

ARTICLE 1

PURPOSE AND AUTHORITY

SECTION 100 – Title

These regulations shall be known, and may be cited, as the Subdivision Control Ordinance of Dearborn County, Indiana.

SECTION 105 – Authority

Indiana Code 36-7-4-700, et. seq., as amended, establishes the authority for the Dearborn County Commission to adopt regulations governing plats and subdivision of land within their jurisdiction.

SECTION 110 - Purpose

The purpose of this Ordinance is to ensure the following:

1. To assist the orderly and efficient development of the County;
2. To provide for the coordination of new thoroughfares with existing and planned thoroughfares;
3. To secure and provide for the proper arrangement of streets or other highways in relation to existing or planned streets or highways or to the County Comprehensive Plan;
4. To protect and provide for the public health, safety, and general welfare of the County;
5. To ensure the coordination with, and extension of, community facilities and utilities;
6. To ensure proper legal descriptions and monumenting of subdivided land;
7. To help safeguard against the pollution of air, and waterways; to help assure the adequacy of drainage facilities; to help safeguard the water table; and to encourage the wise use and management of natural resources throughout the County;
8. To secure equitable handling of all Subdivision plans by providing uniform procedures and standards;
9. To establish procedures for the division of land in accordance with the requirements of the Dearborn County Zoning Ordinance.

SECTION 115 - Jurisdiction

This Ordinance shall apply to all unincorporated land within Dearborn County and any land within an incorporated town or city within the boundaries of the County if a signed written agreement has been made between the Town Board/City Council and the Board.

SECTION 120 - Saving Provision

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 County under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the County except as shall be expressly provided for in these regulations.

SECTION 125 - Repealer

Upon the adoption of these regulations according to law, the Subdivision provisions of the Zoning Ordinance for Dearborn County, adopted in 1981, as amended, are hereby repealed.

SECTION 130 – Interpretation

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

SECTION 135 – Conflict

The regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

SECTION 140 – Separability

Should any section or provision of these regulations be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of these regulations as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 145 – Conditions

The attachment of reasonable conditions to the subdividing of land is an exercise of valid police power delegated by the State of Indiana to Dearborn County. However, conditions imposed by the Commission must be supported and permitted by this Ordinance. Conditions that are not requirements of this Ordinance shall not be permitted by the Commission. The Subdivider has the duty of compliance with reasonable conditions as provided in this Ordinance and as set forth by the Commission for design, dedication, improvement, and restrictive use of the land. The failure to comply with such conditions may be cause for denial of the submitted application and shall, if such failure occurs after Secondary Approval, constitute a violation of the Ordinance.

SECTION 150 - Enforcement

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall fully, and accurately, state the causes and basis of the alleged violation, and be filed with the Planning Director or his designee. The Planning Director or his designee shall investigate the complaint in a timely manner (generally within one to two weeks) and, if warranted, take action thereon as provided by this Ordinance. Any person filing a written complaint shall be notified in writing by the Planning Director or his designee of the action taken and/or status of such complaint.

If the Planning Director determines that a violation exists, the Planning Director or his designee shall issue a written notice to the person(s) responsible for the alleged violation, by certified mail. The notice shall describe the details of the alleged violation and the basis for the violation. The notice shall also require an explanation, or correction, of the alleged violation to the satisfaction of the Planning Director or his designee, within a specified time limit, which is to be determined by the Planning Director or his designee. The notice shall state, and it is hereby declared, that failure to reply or to correct the alleged violation to the satisfaction of the Planning Director or his designee within the specified time limit constitutes admission of the violation of the terms of this Ordinance.

Any person who violates any provisions of this Ordinance shall upon conviction be fined not less than \$10.00 and not more than \$300.00 for each offense. Each day that the violation exists shall constitute a separate offense. Violations of this Ordinance resulting from failure to apply for or obtain a permit shall result in a doubling of the permit fee.

SECTION 155 – Compliance with Regulations

The regulations set forth by this Ordinance, shall be the minimum regulations and shall apply uniformly to all land under the jurisdiction of this Ordinance. It shall be the duty of the Commission's Attorney to prosecute such violations of this Ordinance as may be brought to his attention and which violation shall be considered worthy of prosecution in the opinion of such Attorney.

The Commission, Planning Director, or any concerned person of Dearborn County, Indiana, may institute a suit for injunction in any court having jurisdiction to prevent the violation of the provisions of this Ordinance and may obtain such injunction. The Commission, Planning Director, or any concerned person of Dearborn County, Indiana, may also institute a suit for a mandatory injunction, and obtain such injunction, in any court having jurisdiction directing the removal of a structure erected in violation of the provisions of this Ordinance.

The Commission, Planning Director, or any concerned person of Dearborn County, Indiana, notwithstanding the above provisions, shall be permitted to otherwise enforce this Ordinance by invoking any legal, equitable, or special remedy provided by law.

SECTION 160 - Appeals and Waivers

Appeals of this Ordinance may be made to the Commission by any person or entity claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal, or decision of the Planning Director or his designated staff. Such appeal shall be made within thirty (30) days of such person's written receipt of the Staff decision by filing with the Commission office an application for a notice of appeal specifying the grounds upon which the appeal is being sought. Public notice of such appeal shall be given to any and all parties of record at least ten (10) days prior to the public hearing. The Planning Director shall transmit to the Commission all the papers constituting the record for the appeal.

Upon written request to the Plan Commission, an applicant can seek a waiver of any of the Subdivision regulations in this Ordinance. The individual request shall be reviewed and granted only under unusual or extreme circumstances or if an equal or better alternative can be provided that is not in agreement with this Ordinance. The Planning Director or his designee shall review the request and provide a recommendation to the Commission regarding the merits of the request.

The Plan Commission shall review and take action on all waiver requests that involve the Subdivision Control Ordinance. The Board of Zoning Appeals shall review and take action on all variances—**including those involving subdivision setbacks**—and conditional uses to the Dearborn County Zoning Ordinance. As a condition of granting a waiver under this Section, the Plan Commission may allow or require a commitment to be made (as outlined in IC 36-7-4-1015).