

## ARTICLE 2

### SUBDIVISION TYPES AND REVIEW PROCEDURES

#### SECTION 200 - Subdivisions Types

The following applies to Subdivisions or the divisions of land which are used for commercial, industrial, office, residential, or other types of uses. The Subdivision of land can occur in the following three forms:

1. Major Division of Land - A Major Subdivision of land involves eight (8) or more buildable lots in addition to the Parent Tract and can include public improvements such as streets, grading, utilities and stormwater detention. The review procedure for a major division of land involves a Primary Plat, Improvement Plan, and a Secondary Plat as outlined in this Article. If, however, a division of land containing eight (8) or more buildable lots does not require any public street improvements or stormwater detention and only requires minimal grading, the developer will only be required to submit a Primary Plat and a Secondary Plat for review and approval;
2. Minor Division of Land - A Minor Subdivision of land involves the division of seven (7) buildable lots or less in addition to the Parent Tract, and is located along an existing public street or a private drive as specified in this Ordinance and involves minimal grading. The review procedure for a minor division of land involves a Primary Plat and a Secondary Plat as outlined in this Article. The minor division of land involves no widening or extension of a public street or stormwater detention. The procedures and application requirements are outlined in this Article;
3. Administrative Division of Land – Administrative Subdivisions (hereafter called Certified Surveys) are exempt from most provisions of this Ordinance, may not result in or require the creation of a public easement or the installation of public improvements, and must be one of the following types of division:
  - a. The division by conveyance of a single lot, tract, or parcel of land or a part thereof, shown as a unit on the last preceding transfer of ownership record, into more than two lots, tracts, or parcels of land in any one (1) year period of time for the purpose, whether immediate or future, of transfer of ownership for residential, commercial, or industrial purposes. Additional divisions of this type shall be required to follow the Major or Minor Subdivision procedure;
  - b. A division of land for the transfer of a tract, or 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;
  - c. A division of land pursuant to an allocation of land in the settlement of a decedent's estate or a court decree for the distribution of property;
  - d. A division of land for federal, state or local government to acquire street right-of-way;
  - e. A division of land for the transfer of a tract, or tracts, between adjoining lots

provided that no additional principal use building sites are created by the division. Each lot created shall be clearly identified as a non-buildable parcel on the plat and within the deed. The adjoining lots so created hereunder shall have only one principal use building site each;

- f. A division of land into cemetery plots for the purpose of burial of corpses;
- g. A retracement of an existing parcel of record in which a survey plat does not exist, a survey error is being corrected or a new deed and/or legal description being created.

## **SECTION 204 – Summary of Major Subdivision Review Process**

Major Subdivisions involve three separate review steps before the proposed property can be developed and then recorded. The first step, the Primary Plat, involves a Public Hearing before the Commission as required in this Article 2. This step allows a conceptual review of the layout of the proposed development. The second step, the Improvement Plan, involves detailed construction plans of how the Subdivision will be developed as set forth in this Article 2. The Secondary Plat involves the recording of the Subdivision as set forth in this Article 2.

After the Commission has approved the Primary Plat and, if the development includes public improvements, an Improvement Plan approval is required before any construction on the site can begin. Improvement Plans are the construction plans for the Subdivision and any public improvements that are to be dedicated to the County. If the Improvement Plan complies with the requirements of this Ordinance and the Dearborn County Zoning Ordinance, the Improvement Plan will be approved by the Commission. After this approval, construction can begin on the property as indicated by the Improvement Plan. Before any property can be recorded through the Secondary Plat procedure, thus allowing the transfer of the property, all required public improvements must be completed and inspected and approved or a surety must be in place to guarantee the completion and approval of the improvements. (See Article 4)

After the improvements have been installed and a request is made for their acceptance to the legislative unit, a maintenance bond is required to cover any final improvements still to be completed, as well as to cover the performance of the improvements for a minimum of two years. (See Article 4)

## **SECTION 208–Primary Plat Procedure**

The purpose of Primary Plat approval is to determine whether a proposed plat complies with all relevant development requirements set forth, or incorporated, in this Ordinance, and to identify the relevant development standards with which the proposal does not comply, if any. The Primary Plat is intended to be a conceptual layout of the proposed Subdivision and not a construction level detailed review. The following is required for this process:

1. An informal pre-application meeting with the Planning Department Staff to review the proposed Subdivision development prior to submittal of an application. The purpose is to allow the Staff to explain the Subdivision process and to review the proposed development with the applicant;
2. File a completed application with the Staff which application will be prescribed by the Staff;

3. Within thirty (30) days after receiving a complete application, the Planning Director or his designee shall schedule a Public Hearing as described in Section 212;
4. Prior to the Commission's Public Hearing on the application, the Staff and the Technical Review Committee shall review the submitted Primary Plat for compliance with these regulations and provide a written report that indicates compliance with the requirements of the Ordinance or a list of any deficiencies. The applicant shall then be given the opportunity to correct these deficiencies prior to the public hearing.

### **SECTION 212 – Public Hearing Process**

After scheduling a Public Hearing as specified in Section 208 the Commission shall provide notification of the Public Hearing as follows:

1. Notice of the hearing shall be given by the Staff (postmarked and mailed) at least **ten (10) days** in advance of the Public Hearing by certified mail to the applicant and the owners of all property adjoining the property of the proposed Subdivision. The Applicant proposing the Subdivision shall furnish to the Staff the names and addresses of the owners of all adjoining property. The Dearborn County Assessor's Office may be relied upon to determine the identity for all adjoining property owners. In the cases where the Subdivision abuts or includes a county line, notice shall be given to properties at least 660 feet from the county line or property line into the neighboring county. The notice shall state, at a minimum, the time, place and purpose of the hearing.
  - a. Notice of the Public Hearing shall be published in a newspaper of general circulation at least **ten (10) days** prior to the hearing. Said published notice shall state, at a minimum, the time, place and purpose of the hearing.
2. The Commission shall take the following action on the Applicant's request after the public hearing:
  - a. If, after the Public Hearing, the Commission determines that the application and Primary Plat **comply** with the standards in this Ordinance, **the Commission shall make written findings and a decision granting primary approval to the Primary Plat**. Reasonable conditions may be imposed to the approval of the plat that are supported by the requirements of this Ordinance;
  - b. If, after the Public Hearing, the Commission denies the Primary Plat, it shall make written findings that set forth its reasons and a decision denying primary approval and shall provide the applicant with a copy of such findings.
  - c. The Commission meeting minutes shall serve as the written findings of fact in support of its decision on the Primary Plat. After the minutes are approved by the Commission, the minutes shall serve as his confirmation of the Commission's official action on the Applicant's request. If the Applicant requests written notification of the decision prior to the adoption of the official minutes of their application, the Planning Director or his designee shall upon request by the Applicant provide this written notification;

- d. If the approved by the Commission, Planning Director or his designee shall stamp and sign the Primary Plat according to the final action taken by the Commission and provide a copy to the applicant as well as for the file.
- 3. The Plan Commission's approval of a Primary Plat shall not constitute approval of Improvement Plan or Secondary Plat unless otherwise stated within this Ordinance.**

### **SECTION 216 - Primary Plat Requirements**

The Primary Plat shall meet the minimum acceptable design standards set forth in Article III of this Ordinance and the general applicable regulations for the construction of public improvements as set forth in this Ordinance, and the Dearborn County Zoning Ordinance. In addition to the requirements of the preceding sentence, the Primary Plat shall contain the following information:

1. The proposed Subdivision plat shall be drawn to a scale of not less than one inch equals one hundred feet (1"= 100') unless Staff approves another scale. The submitted drawing shall be on a 24" x 36" paper size. A graphic or written scale shall be noted on the plat along with the date of the plat and north arrow. *All multiple sheet plans shall be stapled together to form plan sets;*
2. The proposed Subdivision name, the names and addresses of the owner and developer, and the name, address, and seal of a Indiana Professional Engineer, or Registered Land Surveyor responsible for designing the plat. In no case shall the name of a proposed Subdivision duplicate or be similar to an existing Subdivision in Dearborn County unless it is an extension or expansion of an existing Subdivision unless approved by the Planning Director or his designee;
3. A vicinity map showing the proposed location of the Subdivision by township and section and in relation to major or minor roads in the area. The vicinity map shall have an approximate scale;
4. All proposed uses including the type of housing (e.g. single-family attached or detached, townhouses, duplexes, etc.) or other uses in the Subdivision and any public dedication or reservation of land;
5. Label all open space and common areas;
6. Acreage of land to be subdivided, the total number of lots, and if applicable, the approximate number of acres of open space or other public uses;
7. Existing contours with intervals of not more than ten (10) feet to reflect the current topography of the proposed Subdivision with elevations based on mean sea level (U.S.G.S. Datum). Also, the current elevations on adjoining streets or roads shall be required to determine proper access management;
8. If any type of fence, brick wall, or earthen berm is being proposed to screen the proposed Subdivision from a street or adjoining land use, it shall be noted on the Primary Plat. Details such as height and type of screen shall be indicated on the Primary Plat. Identify all landscaped areas within a public street right-of-way along with maintenance of such features. If landscaped islands are proposed, drainage facilities are required;
9. Boundary lines of the land to be subdivided shall be shown in heavy solid lines, including lengths and bearings. The following existing features within 100 feet of the proposed

Subdivision boundary shall be indicated, as referenced either from scaled aerial photography or orthophotography, or as referenced from field observations: all existing buildings, cemeteries, historical landmarks or features, water courses, railroads, bridges, all private/public utility facilities and easements. In addition, the present zoning classification, both on the land to be subdivided and on the adjoining land, and the names of adjoining property owners and adjacent Subdivisions within one hundred (100) feet of the Subdivision boundary. If the proposed Subdivision is an additional section of an existing Subdivision, the plat shall show the numbering of all adjoining sections and lots;

10. Information pertaining to proposed and existing public/private utility layouts (e.g. storm and sanitary sewer, water, gas, telephone, electric, cable, etc.) based upon existing service lines. If applicable, the location of all detention/retention structures. The primary utility layout for the Subdivision shall define the location and direction of flow of each stormwater and sanitary sewer, and the location of each water line. Telephone, electrical, and cable service should be noted as being installed underground or overhead;
11. A letter from all utility providers indicating the availability of service for the proposed Subdivision. All Subdivisions proposed with Individual Sewage Disposal Systems shall be required to provide a Preliminary Report from the Dearborn County Health Department demonstrating approval for Individual Sewage Disposal Systems for each lot and indicate the location of the two (2) test sites for the primary and secondary sites on each lot for a septic system pursuant to Section 2526 of Dearborn County Zoning Ordinance. Lots indicated as unacceptable for an Individual Sewage Disposal System within this report shall be enlarged to meet the Health Department concerns or shall be removed as a buildable lot. Alternative on Private Sewage Disposal Systems (i.e. cluster systems) shall also require a Preliminary Report from the Dearborn County Health Department;
12. Names, locations, widths, lengths, grades and curves of proposed streets pursuant to Section 305 Street Design herein. The Applicant shall state whether the proposed streets will be public or private. Also, any existing easements shall be shown along with other open spaces or reservation of land. Lots shall be numbered and the lot sizes (in acres) shall be noted on the plat. The minimum building lines shall be denoted on the plat. In no case shall the name of a proposed street duplicate or be similar to an existing street in Dearborn County unless it is an extension or expansion of existing street;
13. Approximate boundaries of 100-year flood plain using the Flood Insurance Rate Maps and Floodway Maps for Dearborn County. Properties located within the floodplain shall provide written documentation from the Indiana Department of Natural Resources regarding the Flood Protection Grade and the location of the floodway (See Article 8 of Dearborn County Zoning Ordinance). The plat shall show all flood-prone areas and a sketch map using the current U.S. Geological Survey data to demonstrate the drainage basins upstream and downstream from the development;

14. Reference to the existing soil types of the site or proposed Subdivision. The location and identification of soil types can be found in the Soil Survey of Dearborn and Ohio Counties, Indiana produced by the USDA. This document is available at the Planning Department. If other data is used it shall be certified by a professional engineer licensed in Indiana. The soil types shall be listed on the Primary Plat in order to determine any potential environmental impact as a result of building or public improvement construction on each soil type;
15. The phasing proposed and estimated time needed to reach build-out of the Subdivision.

### **SECTION 220 - Sectionalizing (Phasing) Major Subdivisions**

During the Primary Plat review of a Major Subdivision, a Subdivider may present a phasing or sectionalizing plan. If a phasing plan is submitted, the build-out of the Subdivision must be identified on the Primary Plat drawing and accompanying materials. As a part of this process, the Plan Commission can require that certain improvements be completed within or by a certain phase of the Subdivision's development. For example, road termini, utility improvements, or neighborhood or community amenities may be required within the early phases of the Subdivision.

Additional financial guarantee may be required for Subdivisions developed in phases to ensure that public improvements are connected as shown in the approved Primary Plat or financial guarantee may be required to remain in place until all sections of the Subdivision are completed. For example, prior to the development of a new phase or section, a maintenance guarantee may be required to ensure the satisfactory condition of the required improvements from earlier sections of the affected Subdivision—or adjacent development. Financial guarantees must also be consolidated if different phases or sections are owned or controlled by the same Subdivider.

### **SECTION 224 – Expiration of Primary Plat**

The approval of the Primary Plat shall be in effect for two (2) years from the date of the Commission's approval unless an Improvement Plan for at least one (1) section of the Subdivision is submitted for review and approval. As each section of a Subdivision is approved and developed, the approval of the Primary Plat will be extended for a two-year period beyond each approved section. A one (1) year extension of the approval of a Primary Plat is possible through an application to the Planning Director.

## **SECTION 228 - Improvement Plan Review Procedure**

After the approval of the Primary Plat and after meeting informally with the Staff, the Subdivider or Applicant shall, prior to the construction and installation of any utilities, roads or grading of any parcel, prepare and submit an Improvement Plan for review and action by a Technical Review Committee and Staff. The Improvement Plan shall be consistent with the approved Primary Plat. Any changes to the approved Primary Plat shall be reviewed by the Planning Director or his designee to determine if the changes are major or minor in scope. Minor changes shall include slight movement of streets, reconfiguration of lots, renumbering of lots, increasing or reducing lot sizes or similar changes. Major changes can include increases in the number of lots or removal of street connections. Any changes considered to be major in scope shall require a new Public Hearing by the Applicant as described in Section 215 of this Ordinance.

The Applicant may file an application and submit an Improvement Plan application to the Planning Department after Primary Plat approval has been received. Upon receipt of a complete application, the Planning Department shall distribute the required copies of the Improvement Plan to the members of the Technical Review Committee for review. The Technical Review Committee and staff will meet informally on a scheduled, or as needed basis, to review each Improvement Plan for its compliance with the Subdivision Ordinance. The Planning Director or designee shall then forward a list of deficiencies, if any, to the applicant. If the Applicant corrects the deficiencies, and the Improvement Plan is in compliance with the Subdivision Control Ordinance and the Dearborn County Zoning Ordinance, the Plan must be approved.

## **SECTION 232 - Improvement Plan Requirements**

The Improvement Plan shall provide the minimum acceptable design and improvement standards which will be required by the Commission as a precondition to development or in conjunction with development for lots, streets, utilities, and other physical elements in the Subdivision. Based upon the information and design plans of the Subdivision, the Planning Director or his designee may request additional information on any of the following requirements in order to clarify design issues. The Improvement Plan shall be designed by an Indiana Registered Professional Engineer or Surveyor and installed in accord with these and other applicable regulations, and shall contain the following information:

1. The proposed name of the Subdivision or development as approved in the Primary Plat. In no case shall the name of a proposed Subdivision duplicate or be similar to an existing Subdivision in Dearborn County unless it is an extension or expansion of an existing Subdivision;
2. Names and addresses of owner or developer of the Subdivision and the Indiana Registered Professional Engineer or Surveyor responsible for the design of all improvements. The Improvement Plan shall be certified with the seal of the engineer or surveyor;
3. The plan shall be to a scale of one inch equals fifty feet (1"= 50') unless Staff approves another scale and the submitted drawing shall be on a 24" x 36" paper size. On large lots, this scale may be used to show just the graded portion of the lots, and improvements. A graphic or a written scale shall be on each sheet of the plan. *All multiple sheet plans shall be stapled together and numbered to form plan sets;*

4. A vicinity map showing the proposed location of the Subdivision by township and section and in relation to major or minor roads in the area. The vicinity map shall have an approximate scale. In addition, if the Subdivision is done in sections, a reduction of the overall subdivision plan shall be provided on the cover sheet that graphically indicates the area under review;
5. The date shall be on the cover or first sheet of the Improvement Plan, and a north arrow shall be on all sheets of the Improvement Plan;
6. The boundary of the Subdivision or section of Subdivision under review shall be indicated by a heavy, solid line on one sheet of the Improvement Plan at a standard scale to show the location of the section under review with other sections of the Subdivision. All Subdivision boundary lines shall be labeled with the bearing and distance;
7. The location and name of all existing and recorded streets, right-of-way and roadway widths, railroads, public and private utility right-of-ways or easements (including drainage easements); public parks and open spaces; buildings (labeled as "to remain" or "to be removed"); township, city, town, county and state boundary lines; cemeteries and other historical landmarks or features. Drainage easements not planned to be piped shall be labeled "surface drainage easement";
8. Sight distances in both directions for any proposed road that intersects with an existing street shall meet the minimum sight distance requirements found in Section 2410 of the Dearborn County Zoning Ordinance. The sight distances shall also be denoted on the plat along with the speed limits of the roads to be intersected.
9. Location and sizes of all existing utility facilities (public and private) within or adjacent to the Subdivision or development area. Location and width of all public or private sidewalks, including ownership and maintenance of private sidewalks and pathway systems;
10. Location and identification of all existing zoning districts within, or adjoining, the Subdivision or project area. If used for residential purposes, the type of housing shall be stated on the Improvement Plan;
11. Existing contours with intervals of not more than ten (10) feet shall be clearly marked with elevations based on mean sea level (U.S.G.S. Datum) and the location and description of the benchmark used. All subdivisions larger than 50 total lots will be required to tie into the State Plane Coordinate System;
12. Proposed finished contours with intervals of not more than five (5) feet, shall be clearly labeled and be related to the existing contours. Maximum grade for any excavated (cut or fill) slopes shall be 2.5:1 (2.5 feet horizontal for each 1 foot vertical), and the design slope shall be labeled on the plan. Excavated slopes may be steeper upon report by a geotechnical engineer approved by the Planning Department. Disturbed limits shall be clearly identified on the submitted plan and in the field;

13. Location, right-of-way and pavement width, name of all proposed streets and other public utility right-of-ways or easements. Show striping of street lanes on roads with more than two lanes. Also, show location of streetlights and submit detail of a typical light fixture. A typical detail drawing that depicts the classification of the proposed street shall be shown on the Improvement Plan. Where divided entrances are proposed, detail plans may be required when appropriate. Proposed street names shall not duplicate or too closely approximate phonetically, the name of any other street in Dearborn County. Street stations and PVI's shall be labeled on the centerline of proposed streets and correspond to profiles of said street;
14. The location and lot number of all lots with the distances shown on each lot line. Arrows showing the water flow off the lot will indicate the proposed drainage of individual lots;
15. Profile of each proposed street with finish grades (including adequate extensions, where necessary, beyond the proposed Subdivision, development or section) including all existing and proposed underground public utility crossings with catch basins, junction boxes, manholes and existing private utility crossings including gas, electricity, and telephone. Horizontal scale shall be the same as the plan scale and vertical scale not less than one inch equals ten feet (1"=10') unless approved by the Staff. Stationing shall be labeled and correspond to the plan view;
16. Location of proposed sanitary, storm water, and water resource systems, including all facilities relating thereto such as manholes, pump stations, sewerage plants, catch basins, junction boxes, headwalls, water valves and fire hydrants. Detention/retention areas or ponds shall be clearly identified with the maximum volume capacities labeled. Detailed drawings of all overflow facilities shall be shown. All stormwater and sanitary sewer facilities (catch basins, junction boxes, headwalls and manholes) shall be numbered and correspond to those facilities on profiles as described in paragraph "18" of this section. Connection to existing facilities shall be shown and labeled. Responsibility of maintenance of any detention/retention areas shall be noted on the Improvement Plan;
17. Location and identification of any drainage facility (i.e. man made dams) or natural feature (i.e. lake or pond) on the site or within one hundred (100) feet of the Subdivision or development boundary which has, or could have, a significant impact on drainage or siltation control;
18. Profiles of all proposed stormwater and sanitary sewer pipelines and facilities including percent grade, pipe diameters, pipe lengths, and invert elevations. Profiles shall also show all existing and proposed public utility (water, storm and sanitary sewer) crossings, and all existing private utility (gas, electric, and telephone) crossings. The facilities (catch basins, junction boxes, headwalls and manholes) shall be numbered and correspond to those facilities as described in paragraph "16" of this section. The design velocity of stormwater flow shall be shown at the headwall and the re-entrance into the natural stream. Detail drawings of all detention/retention overflow and controlling facilities including valves shall be shown. Connections to existing pipelines or facilities shall be shown and labeled;
19. Design calculations for all drainage facilities including detention/retention basins, sediment basins, stormwater pipelines and drainage channels. All calculations must be approved by an Indiana Register Professional Engineer or Surveyor. (See Article 3 Section 325 thru 325.6);

20. If a grading plan of the proposed Subdivision or section thereof was approved under Section 272 of this Article, then a copy of that approved plan shall be submitted with the proposed Improvement Plan;
21. Names of adjacent property owners and recorded Subdivisions with section or phase number within one hundred (100) feet of the site under review;
22. Reference to the type of street and a typical cross-section detail as noted in the current County Street Specifications;
23. The minimum building setback lines as stated in the current Dearborn County Zoning Ordinance shall be noted either graphically and in written form;
24. Indicate lots in the proposed Subdivision or development that are intended to be dedicated or temporarily reserved for public use, or to be reserved by deed covenant for use of all property owners in the Subdivision, and the conditions, if any, of such dedication or reservation. The applicant shall provide information regarding any dedication of public lands, restrictive covenants on non-development areas, or conservation easements;
25. The location of all erosion and sediment control facilities shall be shown on the plan, with detail drawings of each type of facility being used. The detailed soil erosion techniques or features may be referenced on the plan in accordance with the Indiana Department of Natural Resources Rule 5 Permit for Erosion Control. All excavated slopes (4:1 or steeper) shall be seeded and mulched immediately upon completion of grading of that particular slope, and right-of-ways shall be seeded and mulched within 120 days of the Planning Department's Secondary Plat approval of that section;
26. A draft copy of any Homeowners Association Agreement document which deals with the future maintenance of sidewalks, streets, open areas, recreational lands, street lighting, private utilities, and other items. At a minimum, the Homeowners Agreement document should include membership names, fee or dues structure, estimated cost for future maintenance items, a detailed list of maintenance items, a budget description and a description of ownership boundaries;
27. Additional documentation or information such as geotechnical studies may be required by the Planning Department if an applicant is proposing to make improvements on property located on steep slopes of 25 percent or greater or that have types of soils and geologic formations, which severely limit development;
28. For Subdivisions planned with Individual Sewage Disposal Systems it will be required to provide a plot plan for the entire subdivision locating the primary and secondary site locations on each lot for a septic system (See Section 2526 of Dearborn County Zoning Ordinance and Section 216 Item 11 of this Ordinance);
29. A copy of written approval shall be provided for all public utility improvements to be provided. The letter should not only indicate that the service is available but that the applicant has permission to extend or tap into the service. A copy of any required IDEM approval for any sanitary sewer service shall also be provided. Developments requiring access onto a state highway shall be required to provide a copy of any required INDOT permit; and
30. Any applicable Floodway or Flood Plain information as determined in Section 216, Item 13;

31. A Phase I Environmental Site Assessment prepared by a certified environmental consultant licensed in the State of Indiana, in accordance with ASTM E 1527-00 for any subdivision proposed for a commercial use. Any Subdivision may be subject to this requirement, at the request of the Technical Review Committee, if the site contains a potential environmental risk.

### **SECTION 236 - Improvement Plan Approval**

The Technical Review Committee and Planning Department Staff shall have thirty (30) days from date of receipt of the completed application to review the Plan and take action unless the applicant waives the time limitation, in writing. If the Improvement Plan is in agreement with requirements within this Ordinance and the Dearborn County Zoning Ordinance, then the Plan shall be approved by the Technical Review Committee and the Planning Department Staff. If the Plan is not in compliance with the requirements of this order and the zoning ordinance the Plan cannot be approved until it is made to be compliant. If the Plan is approved with or without conditions, then the applicant may proceed with construction. If the submitted Improvement Plan is not approved, then the property owner, developer; or applicant may resubmit a new application or may appeal the decision before the full Plan Commission at its next available meeting.

Approval of the Improvement Plan by the Technical Review Committee **shall not constitute acceptance of the Secondary Plat**. Approval of the Improvement Plan also **shall not be construed as acceptance or agreement to accept** any proposed improvement intended to be dedicated for public use.

The Improvement Plan shall become null and void after two (2) years from the date of approval, unless a substantial amount of construction of significant improvements in the Subdivision are made (as determined by the Planning Director) and include the following: utility installation, road construction, or extensive excavation. In addition, acceptance of a financial guaranty will extend the approval period for the length of the guaranty. A one (1) year extension of approval for an Improvement Plan can be issued by the Planning Director. Any deviation from or changes made to the approved Improvement Plan shall be submitted to the Planning Department for review and approval by the Staff and/or by the Technical Review Committee of the Plan Commission. In the event that any person holding an approved improvement plan permit pursuant to this ordinance violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the Building Commissioner or Planning Director, or their respective designees, may suspend or revoke a site development permit. The Planning Department shall stamp and distribute the approved copies of the Improvement Plan to the appropriate organizations.

### **SECTION 240 - Secondary Plat Review Procedure**

The Secondary Plat shall conform to the approved Improvement Plan, and if desired by the Applicant, it may constitute only that portion of the approved Improvement Plan, which the Applicant proposes to record and develop at the time. However, any section, phase or part shall conform to all requirements of these regulations.

## **SECTION 244 –Secondary Plat Requirements**

The Secondary Plat shall conform to the requirements listed below, as well as those set forth in 865 IAC 1-12, commonly known as ‘Indiana Rule 12’:

1. The proposed name of the Subdivision or development, as established by the Improvement Plan. Also, names of adjacent property owners and recorded Subdivisions with section or phase number. All Secondary Plats shall be drawn on a 24” x 36”inch fixed line mylar;
2. A vicinity map showing the proposed location of the Subdivision by township and section and in relation to major or minor roads in the area. The vicinity map shall have an approximate scale. In addition, if the Subdivision is done in sections a reduction of the overall Subdivision plan shall be provided on the cover sheet that graphically indicates the area of the Subdivision to be recorded;
3. Any information required by the Dearborn County Recorders Office;
4. Name(s) and address(es) of the Owner or developer of the Subdivision and the Indiana Registered Land Surveyor or surveying firm responsible, for survey and lot design of the Subdivision;
5. Date, north arrow, and graphic or written scale. The scale shall not be less than one inch equals fifty feet (1”=50’), except Subdivision or developments with lots having a minimum area of two acres which shall not be less than one inch equals one hundred feet (1”=100’);
6. Names of adjacent property owners, deed record and page number\*, and recorded Subdivisions with section or phase number. \*Instrument numbers may be supplied for any parcels established after 2000;
7. Boundary of the Subdivision or section thereof, with bearings and distances based on the field traverse that has an accuracy of not less than one part in five thousand (1:5000);
8. The Property Parcel Map Numbers (#s) that the new lots are being divided from;
9. Area of the Subdivision or section of the Subdivision and area of each lot in acres;
10. Location and right-of-way width and length of all streets and easements which are to be dedicated or reserved for public or private use;
11. Names of streets within or adjacent to the Subdivision, and private streets shall be labeled;
12. Centerline curve data for the right-of-way of the streets and easements with the data to include: central angle and radius, arc length, long chord and tangent distances;
13. Numbered, lots whose boundaries are described by bearing and distance for each tangent course, and proper curve data (as given above) for curve courses. Side lot lines that are not radial with curved street centerlines shall have a reference tie to the tangent line of that centerline curve. Also, if any lots were subject to a Certified Survey, those lots shall be noted with dashed lines and referenced;
14. Description of all monumentation, including notation as whether were found or set, and the type of monument used;

15. Location of areas to be dedicated for, public use and with the planned use clearly indicated. Areas intended to be reserved for common use but not dedicated to public use shall be identified by a lot number and treated as a private lot. A statement shall appear on the Secondary Plat that clearly describes the ownership and maintenance responsibilities for any public or non-public common areas;
16. The following statement shall appear on the Secondary Plat unless noted in the form of a deed restriction by the developer of a Subdivision;
  - a. Current applicable zoning regulations or districts will determine building setbacks.
17. Certificate and seal of the Indiana Registered Land Surveyor, who is responsible for the survey that the plat represents (Article 7, Certificate A);
18. A signed and notarized certificate of the owner(s) indicating adoption of the plat and dedication of the streets, easements, and any other public areas (Article 7, Certificates B-1 and B-2, where applicable). This certificate shall be signed prior to the plat being signed by the Planning Director or his designee;
19. Reference to the current Deed Book(s) and Page Number(s) as to the transfer to the current owner(s) of all property that is a part of the Subdivision or section thereof. If the reference is of more than one tract, the tract line shall be shown on the plat;
20. Certificate of approval of the Dearborn County Plan Commission (Article 7, Certificate C);
21. Certificate of approval of the Property Owner (Article 7, Certificate D), for Subdivisions that do not involve public dedications;
22. Certificate of the Dearborn County Recorder and Auditor (Article 7, Certificate E & H);
23. Certificate of Dedication for public streets and storm sewer line(s), if applicable (Article 7, Certificate F);
24. A final copy of any Homeowners Agreement document which deals with the future maintenance of sidewalks, streets, open areas, recreational lands, street lighting, private utilities, and other items. At a minimum, the Homeowners Agreement document should include membership names fee or dues structure, estimated cost for future maintenance items, a detailed list of maintenance items, a budget description and a description of ownership boundaries;
25. For Subdivisions that involve Individual Sewage Disposal Systems, the primary and secondary septic site locations shall be indicated on the Secondary Plat as described in Section 2526 of the Dearborn County Zoning Ordinance. The following statement shall also appear on the plat:
  - a. "The recording of this plat provides no guarantee that the designated septic site locations will receive a permit for an Individual Sewage Disposal System from the Dearborn County Health Department. A permit for an Individual Sewage Disposal System will be required for each lot prior to construction."

If the Subdivision is a Minor Division of Land as defined by Article 2 of this Ordinance, the Individual Sewage Disposal System requirements for Certified Surveys may be used, which are defined in Section 260, #22. All Subdivisions that are considered a Major Division of Land shall contain the Individual Sewage Disposal System information listed above, unless a waiver is granted by the Plan Commission.

26. For Subdivisions, which involve private on-site sanitary sewage treatment plants, the following statement shall be placed on the Secondary Plat.
  - a. The sanitary sewer lines and the sewage treated at the \_\_\_\_\_ plant will be owned and operated by \_\_\_\_\_. The sanitary sewer lines will be maintained by \_\_\_\_\_ and the sewage treatment plant will be maintained by \_\_\_\_\_. If at any time in the future, a public sewer district is created or extended that can take over ownership and maintenance of the treatment plant, \_\_\_\_\_ owners of said plant, will relinquish control at the public sewer utility's discretion.
27. Show the location and dimensions of a cemetery if it exists on the site;
28. Any applicable Floodway or Flood Plain information as determined in Section 216, Item 13.
29. The following statement shall also appear on the plat:

"This plat shall be void if not recorded within three (3) months of the survey certification date, as stipulated in Indiana Rule 12."

### **SECTION 248 - Secondary Plat Approval**

Approval, approval with conditions or modifications, or disapproval shall occur within ten (10) working days from the date of submittal of the application by the Planning Director or his designee. Any public improvements as required by this Ordinance shall be addressed according to Article 4 before the Secondary Plat can be approved. If the Plat is in agreement with requirements within this Ordinance and the Dearborn County Zoning Ordinance, then the Plat shall be approved. If the Plat is not in compliance with the requirements of this order and the Zoning Ordinance the Plat cannot be approved until it is made to be compliant.

Upon approval by the Planning Department, two copies of the Secondary Plat will be filed in the Planning Department, one copy shall be forwarded to the Dearborn County Assessor and the original mylar will be hand carried to the to the Dearborn County Auditor's Office. The Auditor's Office will duly enter each parcel for taxation then the Plat will be delivered to the Dearborn County Recorder for recording.

Approval of the Secondary Plat by the Plan Commission shall not constitute the acceptance by the appropriate legislative body of the public dedication or maintenance of any street or other facility nor shall it imply acceptance by the Dearborn County Recorder for recording purposes.

## **SECTION 252 - Minor Subdivision Review Procedure**

The purpose of this Minor Subdivision review procedure is to potentially allow for a more expedient review process. A Minor Subdivision as defined in Section 200 shall be required to follow the Primary Plat requirements in Section 216 and Secondary Plat review procedures outlined within this Article. Within ten (10) days of receipt of a complete application, the Planning Director or his designee shall:

1. Review the Applicant's application for technical conformity with these regulations;
2. Prepare a report and recommendation;
3. Schedule a Plat Committee (hereafter called Technical Committee) review of the application within fifteen (15) days of the receipt of the complete application;

The Technical Committee shall review the Applicant's application for compliance with these regulations. The Technical Committee may approve the application, approve the application with conditions or deny the application. However, if the Technical Committee determines that the application and Plat comply with these regulations, it shall grant primary approval. The Planning Department shall stamp the Plan approved after expiration of the appeal period and distribute the copies accordingly.

Within ten (10) days after the Technical Committee's approval of the Applicant's application, the interested parties shall be notified by certified mail, of their right to appeal the Technical Committee's decision. In order to appeal a decision of the Technical Committee, the Applicant or Appellant must file a notice of appeal with the Planning Department within ten (10) days of receipt of the notice. The appeal of a decision of the Technical Committee may be taken only to the Commission.

Upon the filing of a notice of appeal, the Applicant's application for primary approval shall be subject to the procedures of Section 208 as if it were a new application. If no appeal is filed the Applicant shall proceed with the Secondary Plat procedures as outlined in this Ordinance.

## **SECTION 256 – Certified Survey Review Procedure**

The provisions for Certified Survey Review and approval are intended to provide a convenient and expeditious process for the conveyance or transfer of land from the parent tract as described in definition section of this Ordinance. Property can be divided through this procedure if it falls into the categories identified within Section 200, Administrative Subdivision of Land. Each lot intended for building or development purposes must still meet the minimum standards in each zoning district as stated on the Dearborn County Zoning Map and in the Dearborn County Zoning Ordinance. This type of plat is intended to allow the division of a single lot from a larger tract for building purposes and for the casual sale of property, including the sale of property for non-buildable lots, when the imposition of the Major or Minor Subdivision procedure would be unnecessary. Certified Surveys may be submitted at any time to the Planning Department for Staff review and approval.

## **SECTION 260 – Certified Survey Requirements**

Certified Surveys are intended to graphically represent the information of a boundary survey of property that is to be subdivided. The plat shall conform to the following requirements, as well as those set forth in 865 IAC 1-12, commonly known as 'Indiana Rule 12':

1. Date, north arrow, and standard engineering scale not less than one inch equals two hundred feet (1"= 200'), unless approved by the Planning Department Staff. Plats shall be at a size of 18" x 24" on mylar drawn in ink;
2. Name, address, telephone number and seal of the Indiana Registered Land Surveyor responsible for the survey Plat and the Land Surveyor's Certificate (Article 7, Certificate A);
3. Boundary of the parcel and Subdivision of that parcel, including bearings and distances of each tangent course, and all necessary data for curve courses. The traverse that the boundary is depended on shall meet the Indiana minimum standards, and if requested by the Planning Department, closure documentation shall be submitted in addition to the plat;
4. Area in acres of the parent parcel and each Subdivision of the parcel. If a parcel falls in two different townships, sections, or quarter sections, separate acreage's shall be listed;
5. Location and names of public or private right-of-ways that adjoin the boundary, and whether the road is maintained or abandoned;
6. Encroachments discovered in the course of the survey;
7. Names of adjacent property owners, deed record and page number\*, and recorded Subdivisions with section or phase number. \*Instrument numbers may be supplied for any parcels established after 2000;
8. Vicinity Map with an accurate scale, at a township level;
9. Statement by the applicant as to whether the transfer will be used, or is being used, for building or non-building purposes, and label this with bold letters on the parcel;
10. A description of the size, character, and location—including the location relative to the surface of the ground—of all monuments, with notations indicating which were found and which were set;
11. Current zoning of the subject property;
12. The Property Parcel Map Number (#) that the new lot is being divided from;
13. Existing structures and distances to the newly established property lines;
14. Show the location and dimensions of a cemetery if it exists on the site;
15. Label and show the boundaries of the designated flood zone, if they exist on the site;
16. Show utility easements and road frontage;
17. Variances and/or covenants if applicable;
18. Reference to source of title;
19. Reference to Section, Township, Range and Political Township;

20. Owner's Certificate (Article 7, Certificate B-1, B-2 or D) and Certificate for Plan Commission approval (Article 7, Certificate C), Certificate of the Dearborn County Recorder and Auditor (Article 7, Certificate E & H);
21. For Subdivisions that involve a new Individual Sewage Disposal System, two (2) test sites for the primary and secondary septic site locations shall be indicated on the plat as described in Section 2526 of the Dearborn County Zoning Ordinance. The following statement shall also appear on the plat:
  - a. "The recording of this plat provides no guarantee that the designated location for the test sites will receive a permit for an Individual Sewage Disposal System from the Dearborn County Health Department. The information contained herein does not confirm whether or not this land division interferes with the performance of an existing sewage disposal system. A permit for an Individual Sewage Disposal System will be required prior to any construction."

If the Subdivision is not intended to be developed immediately, or test sites for the primary and secondary septic sites have not been selected, the following statement shall appear on the plat:

- b. "At the time of this plat, test sites for an Individual Sewage Disposal System have not been located. The information contained herein does not confirm whether or not this land division interferes with the performance of an existing sewage disposal system. A permit for an Individual Sewage Disposal System will be required from the Dearborn County Health Department prior to construction, at which time it will be required to locate primary and secondary septic sites. **THE APPROVAL OF THIS PLAT PROVIDES NO GUARANTEE THAT A PERMIT FOR AN INDIVIDUAL SEWAGE DISPOSAL SYSTEM WILL BE ISSUED BY THE DEARBORN COUNTY HEALTH DEPARTMENT.**"

In either of the aforementioned scenarios, the property owner must attest that to his or her knowledge, the proposed land division does not interfere with the performance of an existing individual sewage disposal system (See Certificate B-1 or D.) Individual sewage disposal systems that are situated on remainder (parent) tracts where the following general conditions are present will not be required to locate a secondary septic site:

- a) Remainder tracts must be equal to, or larger than, five (5) acres
- b) Remainder tracts must contain significant areas with slopes of less than, or equal to, fifteen percent (15%)
- c) Remainder tracts must be located substantially outside of an identified flood hazard area
- d) There must not be any existing violations or citations involving these properties with the Dearborn County Health Department

22. For Subdivisions that are intended to be developed immediately, a sight distance study shall be performed. The location of the future access point shall be indicated on the plat with the following statements. Existing access points should also have the following notes but may not be required to meet the sight distance requirements. A waiver can be granted if a documented sight distance study has been previously performed by the Planning Director or Designee.

- a. "The recording of this plat provides no guarantee that the designated location for the access point will receive sight distance approval from the Dearborn County Plan Commission."
- b. On \_\_\_\_ Day of \_\_\_\_\_, 200\_\_ there are \_\_\_\_\_ feet of sight distance in the (easterly, westerly, northerly, southerly) direction and \_\_\_\_\_ feet of sight distance in the opposite (easterly, westerly, northerly, southerly) direction measured to meet the minimum sight distance requirements of Article 24, Section 2410 of the Dearborn County Zoning Ordinance.

If the Subdivision is not intended to be developed immediately, or a sight distance study has not been performed, the following statements shall appear on the plat:

- a. Upon visual inspection there are approximately \_\_\_\_\_ feet of sight distance in the (easterly, westerly, northerly, southerly) direction and approximately \_\_\_\_\_ feet of sight distance in the opposite (easterly, westerly, northerly, southerly) direction. (If multiple sections of sight distance exist, each section must be denoted on the plat.)
- b. "At the time of this plat, a sight distance study has not been performed. A sight distance study will have to be performed by an Indiana registered Professional Engineer or Land Surveyor in accordance with the Major Plot Plan Review process prior to construction of new access points. **THE APPROVAL OF THIS PLAT PROVIDES NO GUARANTEE THAT THIS PARCEL WILL MEET THE MINIMUM SIGHT DISTANCE REQUIREMENTS AS ESTABLISHED BY THE DEARBORN COUNTY PLAN COMMISSION.**"

23. A Surveyor's Report and Legal Description of the property;

24. When a parcel adjoins an existing public street, a minimum width of one-half the right-of-way shall be required in the form of an easement and shown on the plat along the entire lot frontage (s) as detailed in Table 3.1.

25. The following statement shall also appear on the plat:

"This plat shall be void if not recorded within three (3) months of the survey certification date, as stipulated in Indiana Rule 12."

## **SECTION 264 – Certified Survey Approval**

Approval, approval with conditions or modifications, or disapproval shall occur within ten (10) working days from the date of submittal of the application. Once reviewed and approved by Planning Director or his designee the Plat will be signed and stamped “Approved” by the Planning Department Official. Approval of the Certified Survey by the Planning Department does not record the parcel of land. A parcel is not recorded until the Plat and deed has been duly entered for taxation by the Dearborn County Auditor and then accepted for recording by the Dearborn County Recorder. All Certified Surveys shall require a newly created deed unless the survey is a retracement of a currently recorded parcel. However, if a new deed and/or legal description is created the retracement plat must follow the same procedure as a Certified Survey.

Upon approval by the Planning Department, the original mylar will be hand carried by the property owner/applicant to the Dearborn County Auditor’s Office. The Auditor Office’s will match the deed to the plat and duly enter the parcel for taxation and then the plat and deed will be delivered to the Dearborn County Recorder for recording. A copy of the Certified Survey shall also be forwarded to the Dearborn County Assessor.

Approval of the Certified Survey by the Plan Commission shall not constitute the acceptance by the appropriate legislative body of the public dedication or maintenance of any street or other facility nor shall it imply acceptance by the Dearborn County Recorder for recording purposes.

## **SECTION 268 - Grading Review Procedure**

Due to construction time limitations, unique soil conditions or weather conditions, a Subdivider or Applicant may find it necessary to submit a Grading Plan after approval of a Primary Plat and before a submittal of an Improvement Plan. The Grading Plan will not include final engineered drawings for streets, water lines, and sanitary sewer lines. A Subdivider or Applicant may submit a Grading Plan for review by the Staff.

If the Grading Plan has been approved by the Staff, the Subdivider or Applicant has one (1) year from the date of the approved Grading Plan to begin and to complete the work as stated in the Grading Plan or the Plan shall become null and void.

## **SECTION 272 - Grading Plan Requirements**

Upon the approval of the Primary Plat the developer of a proposed Subdivision or property owner may submit a Grading Plan of the proposed Subdivision or section thereof for review by the Staff. The grading plan shall be designed by an Indiana Registered Professional Engineer or Surveyor and installed in accordance with these and other applicable regulations, and shall contain the following information:

1. The name of the proposed Subdivision or development;
2. Name(s) and address(es) of owner or developer of the Subdivision and the Indiana Registered Professional Engineer or Surveyor, responsible for all of the improvements. The plan shall be certified with the seal of the Engineer or Surveyor;
3. The plan shall be to a scale of not less than one inch equals fifty feet (1"=50'). On large lots, this scale may be used to show just the graded portion of the lots and improvements. A graphic or written scale shall be placed on each sheet of the plan;
4. The date shall be on the cover or first sheet of the plan, and a north arrow shall be on all sheets of the plan;
5. The boundary of the Subdivision or section of Subdivision under review shall be indicated by a heavy, solid line on one sheet of the plan at a standard scale to show the location of section under review with other sections of the Subdivision. All Subdivision boundary lines shall be labeled with the bearing and distance;
6. Location, right-of-way width, and name of all existing or recorded streets, railroads, and public and private utility easements (including drainage easements), public parks and open spaces; buildings (labeled "to remain" or "to be removed"); incorporation, county and state lines; cemeteries (see Article 3 Design Standards) and other historical landmarks or natural features;
7. Location of all existing utilities (public and private) within or adjacent to the Subdivision or project area;
8. Existing contours with intervals of not more than ten (10) feet shall be clearly marked with elevations based on mean sea level (U.S.G.S. Datum) and location and description of benchmark used;
9. Proposed finished contours with intervals of not more than five (5) feet shall be clearly labeled, and related to existing contours. Maximum grade for any excavated (cut or fill) slopes shall be 2.5:1 (2.5 feet horizontal for each 1-foot vertical), and the design slope shall be labeled on the plan. Excavated slopes may be steeper upon report by a geotechnical engineer approved by the Commission. Disturbed limits shall be clearly identified on the submitted plan and in the field;
10. Provide a copy of Rule 5 Permit from the Indiana Department of Natural Resources if applicable and show on the plan the location of erosion and sediment control facilities with detail drawings of each type of facility being used. The detailed soil erosion techniques or features may be referenced on the plan in accordance with the Indiana Handbook for Erosion Control in Developed Areas. All excavated areas and slopes (4:1 or steeper) shall be seeded and mulched immediately upon completion of grading of that particular slope, and right-of-ways shall be seeded and mulched immediately after the grading has been completed if road construction will not start within two weeks of grading. All seeding and mulching will be as detailed by the Indiana Department of Natural Resources, Soil Conservation techniques;
11. Additional documentation or information such as geotechnical studies may be required by the Commission Staff if an applicant is proposing to make improvements on property located near or in areas with slopes, of twenty percent (20%) or greater, and types of soils and geologic formations, which severely limit development.

## **SECTION 276 - Grading Plan Approval**

Approval, approval with conditions, or disapproval shall occur within ten (10) business days from the date of submittal of the completed application. Once reviewed by the Staff, the Planning Director or his designee shall sign and stamp the approved copies.

Upon approval, a copy of the Grading Plan will be forwarded by the Planning Department to the Subdivider or Applicant. The Grading Plan will not serve as a replacement or substitute for the Improvement Plan.

## **SECTION 280 –Vacation of Plats**

In a case in which all of the owners in a plat are in agreement regarding a proposed vacation, the owners may file a written instrument to vacate all or part of that plat as prescribed in IC 36-7-4-711.

In a case in which all of the owners in a plat are NOT necessarily in agreement regarding a proposed vacation, one (1) or more owners of land in a plat may file a petition with the Plan Commission to vacate all or part of the plat pertaining to the land owned by the petitioner.

The petitioner's application must:

1. State the reasons for and the circumstances prompting the request;
2. Include a survey that meets all of the requirements for a Certified Survey, as set forth in Article 2, Section 260 of this order and as prepared by a registered Indiana Land Surveyor; and
3. Give the names and addresses of every other owner of land in the plat;

Within thirty (30) days after receipt of a petition for a vacation of a plat, the plan commission staff shall schedule the petition to be heard by the Plan Commission at a public hearing. The Plan Commission shall follow the same public hearing procedure(s) to review proposed plat vacations as those requirements outlined (earlier) in this Article for the review of Primary Plats.

After hearing the petition, the Plan Commission shall approve or deny the plat vacation request. The Commission may approve the vacation of all or part of a plat only upon a determination that:

- 1) Conditions of the platted area have changed so as to defeat the original purpose of the plat;
- 2) It is in the public interest to vacate all or part of the plat; and
- 3) The value of that part of land in the plat not owned by the petitioner will not be diminished by the vacation.

The Plan Commission may impose reasonable conditions as part of any approval. The Commission shall furnish a copy of its decision to the County Recorder for recording.

A petitioner or other interested party may appeal the Plan Commission's approval or disapproval of a plat vacation in the manner prescribed by IC 36-7-4-1016.

## **SECTION 282 –Vacation of Public Ways or Places**

As identified in IC 36-7-3-12, persons who:

- 1) Own or are interested in any lots or parts of lots; and
- 2) Want to vacate all or part of a public way or public place in or contiguous to those lots or parts of lots;

may file a petition for vacation with the Dearborn County Board of Commissioners.

The petitioner's application must:

- 1) State the circumstances of the case;
- 2) Include a survey that meets all of the requirements for a Certified Survey, as set forth in Article 2, Section 260 of this order and as prepared by a registered Indiana Land Surveyor; and
- 3) Give the names and addresses of all owners of land that abuts the property proposed to be vacated.

The Dearborn County Board of Commissioners shall hold a hearing on a vacation petition within thirty (30) days after it is received. The clerk of the Commissioners shall give notice of the petition and of the time and place of the hearing:

- 1) In the manner prescribed in IC 5-3-1; and
- 2) By certified mail to each owner of land that abuts the property proposed to be vacated.

The petitioner shall pay the expense of providing the required notice.

The hearing on the petition is subject to IC 5-14-1.5. Any person(s) aggrieved by the proposed vacation may object but only on the following grounds:

1. The vacation would hinder the growth or orderly development of the unit or neighborhood in which it is located or to which it is contiguous;
2. The vacation would make access to the lands of the aggrieved person by means of public way difficult or inconvenient;
3. The vacation would hinder the public's access to a church, school, or other public building or place;
4. The vacation would hinder the use of a public way by the neighborhood in which it is located or to which it is contiguous.

After the hearing on the petition, the Board of Commissioners may, by ordinance, vacate the public way or public place. The clerk of the Commissioners shall furnish a copy of each vacation ordinance to the County Recorder for recording and to the County Auditor.

Within thirty (30) days after the adoption of a vacation ordinance, any aggrieved person may appeal the ordinance to the circuit court of the county. The court shall try the matter de novo and may award damages.

### **SECTION 284 - Resubdivision of Plats**

The Planning Director or his designee shall determine the appropriate Subdivision procedure for modifying an existing, recorded Subdivision plat based on the following criteria. Any replat of a Subdivision that creates the same or less of an impact to any platted public right-of-ways or that does not increase the density of buildable lots, shall be permitted through the Secondary Plat or Certified Survey procedure. However, any replat that significantly alters the public right-of-way or increases the number of buildable lots shall be required to follow the Minor or Major Division review procedure. An Improvement Plan will be required if the replat results in construction changes to the Subdivision and/or the public right-of-way.

### **SECTION 288 - Revisions to Approved Primary Plats and/or Improvement Plans**

In certain cases, a Developer or Applicant may find it necessary to make changes to the arrangement, size, number, or location of individual lots, streets, or utilities. These changes are recognized as a typical part of the development process. In general, the Improvement Plan, and Secondary Plat should be the same in design and layout as the approved Primary Plat. Any changes that are made to the approved Primary Plat shall be submitted to and reviewed by the Planning Director or his designee to determine if these changes are major or minor in scope. Major changes will require a new public hearing as identified in Section 208.

Any changes made to the Improvement Plan shall be submitted to and reviewed by the staff to determine if the changes are major or minor. Major changes will require the developer to reapply under the Improvement Plan procedure identified in Section 228. Minor changes shall be submitted as an as-built plan.

Major changes shall consist of any substantial increase in density, elimination of roadway connections, major realignment of roadways, major reconfiguration of lots and similar type changes.

## **SECTION 292 - Condominium Property Regime Plats**

Condominiums are not regulated by this Ordinance but rather by I.C. 32-1 et seq. Horizontal Property Law. This law describes the procedure and process for creating and recording a condominium.

## **SECTION 294 – Disposal of Excavated Material**

All surplus or unsuitable excavated material in the subdivision, including rock or large boulders, shall be disposed of by one of the following methods as determined by the County Engineer:

1. Wasted adjacent to or incorporated in the regular construction where and as ordered by the County Engineer.
2. Disposed of by the Subdivider at his own responsibility and expense outside the limits of the right-of-way.

Prior to the disposal of the waste materials, the Subdivider shall submit an executed copy of its contract or permission statement from the property owner to the County Engineer. The contract or permission statement must recite that waste materials are not the property of the County. Further, it must expressly state that the County is not a party to that contract or permission statement and that the Subdivider and property owner will hold the County harmless from any claim that may arise from their contract or permission statement.

## **SECTION 296 - Borrow or Disposal**

Borrow shall consist of approved material required for the construction of embankments or for other portions of the work and shall be obtained from approved locations and sources outside the right-of-way. Borrow material shall be free of substance that will form deleterious deposits, or produce toxic concentrations or combinations that may be harmful to human, animal, plant or aquatic life, or otherwise impair the designated uses of the stream or area.

The proposed disposal site(s) for excavated material shall be identified before such material is disposed of within or outside the right-of-way. An inspection shall be in accordance with the Federal Manual for Identifying and Delineating Jurisdictional Wetland.

If the Subdivider elects to use the site, all required permits shall be obtained. The Subdivider shall develop and construct all mitigation measures and fulfill all requirements detailed by such permits.

Before borrow or disposal operations are begun, the Subdivider shall submit operation plans for approval by the County Engineer. Such plans shall include the following:

- a. a detailed sketch showing the limits relative to property and right-of-way lines;
- b. the grade of all slopes;
- c. an erosion control plan in accordance with the requirements of 237 IAC 15-5;
- d. the encasement, finished grading, and seeding procedures; and
- e. archaeological clearance.

Notice shall be given in advance of opening borrow areas so that cross section elevations and measurements of the ground surface after stripping may be taken and the borrow material may be tested before being used.

Except when a commercial source is utilized, a qualified archaeologist shall perform a record check and field survey of borrow or disposal limits to determine if any significant archaeological sites are within the limits. Results of the record check and survey shall be furnished in writing prior to the excavation of any material. If any archaeological sites are identified, the archaeologist shall establish the limits of the site along with a reasonable border. The site shall not be disturbed unless the archaeological site is cleared by established procedures and written authorization to enter the site has been issued. Under no circumstances shall an employee of the Contractor or the State of Indiana share in the ownership or profit from the sale of any archaeological artifacts that may be salvaged. No extension of completion time will be granted due to any delays in securing approval of a borrow or disposal area.

Unless written permission is granted, there shall be no excavation in a borrow area below the elevation of the adjacent properties within one hundred fifty (150) feet of the nearest right-of-way line of an existing highway, county road, or city street; the nearest right-of-way line of a proposed highway, county road, or city street; or adjacent property lines. If the properties adjacent to the borrow area are privately owned, the setback limit of one hundred fifty (150) feet may be lessened if written approval or permission is granted by the owner of the adjacent property, the excavation is in accordance with local zoning laws and requirements, and if lessening the limit is in the best interest of the State. Such minimum distance shall not be closer than fifty (50) feet to an adjacent property line. All excavated slopes of a borrow area shall not be steeper than 3:1 down to 2 feet below the ground water elevation. All excavated slopes two (2) feet below the ground water elevation shall not be steeper than 2:1.

Top soil from the borrow or disposal area shall be stockpiled for use in restoring the disturbed area. A minimum encasement of six (6) inches shall be placed on the 3:1 or flatter slopes. Final restoration of borrow or waste disposal areas shall include grading, seeding, or other necessary treatments that will blend the area into the surrounding landscape. Restored areas within one hundred fifty (150) feet of the nearest right-of-way line shall be well drained. Areas beyond one hundred fifty (150) feet shall be drained unless the landowner desires other treatment of the borrow area. Construction of borrow or disposal areas shall be in accordance with existing laws, regulations, and ordinances. Under no conditions shall borrow sites detract from the appearance of the natural topographical features nor increase the potential hazard to a vehicle that has inadvertently left the highway.

If granulated slag, dunes sand, or other granular material which is not suitable for the growth of vegetation is used, such material shall not be placed within one (1) foot of the required finished surfaces of shoulders and fill slopes. Additional material required to complete the embankment, such as sandy loam, sandy clay loam, clay loam, clay, or other materials suitable for the growth of vegetation and free from clods, debris, and stones, shall be furnished at the contract price for borrow.

Additional fill material may be secured from within the permanent or temporary right-of-way in lieu of borrow, or borrow either from vertical or horizontal extensions, or both, beyond the lines and elevations of roadway and drainage excavation as shown on the contract plans when authorized in writing. If additional material has been obtained without written approval, the material will be classified, either as to source or use, to the best advantage of the Department.