

Elkhart County

SUBDIVISION CONTROL ORDINANCE



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(Amendment July 18, 2017 PC 2017-20)

ARTICLE 1 GENERAL PROVISIONS

Sec. 1.1. Title

These regulations shall be known and may be cited and referred to as the "Subdivision Control Ordinance of Elkhart County, Indiana," and shall hereafter be referred to as "these regulations."

Sec. 1.2. Policy

1.2.1 Subject to Comprehensive Plan

It is hereby declared to be policy of Elkhart County to consider the subdivision of land and the subsequent development of the subdivision plat as it relates to the Comprehensive Plan for the orderly and efficient development of Elkhart County.

1.2.2 Development without Peril

Land to be subdivided shall be of such a character that it can be developed without peril of health, flood, fire or other menace. Subdivided land shall have access to available existing public facilities and improvements and shall have proper provisions for drainage, water supply, sewage disposal and other necessary public improvements and transportation facilities adequate for serving the subdivision. A private well and a septic system in lieu of public water and sewer facilities are allowable where such facilities do not exist and where permitted under the Zoning Ordinance and approved by the Elkhart County Health Department.

1.2.3 Public Facilities to Conform

Both existing and proposed public facilities serving the subdivision shall conform to the Comprehensive Plan and related policies.

Sec. 1.3. Purpose

The subdivision of land is the first step in the process of development. The arrangement of land parcels for residential, commercial, industrial, recreational, utility, and other public purpose will determine to a large degree the qualities of health, safety, convenience, environment, and general welfare of the County. These regulations are designed, intended and should be administered to:

1.3.1 Guide Development

The Subdivision Control Ordinance shall guide the future development of Elkhart County in accordance with the Comprehensive Plan, The Zoning Ordinance and related policies.

1.3.2 Uniform Standards

The Subdivision Control Ordinance establishes uniform rules, procedures and standards governing the subdivision of land in compliance with the Elkhart County Comprehensive Plan.

(Amendment July 18, 2017 PC 2017-20)

1.3.3 **Protection**

To protect the compatibility, character, economic stability and orderliness of all development through reasonable design standards while protecting private property rights.

1.3.4 **Guide Policy**

To guide public and private policy and action providing adequate and efficient public and private facilities to achieve the most aesthetically pleasing and beneficial interrelationship between land uses, and to conserve energy and natural resources such as natural beauty, woodlands and open spaces, both during and after development.

1.3.5 **Accurate Records**

To establish adequate and accurate records of land subdivision.

1.3.6 **Harmonious Development**

To relate, harmoniously, the development of the land to the existing community and facilitate the future development of adjoining tracts.

1.3.7 **Preservation**

To provide for the preservation of important natural features, vegetation and views.

Sec. 1.4. Authority and Jurisdiction

1.4.1 **Authority Given by State**

These regulations are enacted pursuant to Indiana Code 36-1-3-4 and the 36-7-4-700 Series authorizing the Elkhart County Advisory Plan Commission with exclusive control to review and approve or disapprove plats for subdivisions throughout the unincorporated area of Elkhart County and those municipalities within the County having an inter-local agreement for planning and subdivision regulation. This authority also extends to the re-subdivision of undeveloped portions of a previously recorded plat.

1.4.2 **Metes and Bounds Tracts**

Any parcel of land with a metes and bounds description established after the effective date of these regulations shall comply with the provisions of these regulations to be eligible for an Improvement Location Permit. Metes and bounds tracts created in compliance with the Subdivision Control Ordinance in effect at the time of the tract creation shall be exempt from requirement to subdivide as established by these regulations, but must comply with all other standards established by these regulations to receive an Improvement Location Permit. In no instance shall an Improvement Location Permit be granted to a previously created tract not created in compliance with the Subdivision Control Ordinance in effect at the time of the tract creation.

1.4.3 **Conformity with Regulations**

No Improvement Location Permit or Certificate of Occupancy shall be issued for any parcel or plat of land that was created by subdivision after the effective date

of, and not in conformity with, the provisions of these regulations. Also, no construction of any public or private improvement shall take place or be commenced except in conformity with the applicable standards of these regulations and the Building Code. A Certificate of Occupancy, as defined by the Zoning Ordinance, shall not be granted for the use of any structure within an approved subdivision until the required improvements have been bonded or constructed, inspected and approved by the responsible County officials.

Sec. 1.5. Enactment

In order that land may be subdivided in accordance with the purposes and policies contained herein, these regulations are hereby adopted.

Sec. 1.6. Minimum Standards

In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirement for the promotion of the public health, safety, and general welfare.

Sec. 1.7. Conflict

1.7.1 Most Restrictive Applies

These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule, regulation, statute, or other provision of law. Where any provision of these regulations imposes a restriction different from those imposed by any other provision of these regulations or any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive, or imposes a higher standard, shall control.

1.7.2 Private Agreements

These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction. But, where the provision of these regulations is more restrictive or imposes a higher standard or regulation than the easement, covenant, or other private agreement or restriction, the requirements of these regulations shall control. In no case may a private agreement be in conflict with or be less restrictive than local ordinances. A private provision can only be enforced privately. See also Sec. 2.13, Covenants.

Sec. 1.8. Separability

If any part of any provision of these regulations or application thereof to any person or circumstance is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to any other person or circumstance. The Board of County Commissioners hereby declare that it would have enacted the remainder of these regulations even without that part, provision or application.

Sec. 1.9. Saving Provision

1.9.1 Regulations not Abating

These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, 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 the Board of County Commissioners under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any right obtained by any person, firm or corporation, by lawful action of the Board of County Commissioners, except as shall be expressly provided for in these regulations.

1.9.2 Approval under Prior Ordinances

A. Primary Approval

Any proposed subdivision of land for which a "complete application" seeking primary plat approval and the filing fee has been submitted and accepted by the Plan Commission Staff, prior to the date of enactment of these regulations, may be considered under the provisions of the previous Subdivision Control Ordinance. If said primary plat application does not receive approval, any future applications must be considered under the provisions of the Subdivision Control Ordinance in effect at the time the new application is made.

B. Secondary Approval

Any proposed subdivision of land for which a "complete application" seeking secondary plat approval and the filing fee has been submitted and accepted by the Plan Commission Staff, prior to the date of enactment of these regulations, may be considered under the provisions of the previous Subdivision Control Ordinance. If said secondary plat application does not receive approval, any future applications must be considered under the provisions of the Subdivision Control Ordinance in effect at the time the new application is made. Any proposed or actual subdivision of land having been granted primary approval by the Plan Commission under the previous Subdivision Control Ordinance is valid only if that primary approval was granted before March 2, 2011, unless the Plan Commission grants an extension under subsection 3.10.3, Extensions of Primary Approval. If the primary approval includes development in phases, secondary approval for one entire phase, including all sections within said phase, shall automatically continue approval for the remaining phases to the same expiration date not to exceed eight (8) years unless the Plan Commission grants an extension under subsection 3.10.3, Extensions of Primary Approval

(Amendment July 18, 2017 PC 2017-20)

C. Recording

Any subdivision, having been granted secondary approval under the previous Subdivision Control Ordinance prior to the effective date of these regulations, and subsequently having completed the requirements for recording under the previous Subdivision Control Ordinance, may be signed by the designated officials as having been granted secondary approval and shall be permitted to record the secondary plat. Any proposed or actual subdivision of land having been granted secondary approval by the Plan Commission under the previous Subdivision Control Ordinance must be recorded within two (2) years of secondary approval, or the secondary approval shall be considered null and void, unless an extension is granted by the Plan Commission.

D. Violations of Repealed Ordinance

Any division of land prior to the enactment of these regulations, and subsequent to, the Subdivision Control Act adopted on June 16, 1958 and amended August 17, 1994, which division or act was in violation of the ordinances repealed by these regulations, shall be subject to all remedies, penalties and defenses under this Ordinance.

Sec. 1.10. Repeal of Conflicting Ordinances

Upon the adoption of these regulations prescribed by the Indiana Code 36-7-4-700 Series, the Subdivision Control Ordinance of Elkhart County, Indiana originally adopted June 16, 1958 and amended August 7, 1994, as amended, is hereby repealed.

Sec. 1.11. Amendment

For the purpose of providing for the public health, safety, and general welfare, the Board of County Commissioners, upon recommendation of the Plan Commission, may from time to time amend the provisions imposed by these regulations. The Plan Commission shall hold a public hearing on any proposed amendment in the manner prescribed by the Indiana Code 36-7-4700 Series.

Sec. 1.12. Conditions

1.12.1 Exercise of Police Powers

Regulation of the subdivision of land and the attachment of any reasonable condition to land subdivision is an exercise of valid police power delegated by the State of Indiana to this County prescribed by the Indiana Code 36-7-4-700 Series.

1.12.2 Compliance with Conditions

The owner has the duty of compliance with any condition imposed by the Plan Commission for design, dedication, improvement, and restrictive use of the land in order to conform to the physical and economical development of the County and to provide for the safety and general welfare of the future lot owners in the subdivision and of the County at large.

Sec. 1.13. Citations/References

Wherever within this Ordinance references are made to a particular Indiana Code citation or other state or local law, rule, regulation or ordinance, it shall be construed to include all revisions, amendments, re-modifications and replacements as of the date of this Ordinance and any subsequent revision, amendment, re-modification or replacement thereof or thereto.

Sec. 1.14. Owners Responsibility

The owner of the land is ultimately responsible for compliance with these regulations and a current address for the owner must be maintained in the files of the Department. In addition, if a corporation or business is the owner of the property and/or the applicant, names and address of the resident agent of the corporation must be on file with the Department, regardless if another representative is used.

Sec. 1.15. Conflict in Zoning Statement

When proposing to subdivide land for residential purposes, the following statement may be required to be placed on the secondary plat at the discretion of the Plan Commission at the time of primary approval: "The lots in this subdivision are near agricultural, business or manufacturing properties, operations or uses. These subdivision lots may be subject to inconveniences or discomfort arising from such properties, operations or uses. Such discomfort or inconveniences may include, but are not limited to: noise, odor, fumes, dust, smoke, fugitive lighting, operation of machinery (including aircraft), large truck traffic at any time, the storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides. One or more inconveniences or discomfort described may occur as a result of any of these operations or uses that conform to existing laws and regulations and with generally accepted customs, practices and standards. While buffers may exist to lessen these impacts, lot owners in this subdivision should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in areas near agricultural, business or manufacturing properties, operations or uses."

ARTICLE 2 MINIMUM DEVELOPMENT STANDARDS

Sec. 2.1. Introduction/Purpose

This chapter sets forth the minimum development standards required for major and minor subdivisions. It explains what government standards and regulatory functions are involved and must be followed. These provisions help to ensure the protection of the health and welfare of the future occupant(s) of an approved subdivision, assure the quality of new development, and minimize the adverse effects of the construction of subdivisions on the surrounding environment and of any developed land for all current and future residents of Elkhart County.

Sec. 2.2. Conformance

2.2.1 Other Regulations

In addition to these regulations and others included by reference, all subdivision plats shall comply with federal, state and local laws, rules, and regulations, when applicable.

(Amendment July 18, 2016 PC 2016-20)

2.2.2 Comprehensive Plan

Subdivision plats shall also consider the Comprehensive Plan, including all components or elements of the Plan, to the extent applicable to the proposal.

(Amendment July 18, 2016 PC 2016-20)

Sec. 2.3. Land Suitability

2.3.1 Suitability of Land for Subdividing

If the Plan Commission finds that the land requested to be subdivided is unsuitable for development because of, but not limited to, flooding, poor drainage, steep slopes, rock formations, adverse earth foundations, topography, utility availability, inadequate water supply on or to the site, site is inadequate for sewage disposal, or other features or conditions which will reasonably be harmful to the safety, health, life, property or general welfare of the present or future inhabitants of the land or its surrounding area, the Plan Commission shall not approve the land for subdivision unless adequate methods for solving the problems created by the unsuitable land conditions are formulated by the owner/developer and approved by the Plan Commission and it's technical advisors. In making its determination under this Section, the Plan Commission shall use the following criteria:

A. Streets

The existing street system and proposed new roads shall provide a safe, convenient and functional system for vehicular circulation; shall be appropriate for the traffic characteristics of the subdivision; and their arrangement and character in the subdivision and their integration shall conform with the existing and proposed system of thoroughfares as established in the Thoroughfare Plan of the Street Standards and in the Comprehensive Plan.

(Amendment July 18, 2016 PC 2016-20)

B. Stormwater Management

The subdivision plat shall make adequate provisions for storm water runoff such that the proposed subdivision does not negatively alter the storm water conditions of properties adjoining the proposed subdivision; the facilities, structures and controls necessary for reasonable conditions within the proposed subdivision be provided; and that drainage improvements shall accommodate potential runoff from the entire upstream drainage area and shall be designed to prevent increases in downstream flooding.

C. Sewage Disposal

Each lot will be served by means of wastewater collection and treatment approved by the Indiana Department of Environmental Management or the Elkhart County Health Department—Environmental Division.

D. Water Service

Each lot will have an adequate supply of potable water through a public or community system or by individual wells.

E. Floodplain

Each lot will contain enough land, which is not located in a floodplain as defined by the Zoning Ordinance, to accommodate the permitted use(s) of the property. If subdivision lots require an individual on-site sewage disposal system, all such systems must be located above the level of the established 100-year flood elevation of record. Lots consisting entirely of land located in a floodplain shall not be approved for subdivision. In subdivisions that contain unbuildable areas, all such areas must be platted with the buildable area of each lot and must be maintained with the ownership of the buildable areas on the plat.

(Amended July 18, 2016 PC2016-20; deleted Section 2.3.2)

Sec. 2.4. Site Design

Design of the development shall be based on the site analysis. To the maximum extent practicable, development shall be located to preserve the natural features of the site, to avoid areas of environmental sensitivity, and to minimize negative impacts and alteration of natural features.

Sec. 2.5. Street Standards

The arrangement, character, extent, width, grade, and location of all streets shall conform to all of the elements of these right-of-way guidelines and the Street Standards.

2.5.1 Topography and Arrangement

- A.** Streets shall be related appropriately to the topography. All streets shall be arranged so as to obtain as many as possible of the building sites at, or above, the grades of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and

sharp curves shall be avoided. Specific standards are contained in the Street Standards.

- B. All streets shall be properly integrated with the existing and proposed system of thoroughfares and dedicated rights-of-way as established on the Comprehensive Plan.
- C. Minor streets shall be laid out to conform as much as possible to the topography, to discourage use by through 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 property.
- D. Rigid, rectangular "gridiron" street patterns are generally to be avoided, and the use of casually curvilinear streets, cul-de-sacs, or loop streets shall be encouraged where such use will result in a more desirable lay-out and relate better to the existing topography. On flat land, innovative, varying geometrical street patterns shall be encouraged where they are likely to enhance visual interest and a sense of order for those using them (e.g., non-grid rectilinear, trapezoidal, polygonal, or other geometric patterns).
- E. Proposed streets shall, where appropriate, be extended to the boundary lines of the tract to be subdivided unless this is prevented by topography or other physical conditions, or unless in the opinion of the Plan Commission such extension(s) is/are not necessary or desirable for the coordination of the layout of the subdivision under consideration with the existing street layout or for the most advantageous future development of adjacent tracts.
- F. In business and industrial developments, the streets and other access ways shall be planned in connection with the grouping of buildings, location of rail facilities, and the walkways, bikeways, and parking areas so as to minimize conflict of movement between the various types of vehicular and pedestrian traffic.

2.5.2 **Blocks**

- A. Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depths. Exceptions to this prescribed block width shall be permitted in blocks adjacent to arterial streets, railroads, and waterways.
- B. The lengths, widths, and shapes of blocks shall be such as are appropriate for the locality and the type of development contemplated, but block lengths in residential areas shall not exceed eighteen hundred (1,800) feet nor be less than four hundred (400) feet in length.
- C. In long blocks the Commission may require the reservation of easements through the block to accommodate utilities, drainage facilities, or pedestrian traffic. Pedestrian ways or crosswalks not less than (12) feet wide, may be required by the Commission through the center of blocks more than eight hundred (800) feet long or at other appropriate locations and at the ends of the cul-de-sacs where deemed essential to provide for circulation or access to schools, playgrounds, shopping centers, transportation, or other community facilities. Blocks designed for industrial uses shall be of such length and width as may be determined to be suitable by the Commission for the intended use.

2.5.3 **Reserve Strips (Spite Strips)**

The creation of reserve strips shall not be permitted adjacent to a proposed street in such a manner as to deny possible access to it from adjacent property.

(Amended 7/18/2016 PC2016-20)

2.5.4 **Construction of Streets**

A. Construction of Streets other than cul-de-sacs

The arrangement of streets shall provide for the continuation of streets between adjacent subdivisions or other properties when such continuation is necessary for the convenient movement of traffic, for effective fire protection, for efficient provision of utilities, and where such continuation is in accordance with the Comprehensive Plan.

B. Cul-de-sacs (permanent Dead-end Streets)

Required where a street does not extend beyond the boundary of the subdivision and its continuation is not required by the Commission or is nearer to such boundary than fifty (50) feet. However, the Commission may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic, or utilities. A cul-de-sac turnaround shall be in accordance with Street Standards and a stub street requires a 100' temporary turn around. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall be limited in length to 1,000 feet. (Measured from the point of intersection of centerlines through the center of the circle to the end of the right-of-way).

(Amended 10/16/2017 PC2017-19)

2.5.5 **Addressing**

Addressing of all land/buildings in the unincorporated Elkhart County is the responsibility of the Department as determined by Ordinance No. 36-7-4-405. Addressing by the Department, of proposed building sites, will occur only after said department is presented with a property deed recorded in the Office of Recorder for Elkhart County, and an accurate location of buildings to be addressed.

2.5.6 **Variation and Exceptions**

When a subdivider can show that a provision of these Right-of-Way guidelines, if strictly adhered to, would cause unnecessary hardship because of topographical or other conditions peculiar to the site, and a departure may be made without destroying the intent of such standards, the Plan Commission may authorize a modification of the action in question.

(Amended 7/18/2016 PC2016-20)

Sec. 2.6. Street Names and Addresses

Street names and numbers shall conform to the established pattern in Elkhart County, and shall be subject to the approval of the Plan Commission or its designee. The proposed street name shall not duplicate, or too closely

approximate phonetically, the name of any other street in the area covered by these regulations. Existing street names shall be protected wherever possible.

(Amended 7/18/2016 PC2016-20)

Sec. 2.7. Subdivision Names

2.7.1 May Not Duplicate

The proposed name of the subdivision shall not duplicate, or too closely approximate phonetically, the name of any other subdivision in the area covered by these regulations. The Plan Commission shall have final authority to approve the name of the subdivision, which shall be determined at the time of primary approval. Any changes proposed to the subdivision name after primary approval must first be approved by the Plan Commission.

2.7.2 Name to Include Phases

If the owner intends to develop the subdivision in phases, then that intent must be included with the proposal and must show the remainder of the land with phase numbers of identification at the time of primary approval.

Sec. 2.8. Drainage System

The general storm and flood drainage system, and its easements to provide for the proper drainage of the subdivision, shall be approved as to design and specifications by the Street Standards for all major and minor subdivisions. The approval shall be submitted with the application for secondary approval.

Sec. 2.9. Soil Erosion

Erosion and sediment control measures for the development of the subdivision shall comply with the County Construction Site Runoff Control Ordinance (Storm Drainage, Erosion, and Sediment Control Ordinance) and shall be approved as to design and specifications by the County Soil and Water Conservation Department and the Elkhart County Department of Storm Water Management. This design must be submitted before secondary approval and must be approved prior to any movement of soil on the site.

Sec. 2.10. Water Facilities

2.10.1 General Requirements

Each lot must be served by a public or quasi-public water system or meet individual well requirements.

A. Public Water Supply System

Where a public water main is available, the owner shall install adequate water facilities including fire hydrants. The water facilities must be shown on the approved construction plans.

B. Water Main Extension

Water main extension shall be approved by the officially designated agency of the state, county and/or municipality concerned. The design and construction must comply with all applicable federal, state and local regulations.

C. Dry Hydrants

In those subdivisions where a central water system is not available and where a permanent water body is existing or will be constructed, the owner shall provide dry hydrants, with access pad, in cooperation with the affected fire department and meeting the Street Standards and the impacted fire department standards.

1. The location of dry hydrants shall be made in conjunction with the local fire officials to assure accessibility to the pumping apparatus. A letter from the local affected fire official indicating approval of the construction and design of the dry hydrant or a waiver of the requirement shall be provided with the application for secondary approval.
2. This requirement shall apply to bodies of water having a depth of 3 feet or greater and a total usable volume of 60,000 gallons or greater.

D. Letter from Utility

A letter of intent to provide service must be provided from the appropriate utility and shall be submitted with the application for primary approval.

E. Private Water System

Where a public water system is not feasible, an appropriate private water source may be used provided that they meet all applicable federal, state and county requirements.

F. Approval by IDEM

If a private water supply and distribution system is proposed, it must be designed and constructed in a manner that provides an adequate supply of potable water to every lot in the subdivision. IDEM shall approve a private water system. This approval shall be submitted prior to the issuance of any Improvement Location Permit for any lots in the subdivision.

G. Testing

The Elkhart County Health Department, Environmental Division, may require, if they determine it to be in the interest of public health or safety, that a water quality survey including the testing of water supply wells is conducted prior to their determination of suitability or additional construction requirements of any proposed subdivision water supply.

Sec. 2.11. Sewage Facilities

2.11.1 General Requirements

Each lot must have access to sanitary sewer facilities or meet the criteria for individual on-site sewage systems.

A. Sanitary Sewage System Requirements

Where required, the owner shall install the necessary sanitary sewers and sanitary sewer facilities in compliance with the rules, regulations, and standards of the Elkhart County Health Department, and other appropriate state and federal agencies. Plans shall be approved by the above agencies

where required by those agencies. All plan approvals and permits must be submitted with the application for secondary approval. A letter of intent to provide service must be provided from the sewer utility prior to primary approval.

B. Individual Disposal System Requirements

If a public sewer facility is not available, and an individual or community on-site sewage disposal facility is proposed, the minimum lot area shall conform to the requirements of the Zoning Ordinance and the "Wastewater Treatment Assessment Matrix and the Environmental Health Technical Review and Development Standards" of the County Health Department establishing usable lot areas and design standards for an individual or community on-site sewage disposal facility. All lots utilizing individual on-site sewage disposal systems must have room for two systems, both a primary and a secondary (future) site. These facilities must comply with all applicable rules, regulations and standards of the appropriate federal, state and local agencies. All lots must have Elkhart County Health Department approval as to design and specifications of the on-site sewage disposal system and this approval shall be submitted with the application for primary approval. For subdivisions with lots which will be served by individual on-site sewage disposal systems, slopes greater than fifteen percent (15%), or six percent (6%) when elevated mound system are required, shall be considered unsuitable. An on-site soil evaluation shall be completed by a registered soil scientist in number and locations determined by the Environmental Health Division of the Elkhart County Health Department.

Sec. 2.12. Bufferyard

All parcels being subdivided shall be required to provide the appropriate bufferyard in conformance with the requirements of the Zoning Ordinance.

Sec. 2.13. Covenants

The owner may choose to place a covenant on any or all land located within the subdivision. Covenants are not generally required by this Ordinance. However, if the owner decides to place a restriction on any of the land contained in the subdivision which is greater than, but not in conflict with, those required by the Zoning Ordinance or these regulations, the Plan Commission may require that the restriction or reference thereto be indicated on the secondary plat, to be recorded. In no case may a covenant be in conflict with or be less restrictive than local ordinances.

Sec. 2.14. Plats Crossing Governmental Boundaries

Whenever access to a subdivision is required across land in another governmental jurisdiction, the Plan Commission shall request assurance from the other governmental jurisdiction that access is legally established and the access road is adequately improved, or that a performance guarantee has been duly executed and is sufficient in amount to assure the construction of the access road. Lot lines shall be laid out so as not to cross governmental boundary lines. However, when a subdivision is proposed that is in more than one planning jurisdiction, including Elkhart County's planning jurisdiction, approval shall be contingent upon the subdivision also receiving approval from the other jurisdiction(s).

Sec. 2.15. Boundary Monumentations

- 2.15.1 For major and minor subdivisions, the owner shall place, under the supervision of a registered land surveyor, a boundary marker for each corner of every section or phase and for each lot corner in said subdivision, unless waived by the County Surveyor. The Registered Land Surveyor shall operate in full compliance with Title 865 IAC Chapters 1 - 13.
- 2.15.2 The centerline alignment shall be monumented at all centerline intersections, points of curvature, tangent and center of cul-de-sacs. The monument will be set flush with the final pavement surface. The type and nature of the monument will be specified by the County Surveyors Office.

Sec. 2.16. Phasing of Development

The Plan Commission may permit the development of a subdivision to take place in phases. In reviewing a request for phased development, the Plan Commission shall consider the following:

2.16.1 Design Standards

The relationship of the number and configuration of the lots in each phase of development shall conform to the design standards of this Ordinance.

2.16.2 Improvements

The improvements in each phase shall be adequate to serve the lots to be developed in that phase.

2.16.3 Non-completion of Subdivision

The Plan Commission shall attempt to ensure that each phase of the subdivision will conform to the intent and purposes of this Ordinance.

Sec. 2.17. Lot Improvements

2.17.1 Lot Dimensions and Area

Lots shall meet the standards for dimensions as established in the Zoning Ordinance.

2.17.2 Lot Area Excludes Unusable Areas

Lot areas as specified in the Zoning Ordinance shall exclude all unusable areas such as wet/dry detention basins, areas below normal pool level of lakes and ponds, floodplains, wetlands, cliffs and other slopes of twenty percent (20%) or greater, easements for high pressure petroleum pipelines and electric transmission and/or distribution lines.

Sec. 2.18. - Reserved (Amended 7/18/2016 PC2016-20)

Sec. 2.19. Responsibility for Water Bodies

If a tract being subdivided contains a natural or constructed water body:

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- 2.19.1 The body of water may be designated "common area" which is owned in common by all of the lot owners in the subdivision. Each lot must have equal and undivided ownership and be so noted on the plat and in the subdivision restrictions; or
- 2.19.2 Lot lines shall be drawn so as to distribute the entire ownership of the water body among adjacent lots. Responsibility for safe maintenance of the water body, including vector control, and the adjacent slope above the waterline shall be placed with the individual property owner(s).

(Amended 7/18/2016 PC2016-20)

Sec. 2.20. Frontage on an Improved Street

Every lot appearing upon the proposed plat shall abut upon or have sufficient and adequate access to a street designated and labeled within or on the perimeter of the plat and constructed or to be constructed in accordance with the requirements, standards and specifications of these regulations.

(Amended 7/18/2016 PC2016-20)

Sec. 2.21. Sidewalks, Pathways and Pedestrian Ways

2.21.1 Easement Required

In order to facilitate pedestrian access from streets to schools, parks, playgrounds, or other nearby streets, the Plan Commission may require a perpetual unobstructed easement at least twelve (12) feet in width. This easement shall be indicated on both the primary and secondary plats. A preliminary cross section of the pedestrian way shall be shown on the primary plat.

(Amended 7/ 18/ 2016 PC2016-20)

(Amended 10/16/2017 PC2017-19)

Sec. 2.22. Easements

No permanent encroachments shall be allowed within any of the following easements shown of the final approved plat:

2.22.1 Access Easements

Access easements providing legal access to land shall be at least fifty (50) feet in width and shall have the capability of providing suitable locations for future public streets meeting the standards set forth in this Ordinance.

2.22.2 Drainage and Utility Easements

Drainage and utility easements shall be at least ten (10) feet in width on each side of any public street that has a right-of-way width of less than fifty (50) feet.

2.22.3 **Utility Easements**

Utility easements shall be allocated in areas of suitable size and location. Such easements shall provide reasonable continuity from block to block and shall be at least fifteen (15) feet in width. The Plan Commission may require larger easements when it deems such additional width necessary for carrying out the purposes of this Section.

2.22.4 **Drainage Easements**

Drainage easements shall be provided where the Plan Commission deems them necessary to provide proper drainage for the subdivision. Such easements shall be at least fifteen (15) feet in width and may be coincident with utility easements. Where a Regulated Drain traverses a subdivision, the easement for the drain shall be in accordance with the Indiana Code requirements for Regulated Drains.

2.22.5 **Maintenance Easements**

Maintenance easements for dams or adjoining property may be required where the Plan Commission deems them appropriate.

2.22.6 **Farm Tile Easements**

Farm tile easements for protection and maintenance shall be at least twenty (20) feet in width, and shall be provided where there are known farm tiles that are to remain on property proposed for subdivision. The Plan Commission may require larger easements when it deems such additional width necessary for carrying out the purposes of this Section.

(Amended 7/ 18/ 2016 PC2016-20)

2.22.7 **Stormwater Basin Common Area**

Stormwater basins shall be designated as common areas on the plat. Ownership, as stated on the plat, shall be divided by an interest of the number of lots on the plat; i.e. 10 lots provide that each lot owns 1/10 interest in the stormwater basin.

(Amended 10/16/2017 PC2017-19)

Sec. 2.23. Conditions of Primary Approval

Where appropriate under this Article, the Commission may, as a condition of primary approval of the subdivision plat, specify:

(Amended 7/ 18/ 2016 PC2016-20)

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- 2.23.1 The manner in which public ways shall be laid out graded and improved;
 - 2.23.2 A provision for water, sewage, and other utility services;
 - 2.23.3 A provision for lot size, number, and location;
 - 2.23.4 A provision for drainage design; and
 - 2.23.5 A provision for other services.

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ARTICLE 3 MAJOR AND MINOR SUBDIVISION PROCEDURES

Sec. 3.1. Preliminary Consultation

Prior to submitting any of the material required by these regulations, the applicant is advised to discuss with the Plan Commission Staff the nature of the land division being proposed.

Sec. 3.2. Application for Primary Approval

3.2.1 Application to be filed

The applicant will submit to the Plan Commission Staff a complete written application for primary approval and appropriate fees on forms available at the Department. The complete application and thirteen (13) line prints of the primary plat for the proposed subdivision, containing the information required in Sec. 3.4 of this Ordinance, and bearing the seal of a duly registered land surveyor in the State of Indiana, shall be filed with the Staff in the time frame established by the Plan Commission in accordance with their Rules of Procedure. Application materials for a Detailed Planned Unit Development site Plan/Plat need only be submitted on forms and in such number and containing such information as required by the Elkhart County Advisory Plan Commission Rules of Procedure.

(Amended 7/ 18/ 2016 PC2016-20)

Sec. 3.3. Staff Review

Complete applications will be forwarded to the Plan Commission. In order to assist the Plan Commission in evaluating a proposed development for technical compliance with these regulations, the Plan Commission Staff shall review each application to confirm completeness prior to acceptance of the application. Complete applications will then be forwarded to the Technical Review Committee to determine technical correctness of the application. Notification of acceptance of large or complicated applications will be by mail, fax or email within two (2) working days after the application is received.

If defective, the application and a list of deficiencies will be returned to the applicant with a statement that the application is incomplete; otherwise the application shall be deemed complete and accepted for filing as of the date of submission. Acceptance shall not, however, constitute a waiver of any technical deficiencies or irregularities. Once Plan Commission Staff review has started fees are not refundable. The Plan Commission Staff will hold the application for no longer than 90 days at which time the application will expire. Incomplete applications shall not be set for public hearing.

Sec. 3.4. Complete Application

All applications must be complete to be accepted or considered. With the exception of a Detailed Planned Unit Development Site Plan/Plat as set forth in Section 3.2.1 above, a Complete Application and signature page, filed with Plan Commission Staff, shall contain the following:

3.4.1 **Primary Plat**

per applicable primary plat checklist as set forth in the Elkhart County Advisory Plan Commission Rules of Procedure.

(Amended 7/ 18/ 2016 PC2016-20)

3.4.2 **Planning Department**

- A. Signature Page and checklist (complete application)
- B. Thirteen copies of the primary plat
- C. One primary plat reduced to an 11 X17 inch format
- D. One Application
- E. The Filing Fees established by the Elkhart County Fee Ordinance contained in the Plan Commission Rules of Procedure. These fees shall not be refundable.

(Amended 7/ 18/ 2016 PC2016-20)

3.4.3 **Health Department**

- A. A Letter stating sanitary sewer and water system availability.
- B. If municipal services are not available and onsite septic systems are proposed:
 - 1. Provide the location of all soil borings mapped on the primary plat.
 - 2. Provide a number of soil borings, completed by a professional Indiana Registered Soil Scientist (IRSS) or American Registry of Certified Professionals in Agronomy — Crops & Soils (ARCPACS) Soil Scientist, sufficient to support mapping.
 - 3. Provide locations of a typical septic system site and a repair site for each lot.
 - 4. Provide the location of all existing septic systems and water wells on the proposed site and within 100 feet on the contiguous property.
 - 5. Provide the location of all proposed water wells demonstrating fifty (50) feet of separation from the septic system site and repair site.
- C. Provide a completed Wastewater Treatment Assessment Matrix demonstrating compliance with Environmental Health Technical Review and Development Standards.

(Amended 7/ 18/ 2016 PC2016-20)

3.4.4 **Highway Department**

- A. Scaled drawings displaying the locations of new access points onto existing county roads including:
 - 1. Distance from closest existing intersection
 - 2. Horizontal and vertical sight distance requirements and calculations
 - 3. Traffic Impact Vehicular Estimates (TIVE), as specified in the Street Standards, which may result in a required submittal of a Traffic Impact Study (TIS) prior to being considered a complete application.
- B. A summary of topics requiring a design exception/variance including conditions of the watershed that may affect run-off such as soil type, subsoil type, or obstructions.
- C. All drainage calculations and summary sheets and a storage capacity sheet with watershed area depicted via a contour map.
- D. Estimates of the water entering the subdivision also depicted via a contour map.
- E. The location of all known drainage tiles and provisions for preserving or relocating all such tiles.
- F. Depict difference in vegetative types i.e. Forest, pasture area, etc.
- G. A summary of issues or problems for consideration.
- H. Stormwater review for minor subdivisions will follow the Street Standards.
(Amended 10/16/2017 PC2017-19)

3.4.5 **County Surveyor**

- A. Indicate proximity to regulated drain or water way
- B. Provide location of any wetlands on site and adjacent to the site and method of determination, for example, delineation, scale from map, other.
(Amended 7/ 18/ 2016 PC2016-20)

3.4.6 **Soil and Water Conservation District**

- A. If an acre or more of land will be disturbed then a Stormwater Pollution Prevention Plan needs to be submitted to the SWCD and determined to adequately meet the requirements of Rule 5 before the development plan (DPUD plat) can be placed on the Plan Commission agenda.
(Amended 7/ 18/ 2016 PC2016-20)

3.4.7 **Department of Stormwater Management**

- A. Proposed locations of stormwater management practices and specific points where stormwater discharge will leave the site.
- B. If an acre or more of land will be disturbed then a Post-Construction Plan is required.

(Amended 7/ 18/ 2016 PC2016-20)

Sec. 3.5. Technical Review Process

Technical Review and Revision Meetings

3.5.1 The Plan Commission's Technical Review Committee and Technical Revisions Committee shall consist of the following County officials or their designated representative:

- A. Director of Planning and Development Department or designee;
- B. County Highway Manager or designee;
- C. Director of Environmental Health or designee;
- D. County Surveyor or designee;
- E. County Stormwater Coordinator or designee;
- F. Other Interested Departments as necessary; Natural Resource Conservation Service (NRCS) District Conservationist, Electrical Utilities, Sheriff Department, Fire Departments, or County Park Board.

3.5.2 **Technical Review Meetings**

The Plan Commission Staff and their technical advisors shall hold technical review meetings on complete applications per the approved meeting schedule. An applicant or their representative shall present and explain the application to be considered for Plan Commission approval.

3.5.3 **Applications Technically Correct**

If the application is complete and technically correct, the application will be forwarded to the next scheduled meeting of the Plan Commission, with a positive recommendation, for primary approval.

3.5.4 **Applications Not Technically Correct**

Technical deficiencies in the application shall be outlined at the Technical Review meeting and a copy provided to the petitioner. The petitioner will then be provided the opportunity to schedule a revisions review of all corrections at the next meeting of the Technical Revisions Committee.

3.5.5 **Technical Revisions Committee**

The Technical Revisions Committee shall meet one (1) week after the Technical Review Committee meeting; in the event of a conflict with a County organized holiday, the meeting shall be held on a different date as published on the Plan Commission's annual Planning Calendar. To be considered by the committee all

revisions must be submitted to the Plan Commission Staff at least forty-eight (48) hours prior to the Technical Revisions Committee meeting. Revisions not received forty-eight (48) hours prior to the Technical Revisions Committee meeting will, at the request of the petitioner, be rescheduled to the next regularly scheduled Technical Review Committee. If all technical deficiencies have been resolved and the application is technically correct it will be forwarded to the Plan Commission with a positive recommendation.

If the petitioner chooses to hold the application for a later Technical Revisions Committee meeting, the petitioner must so indicate at the Technical Review meeting. The Plan Commission Staff will hold the application for no longer than 90 days at which time the application will expire.

If the application is not technically correct and the petitioner:

- A. Chooses not to attend the Technical Revisions Committee meeting or
- B. Does not submit revisions to the Plan Commission Staff prior to the Technical Revisions Committee meeting and does not request a rescheduling, the application will be forwarded to the Plan Commission with a recommendation for denial.

(Amended 10/16/2017 PC2017-19)

It is the desire of the Plan Commission that either the Technical Review Committee or the Technical Revisions Committee review all changes to an application. Revisions or changes made to an application presented to the Plan Commission, which have not been reviewed by the Technical Review Committee and/or the Technical Revisions Committee shall be returned to the Technical Review Committee or the entire proposal denied at the Plan Commission's discretion.

3.5.6 **Review for Compliance**

The Plan Commission Staff and their technical advisors shall consider, but not necessarily be limited to, compliance with the following documents:

- A. Elkhart County Subdivision Control Ordinance;
- B. Elkhart County Zoning Ordinance;
- C. The Elkhart County Building Code;
- D. Elkhart County Comprehensive Plan;
- E. Health Department Rules and Regulations including the Elkhart County On-Site Sewage Disposal Ordinance and corresponding state agency regulations;
- F. The Street Standards and Traffic Impact Studies for Proposed Developments within Elkhart County, Indiana;
- G. Indiana Department of Transportation rules and regulations if any lot abuts state or federal highway;
- H. Elkhart County Construction Site Stormwater Run Off Control Ordinance:

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- I. Elkhart County Uniform Requirements for Post-Construction Stormwater Management

Sec. 3.6. Hearing Requirements for Primary Approval – Major Subdivisions

After the completion of the Technical Review Process, the Plan Commission shall hold a public hearing for primary approval at their next scheduled meeting as required in the Rules of Procedure of the Plan Commission. Once the Plan Commission Staff has given notice of the public hearing; changes, additions, or modifications to the proposal may not be made without referring all such additions, modifications or changes to the Technical Review Committee for review.

Sec. 3.7. Primary Approval

The Plan Commission shall hold a public hearing for a subdivision in the time frame established by the Plan Commission's Rules of Procedure, following the proper submittal of a complete application. After the Plan Commission has reviewed the primary plat, the Plan Commission Staff's report, other agency reports, and heard testimony submitted at the public hearing, the Plan Commission shall then make its decision, adopt its findings of fact and announce its decision in public. The Plat Committee may act for and on behalf of the Plan Commission in granting primary approval to minor subdivisions and as otherwise authorized in these regulations or in the Plan Commission's Rules of Procedure.

Sec. 3.8. Written Findings of Fact

3.8.1 Findings in Writing

If primary approval is granted or denied at the public hearing, the Plan Commission shall state its findings and decision in writing, in accordance with IC 36-7-4-707, and the Secretary of the Plan Commission shall sign it.

3.8.2 Corrections Before Re-submittal

If primary approval is denied, the applicant shall correct the deficiency noted by the Plan Commission prior to resubmitting a new application for primary approval as set forth in the Rules of Procedures for the Plan Commission, under adverse decisions.

3.8.3 Presentation to Applicant

The written findings of fact shall be presented to the applicant within ten (10) working days after the hearing.

Sec. 3.9. Review by Certiorari of Plan Commission's Decision

The primary approval or disapproval of a plat by the Plan Commission or the imposition of a condition on primary approval is a final decision of the Plan Commission that may be reviewed as provided by Indiana Code 36-7-4-1016.

Sec. 3.10. Effective Date of Primary Approval

3.10.1 Primary Approval for Two (2) Years

The primary approval, approved after the effective date of this Ordinance, shall be effective for a period of two (2) years after the date of primary approval, or

3.10.2 Secondary Approval for Sections

For subdivision with multiple sections or phases at least one section or phase must be granted secondary approval at least every two (2) years to maintain the effectiveness of the primary approval, until all sections or phases included in the primary have been approved, with a maximum time allowance of eight (8) years unless extended by the Plan Commission. See also subsection 1.9.2B, Secondary Approval, for approval of phases under prior ordinances.

(Amended 7/ 18/ 2016 PC2016-20)

3.10.3 Extensions of Primary Approval

The applicant may request an extension of the original primary approval for a period of up to five (5) years for subdivisions without sections or phases, and for a period of up to two (2) years for each section or phase for subdivisions with sections or phases. The request shall be made in writing and shall describe the need for the extension. The request shall be considered by the Plan Commission at a public meeting as a non-public hearing item. It shall be within the discretion of a Plan Commission to grant or deny such request. The maximum number of requests permitted is two (2).

(Amended 7/ 18/ 2016 PC2016-20)

Sec. 3.11. Application for Secondary Approval

After approval of the primary plat, the Plan Commission or Plat Committee or Director, as allowed in these regulations or the Plan Commission Rules of Procedure, may consider the secondary plat and confirmation of improvement plans and confirmation of Storm Water Pollution Prevention Plans. The secondary plat shall conform to the approved primary plat and shall incorporate all required changes as verified by the Technical Review Committee members prior to forwarding to the Plan Commission or Plat Committee or Director; notwithstanding the foregoing, review by the Technical Review Committee of a DPUD Secondary Site Plan/Plat is not required. If the secondary plat includes only a portion of the entire development approved on the primary plat, the Plan Commission or Plat Committee shall consider the effect of secondary platting a portion of the entire development and may require additional areas to be included in the secondary plat. The application should include:

(Amended 4/21/2012 PC 2014-03)

(Amended 7/ 18/ 2016 PC2016-20)

3.11.1 Secondary Approval Form

The application shall be submitted on a form available at the Department;

3.11.2 **Copies Required**

The application shall be accompanied by eight (8) copies of the secondary plat and construction plans as described in these regulations;

3.11.3 **Compliance with Primary Approval**

The application shall be in total compliance with these regulations and the terms or conditions of primary approval.

Sec. 3.12. Fees

An applicant shall pay the specified fee at the time of filing the application for secondary approval. The application fee shall be established by the Elkhart County Fee Ordinance contained in the Plan Commission Rules of Procedure and shall be nonrefundable.

Sec. 3.13. Secondary Plat and Improvement Plans

3.13.1 **General Information**

The secondary plat and confirmation of construction plans and confirmation of Storm Water Pollution Prevention Plans shall include the information required on the checklist for application for secondary approval set forth in the Elkhart County Advisory Plan Commission Rules of Procedure and evidence of compliance with all conditions of primary approval and the following information:

(Amended 7/ 18/ 2016 PC2016-20)

A. Scale and Page Size

The secondary plat shall be drawn at a standard engineering scale of not more than One Hundred (100) feet to one (1) inch. The maximum page size shall not exceed eighteen (18) inches by twenty-four inches. A digital copy shall also be provided of the secondary plat, in a format specified by the Department. In lieu of a digital copy of the secondary plat, the applicant may pay a fee as adopted in the Plan Commission Rules of Procedure to cover the cost of digitizing;

B. Area for Public Uses

The overall area to be allocated for park, school, recreational, and other public and semipublic sites;

C. Storm Water

Storm Water Pollution Prevention Plan (SWPPP) meets the standards of 327 IAC 15-5 ("Rule 5") (Soil may not be moved until a plan has been approved);

D. Phasing Schedule

The schedule of any phasing of the project;

E. Significant Conditions

Other significant conditions of the area proposed to be improved; and

F. Wetland Mitigation Plan

An appropriate written certification of the wetland mitigation plan and the approved permit by the appropriate State or local agency for any development where wetlands will be adversely affected.

G. Drainage Maintenance Certificate

The secondary plat shall include a drainage maintenance certificate as provided in the Elkhart County Advisory Plan Commission Rules of Procedure.

(Amended 7/ 18/ 2016 PC2016-20)

Sec. 3.14. Appeal

All decisions of the Plat Committee or Staff may be appealed to the Plan Commission at the next available regularly scheduled Plan Commission meeting. All appeals shall be filed within 10 days of mailing of the findings to allow for proper publication of the appeal. All appeals must be in writing and must be accompanied by the appropriate fee. All decisions of the Plan Commission may be appealed in accordance with the Indiana Code 36-7-4-708.

Sec. 3.15. Secondary Approval

Secondary approval may be granted to a plat only after the requirements in this Section have been satisfied.

3.15.1 Action at Meeting

After the proper submittal of a complete application and review of all pertinent information, the Plan Commission or Plat Committee may grant, deny or continue secondary approval at a meeting scheduled in accordance with the Plan Commission's Rules of Procedure.

3.15.2 Action without Meeting for Minor Subdivisions

After the proper submittal of a complete application and review of all pertinent information, the Director, pursuant to I.C. 36-7-4-710, may grant or deny secondary approval of a minor subdivision, including a DPUD minor subdivision Site Plat/Plat. In granting secondary approval, the Director shall sign the plat on behalf of the Plan Commission. No notice or hearing is required, and the provisions of these regulations or of the Plan Commission's Rules of Procedure concerning notice and hearing do not apply to secondary approvals of minor subdivisions by the Director. The Director may transfer an application for secondary approval of a minor subdivision to the Plat Committee, without first making a decision, when the Director determines that it would be in the best interest of all parties or upon written request of the applicant.

(Amended 7/ 18/ 2016 PC2016-20)

3.15.3 **Appeal**

Secondary approval may not be granted to a plat until expiration of the five (5) working day primary approval appeal period in accordance with Indiana Code 36-7-4-708;

3.15.4 **Compliance with Conditions**

Secondary approval may not be granted to a plat unless there is full compliance with the conditions and requirements set forth by Board of County Commissioners (in the case of a DPUD Site Plan/Plat), or the Plan Commission, or Plat Committee for primary approval;

(Amended 7/ 18/ 2016 PC2016-20)

3.15.5 **Other Government and Utility Approvals**

Secondary approval may not be granted to a plat until all necessary approvals from other agencies are obtained as needed or required. These approvals shall include any federal, state, or other local approval on their official forms and signed by the proper authority. These approvals may include, but are not limited to the following when appropriate:

A. Federal Agencies:

1. Federal Communications Commission;
2. Federal Aviation Administration;
3. Federal Emergency Management Agency; and
4. U.S. Army Corp of Engineers.

B. State Agencies:

1. Indiana Department of Environmental Management;
2. Indiana Department of Natural Resources;
3. Indiana Department of Transportation; and
4. Indiana State Department of Health.

C. Local Agencies:

1. Elkhart County Drainage Board;
2. Elkhart County Health Department, Environmental Division;
3. Elkhart County Highway Division;
4. All other Elkhart County Departments, such as the Sheriff or Storm Water Management Department, having an interest in the particular petition.

D. Utility Companies:

1. Public or private utilities for sanitary sewer; and
2. Public or private utilities for water services.

E. Other Provisions:

All other provision of this Ordinance.

(Amended 7/ 18/ 2016 PC2016-20)

(Amended 4/21/2012 PC 2014-03)

Sec. 3.16. Notice of Decision

3.16.1 Decision in Writing

If secondary approval is granted or denied then the Plan Commission, or Plat Committee, or Director, shall state its findings and decision in writing and it shall be signed by the Secretary of the Plan Commission or the Director, as appropriate.

3.16.2 Correct Deficiencies

If secondary approval is denied, the applicant shall correct the deficiency noted by the Plan Commission, or Plat Committee, or Director, in the findings prior to resubmitting for secondary approval.

3.16.3 Findings to Applicant

The findings shall be presented to the applicant within ten (10) working days after the Plan Commission or Plat Committee hearing or action of the Director.

Amended 4/21/2012 PC 2014-03

Sec. 3.17. Provisions for Completion of Improvements

3.17.1 Completion of Improvements

Before a secondary plat is approved by the Plan Commission or the Board of County Commissioners, the owner shall be required to complete, in accordance with the secondary approval for major subdivision or for minor plats, and to the satisfactory of the Street Standards all improvements as required by these regulations. If the improvements and installments have not been completed as required by these regulations, the owner shall provide a bond, or other proof of financial responsibility, as prescribed in the Street Standards before a secondary plat can be recorded.

(Amended 4/21/2012 PC 2014-03)

(Amended 7/1/2015 PC 2015-14)

Sec. 3.18. Administration and Enforcement of Performance Guarantees

3.18.1 Administration and Enforcement of Performance Guarantees

Shall be per Street Standards.

3.18.2 Current Until Improvements Accepted

It shall be the responsibility of the owner to keep the performance guarantee current and not allow it to expire until all improvements have been accepted by the Board of County Commissioners per Street Standards.

3.18.3 No Permits with Expiration

If the performance guarantee does expire, no Improvement Location Permits will be issued to those lots within the subdivision or section there of which required the performance guarantee until a new guarantee is provided.

3.18.4 Release

Upon completion of the improvements for which a performance guarantee has been provided, the owner shall request a release or partial release, as the case may be, of the performance guarantee per Street Standards.

(Amended 7/1/2015 PC 2015-14)

3.18.5 Inspection

The Elkhart County Highway Division will conduct inspections of the completed improvements in accordance with the Street Standards. All revisions must be approved per Street Standards. The office of The Elkhart County Surveyor will provide additional oversight in construction inspection during construction and after construction to assure standards for private stormwater basins are constructed in accordance with approved design.

(Amended 10/16/2017 PC2017-19)

3.18.6 Appeals

Appeals of the decisions regarding inspection of completed improvements shall be made per Street Standards.

Sec. 3.19. Provisions for Maintenance of Improvements

3.19.1 Maintenance of Improvements

Shall be per Street Standards.

3.19.2 Release

The procedure for release of a maintenance guarantee shall be per Street Standards.

Sec. 3.20. Inspections

3.20.1 All improvements Inspected

The owner shall be responsible for having all improvements inspected for compliance with the approved plans, provisions of these regulations, and the Street Standards. The owner's responsibility for inspections extends to sanitary

sewer, water lines, all drainage components, and other utility installations where they interact with improvements such as subsurface drains or drainage swales.

3.20.2 Owner Responsible for Testing

The owner shall be responsible for providing all documentation and testing results required by the Street Standards for the improvements including, but not limited to the following: compaction tests; infiltration/exfiltration tests to sanitary sewers, pressure tests for water lines, material quality and pavement corings if required.

Sec. 3.21. As Built Drawings

3.21.1 Owner to Submit Record Drawings

The owner shall submit record drawings as required by the Street Standards.

Sec. 3.22. Failure to Complete Improvements

In those cases where a performance guarantee has been posted and the improvements have not been installed prior to the expiration of the guarantee, the guarantee may be declared in default and all improvements cause to be installed per Street Standards.

Sec. 3.23. Recording of Secondary Plat

3.23.1 Signatures Required

The secondary plat shall bear the signatures of the land surveyor, and either the President or the Secretary of the Plan Commission, or the Director, as appropriate, and seals of the land surveyor, and such other signatures and seals as set forth in the Elkhart County Advisory Plan Commission Rules of Procedure, SECONDARY PLAT CHECKLIST, and in Section 3.23.2 below. The final plat shall also indicate the number of pages, i.e. 1 of 2, 2 of 2, etc.

(Amended 7/ 18/ 2016 PC2016-20)

(Amended 7/1/2015 PC 2015-14)

(Amended 4/21/2012 PC 2014-03)

3.23.2 Acceptance Required

The secondary plat shall not be recorded until acceptance by the Elkhart County Board of County Commissioners of all dedicated areas and improvements (major subdivisions); or acceptance by the Elkhart County Plan Commission, the Plat Committee, or the Director, as appropriate, of all dedicated areas and improvements (minor subdivisions).

Amended 7/1/2015 (PC 2015-14)

3.23.3 Legal Effect

The filing and recording of a secondary plat is without legal effect unless it is in compliance with all provisions of this Ordinance.

(Amended 7/1/2015 PC 2015-14)

Sec. 3.24. Time Limitation to Record Secondary Plat

3.24.1 Record Within One Year

Every major or minor subdivision plat approved after the effective date of these regulations shall be recorded within one (1) year after the date of the secondary plat approval.

3.24.2 Expiration

Any plat that is not so recorded within the one (1) year period shall, at the expiration of the one (1) year period, become null and void and shall not be entitled to recording without re-approval by the Plan Commission. Re-approval shall proceed as a new application in accordance with the standards, requirements and procedures specified by these regulations at the time of the application for re-approval.

3.24.3 Extensions

The Plan Commission may grant one (1) extension of the original approval for up to one (1) year.

Sec. 3.25. Amendments, Replats, or Plat Revisions

3.25.1 Public Hearing Required

Amendments must be certified by any properly registered land surveyor and shall require a public hearing before the Plan Commission in compliance with Sec. 3.7, Primary Approval. The applicant must supply revised primary and secondary plats and construction plans, if applicable, in compliance with this Ordinance.

3.25.2 Replats not Requiring Hearing

Replats must be certified by any properly registered land surveyor. The Plat Committee or Staff shall determine whether a replat requires a public hearing before the Plan Commission in compliance with Sec. 3.7, Primary Approval, of this Ordinance. The following circumstances shall be considered by the Plat Committee or Staff:

A. Interior Lot Line Removal

A replat which involves only the removal of interior lot lines, with the outside perimeter of the property remaining unchanged, resulting in fewer parcels than were contained in the original parcel;

B. Easement Removal or Relocation

A replat which involves only the removal or relocation of easements within the property, as long as the affected agency or utility supports said removal or relocation;

C. Notations or Corrections

A replat that involves only the changing of notations written on the plat or corrections of errors thereon;

D. Court Decree

A division of land pursuant to court decree.

3.25.3 Controversy Requiring Public Hearing

If there is controversy surrounding one of the above types of replats; the Plat Committee or Staff may schedule the replat for a public hearing before the Plan Commission.

3.25.4 Revised Plat

In all cases, the applicant must submit a replat as a revised secondary plat and construction plans, if applicable, in compliance with Sec. 3.13, Secondary Plat and Improvement Plans.

(Amended 7/ 18/ 2016 PC2016-20)

3.25.5 Revisions to Unrecorded Plat

Plat revisions to an unrecorded plat shall be heard by the Plat Committee in the same manner as the Secondary Approval in accordance with Sec. 3.15, Secondary Approval.

3.25.6 Significant Change

Any revision to an approved but unrecorded secondary plat, which, in the opinion of the Plat Committee involves a significant change, must obtain a new primary approval. Examples of a significant change include, but are not limited to:

A. Additional Lots

Creation of one or more additional lots;

B. New Streets

Creation of one or more new streets;

C. Street Removal

Removal of one or more proposed streets;

D. Street Pattern Changes

Changes to the street pattern;

E. Retention/Detention Pond Changes

Removal or addition of a retention or detention pond;

F. New Easements in Building Envelope

Addition of any easements that conflict with the minimum building envelope;

G. Other Changes

Any other change that the Plan Commission believes constitutes a significant change.

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ARTICLE 4 ADMINISTRATIVE SUBDIVISIONS

Sec. 4.1. Administrative Subdivisions

4.1.1 Purpose:

The purpose of an administrative subdivision is to provide a simplified procedure for the division of land, in lieu of the platting requirements in these regulations, under limited conditions, with the technical review necessary for development in Elkhart County. The administrative subdivision process is designed to run simultaneously with the building permit process.

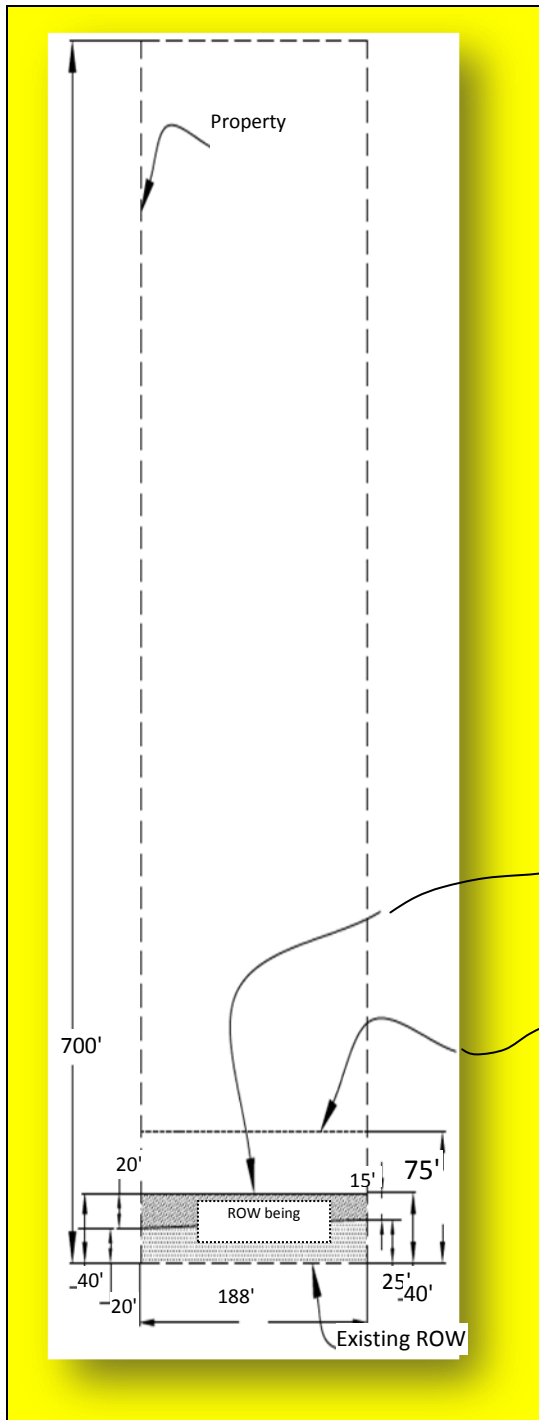
4.1.2 General Requirements and Standards:

- A.** A buildable tract, at least three (3) acres in size, is created. Residual parcels created by the administrative subdivision that still meet the minimum requirements of this Ordinance for a lot have standing as buildable tracts as either an administrative, minor or major subdivision.
- B.** The standards of the Zoning Ordinance must be complied with unless specifically altered by this Ordinance.
- C.** Administrative subdivisions are subject only to certification by the Department. Decisions of the Department are subject to appeal to the Plan Commission.
- D.** The one-lot buildable tract created by the administrative subdivision shall comply with the stormwater retention design standards of the Street Standards.
- E.** The one-lot buildable tract will have a driveway location that will provide for adequate sight distance and will be properly spaced according to the Street Standards.
- F.** The one-lot buildable tract shall be served by a sanitary sewer or other on-site sewage system approved by the Elkhart County Health Department.
- G.** For the purpose of administrative subdivisions, "interested parties" are defined solely as the property owner of record.
- H.** A buildable tract created by the administrative subdivision may thereafter only be further split by a administrative, minor or major subdivision.
- I.** Placement of Structure — Drainage Standard
 - 1.** In an area not prone to flooding.
 - 2.** Where excavation and fill do not adversely affect natural flow of water across the site.

-
3. Basements are not advised below the seasonal high water mark.
 4. It is the responsibility of the owner and builder that the basement is constructed to not allow surface water to enter the home.
 5. The grade surrounding all structures shall cause the water to flow away from the structure.
(Amended 10/16/2017 PC2017-19)

J. Site Drainage

1. It is the responsibility of the owner to maintain the drainage flow across the site (this includes any surface water courses and drainage tile).
2. At no time shall the roadside ditch be filled. The roadside ditch may be regraded to allow for easier maintenance with the approval of the Elkhart County Highway Department.
3. Before any construction within the 75-foot easement of a county regulated drain, the Elkhart County Surveyor's Office shall be notified and the Elkhart County Surveyor's Office may require a Variance to be approved by the Elkhart County Drainage Board.
4. If any drainage flow is concentrated and directed to adjoining property, the adjoiner's permission must be granted in writing and placed in the administration subdivision file for the tract. This includes but is not limited to natural occurring water from sump pumps, geothermal heating systems, discharges, and perimeter drains.
5. It should be realized that it is almost impossible to guarantee that a site will not have water problems. That an act of nature, which would include abnormally heavy rain storms, snowmelts, ice jams, etc., may cause water damage to any property.
6. An affidavit by the land owner of the proposed Administrative Subdivision shall require the land owner to be responsible for all stormwater drainage.
(Amended 10/16/2017 PC2017-19)
7. A site plan supplied by the home owner, developer, builder, surveyor, or architect shall demonstrate how stormwater will be managed and kept on site.
(Amended 10/16/2017 PC2017-19)



STAFF EXAMPLE

Metes and Bounds deeds usually describe the real estate to the center line of the right of way. The deed then excepts the rights of way of record. Most of these right of way were established by the State of Indiana; or an owner in the past may have granted the existing right or way to the government.

The Subdivision Control Ordinance requires that any newly created building site (Lot) must be located on a county right of way meeting the Street Standards. The Administrative Subdivision requires that the owner must dedicate by deed an additional fifteen to twenty feet; and as well the real estate Reserved by the State of Indiana in the 1900s.

The Three acres parcel include the ROW dedication

Dedication does not change the property Setback line

- K. Right of way (ROW) dedicated shall follow the Highway Street Standards. Additional ROW dedication and existing (ROW) will not count total acreage dedicated towards Administrative Subdivision Lot. Acreage size will be measured from existing center of ROW in effort that acreage size calculation includes all existing and dedicated ROW. ROW dedication and existing ROW will be deeded as fee simple ownership. (Amended 10/16/2017 PC2017-19)

4.1.3 Primary Approval – Application Submittal

The following information is required to be submitted for consideration as an Administrative Subdivision:

Elkhart County Subdivision Control Ordinance

-
- A. A recorded deed with a metes and bounds legal description.
 - B. A site plan showing lot dimensions, setbacks of proposed buildings, driveway location, septic system location and well location.
 - C. A site plan showing county road frontage, any adjacent bodies of water, and soil classification.
 - D. Any information required by the Health Department for a septic permit.
 - E. Any information required by the Highway Department for the issuance of a driveway permit.
 - F. Any information needed by the Soil and Water Conservation District (SWCD) to determine the need for a Storm Water Pollution Prevention Plan (SWPPP).

4.1.4 **Primary Approval — Process**

Primary approval / zoning clearance will be granted by the Plan Commission Staff upon the completion of a site plan evaluation.

This evaluation will consist of a review of the site plan information and determination that compliance with the Zoning Ordinance and these regulations have been achieved. Deficiencies or noncompliance determinations must be mitigated by redesign or variances granted by the Elkhart County Advisory Board of Zoning Appeals.

4.1.5 **Secondary Approval — Submittal**

The following information is required to be submitted for consideration as secondary approval / building permit:

- A. A septic system or municipal sanitary sewer hookup permit issued by the Elkhart County Health Department.
- B. A curb cut (driveway) permit for the site issued by the Elkhart County Highway Department.
- C. A waiver or Storm Water Pollution Prevention Plan certified by the SWCD.

4.1.6 **Secondary Approval — Process**

Secondary approval will be granted by the Plan Commission Staff in conjunction with the issuance of a Building Permit once the following requirements have been met:

- A. A septic permit or waiver has been issued by the Health Department.
- B. A driveway permit or waiver has been granted by the Highway Department and primary approval/zoning clearance.

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ARTICLE 5 ADMINISTRATION AND ENFORCEMENT

Sec. 5.1. General

The Department is hereby designated as the agency responsible for administration, interpretation, and enforcement of these regulations.

Sec. 5.2. Interpretation

It is the intent of these regulations that the Department shall accomplish any interpretation of these regulations. Any interpretation made by the Department may be appealed to the Plan Commission.

Sec. 5.3. Vacation

The process to vacate a part of a plat, public way or public easement shall be in compliance with Indiana Code 36-7-3 et seq., and the Street Standards.

Sec. 5.4. Enforcement

5.4.1 Staff

It shall be the duty of the Plan Commission Staff or their authorized agents to enforce the terms and provisions of this Ordinance and said Staff is authorized to do all things and to take all action necessary and prudent, under the circumstances, to enforce the terms and provisions hereof, and may take any one or more of the actions set forth in these regulations.

5.4.2 Sale or Transfer

No owner or agent of the owner, of any parcel of land located in a proposed subdivision shall transfer or sell any parcel before a plat of subdivision has been approved in accordance with the provisions of these regulations and recorded.

5.4.3 Withhold Issuance of Permits

No Improvement Location Permit, Certificate of Occupancy or other permit required under the Building Code, the Zoning Ordinance or these regulations shall be issued on any property subject to these regulations until such property is in full compliance with the provisions of these regulations. The withholding of the issuance of a permit shall in no way limit the operation of the civil penalty provisions provided elsewhere in these regulations.

5.4.4 Penalty Provisions

Any person found to be in violation of these regulations shall be guilty of an Ordinance violation and shall be subject to a civil penalty of up to Two Thousand Five Hundred dollars (\$2,500.00) for each violation. Each day that a violation continues shall constitute a separate violation. Any failure to comply with any of the terms and provisions of these regulations shall constitute a violation. The assessment of a civil penalty shall in no way limit the operation of any other enforcement remedies provided elsewhere in these regulations. The Department may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement of these regulations from any person found to be in violation of these regulations.

5.4.5 **Injunction**

The Zoning Administrator, in the name of the Plan Commission, may petition a court of competent jurisdiction within Elkhart County for the issuance of a temporary restraining order or permanent injunction, which restrains the violation of or requires specific compliance with these regulations or any codes, rules, standards or procedures established pursuant to the terms of these regulations. Any such action for mandatory or injunctive relief may be joined with an action to recover the civil penalties provided for in these regulations.

5.4.6 **Agreed Order**

The Zoning Administrator, in the name of the Plan Commission, may enter into an agreed order with the approval of the Director, which order may include the payment of a civil penalty and other expenses associated with the enforcement of these regulations by the Department.

5.4.7 **Suit for Civil Penalties**

The Zoning Administrator, in the name of the Plan Commission, may file a complaint in a court of competent jurisdiction within Elkhart County seeking a judicial determination that these regulations have been violated and requesting the imposition of civil penalties.

5.4.8 **Stop Work Order**

Whenever any construction is being done contrary to the terms and provisions of these regulations, the Zoning Administrator or Director may order the construction stopped by written notice served on any persons engaging in or causing the work to be done, and all those persons shall immediately stop that construction until authorized by the Zoning Administrator or Director to proceed with the construction. As an additional part of the notice, the Zoning Administrator or Director shall post a Stop Work Order in a prominent place on the building or project and shall serve a copy of the notice of the Stop Work Order by regular United States Mail on the subject property owner or the person holding or requesting the permit. The issuance of a Stop Work Order shall in no way limit the operation of the civil penalty provisions provided elsewhere in these regulations.

5.4.9 **Enforcement of Agreed Order**

The Zoning Administrator, in the name of the Plan Commission, may file a complaint in a court of competent jurisdiction within Elkhart County seeking to enforce the terms of an agreed order.

5.4.10 **Actions Cumulative**

Nothing contained herein shall prevent the Zoning Administrator, the Director, the Plan Commission, the Department or the County, as their interest may appear, from taking any other lawful action as is necessary to prevent or remedy any violation of these regulations. The Zoning Administrator, the Director, the Plan Commission, the Department or the County may pursue any other action, or remedy, authorized by the laws of Indiana. All of the foregoing actions shall be cumulative.

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ARTICLE 6 DEFINITIONS

Sec. 6.1. Interpretation

6.1.1 From this Article

For the purposes of these regulations, certain numbers, abbreviations, terms, words, and phrases used herein shall be used, interpreted, and defined as set forth in this article.

6.1.2 State Laws

Whenever any words and phrases used herein are not defined herein but are defined in the State laws regulating the creation and function of various planning agencies, any such definition therein shall be deemed to apply to such words and phrases used herein, except when the context otherwise requires.

6.1.3 Common Interpretations

For the purpose of these regulations, certain words or terms used herein shall be interpreted as follows:

A. Person

The word "person" includes a firm, association, organization, partnership, trust, company, or corporation or other legal entity as well as an individual;

B. Present Tense, Singular and Plural

The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular;

C. Mandatory, Permissive and Preferred

The word "shall" or "must" is a mandatory requirement, the word "may" is a permissive requirement, and the word "should" is a preferred requirement;

D. Used or Occupied

The words "used" or "occupied" include the words "intended, designed, constructed, converted, altered or arranged to be used or occupied."

6.1.4 Dictionary

Any word or term not defined herein shall be given a meaning found in a recent edition of a Standard English dictionary.

Sec. 6.2. Definitions

This section explains the meaning of the more important terms used in the text of these regulations. A graphic illustration of certain definitions is provided in this Ordinance. Any zoning, drainage or erosion control terms or words used in the text of these regulations but not defined herein shall have the meaning as defined by the Zoning Ordinance.

ACCESS EASEMENT. See "PRIVATE STREET"

ACCESS ROAD. A street designed to provide vehicular access to abutting property and to discourage through traffic.

ACRE. A measure of land area containing forty-three thousand five hundred and sixty (43,560) square feet.

ADDRESS. The number or other designation assigned to a housing unit, business establishment, or other structure for purposes of mail delivery, emergency services, and so forth.

ALLEY. A right-of-way, other than a street, road, crosswalk, or easement, designed to provide a secondary means of access to the rear or sides of lots, and not intended for the purposes of through vehicular traffic.

APPLICANT. The owner of real estate or an appointed agent who makes application to the Department for action by the Plan Commission.

APPLICATION. A form completed as specified by these regulations and all accompanying documents required by these regulations for approval of the application.

BUFFER. Land area used to visibly separate one use from another or to shield or block noise, lights, or other nuisances.

BUILDABLE TRACT. A parcel of land, which is eligible for an improvement location permit.

BUILDING. Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind or nature.

BUILDING CODE. The County Ordinance establishing and controlling the standards for constructing buildings, utilities, mechanical equipment and all forms of structures and permanent installations and related matters, within the County; also referred to as the Elkhart County Building Code Ordinance No. 36-7-8-2 and all subsequent amendments.

BUILDING ENVELOPE. The area available for construction on a lot; the lot area excluding well fields, on-site sewage systems, building setbacks, easements, water bodies, and other such location restrictions.

BUILDING PERMIT. Written permission issued by the Building Commissioner for the construction, repair, alteration, or addition to a structure.

BUILDING (SETBACK) LINE. A line within a lot which is generally parallel with and measured from the lot line (property line), defining the limits of a yard in which no structure may be located above ground, except as allowed otherwise by Elkhart County Code. Setback lines are more specifically described as front yard, side yard and rear yard setbacks. See also definition of "YARD."

CERTIFICATE OF OCCUPANCY. A document issued by the Building Commissioner allowing the occupancy or use of a building and certifying that the structure or use has been constructed and will be used in compliance with all applicable laws of Elkhart County.

COMMISSION. The Advisory Plan Commission of Elkhart County, Indiana established as defined under the Indiana Code 36-7-4-200.

COMMISSIONERS, BOARD OF COUNTY. The Board of County Commissioners of Elkhart County, Indiana as established under Indiana Code 36-2.

COMMON AREA. Land or an area of water, or combination thereof, within a development, which is designed and intended for the common use or enjoyment of the residents of the development. Common area may include complementary structures and improvements.

COMPREHENSIVE PLAN. The Comprehensive Plan for Elkhart County, Indiana, prepared and approved under the 500 series of IC 36-7-4, as amended.

CONSTRUCTION. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, drilling operations, or pile driving.

CONSTRUCTION PLAN(S). The maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed for the subdivision in accordance with the requirements of these regulations and the conditions of approval of the plat.

COUNTY. Elkhart County, Indiana.

COVENANT. A private agreement restricting the use and occupancy of real estate, which is a part of the conveyance and is binding on all subsequent purchasers.

CROSS SECTION. A profile of the ground surface perpendicular to the centerline of a street, sidewalk, waterway, or other improvement.

DEAD END STREET. A street temporarily having only one (1) outlet for vehicular traffic and which is designed and intended to be extended or continued in the future.

DEDICATION. The setting apart of land or interest in land for public use by the recording of the plat, an ordinance, resolution, entry in the official minutes, or express manifestation on the part of the owner.

DEED RESTRICTION. See "COVENANT."

DESIGN STANDARDS. A set of guidelines defining parameters to be followed in a site or building design and development.

DEPARTMENT. The Elkhart County Planning and Development Department.

DEVELOPMENT. Any man-made change to improved or unimproved real estate including but not limited to:

- (a) Construction, reconstruction, or placement of a building or any addition to a building;
- (b) Installing utilities, erection of walls, construction of roads, or similar projects;
- (c) Construction of flood control structures such as levees, dikes, dams, or channel improvements;
- (d) Mining, dredging, filling, grading, excavation, or drilling operations;
- (e) Construction or reconstruction of bridges or culverts;
- (f) Storage of materials; or
- (g) Any other activity that might change the direction, height, or velocity of flood or surface waters.

Development does not include activities such as the maintenance of existing buildings and facilities such as painting, re-roofing, resurfacing roads, or gardening, plowing and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent buildings.

DIRECTOR. For the purpose of this Ordinance, the term Director shall mean the Plan Director of the Elkhart County Planning and Development Department, or his or her duly authorized representatives.

Amended 4/21/2012 PC 2014-03

DRAINAGE. Surface water runoff and the removal of water from land by drains, grading or other means during and after construction or development.

DRIVEWAY. A private roadway providing access for vehicles to a parking space, garage, dwelling or other structure intended for motor vehicle access.

DRY HYDRANT. A non-pressurized permanent pipe assembly system installed into a water source that permits the withdrawal of water by suction to provide all weather access to an available water source for fire suppression.

EASEMENT. Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

EGRESS. An exit.

ELEVATION. A vertical distance above or below sea level or a flat scale drawing of the front, rear, or side of a building.

ESCROW. The arrangements for the handling of instruments or money not to be delivered until specific conditions are met.

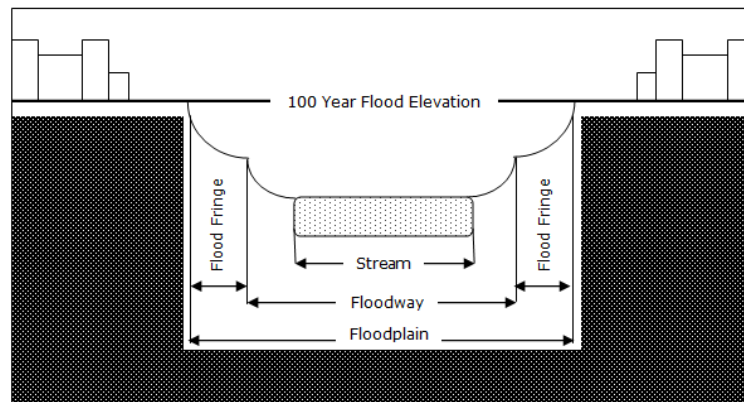
EXCAVATION. Removal by any means whatsoever of soil, rock, minerals, mineral substances or organic substances other than vegetation, from water or land on or beneath the land surface thereof, whether exposed or submerged.

FINISHED ELEVATION. The proposed elevation of the land surface of a site after completion of all site preparation work.

FLOODPLAIN. The channel proper and the areas adjoining any wetland, lake or watercourse, which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the floodway fringe districts.

FLOODWAY. The channel of a river or stream and those portions of the floodplains adjoining the channel that is reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

FLOODWAY FRINGE. Those portions of the floodplain lying outside the regulatory floodway.



(Amended 7/ 18/ 2016 PC2016-20)

FRONTAGE. The length along the street right-of-way line of a single lot, tract or development area between the side lot lines of the property. The side of a lot abutting a street is generally regarded as the front of the lot.

FUNCTIONAL CLASSIFICATION SYSTEM. A hierarchy of roads as shown on the Master Thoroughfare Plan to be used for the development and improvement of the County road system.

GRADE. The slope of a road, street, swale, storm sewer, or other public improvements, specified in terms of gradient percentage (%). Example: One foot of rise in 100 feet would be one- percent grade.

HAZARDOUS MATERIAL. Those pollutants or combinations of pollutants, including disease-causing agents as defined by the Environmental Protection Agency or the state, which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunction in reproduction), or physical deformations in those organisms or their offspring.

HOMEOWNERS ASSOCIATION. A corporation or other entity that is organized and operated exclusively for the benefit of two (2) or more persons who each own a dwelling in fee simple and acts in accordance with the articles, bylaws, and other documents governing the entity. Community Association and Business Park Associations are included in this definition.

IDEM. Indiana Department of Environmental Management.

IDNR. Indiana Department of Natural Resources.

IMPROVEMENT. Any alteration to the land or other physical constructions associated with subdivision and building site development.

IMPROVEMENT LOCATION PERMIT. A permit, as defined in the Zoning Ordinance, stating that the proposed erection, construction, enlargement or moving of a building or structure referred to therein complies with the provisions of the Zoning Ordinance.

IMPROVEMENT PLAN(S). See "CONSTRUCTION PLAN(S)."

INDOT. Indiana Department of Transportation.

(Amended 7/ 18/ 2016 PC2016-20)

INGRESS. Access or entry.

JURISDICTION. The unincorporated area of the County and those jurisdictions within the County, which have by mutual agreement surrendered jurisdiction to the County.

LANDSCAPING. An expanse of organic scenery including the addition of lawns, trees, plants, and other natural and decorative features of land.

LEGAL DRAIN. See "REGULATED DRAIN."

LOT. A single recorded tract or parcel, created in compliance with the Subdivision Control Ordinance in effect at the time of the lot's creation. A lot serves as a unit for the purpose, whether immediate or future, of transfer of ownership, lease or building development.

LOT, CORNER. A lot or parcel of land abutting upon two (2) or more streets at their intersection.

LOT, INTERIOR. A lot other than a corner lot or a double-frontage.

LOT LINE. The property lines defining the legal boundary of a lot. Property lines may be designated as front, side or rear property lines.

(Amended 7/18/2016 PC2016-20)

MAINTENANCE GUARANTEE. Any security, which may be required and accepted by the Board of County Commissioners to assure that necessary improvements will function as required for a specific period of time.

MAJOR SUBDIVISION. See "SUBDIVISION, MAJOR."

MINOR SUBDIVISION. See "SUBDIVISION, MINOR."

MONUMENT. Any permanent marker either of concrete, galvanized steel pipes, or iron or steel rods used to identify the location of a property corner or other survey point.

MS4. Municipal Separate Storm Sewer System. A requirement of the Federal Environmental Protection Agency and the basis for the operations of the Elkhart County Department of Storm Water Management

NATURAL RESOURCE CONSERVATION SERVICE (NRCS). A governmental agency that provides advice to communities, agencies and individuals within its jurisdiction, and reviews development proposals for soil erosion and sediment control measures.

NON-ACCESS EASEMENT. An easement specifically provided that prohibits access to a road or street by vehicular traffic on a regular basis. Driveways shall not be constructed across this easement, but utility company vehicles servicing adjoining lines may cross.

ON-SITE SEWAGE DISPOSAL SYSTEM. All equipment and devices necessary for the proper on-site conduction, collection, storage, and treatment of sewage and on-site disposal of sewage, from a residence or commercial facility. The related drainage field for an on-site sewage system and a replacement area equal in size to that originally approved is also considered part of the system.

OPEN SPACE. Land used for recreation, greenways, resource protection, amenity, and/or buffer yards. In no event shall any area of a lot constituting neither the minimum lot area of said lot, nor any part of an existing or future road or right-of-way be counted as constituting open space except that buffer yard areas may be included in the area of a lot constituting the minimum lot area.

PARCEL. A piece or portion of land separated from other pieces or portions by legal description as on a subdivision plat, deed or other legal instrument recorded in the Office of the Elkhart County Recorder, and under single and separate legal ownership.

PARENT TRACT. The tract of land lawfully in existence on the effective date of this Ordinance from which a new tract of land is being taken.

PATH. Any pedestrian way that is not a sidewalk.

PEDESTRIAN WAYS. A pedestrian walkway or path located within an access easement.

PERMANENT EROSION CONTROL MEASURE. Any measure, vegetative or otherwise, that resists sediment migration and/or movement and shall remain unaffected by weather or atmospheric conditions.

PLAN COMMISSION. See "COMMISSION."

PLAN COMMISSION STAFF. See "STAFF."

PLAN COMMISSION TECHNICAL ADVISORY COMMITTEE. The Plan Commission Technical Advisors shall consist of the following County officials or their designated representative: Director of Planning and Development Department; County Highway Engineer; Director of Environmental Health; and County Surveyor and such other representatives as the Director may invite to aid in the review of scheduled petitions.

PLAT. A diagram drawn to scale representing a tract of land, showing the boundaries and location of individual properties and streets; including the subdivision or re-subdivision of land intended to be filed for record.

PLAT, PRIMARY. An initial diagram of a subdivision of land that is presented to the Technical Review Committee for review and to the Plan Commission for primary approval.

(Amended 7/18/2016 PC2016-20)

PLAT COMMITTEE. The Plan Commission Plat Committee shall consist of five (5) persons appointed from the commission membership; one (1) shall be the Secretary of the Plan Commission, who shall serve as chairman, one shall be the County Surveyor or representative and three (3) other members of the Plan Commission. Members of the Plat Committee shall serve a term of one (1) year, beginning January 1.

PLAT, SECONDARY. The final diagram of all or a portion of a subdivision that is presented for secondary approval.

(Amended 7/18/2016 PC2016-20)

(Amended 7/18/2016 PC2016-20)

PRIMARY APPROVAL. An approval granted to an applicant by the Plan Commission after having determined in a public hearing that the subdivision complies with the standards prescribed in these regulations as defined by Indiana Code 36-7-4-702, prior to secondary approval.

PRIVATE STREET. A privately owned easement established to provide access to private properties (see "EASEMENT").

(Amended 7/18/2016 PC2016-20)

PUBLIC IMPROVEMENT. Any improvement, facility or service together with its associated public site or right-of-way necessary to provide transportation, drainage, public or private utilities, energy or similar essential services, and maintained by the proper agencies.

PUBLIC STREET. A public right-of-way under the jurisdiction of and maintained by Elkhart County or a Municipal entity.

PUBLIC HEARING. A meeting announced and advertised in advance, and open to the public, with the public given an opportunity to appear and be heard.

PUBLIC MEETING. A meeting announced and advertised in advance and open to the public. The public may or may not be heard, as determined by the hearing body.

PUBLIC WAY. An alley, avenue, boulevard, bridge, channel, ditch, easement, expressway, freeway, highway, land, parkway, right-of-way, road, sidewalk, street, subway, tunnel, viaduct, walk or other ways in which the general public or a public entity have a right, or which are dedicated, whether improved or not.

RECORD (AS BUILT) DRAWINGS. Drawings or plans provided by the applicant, depicting the "in place" location, elevation, and type of facility installed.

REGISTERED LAND SURVEYOR. A land surveyor properly licensed and registered or through reciprocity permitted to practice in the State of Indiana.

REGULATED DRAIN. Also called a legal drain. An open drain, a tiled drain, or a combination of the two, having been accepted by and being under the authority and control of the Elkhart County Drainage Board, and is subject to the provisions of the Indiana Drainage Code, IC 36-9-27.

REPLAT. A change to a portion of a recorded plat, generally dealing with lot line locations, building setback lines, or easements. Also known as a re-subdivision.

RESTRICTIVE COVENANT. See "COVENANT."

RIGHT-OF-WAY (R.O.W.). A strip of land occupied by or dedicated to Elkhart County to be used as by a street, pedestrian way, crosswalk, railroad, eclectic transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, special landscaping, or any other public use. For land platting propose, every right-of-way hereafter established and as shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and shall not be included within the dimensions or areas of such lots or parcels. Right-of-way dedications by the developer on a final plat must be clearly shown on such final plat, and must be formally accepted by the Board of Commissioners. No dedication of right-of-way shall be effective or binding upon the Plan Commission and/or Elkhart County until such dedication shall be accepted by the Board of Commissioners as herein set forth.

(Amended 7/18/2016 PC2016-20)

ROAD. A street (as herin defined): often named or labeled by a number.

RULES OF PROCEDURE. The Rules of Procedure adopted by the Elkhart County Advisory Plan Commission.

RUNOFF. The waters derived from melting snow or rain falling within a tributary drainage basin that exceed the infiltration capacity of the soils of that basin, flow over the surface of the ground, or are collected in channels or conduits.

SCREENING. A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms or densely planted vegetation.

SEPTIC SYSTEM. See "ON-SITE SEWAGE DISPOSAL SYSTEM."

SETBACK LINE. See "BUILDING SETBACK LINE."

SIDEWALK. A paved, surfaced or leveled area, usually parallel to and separate from the street, used as a pedestrian walkway.

SITE. Any geographical area.

SOIL SCIENTIST. An individual registered as a professional soil scientist with the Indiana Registry of Soil Scientists (IRSS) as provided for under IC 25-31.5.

SPECIFICATION. A detailed instruction, which designates the quality and quantity of materials, and workmanship, expected in the construction of a structure.

STAFF. The following shall be considered as staff, for the purposes of this Ordinance: All employees of the Elkhart County Planning and Development Department holding positions identified within the budget classifications for the Planning Division and the Code Enforcement Division of the annual budget as approved and as amended by the Elkhart County Council from time to time.

STOP WORK ORDER. An administrative order, which directs a person not to continue or not to allow the continuation of an activity that is in violation of this code.

STREET. A public right-of-way, under the jurisdiction of Elkhart County legal or geographic, to include State and Federal Highways, used primarily for vehicular traffic, but also for all other right-of-way supposes set forth in the dedication or creation of right-of-way, or arising by operation of law.

STREET, CUL-DE-SAC. A street with only one (1) outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement including public safety vehicles.

STREET, LIMITED ACCESS. A street which allows only indirect access to abutting properties primarily by distributing traffic to intersecting lesser volume streets or some other means as needed to allow for efficient local circulation.

STREET STANDARDS. The County Ordinance establishing the guidelines and standards for design and public improvement and related matters within the County; also referred to as the Elkhart County Highway Guidelines and Standards for Design and Public Improvement "Street Standards."

STRUCTURE. Anything constructed or erected with a fixed location, or attached to something having a fixed location. Among other things, structures may include, but are not limited to buildings, mobile homes, walls, fences, swimming pools, signs and towers.

SUBDIVISION. The division of a parcel of land into two (2) or more lots, parcels, sites, units, plats, or interests for the purpose of offer, sale, lease, or development, either on the installment plan or upon any and all other plans, terms, and conditions, including re-subdivision. Subdivision includes the division or development of land opened for residential and nonresidential uses, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat, or other recorded instrument. The following kinds of division of existing parcels of land are exempt from this Ordinance:

- (a) A division of land for the sale or exchange of tracts to correct errors in an existing legal description, provided that no additional building sites other than for accessory buildings are created by the division;
- (b) A division of land for the acquisition of street right-of-way;
- (c) A division of land for the sale or exchange of tracts between adjoining landowners, provided that no additional building sites are created by the division;
- (d) A division of land into cemetery plots for the purpose of burial of corpses; and
- (e) A division of land to be subdivided for agricultural use only, provided that no additional building sites are created by this division.

SUBDIVISION, ADMINISTRATIVE. The division of land into not more than one (1) buildable tract, of three acres or more, in lieu of platting, under limited conditions, with the technical review and certification necessary for development in Elkhart County overseen entirely by the Plan Commission Staff, with appeal to the Plan Commission.

(Amended 10/16/2017 PC2017-19)

SUBDIVISION, MAJOR. A subdivision of a parcel of land into more than three (3) residential, commercial or industrial lots or any size subdivision requiring any new street.

SUBDIVISION, MINOR. The subdivision of a parent parcel into any combination of not more than three (3) contiguous or non-contiguous new residential, commercial, or industrial building sites, or the reconfiguration of existing lots that create new building sites, and which does not involve the construction or extension of public or private streets, or substantially affect existing drainage systems. To qualify as a minor subdivision, the proposal must meet all of the conditions set forth in this Ordinance for minor subdivisions.

THOROUGHFARE PLAN. A formally adopted plan that indicates the location of existing or proposed thoroughfares, including their functional classification, alignment, and rights-of-way as an amendment to the Elkhart County Comprehensive Plan.

TOPOGRAPHY. The configuration of a surface area showing relative elevations set to mean sea level.

TRACT. See "PARCEL."

UNIT. A single, determinate quantity.

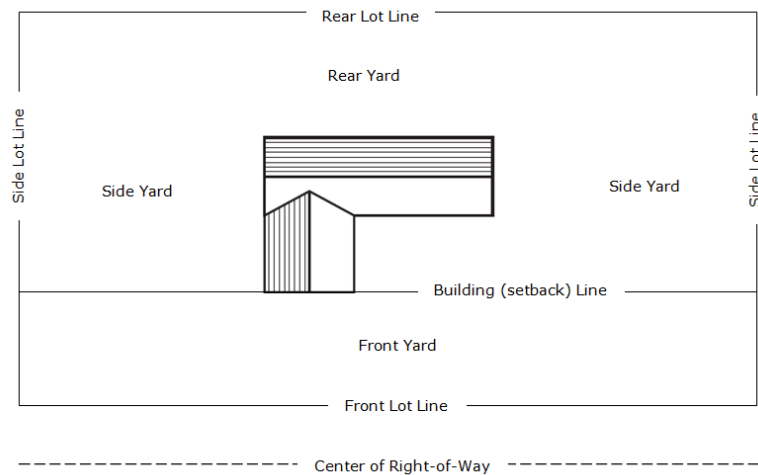
USE. The purpose of which a building or premises is or may be occupied. In the classification of uses, a "use" may be a use as commonly understood or the name of an occupation, business, activity or operation carried on, or intended to be carried on in a building or on premises, or the name of a building, place or thing which name indicates the use or intended use.

UTILITIES. Infrastructure services, including those basic utilities, and the structures necessary to deliver those services. Those services may be provided by public or private agency. Examples include water, sanitary sewer, electricity, natural gas, and telephone.

VICINITY MAP. A drawing which sets forth by dimensions or other means, the relationship of the proposed development or use to other nearby developments or landmarks and community facilities and services within the County in order to better locate and orient the area in question.

WETLAND. The most current definition as defined by the United States Army Corps of Engineers or Indiana Department of Natural Resources.

YARD. An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a principal structure from the ground upward, except as otherwise provided herein.



(Amended 7/ 18/ 2016 PC2016-20)

YARD, FRONT. A yard extending between side lot lines across the front of a lot and from the front lot line to the front of the principal building.

YARD, REAR. A yard extending between side lot lines across the rear of a lot and from the rear lot line to the rear of the principal building.

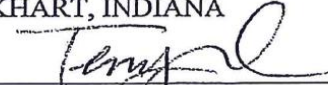
YARD, SIDE. A yard extending from the principal building to the side lot line on both sides of the principal building between the lines establishing the front and rear yards.

ZONING ADMINISTRATOR. For purposes of this Ordinance, the term Zoning Administrator shall mean the Zoning Administrator of Elkhart County, Indiana.

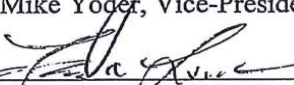
ZONING ORDINANCE. The County Ordinance establishing a zoning plan for the County and providing for its administration; also referred to as the Elkhart County Zoning Ordinance 36-7-4-600 or Elkhart County Code No. 36-7-4-600, and all subsequent amendments thereto.

ORDAINED AND ADOPTED as the Subdivision Control Ordinance of Elkhart County, Indiana including the attached appendices A through E this 2nd day of March, 2009 at a regular and duly called public meeting of the Board of Commissioners of the County of Elkhart, Indiana.

BOARD OF COMMISSIONERS OF THE COUNTY
OF ELKHART, INDIANA

By: 
Terry Rodino, President

By: 
Mike Yoder, Vice-President

By: 
Frank Lucchese, Member

ATTEST:


David L. Hess, Elkhart County Auditor

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(Amended 7/ 18/ 2016 PC2016-20)