavy lines with bearings and standard distances and approximate acreage.
- (6) Location, width, names of all existing or prior platted streets, railroad rights-of-way, utility rights-of-way, permanent buildings and structures, section or municipal lines adjacent to the subdivision.
- (7) In the case of a replat, all descriptive lines of the original plat being replatted shall be shown by dotted lines in their proper position in relation to their new arrangement, the new plat being clearly shown in solid lines so as to avoid ambiguity or confusion.
- (8) Names of all adjacent subdivisions with the book and page where they are recorded.
- (9) Existing contours with intervals of not more than five (5) feet where the slope is greater than ten (10) percent, and not more than two (2) feet where the slope is less than ten (10) percent. Elevations shall be based on United States coast and Geodetic Survey adjusted datum as practicable. If not practicable, an assumed datum satisfactory to the County engineer.
- (10) Blocks, consecutively numbered or lettered. Outlots shall be lettered in alphabetical order. If blocks are numbered or lettered in alphabetical order, outlots shall be lettered in alphabetical order within each block.
- (11) All lots each block consecutively numbered. Outlots shall be lettered in alphabetical order. If blocks are numbered or lettered in alphabetical order, outlots shall be lettered in alphabetical order within each block.
- (12) Building setback lines; public utility easements; drainage easements.
- (13) Site to be reserved or dedicated for parks, playgrounds, and other public uses.

- (14) All new streets - names shall not duplicate existing street names; rights-of-way, roadway widths; approximate grade and gradients.
- (15) Existing zoning of the area proposed to be subdivided and of land adjacent thereto.
- (16) Utilities - including sanitary and storm sewers; legally constructed drains; other drainage facilities; water lines; gas mains; electric utilities. Size and capacity of each shall be shown and the locations of or distance to each existing utility.

D. In addition to the requirements of Section 2-C of the foregoing Article XIV, the subdivider shall submit the following additional information as part of the Preliminary Plan requirements.

- (1) If the use of individual sewerage disposal systems is contemplated by the subdivider, he shall submit accurate results of tests made to determine the condition of the subsurface soil and rock ground water conditions, prepared by a qualified technician.
- (2A) Restrictive covenants intended to regulate the subdivision.
- (2B) If the proposed subdivision is classified in the F Farming Zone or is abutting land classified the F Farming Zone, the following acknowledgement shall be included in the restrictive covenants to regulate the subdivision:

The undersigned owner(s) of the herein described real estate, (insert name of addition), for himself, and for all future owners and occupants of said real estate, or any parcel or subdivision thereof, for and in consideration of the right to develop the real estate for other than agricultural uses, hereby:

First, acknowledges and agrees that the (insert name of addition) is in or adjacent to an area zoned for agricultural uses, high uses include, but are not limited to, production of crops, animal husbandry, land application of animal waste, the raising, breeding and sale of livestock and poultry, including feeding operations, use of farm machinery, and the sale of farm products.

Second, waives and any and all objections to any such agricultural uses on any real estate zoned for such uses within two miles of any boundary of the (insert name of addition), whether such uses currently exist, are enlarged, or changed in use in the future to another agricultural use;

Third, agrees that such agricultural uses, whether currently existing, or hereafter established, enlarged, or changed, do not constitute a nuisance so long as they are not negligently maintained, do not cause bodily harm to third parties, or directly endanger human health; and

Fourth, agree that this covenant is for the benefit of Delaware County, Indiana and all persons engaged in agricultural uses within two miles of any boundary of the (insert name of addition) and is enforceable by any of the foregoing; together with such other covenants as may be required.

- (3) Traffic Impact Studies and Improvements: A traffic impact study shall be required for any development, or for the accumulated impacts of phased development, that meets any of the following warrants:

Warrant 1: Land Use Intensity

This warrant is satisfied when a development generates more than 100 street peak hour direction trips.

Warrant 2: Level-of-Service

This warrant is satisfied if the traffic generated by the proposed development causes the level-of-service (LOS) of the adjacent streets/intersections to drop a level or where nearby intersections presently operate at a level-of-service "D" or worse. LOS determination shall be in accordance with the procedures described in the Highway Capacity Manual.

Warrant 3: Roadway Modification

This warrant is met when the proposed development is expected to significantly impact a roadway segment identified for improvement in the local or state Transportation Improvement Program. This warrant is also met when the proposed development includes modifications to the roadway system. Modifications include addition of lanes to accommodate site-generated traffic, addition of exclusive turning lanes, acceleration/deceleration lanes, median openings, installation of traffic signals and other traffic control devices, etc.

Warrant 4: Special Cases

This warrant is satisfied if the preliminary study reveals that the traffic generated from the proposed development will create safety, operational, or some other traffic problem, as determined by the City-County Engineer or the Indiana Department of Transportation.

Based upon the traffic impact study, improvements shall be required to maintain the current level of service of the adjacent streets/intersections and nearby intersections. Improvements may also be required by the City-County Engineer or the Indiana Department of Transportation to address access requirements, safety, operational or other traffic flow concerns. All such traffic impact improvements are the responsibility of the owner/developer of the property and may be accomplished either solely by the owner/developer or in partnership with a public or private entity.

Right-of-way shall be dedicated for existing roadways either in accordance with the Official Thoroughfare Plan or in a width sufficient to encompass all improvements required as a result of the traffic impact study, whichever is greater.

- E. Following the official filing of the Preliminary Plan, one (1) copy of the Plan shall be forwarded to the County Engineer; one (1) copy to the Sanitary District; one (1) copy to each public utility. When a subdivision is to be served with individual sewerage disposal systems, one (1) written request for its analysis of the proposed subdivision and its judgment as to whether or not, in its opinion, such individual sewerage disposal systems as proposed by the subdivider will operate efficiently. All agencies, individuals or groups may file their recommendations with the Director of Planning in advance of the public hearing at which the Preliminary Plan may be acted upon.
- F. The Commission shall hold a public hearing on the Preliminary Plan. The director of Planning shall cause a notice of the hearing to be published in accordance with state law. Notices shall be mailed to all adjoining property owners and copies of the Preliminary Plan shall be maintained for public review in the office of the Commission. Any and all expenses incurred in the publication of notices concerning the Preliminary Plan, shall be born by the subdivider. At the public hearing the Commission give all interested persons an opportunity to examine and comment upon the Preliminary Plan.
- G. Within sixty (60) days after the public hearing, the Commission shall approve, modify and approve, or disapprove the Preliminary Plan, setting forth any conditions to which the approval is subject, or reasons for disapproval. One (1) copy of the Plan shall be returned to the subdivider with the date of approval, conditional approval, or disapproval noted thereon, and the reasons. If approved, the Commission shall state in writing the character and extent of public improvements required in the proposed subdivision.
- H. The approval of the Preliminary Plan shall hold for a period not to exceed one (1) year from the date of the Commission's decision to approve. Should final approval be not obtained for the entire Plan or portion thereof within that time, the Preliminary Plan shall be automatically null and void and the subdivider shall be required to file a new plan in accordance with established requirements. If final approval is sought by sections of the Preliminary Plan, said plan will hold as long as each new final section is approved by the Commission within one (1) year of the previous one. The subdivider for good cause shown may be granted an extension of the one-year period.
- I. The Preliminary Plan shall be considered officially filed, after having been submitted to the Planning Commission Office.

### SECTION 3. FINAL PLAN

- A. Following the approval of the Preliminary Plan, the subdivider, if he wishes to proceed with the subdivision, shall file with the Commission an application for final approval. The final Plat shall conform with the Preliminary Plan, except that minor alterations in lot

lines or corrections in dimensions may not be considered as significant differences between the Preliminary Plan and the Final Plat when such plat is submitted to the Commission for consideration.

- B. The Final Plat shall be drawn on tracing cloth or mylar, in India ink. It shall be drawn at the same scale as the Preliminary Plan and shall be prepared by a professional civil engineer or a registered land surveyor.
- C. The Final Plat shall be considered officially filed and ready for review and consideration by the Commission, after it has been submitted to the Planning office in paper form and containing the information as provided in subparagraph "D" below
- D. The final plat shall contain the following information
  - (1) The name of the subdivision, not to duplicate, be the same in spelling or alike in pronunciation with the name of any other subdivision.
  - (2) Location by Section, quarter section, Township, range, county, and State.
  - (3) Signature, seal and certification of the registered land surveyor or professional registered engineer who prepared the plat.
  - (4) Scale shown graphically, date, North Point.
  - (5) Boundaries of the subdivision indicated in heavy lines; total acreage.
  - (6) True courses and distances to the nearest established street lines or official monument which accurately described the location of the subdivision.
  - (7) Location, widths and names of existing platted streets, railroad rights-of-way, easements, parks and corporation lines.
  - (8) Radii, central angles, tangents, lengths of curves, angles at street intersections.
  - (9) Area platted in streets; area platted in lots; area platted in other uses.
  - (10) Location of proposed monuments.
  - (11) Easement for public services and utilities in a width as required in this Ordinance.
  - (12) Building setback lines.
  - (13) The following certificates as detailed in this Ordinance; Offer of dedication, Certificate of ownership, Certificate of approval by the Plan Commission, Certificate of approval by the County Commissioners, Legal Description Certificate, Acknowledgment Certificate.

- (14) At least two (2) bench marks, so indicated with their elevations shown on the plat. All elevations shall be based on the same datum as shown on the Preliminary Plan.
  - (15) Blocks, consecutively numbered or lettered. The blocks in numbered additions to subdivisions bearing the same name shall be numbered or lettered consecutively throughout the various additions.
  - (16) All lots in each block consecutively numbered and showing exact lot dimensions. Outlots shall be lettered in alphabetical order. If blocks are numbered or lettered alphabetically, outlots shall be lettered alphabetically within each lot.
  - (17) On cul-de-sacs, angles at the center thereof between markers on the perimeters shall be shown. No lot shall be dimensioned to contain any part of an existing right-of-way.
  - (18) Whenever a system of coordinates has been adopted, the boundary survey shall be tied into such system.
  - (19) Markers found on the ground to determine the boundaries of the subdivision.
  - (20) Centerline and widths of all streets, widths of all railroad rights-of-way.
- E. After the approval of a Preliminary Plan and prior to the filing of the Final Plat or construction thereon, the subdivider shall file and obtain approval of all Profiles, typical cross-sections and specifications for the layout and construction of all new streets, profiles and locations and other engineering data concerning the installation of sanitary sewers, storm drainage systems and water distribution systems.
- Said information shall be filed and approved by the Board of County Commissioners prior and as a condition precedent to the filing of a Final Plat.
- F. No final plat shall be approved by the Commission unless the subdivider has complied with the following to the satisfaction of the Board of County Commissioners.
- (1) Post a surety bond in a sufficient amount to guarantee the total completion of all required improvements, or deliver to the Commission a certified check in an amount sufficient to guarantee the total completion of all required improvements, or submit to the Board of County Commissioners a personal bond with surety to the approval of the County Commissioners in such amount.
  - (2) Totally complete the installation and construction of all required improvements in accordance with approved plans and specifications, and obtain an official certification from the Board of County Commissioners to the effect that said improvements have been done to their satisfaction and acceptance.

- (3) That in the event the subdivider shall put up surety as provided in subsection (1) above, the same shall be conditioned upon the completion of all work within one (1) year from the date of said instrument. Regardless of whether a subdivider complies with paragraph (1) or (2) above he shall agree to maintain all improvements for a period of one (1) year from the date of completion of the entire section under a legal instrument to be executed by the subdivider with the board of County Commissioners and filed with the Commission prior to the approval of the Final Plat. The developer will be responsible for making any restorations and corrections which may be necessary during that year.
- (4) If the subdivider chooses to post a surety bond or personal bond as hereinabove provided, the same shall run to Delaware County as hereinabove determined. If the subdivider chooses to deposit a certified check, the same shall be payable to the Treasurer of Delaware County. Funds received from surety bonds shall be used by Delaware County for the completion of improvements and installations for which they were provided. In situations where the subdivider fails to complete said improvements and cannot show justifiable cause for his failure, Delaware County shall declare the bond to be in default and shall require that all improvements be installed regardless of the extent of the building development at the time the bond is declared to be in default and shall require that all improvements be installed regardless of the extent of the building development at the time the bond is declared to be in default.

G. After the Final Plan and application for approval have been officially filed in accordance with all schedules and procedures, the plat shall be submitted to the Commission for final consideration. One (1) copy of the plat shall be returned to the subdivider showing the date of the Commission's action. The subdivider shall, within ten (10) days of the approval, provide the Commission with reproducible maps of the Original plat in such numbers as may be required. It shall be the responsibility of the subdivider to file the Final Plat for recording in the office of the Delaware County Recorder within thirty (30) days of the date in which the plat is endorsed by the officers of the Commission, otherwise the plat will be deemed null and void.

#### Section 4. MINOR PLATS

- A. The Commission's Plat Committee, in addition to approving final plats and replats, may grant primary approval of a subdivision of land that:
- (1) Does not involve the opening of a new public way;
  - (2) Does not create more than four (4) lots;
  - (3) Complies in all applicable respects with this Subdivision Ordinance; and

- (4) Complies in all applicable respects with the Delaware County Comprehensive Zoning Ordinance.
- B. The petitioner shall refer to the application packet to determine the format and number of copies to be filed with the Plan Commission Office. The filing fee shall be the same as for a final plat.
- C. The Plat Committee may approve the minor plat; approve the minor plat with conditions and/or modifications; deny the minor plat; or continue the minor plat. If denied, the petitioner may appeal to the Plan Commission under established schedules.
- D. A public hearing before the Plan Commission is not required. Within five (5) days after primary approval of a minor plat, the Plan Commission Office shall provide for due notice to adjoining property owners, as interested parties, by mailing notice of the approval and of their right to appeal. An interested party may appeal the Plat Committee approval to the Plan Commission by filing a Notice to Appeal with the Plan Commission Office not more than five (5) after the Plan Commission Office has mailed a copy of the Plat Committee's action to the interested party.
- E. If no appeal is filed, and the minor plat has met all conditions of approval, the Plan Commission staff shall give an administrative secondary approval to the minor plat, affix the signatures of the Commission's President and Secretary, and forward signed copies to the petitioner for recording.

## **ARTICLE XV IMPROVEMENTS**

### **SECTION 1.**

- A. No final plat of a subdivision shall be approved unless the required improvements have been constructed or installed in accordance with approved plans or arrangements have been entered into by the subdivider and Delaware County to guarantee their installment. Before final approval is given, the subdivider shall file with the Commission a certificate from the Board of County Commissioners stating one of the following as may be the case:
  - (1) That a surety bond has been posted, or other security given.
  - (2) That all improvements have been completed in accordance with plans and specifications approved by the County Engineer.
  - (3) That an agreement has been reached for the maintenance, by the developer, of all improvements for a period of one-year.
- B. All improvements shall be constructed under the supervision of the County Engineer, or under a person designated by him. The subdivider shall notify the County Engineer as to

when the construction or installation of any required improvement is to begin. He shall give at least forty-eight (48) hours advance notice to the County engineer of the date and time on which work shall begin in order that said official may perform the necessary inspections.

C. Following are the improvements the Commission may require in a subdivision:

- (1) Street grading and surfacing.
- (2) Storm sewers, channels, drainage ditches, bridges.
- (3) Sanitary sewers or sewerage disposal plant.
- (4) Water mains.
- (5) Sidewalks, including crosswalks.
- (6) Underground public utilities.
- (7) Street signs.
- (8) Markers.

D. No subdivision improvement shall be constructed and no work shall commence on such improvements until and unless construction drawings have been submitted and approved by the County Engineer. Construction drawings shall meet the requirements of Article XVI, Section 1-B.

## SECTION 2. STREETS

A. All residential streets within a subdivision shall be graded and constructed by the subdivider in full compliance with specifications and requirements set forth by the County Engineer. A right-of-way of fifty (50) feet shall be dedicated for all residential streets within a subdivision. Such street shall be improved to a roadway width of twenty-seven (27) feet back to back of curbs. Major streets within a subdivision. Such street shall be improved to a roadway width of twenty-seven (27) feet back to back of curbs. Major streets within a subdivision shall be dedicated by the subdivider in full compliance with the Official Thoroughfare Plan of Delaware County. The subdivider shall construct the major street to a roadway width of a residential street. Where a residential subdivision borders an existing major road shown on the Official thoroughfare Plan for realignment or larger width, the subdivider shall dedicate the right-of-way but shall not be required to improve the road. Nothing in this ordinance shall be construed as preventing improvement requirements on existing roads under an access control ordinance as implemented by the city or county engineer.

- B. SURFACE WATER. Where a public storm sewer is within one-thousand (1,000) feet of a proposed subdivision, the subdivider shall install storm sewer facilities. If no outlets are feasible within that distance, the subdivider shall negotiate with the County Engineer for an adequate, efficient and safe way of disposing of surface drainage. All surface drainage shall bow separate and apart from the sanitary sewer system. The County Engineer shall give careful attention to the accommodation of upstream drainage areas and the effect of downstream drainage areas.

Where a subdivision is traversed by a watercourse, drainage-way, channel or stream, the subdivider shall provide a storm water easement or drainage right-of-way conforming to the lines of the watercourse. The easement shall be of such width as will be adequate for maintenance purposes. Where topography or other conditions are such as to make it impractical the inclusion of drainage facilities within road rights-of-way, perpetual, unobstructed easements of fifteen (15) feet minimum width shall be provided across the property outside the road lines and with satisfactory access to the road. When a proposed drainage system will carry water across private land outside the proposed subdivision, drainage rights shall be secured by developer and accepted by drainage board before final approval.

- C. SANITARY SEWERS. Where a public sanitary sewer main is within a thousand (1,000) feet from a proposed subdivision, the subdivider shall construct a complete sanitary sewer system including lateral connection for each lot. Where a proposed subdivision is located more than one-thousand (1,000) feet from a public sanitary sewer main and the lots in the subdivision contain more than two (2) lots per acre, the subdivider may construct a central sewerage system, install sewer lines, laterals and mains, in full compliance with local and State of Indiana requirements. Where a subdivision has a maximum density of two (2) lots per acre, the subdivider may provide each lot with a septic tank and soil absorption field, provided all septic all septic tank installations are performed in accordance with the minimum requirements of the Indiana State Board of Health and provided further that soil tolerances are found to be adequate. Soil tests shall be performed by the subdivider in compliance with Indiana State Board of Health standards and shall adhere to three basic conditions:

- (1) At least one (1) test to an acre shall be made.
- (2) Test shall be performed by a licensed engineer, licensed surveyor, or a qualified sanitarian, and shall be properly certified by them.
- (3) Results of tests shall be related to a map and the same shall be attested to as being correct and performed according to the required procedures. In approving subdivisions which depend upon septic tanks for sewage disposal, the Commission shall consider present and ultimate environmental dilemmas related to health and well-being of those who may reside in the subdivision as well as in the community at large.

There shall be no physical connection between a private or public potable water supply system and a sewer which will permit the passage of any sewage or polluted water into the potable water supply. Sewers shall be kept remove from water supply wells or other water supply sources and structures.

- D. WATER SUPPLY. Where a public water main is within one thousand (1,000) feet of a proposed subdivision, the subdivider shall connect with such water main and provide a connection for each lot in the subdivision. The water supply shall be capable of providing domestic water use and effective fire protection. Where a subdivision is located more than one-thousand (1,000) feet from a public water supply system and a subdivision will contain more than two (2) lots per acre, the subdivider may construct a group water supply system acceptable to the Public Health and Public Service Commission of the State of Indiana, constructed and installed in accordance with standards and specifications applicable thereto. In areas of density of two (2) lots per acre or less, the subdivider may, at the discretion of the Commission, install individual wells provided approval is obtained by him from local and State of Indiana health authorities and evidence of same filed with the Commission. When the Commission, after thorough examination and substantial evidence, finds that the quantity and/or quality of the well water to be made available to a proposed subdivision is not acceptable, the Commission shall disapprove the subdivision.
- E. SIDEWALKS. Sidewalks shall be installed in all subdivisions on one side of the street.
- F. UTILITIES. All utilities including electric power, telephone, cable television shall be located underground based on a reasonable agreement between the subdivider and the public utilities. Underground service connections to the street property line of each platted lot shall be installed. At the Commission's discretion, the requirement for service connections to each lot may be waived in the case of adjoining lots proposed to be retained in single ownership and intended to be developed for the same primary use.
- G. STREET SIGNS. One street sign shall be installed at each street intersection by the subdivider within or in the perimeter of the subdivision, to be located at the northeast corner of the intersection between the street and the sidewalk, at the point approximately six (6) feet from the sidewalk. The sign shall bear the exact name of the street as shown on the subdivision plat. Street signs shall be of a type, material, style and specifications prescribed by the County Engineer and shall be installed by his requirements.
- H. MARKERS. The traverse of the exterior boundaries of the tract and of each block in the subdivision, when computed from the field measurements of the ground, shall close within a limit of error of one (1) foot to ten thousand (10,000) of the perimeter before balancing the survey.

Upon completion of the survey, monuments shall be installed at all quarter section points on the boundaries of or within the area of the proposed subdivision; at the intersection of all boundary lines; at the beginning and at the end of all curves and points of tangency of the perimeter of the subdivision; at the intersection of all street centerlines; at such points

as may be necessary to establish all major subdivision lines. Monuments shall be constructed of concrete and shall not be less than thirty (30) inches in length, four (4) inches square or five (5) inches in diameter. They shall be marked on top with a cross, brass plug, iron rod, and securely embedded. Monuments shall be flush with the ground and so installed that they will not be altered by the weather.

- I. **CURBS AND GUTTERS.** In the case where natural drainage channels are not reasonably close to a proposed subdivision, curbs and gutters shall not be required. Otherwise, curbs and gutters shall be required in all subdivisions where ninety (90) percent or more of the lots are less than one hundred (100) feet in width and/or less than twenty thousand (20,000) square feet in area. When a proposed subdivision adjoins an existing subdivision which contains curbs and gutters, said proposed subdivision shall be furnished with curbs and gutters at the option of the Board of County Commissioners.

## **ARTICLE XVI GENERAL PROVISIONS**

### **SECTION 1.**

- A. **ACCEPTANCE OF STREETS.** Acceptance of dedications of streets, public areas, easements and parks shall be by ordinance of the Board of County Commissioners. Approval by the Commission of a subdivision plat shall not be deemed to constitute or imply the acceptance by the said Board of any street, easement, public area, shown on the plat. The plat shall be endorsed with appropriate notes to this effect.
- B. **CONSTRUCTION PLANS. (DETAILS).** Construction plans shall be prepared for all required improvements. Plans shall be drawn at a scale of not more than one (1) inch equals fifty (50) feet, and map sheets shall be of the same size as the Preliminary Plan. Construction plans shall show the following information.
  - (1) Where a proposed road intersects an existing road, the elevation along the centerline of the existing road within one hundred (100) feet of the intersection. Approximate radii of all curves, length of tangents, and central angles on all streets.
  - (2) Where steep slopes exist, the cross-sections of all proposed streets at one hundred (100) foot stations as follows: On a line at right angles to the centerline of the street, each property line, and points twenty-five (25) feet inside each property line.
  - (3) Plans and profiles shall show locations and typical cross-sections of street pavements including curbs and gutters, sidewalks, drainage easements, rights-of-way, manholes and catch basins. The location, size and invert elevations of existing and proposed sanitary sewers, stormwater drains and fire hydrants, showing connection to any existing or proposed utility systems, exact location and size of all water, gas, or other underground utilities or structures.

- (4) Location, size elevation, and other appropriate description of any existing utilities or facilities, including but not limited to bodies of water, streams, and other pertinent features such as swamps, railroads and buildings. The water elevations of adjoining lakes or streams on the date of the survey, and the approximate high and low water elevations of such lakes and streams.

All elevations shall be referred to the United States Geodetic Survey datum plane.

- (5) Topography at the same scale as the Preliminary Plan with a contour interval of two (2) feet, referred to sea-level datum. All datum provided shall be applicable to the United States Coast and geodetic Survey datum and should be so noted on the plat.
- (6) All specifications and references required by local government's construction standards and specifications, including site grading plan for the subdivision.

C. **MODEL HOMES.** The Commission may permit the construction of not more than three (3) model homes in a subdivision after the same has received preliminary approval. Prior to obtaining a permit for a model home, the subdivider shall submit to the Board of County Commissioners an exact survey of the lots upon which the model home or homes are to be constructed. Such survey shall indicate the location of the model homes, required setbacks, side yards, rear yards, as well as required easements. If the Board of County Commissioners finds the survey to be adequate, he may approve it and forward the same to the Administrative Zoning Officer of Delaware County as clearance for any permit that may be required.

D. **PENALTY.** Any person who violates a provision of this Ordinance or any regulation contained herein, shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than ten (10) dollars and not more than three hundred (300) dollars, for each day's violation. Any land in Delaware County subdivided in violation of the provisions of this Ordinance after its effective date thereof, is hereby declared a nuisance and the owner of such land shall be liable for maintaining a common nuisance which may be restrained, enjoined or abated in any appropriate action or proceeding. Should any developer prepared, file and obtain approval of a plat under this Ordinance, which plat is later found to be in violation of some provision of this Ordinance, the Developer shall not be liable for prosecution for those violations contained in the plat as approved by the Commission.

The Commission may institute an injunction suit in the Unified Court System of Delaware County to restrain a person or governmental unit from violating the provisions of this Ordinance. The Commission may institute an injunction suit requesting an individual or governmental unit to be directed to remove a structure erected in violation of the provisions of this Ordinance, or to make the same comply with its terms. If the Commission is successful, the respondent shall bear the costs of the action.

- E. **AMENDMENTS.** This Ordinance may be amended by the Commission giving notice of and holding a public hearing on the proposed amendment. At least fifteen (15) days prior to the date of the hearing the Commission shall cause to be published in a newspaper of general circulation in Delaware County or the City of Muncie a notice of time and place of such hearing. During the aforementioned fifteen (15) days the proposed amendment shall be kept in the Commissions Office for examination by any interested person. After the public hearing has been held the Commission may adopt the proposed amendment and recommend it to the Board of County Commissioners. The secretary shall certify a copy of the amendment to the Commissioners. If the Board of County Commissioners rejects the amendment it shall return the same to the Commission for its consideration with a report of reasons for its rejection or changes in the proposed amendment. The Commission shall have forty-five (45) days in which to consider the rejection or change in the proposed amendment. If the Commission ratifies the action of the Board of County Commissioners the same shall stand as passed by the Board of County Commissioners as of the date the Commissions report was recorded with the Board of County Commissioners. If the Commission disapproves the rejection or changes made by the board of County Commissioners, the rejection or change shall stand reaffirmed by a unanimous vote of the Board of County Commissioners whose action shall be final. If the Board of County Commissioners do not act within one hundred and twenty (120) days of certification an amendment to it by the Commission, the amendment shall have the same effect as all other Ordinances.
- F. **BUILDING PERMITS.** No building permit shall be issued for the construction of any building, except as contained in Article XVI, Section 1-C, until the final Plat of the subdivision has been approved, endorsed by the Chairman and Secretary of the Commission, and duly recorded in the Office of the County Recorder. No building permit shall be issued for the construction of any building or structure located on a lot or plat subdivided or sold in violation of the provisions of this Ordinance.
- G. **REMOVAL OF TEMPORARY STRUCTURES AND DEBRIS.**
- (1) Debris: Cut trees, timber, debris, earth, rocks, junk, rubbish, or other waste materials, hereafter referred to as materials, shall be removed from a subdivision prior to final plat approval of the subdivision, or subdivision section if developed in phases, except that if final plat approval is based on surety, the materials may remain during completion of required improvements and the surety shall include the cost of removing all such materials. No final plat shall be approved nor surety released until the above mentioned requirements are fully complied with. After release of surety or final plat approval of the subdivision or subdivision section, no outside storage or placement of materials is allowed in the subdivision or subdivision section except on individual lots where such materials are allowed for the duration of individual lot development, provided a building permit has been issued. Upon completion of individual lot development, all materials shall be removed from the lot.

- (2) Temporary Structures: Temporary structures intended for use as storage for tools and construction materials or as temporary offices while the subdivision is being developed shall be removed from the subdivision within thirty (30) days after the subdivision or subdivision section is completed. No final plat shall be approved nor surety released until the above mentioned requirement is met.
- (3) Suspension of Development: If development of a subdivision has ceased for over one year, all materials and temporary structures shall be removed as set forth above. Development shall mean the filing of a final plat and/or the installation of required infrastructure.
- (4) Routine Maintenance: The developer shall mow all undeveloped and/or unsold areas of the subdivision at least one time between the following dates: April 1 to April 30; May 1 to May 31; June 1 to June 30; July 1 to July 31; August 1 to August 31; September 1 to September 30; October 1 to October 31.
- (5) Enforcement and Penalties: The Administrative Zoning Office, or an authorized representative, shall enforce the provisions of this Section G. Upon receiving notification of a violation of this section from said Officer, the developer shall immediately abate the violation within seven (7) days from the date of receipt of such notification. Within that seven (7) day period, the developer may request an extension of time from the Board of County Commissioners. If an extension has not been granted nor the abatement completed, a fine shall be imposed of five hundred dollars (\$500) for each day the violation continues to exist up to maximum fine of twenty-five hundred dollars (\$2,500), payable to the Office of the Delaware County Zoning Administrator. Injunctive relief may be sought by the County in addition to costs assessed.

H. IN-SUBDIVISION MANUFACTURE. No construction products such as concrete or street surfacing materials shall be produced or manufactured within a subdivision, unless the developer shall first obtain from the Board of County Commissioners of Delaware County a temporary permit therefore, which said permit shall be subject to such restrictions and conditions as the said Board of County Commissioners shall deem to be reasonable and proper.

I. COMMERCIAL OR INDUSTRIAL SUBDIVISIONS. If a proposed subdivision includes land zoned for commercial or industrial use, the subdivider shall demonstrate to the satisfaction of the Commission that the street, parcel and block pattern proposed is adapted to the uses anticipated and takes account of all uses in the vicinity. The following standards shall be observed:

- (1) Industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated.

- (2) Streets rights-of-way and pavement for proposed and existing roads shall be adequate to accommodate the type and volume of traffic anticipated to be generated.
- (3) Special requirements may be imposed with respect to design and construction of proposed and existing streets, curbs, gutters, and sidewalks.
- (4) Special requirements may be imposed with respect to the installation of public utilities such as water, sewer, storm drainage, etc.
- (5) Adjacent residential areas shall be protected from potential nuisance from commercial or industrial uses in the subdivision including additional depth in lots backing up to residential development and the use of buffer strips, properly landscaped, for shielding purposes.

J. FEES. At the time of filing an application for preliminary plat approval, the subdivider shall pay a filing fee in the amount of two hundred fifty dollars (\$250.00) if the subdivision contains ten (10) lots or less. For large subdivisions, the subdivider shall pay the filing fee and an additional one dollar (\$1.00) shall be charged for each lot over the first ten (10) lots. A check for the total amount shall be made payable to the Delaware County Treasurer and submitted to the Delaware-Muncie Metropolitan Plan Commission Office with the application. No cash payments shall be permitted. The same fee shall be charged at the time of filing an application for approval of the Final Plat.

K. BASIS FOR APPROVAL. In determining whether the Plat shall be approved, the Commission shall be satisfied that:

- (1) Public facilities and services have been installed and will be of sufficient capacity to serve the proposed subdivision.
- (2) That subdivision streets have been properly coordinated with existing and planned streets or highways.
- (3) That all lots and parcels of land in the subdivision meet the width and area requirements as contained in the current zoning ordinance.
- (4) That the provisions of the County's Master Plan including the Official thoroughfare Plan have been carried out.
- (5) That the subdivision layout is conducive to improve traffic safety and circulation.

L. UNSUITABLE LANDS. The Commission shall not approve a subdivision when and if the same shall have found that the land where the subdivision is located is unsuitable for subdivision development due to flooding, improper drainage, rock formations, impervious soils, adverse earth formations, utility easements or other features which will

be harmful to present and future residents of the subdivision, if said condition cannot be corrected.

- M. FRONTAGE ON PUBLIC STREETS. No subdivision shall be approved unless the area to be subdivided shall have frontage on or access from an existing public street.

## **ARTICLE XVII DESIGN STANDARDS**

### **SECTION 1. STREETS**

- A. Streets shall be carefully related to the topography of the land. Whenever possible, they should be curved to avoid conformity of lot appearance. Streets shall be so arranged so as to obtain building sites at, or above, the grade of the streets. Grades of streets shall conform as closely as possible to the original topography.
- B. Streets shall be properly intergraded with the existing and proposed system of thoroughfares and dedicated rights-of-way; they shall be related to specific traffic generators such as industries, schools, churches and shopping centers; to population densities; and to the pattern of existing and proposed land uses.
- C. Local or minor streets shall be designed to conform to existing topography, to discourage use b thorough traffic, to permit efficient drainage and utility systems, and to require the minimum number of streets necessary to provide convenient and safe access to the subdivision.
- D. Proposed streets shall be to the boundary lines of the subdivision when it is desirable for the coordination of the layout of the subdivision with the existing layout or the most desirable future development of adjacent tracts.
- E. Except as provided in the Official thoroughfare Plan, streets or parts thereof shall be deemed to have a right-of-way of fifty (50) feet. Greater rights-of-way may be required whenever topographical conditions dictate additional width to provide increased safety.
- F. Streets shall intersect each other at ninety (90) degree angles. In no case shall the angle of an intersection between two (2) streets be less than seventy (70) degrees. Intersections involving the junction of more than two (2) streets shall be avoided. Streets running in an oblique direction shall, when intersecting another street, be curbed to intersect at ninety (90) degree angles for at least a distance of one hundred (100) feet. Proposed new intersections along one side of an existing street shall coincide with existing intersections on the opposite side of the street. Minimum curb radius at an intersection involving a collector street shall not be less than twenty-five (25) feet. Intersecting streets which determine block length shall not be closer than eighteen hundred (1,800) feet to each other.

- G. Streets shall be laid out so as to eliminate the creation of perimeter half (1/2) streets. Where an existing half (1/2) street is adjacent to a proposed subdivision, the subdivider shall dedicate his share of the right-of-way.
- H. All streets in a subdivision shall be dedicated the public. Private streets shall not be platted within a subdivision. No subdivision, regardless of size, shall be approved unless it has frontage on or public access from an existing public street. Reserve strips established for the purpose of controlling access to streets or adjoining properties shall be prohibited in a subdivision.
- I. When an adjacent property to a proposed subdivision is undeveloped and a street must be temporarily dead-ended, the right-of-way of such street shall be dedicated and extended to the property line. All temporarily dead-ended streets shall be provided with a turn-around eighty (80) feet in diameter. When a street in a proposed subdivision is not planned to extend beyond the subdivision boundary and its continuation is not required by the Commission, such street shall be provided with a permanent turn-around or cul-de-sac having a radius of forty (40) feet. No permanently dead-ended street shall exceed six hundred (600) feet in length.
- J. Where a subdivision borders on or contains a major highway as shown on the Official thoroughfare Plan, the subdivider shall provide access to it and all lots bordering such highway in one of the following ways:
- (1) Installing a twenty (20) foot service road along the lots and providing access only on such road. Any and all driveways on each lot shall be connected with such service road and no driveway, curb cut, or similar improvement shall be permitted along the major highway.
  - (2) Providing a twenty-six (26) foot street parallel to the major highway but separated from it by a divider as shown in the Official thoroughfare Plan.
  - (3) Designing all lots with their rear yards toward the major highway in which case no lot shall be less than one hundred and fifty feet in depth and providing a fifty (50) foot residential street parallel to the major highway whereby lots shall front.
  - (4) Installing a cul-de-sac or a series of cul-de-sacs entered from a street paralleling said major highway, with terminal lots of the cul-de-sac backing onto the major highway and separated from it by a screen planting or buffer street.
- K. When lots in a subdivision are planned along a railroad line, such lots shall be not less than one hundred and twenty (1200 feet in depth measured to the front of the lots from the railroad right-of-way. Streets crossing railroad lines shall be avoided.
- L. Street names in a proposed subdivision shall not duplicate any existing street name and shall not be phonetically similar to another name. In reviewing a proposed subdivision plat, attention shall be given to avoiding the repetition of names already existing in an of

the unincorporated and incorporated territory of Delaware County. A street planned as a continuation of an existing street, shall be given the name of the existing street, provided said existing street does not already duplicate an existing street name.

- M. FENCES. No fence, wall, hedge or shrub planting which obstructs the vision of motorists at elevations between two (2) and six (6) feet above the street, shall be placed or permitted to remain on any corner lot at an intersection. No tree shall be located or permitted to remain at intersections, unless the foliage line is maintained at sufficient height to prevent obstruction to the vision of motorists. This statement shall be incorporated in the covenants and restrictions applying to the proposed subdivision.

## SECTION 2. BLOCKS

- A. Blocks shall have sufficient width to provide two (2) tiers of lots of appropriate width, except for blocks adjacent to major highways, railroads or waterways.
- B. Block length in residential areas shall not exceed two thousand (2000) feet or twelve times the minimum lot width required in the zoning district nor be less than five hundred (500) feet. Blocks along major arterial and collector highways shall not be less than one thousand (1000) feet in length.

## SECTION 3. LOTS

- A. The design, character, grade, location, and orientation of lots in a proposed subdivision shall be appropriate for the uses proposed; shall be logically related to existing topography and in full compliance with the lot width and area provisions of the current zoning ordinance.
- B. Lots shall abut or have access to a public street. Lots shall not have double frontage except in the case of corner lots. The depth of a lot shall not be greater than two and one-half (2 1/2) the times its frontage and shall permit compliance with required rear and front yard standards.
- C. The side lines of any lot shall be at ninety (90) degree angles to the street lines or radial to curving street lines. Corner lots shall observe the minimum front yard setback requirements from each of the two streets they abut on.
- D. Lots shall be laid out so as to provide effective drainage away from all buildings. Lot drainage of a lot shall be coordinated with the total storm drainage pattern planned for the proposed subdivision.
- E. Easements for the location of public utilities and services shall be located preferably along the rear lot lines and side lot lines. No easement shall be less than six (6) feet wide on each lot, making an overall easement width of twelve (12) feet. Where a subdivision traverses a watercourse, drainage way, channel, or stream, the subdivider shall provide a drainage right-of-way conforming to the contours of such watercourse. Such right-of-way

shall be adequate in width. For maximum potential volume flow, drainage shall be maintained by an open channel with landscaped banks. Where it is impractical to include drainage facilities within a street right-of-way, perpetual, unobstructed easement not less than fifteen (15) feet in width shall be provided outside street lines with satisfactory access to the road. Drainage easements shall be carried from the road to the natural watercourse or other drainage facility. When a proposed drainage system will carry water across private land outside the proposed subdivision, drainage rights shall be obtained by the subdivider, to the approval of the Drainage Board.

#### SECTION 4. NATURAL FEATURES

In approving a proposed subdivision plat, the Commission shall consider the preservation of existing natural features contributing to the enhancement of a subdivision and its environs such as natural growth, watercourses, falls, beaches and historic areas. Such features shall be incorporated in the design of the subdivision. Trees shall be preserved and shall be welled against grade changes. The subdivider shall provide at least two (2) trees per front yard on the street right-of-way. Such trees shall have a minimum trunk diameter of not less than two inches (2"), measured twelve inches (12") above ground.

### ARTICLE XVIII DEFINITIONS

For the purpose of this Ordinance, certain terms shall be used, interpreted, and defined as stated in this Article. Terms used in the present tense include future tense; terms used in the plural number include singular; the term "shall" is always mandatory; a "building" includes a "structure".

SECTION 1. ALLEY - A public right-of-way designed to serve as secondary means of access to abutting land, which is primary used for vehicle access to the side or rear of those lands whose principal frontage is on another street.

SECTION 2. APPLICANT - The owner of the land proposed to be subdivided or his representative.

SECTION 3. BLOCK - Property abutting on one side of a street, and lying between the two nearest intersecting streets, or between the nearest intersecting street and railroad right-of-way, waterway or other barrier.

SECTION 4. BUILDING SETBACK LINE - The line indicating the maximum horizontal distance between the right-of-way of any street and the front of a building.

SECTION 5. BOND - A form of security including cash deposit, security bond, collateral, property or reliable instrument of credit in an amount and form satisfactory to the Board of County Commissioners.

- SECTION 6. BUILDING - Any structure built for the support, shelter, or enclosure for persons, animals, chattels, or movable property of any kind, including a "structure".
- SECTION 7. CENTRAL SEWERAGE SYSTEM - A sewer system including collection and treatment facilities established by a subdivider to serve a new subdivision and approved by the State of Indiana.
- SECTION 8. CENTRAL WATER SYSTEM - A water system established by a subdivider, including water distribution and treatment and approved by the State of Indiana.
- SECTION 9. COMMISSION - The Delaware-Muncie Metropolitan Plan Commission.
- SECTION 10. COUNTY - Delaware County, Indiana.
- SECTION 11. COMMISSIONERS, COUNTY COMMISSIONERS - The Board of County Commissioners of Delaware County, Indiana
- SECTION 12. CUL-DE-SAC - A short street having one end open to traffic and being permanently terminated by a vehicular turn-around.
- SECTION 13. DOUBLE FRONTAGE LOT - A lot whose opposite ends abut on different streets.
- SECTION 14. EASEMENT - A grant by the property owner of the use of a strip of land by the public, corporation or persons for specific uses and purposes.
- SECTION 15. EASEMENT, DRAINAGE - The land required for the installation of storm water sewers or drainage ditches, as required along a watercourse for preserving the channel, and providing for the flow of water therein to safeguard the public against flood damage.
- SECTION 16. ENGINEER - The Delaware County Engineer as appointed by the Board of County Commissioners of Delaware County.
- SECTION 17. FRONTAGE - The side of a lot abutting on a street, ordinarily regarded as the front of the lot. Both sides of a lot abutting more than one street shall be considered as frontage as in the case of a corner lot.
- SECTION 18. INDIVIDUAL SEWERAGE DISPOSAL SYSTEM - A septic tank, seepage tile sewage disposal system, or any similar approved sewerage disposal system or treatment device approved by the State of Indiana.

- SECTION 19. LOT - A tract or portion of a subdivision intended as a unit for the purpose, whether immediate or future, of transfer of ownership or building development.
- SECTION 20. LOT IMPROVEMENT - Any building, structure, or improvement of the land on which it may be situated, constituting a physical improvement of real property.
- SECTION 21. MASTER PLAN - The complete plan or any of its parts for the development of the Delaware County area; the Transportation and Urban Development Study.
- SECTION 22. PLAT, FINAL - The map or drawing prepared by a registered land surveyor or engineer on which the subdivider's plan of subdivision, set forth in accordance with the requirements of this ordinance, is presented for secondary approval and which, if approved, may be submitted to the Delaware County Recorder for recording in the Book of Plats. The term final plat shall be synonymous with secondary plat.
- SECTION 23. PLAT, PRELIMINARY - The drawing or drawings prepared by a registered and surveyor or engineer indicating the proposed manner of layout of a subdivision which meets all conditions of this ordinance and is submitted to the Plan Commission for primary approval. The term preliminary plat shall be synonymous with primary plat.
- SECTION 23.5 PRIMARY APPROVAL - An approval, or approval with conditions imposed, granted to a preliminary subdivision plat by the Plan Commission after having determined in a public hearing that the subdivision complies with the standards prescribed in this ordinance and which is the approval necessary to begin the process of developing the subdivision.
- SECTION 24. RECORDER - The Delaware County Recorder.
- SECTION 24.5 SECONDARY APPROVAL - A second and last stage of approval granted to a final subdivision plat found to be in conformance with the terms of the primary approval and the requirements of this ordinance including the requirements dealing with the installation and completion of all required improvements and which is the approval necessary to allow the designated officials to sign the plat and to allow submission of the plat to the Delaware County Recorder for recording.
- SECTION 25. STREET - A public right-of-way intended for vehicular traffic.

SECTION 26. STREET, ARTERIAL - Those which carry traffic from minor streets to major streets or arterial highways.

SECTION 27. OFFICIAL THOROUGHFARE PLAN - The part of the master Plan for Delaware County which sets forth the location, arrangement, alignment, dimensions, identification and classification of existing and proposed public streets, highways and other thoroughfares.

SECTION 28. SUBDIVISION –

A. A subdivision shall include:

The division of any parcel of land shown as a unit or as contiguous units on the last preceding tax roll, into two or more lots, parcels or sites, any one of which is less than five (5) acres in area for the purpose, whether immediate or future, or transfer of ownership or building development;

the improvement of one or more parcels of land for residential, commercial or industrial structures or groups of structures involving the division or allocation of land for the opening, widening or extension of any street or streets;

the division or allocation of land as open spaces for common use by owners, occupants or lease holders or as easements for the extension and maintenance of public sewer, water, storm drainage or other public facilities;

the resubdivision of already subdivided land or portion thereof.

The division or partition of land into parcels of more than five (5) acres not access shall not be considered a subdivision for the purpose of this Ordinance.

The division or partition of land into lots or parcels under the MHR Mobile Home Residence Zone requirements or the Planned Unit Development requirements shall not be considered a subdivision for the purpose of this ordinance, however, where any Planned Unit Development or MHR development involves the division or allocation of land for the opening, widening or extension of a public street, such street shall be constructed and designed in accordance with the standards set forth in this ordinance. Nothing shall prevent an owner or developer from electing to subdivide lots under the provisions of this Ordinance in the MHR Mobile Home Residence Zone or a Planned Unit Development.

The sale or exchange of small parcels of land to or between adjoining property owners or the sale or exchange of a part or parts of adjoining lots within a platted subdivision, where such sales or exchanges do not create additional lots or building sites, shall not be considered a subdivision for the purposes of this ordinance.

B. The definition of a subdivision in an F Farming Zone shall be the same as in a Residence Zone unless the following seven numbered conditions are met.

- (1) The applicant can secure a septic tank permit from the Health Department for installation of a septic tank system.
- (2) Elevation of new structures shall be as follows: either (a) If drainage is to the roadway, it shall be at least twelve (12) inches in one hundred (100) feet from the top of the foundation (any type material) to the lowest existing road surface elevation; or (b) If drainage is to sides or rear (natural or legal drains as designated by Delaware County Surveyor) elevation shall be twelve (12) inches per one hundred (100) feet in at least two of the three directions.
- (3) Access to property is through a "Minor" thoroughfare, as determined by County Zoning Administrator in conjunction with County Highway Engineer.
- (4) Proposed residence is not in a flood plain area.
- (5) Setback distances involved shall be consistent with what the State Board of Health requires when a confined livestock operation is involved.
- (6) All side ditch characteristics must be maintained on county road right-of-way of at least a twelve (12) inch diameter culvert pipe or equal, and must be installed at each and every ingress or egress point and shall extend a minimum of two (2) feet on each side.
- (7) Each tract shall have a minimum of one hundred and fifty (150) foot road frontage and not be less than one (1) acre in all.

The County Zoning Administrator will make determination as to whether these conditions are met. In the event the application is given a negative decision by the County Zoning Administrator, he/she may appeal the decision to the Delaware-Muncie Metropolitan Board of Zoning Appeals.

In the event the applicant is given a favorable decision by the Zoning Administrator, the following deed restriction shall be required for any parcel divided under the conditions cited above:

The owner(s) of the herein described real estate, for himself, and for all future owners and occupants of said real estate, or any parcel or division thereof, for and in consideration of the right to develop the real estate as a building site of less than five acres for other than agricultural uses, hereby:

First, acknowledges and agrees that the land is adjacent to an area zoned for agricultural uses, which uses include, but are not limited to, production of crops, animal husbandry, land application of animal waste, the raising breeding and sale of livestock and poultry, including confinement feeding operations, use of farm machinery, and the sale of farm products;

Second, waives any and all objections to any such agricultural uses on any real estate zoned for such uses within two miles of any boundary of the real estate, whether such uses currently exist, are enlarged, or changed in use in the future to another agricultural use;

Third, agrees that such agricultural uses, whether currently existing, or hereinafter established, enlarged, or change, do not constitute a nuisance so long as they are not negligently maintained, do not cause bodily injury to third parties, or directly endanger human health; and

Fourth, agree that this covenant is for the benefit of Delaware County, Indiana, and all persons engaged in agricultural uses within two miles of any boundary of the real estate and is enforceable by any of the foregoing.

SECTION 29. BOARD - Whenever the term "Board" is used in this Ordinance, it shall mean the Board of County Commissioners of Delaware County, Indiana, unless otherwise designated.

## **ARTICLE XIX CERTIFICATIONS**

SECTION 1. CERTIFICATE OF THE PLAN COMMISSION

Under the authority provided by Chapter 174 - Acts of 1947 enacted by the General Assembly of the State of Indiana and all amendatory acts thereto, this plat was given approval by the Delaware-Muncie Metropolitan Plan Commission as herein attested:





Don Bonnet  
Richard W. Thornburg

## AMENDMENTS

Art. XVIII Sec. 28	Farming Zone Exception Added	MPC Action 6/3/82 Adopted 6/21/82
Art. XVI Sec. 1 J	Fees Amended Amended by Co. Comm. 3/12/84	MPC Action 3/1/84 MPC Action 4/5/84 Adopted 4/16/84
Art. XVIII Sec. 28	MHR & PUD Exceptions Added Amended by Co. Comm. 1-13-86 Part of MPC 19-86A, Zoning Ord Amend.	MPC Action 11/7/85 MPC Action 3-6-86 Adopted 1/13/86
Art. XV Sec. 2 A	Added “residential” preceding “subdivision” in last sentence & added a sentence following that.	MPC Action 9/6/90 Adopted 9/17/90
Art. XVI Sec. 1 I (2)	Added “for proposed and existing roads”	MCP Action 9/6/90 Adopted 9/17/90
Art. XVI Sec. 1 I (3)	Replaced item (3)	MCP Action 9/6/90 Adopted 9/17/90
Art. XVI Sec. 1 K	Delete “final” from 1 <sup>st</sup> sentence	MCP Action 9/6/90 Adopted 9/17/90
Art. XVIII Sec. 22, 23, 23.5, & 24.5	Delete definition in Sec 22 & Sec 23 and replacing with new 22, 23, 23.5 & 24.5	MPC Action 9/6/90 Adopted 9/17/90
Art. XIV Sec. 2 D (a) & (b) & Art. XVIII Sec. 28 B	Protection of Prior Farm Use Rights	MPC Action 1/22/97 Adopted 1/13/97
Art. XVI Sec. 1 G	Removal of Debris, Routine Maintenance, & Temporary Structures	MPC Action 11/4/99 Adopted 11/15/99
Art. XIV Sec. 2 D (3)	Added Traffic Impact Studies & Improvements	MPC Action 7/6/06 Adopted 7/17/06
Art. XIV Sec. 2 F	Amended notice requirements	MPC Action 1/4/18 Adopted 2/5/18
Art. XIV Sec. 4	Added Sec 4 Minor Plats	MPC Action 1/4/18 Adopted 2/5/18
Art. XVIII Sec. 28 A	Amended definition of Subdivision to allow split/combine for adjoining properties	MPC Action 1/4/18 Adopted 2/5/18