

TITLE 2 — SUBDIVISION CONTROL

SECTION 1.0 SUBDIVISION CONTROL: DEFINITIONS

1.1 INTERPRETATION OF TERMS

- A. For the purpose of this Title, certain numbers, abbreviations, terms, words and phrases used herein shall be used, interpreted and defined as set forth in this Section.
- B. Whenever any words and phrases used herein are defined in the state laws regulating the creation and function of various planning agencies, such definitions shall apply to such words and phrases used herein, except where the context requires otherwise.
- C. For the purpose of these regulations, certain words and phrases used herein shall be interpreted as follows:
 - 1. The word “person” includes a corporation, company, firm, partnership, association, organization, trust, unit of government, or any other group that acts as a unit, as well as a natural person.
 - 2. The masculine includes the feminine.
 - 3. The present tense includes the future tense, the singular number includes the plural and the plural number includes the singular.
 - 4. The word “shall” indicates a mandatory requirement, the word “may” indicates a permissive requirement and the word “should” indicates a preferred requirement,
 - 5. The words “used” or “occupied” include the words “intended, designed or arranged to be used or occupied.”
 - 6. The word “lot” includes “plot” or “parcel.”
- D. All other words not defined herein shall be defined according to the most recent edition of Webster’s New Collegiate Dictionary.

1.2 SPECIFIC DEFINITIONS

Alley	A public thoroughfare that affords only secondary access to abutting property.
Access Easement	A private way that provides access to lots, tracts or parcels of land and that meets the minimum standards set forth in these regulations.
Applicant	A person who applies to the Planning Commission for approval, primary or secondary, of a Plat of a proposed Subdivision.
Block	A tract of land bound by streets or by a combination of streets and public parks, railroad rights-of-way, waterways, boundary lines of municipalities, or natural or artificial barriers.
Building Line	The line that establishes the minimum permitted distance on a lot between the front line of a building and the road or street right-of-way.

Comprehensive Plan (Master Plan)	The complete plan, or any of its parts, for the development of the County and the Towns, prepared by the Planning Commission and adopted in accordance with Chapter 174, Acts of 1947, General Assembly of Indiana, as is now or may hereafter be in effect.
County	Henry County, Indiana.
County Commissioners	The Board of County Commissioners of Henry County, Indiana.
County Jurisdictional Area	The unincorporated territory of Henry County, the incorporated area of the Towns of Blountsville, Dunreith, Lewisville, Middletown, Mooreland, Mount Summit, Spiceland, Springport, Straughn and Sulphur Springs, Indiana, and any other incorporated areas that may, in the future, designate the Planning Commission as their planning agency.
County Road and Street Plan (Official Thoroughfare Plan)	The part of the Comprehensive Plan, now or hereafter adopted, that includes a road and street plan and sets forth the location, alignment, dimensions, identification and classification of existing and proposed roads, streets, highways and other thoroughfares.
Cul-de-Sac (Court or Dead End Road or Street)	A road or street having one end open to traffic and being permanently terminated by a vehicle turn-around.
Developer	Any person engaged in developing or improving a lot or group of lots or structures thereon for use or occupancy.
Easement	A recorded authorization grant made by a property owner for use by another of any designated part of his property for a clearly specified purpose.
Location Map	A map showing the general area of the property proposed to be subdivided. Such a map shall show the closest cross streets in all directions.
Lot	<ol style="list-style-type: none">1. A parcel of land defined by metes and bounds or boundary lines in a recorded deed or on a recorded plat, fronting on a road or street.2. A tract, plot or portion of a Subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or of building development.
Owner	The Owner of the title to real property or the contract purchaser of real property of record, as shown on the latest assessment records in the County Assessor's Office. Owner also includes a deed holder or contract purchaser whose name does not appear in the latest assessment records, but who presents to Zoning Administrator a copy of a deed or contract of sale showing date, book and page of recording.
Planning Commission	The Henry County Planning Commission.
Plat	A map or chart indicating the subdivision or resubdivision of land, intended to be filed for record.
Plat, Primary	The drawing or drawings, described in these regulations, indicating the proposed manner or layout of the Subdivision to be submitted to the Planning Commission for approval.

Plat, Secondary	The drawing or drawings on which the Subdivision plan is submitted to the Planning Commission for approval and which, if approved, will be submitted to the County Recorder for recording, on which will be the seal of the Planning Commission and signatures of the President and Secretary of the Planning Commission.
Road or Street	A right-of-way, other than an alley, dedicated or otherwise legally established to the public use, that affords the principal means of access to abutting property. A road or street may be designated as a highway, thoroughfare, parkway, boulevard, road, avenue, lane, drive or other appropriate name.
Road or Street or Alley Improvement	The construction of a road, street or alley to its full thickness, commencing at the subgrade according to the specifications contained in Title 3, Section 1.5 hereinafter. The placing of a new surface over an existing paved or closed surface road, street or alley shall not be considered as an improvement, but as maintenance.
Road or Street, Local	A road or street used primarily for access to abutting properties. Certain local roads and streets may be marginal access roads or streets parallel to minor collector roads or streets, therefore providing access from abutting properties.
Road or Street, Major Collector	A road or street planned to facilitate the collection of traffic from local roads or streets and to provide circulation within neighborhood areas and convenient ways for traffic to reach principal arterial roads or streets.
Road or Street, Minor Collector	A road or street with lower traffic volumes fulfilling the same function as Major Collectors.
Road or Street, Private	A right-of-way that has the characteristics of a road or street, as defined herein, except that it is not dedicated to the public use. A driveway that is located on a lot and that serves only the use on that lot is not considered as a private road or street.
Subdivider	Any person engaged in developing or improving a tract of land that complies with the definition of a Subdivision as defined in this Code.
Subdivision, General	Any land, vacant or developed, that is divided or proposed to be divided into two (2) or more lots, parcels, sites, units, plots or interests for the purpose of offer, sale, lease or development by a Subdivider wherein areas of land are dedicated or intended to be dedicated to public use. The division of land into lots two (2) or more in number, each lot containing twenty (20) acres or more, and not involving any new road, street, alley, easement or other means of access shall not be deemed a Subdivision for the purposes of this Code.
Subdivision, Major	Any Subdivision not classified as a Minor Subdivision, including, but not limited to, Subdivisions of five (5) or more lots, or any size Subdivision requiring any new road or street, extension of the local governmental facilities or the creation of any public improvements.
Subdivision, Minor	Any Subdivision containing not more than four (4) lots, not involving any new road or street, the extension of public facilities or the creation of any public improvements and not in conflict with any provision or portion of

	the Comprehensive Plan, Official Zoning Maps, Zoning Ordinance or this Code.
Town	Any of the incorporated Towns of Blountsville, Dunreith, Lewisville, Middletown, Mooreland, Mount Summit, Spiceland, Springport, Straughn and Sulphur Springs, Indiana, and any other incorporated towns that may, in the future, designate the Planning Commission as their planning agency.
Zoning Ordinance	The part of the Comprehensive (Master) Plan that includes a Code and Zoning Maps that divide the area under the jurisdiction of the Planning Commission into Zoning Districts, with regulations, requirements and procedures for the establishment of land use controls as set forth in Title 1 of this Code.
Zoning Administrator	The Zoning Administrator of Henry County, Indiana.

SECTION 2.0 SUBDIVISION CONTROL: MAJOR SUBDIVISIONS

2.1 ESTABLISHMENT OF CONTROL

A plat or replat of a Subdivision of land located within the County Jurisdictional Area shall not be recorded until it has been approved by the Planning Commission and certified by the signatures of the President and Secretary of the Planning Commission on the plat.

2.2 PROCEDURES

A. A Subdivider desiring approval of a plat for the subdivision of land lying within the County Jurisdictional Area shall submit a written Application therefor to the Zoning Administrator. Such Application shall be accompanied by the information, requirements and plans set forth in Steps 1, 2, 3 and 4 of this Section, in accordance with the requirements set forth in this Code.

B. Pre-Application Conference

It is recommended that, prior to the filing of an Application for the approval of a Primary Plat, the Subdivider consult with all affected utilities and the Zoning Administrator in order to obtain advice and assistance. The consultation is neither formal nor mandatory, but is intended to inform the Subdivider of the purpose and objectives of these regulations, the County Comprehensive Plan and duly adopted plan implementation ordinances of the County and to otherwise assist the Subdivider in planning the Development. In so doing, both the Subdivider and the Zoning Administrator may reach mutual conclusions regarding the general program and objectives of the proposed Development and its possible effects on the neighborhood and County and the Subdivider will gain a better understanding of the subsequent required procedures.

C. Upon receipt of the Application, the Zoning Administrator shall, if he determines that the standards in this Code have been met, set a date for a hearing before the Planning Commission, notify the Applicant in writing and notify by general publication any person or governmental unit having a probable interest in the proposed plat. The cost of publication of the Notice of Hearing shall be met by the Applicant.

- D. If the Zoning Administrator determines that the standards in this Code have not been met, he shall reject the Application and provide the Applicant with a notice of the items of noncompliance.
- E. The Technical Review Committee is hereby established with the membership composed of the members set forth in the Planning Commission's Rules of Procedure. The Technical Review Committee shall examine each Application to determine if the proposed improvements meet the requirements of this Code. The Technical Review Committee shall report its findings to the Planning Commission staff prior to the date set for a hearing.

2.3 STEP 1: PRIMARY PLAT FOR SUBDIVISION

The Owner or Subdivider shall provide a Primary Plat for the Subdivision that shall show the manner in which the proposed Subdivision is coordinated with the Comprehensive Plan and its provisions, specifically with relation to the requirements of the County Road and Street Plan, school and recreational sites, shopping centers, community facilities, sanitation, water supply and drainage and other Developments, existing and proposed, in the vicinity. No land shall be subdivided for residential use unless adequate access to the land over improved roads, streets or thoroughfares exists or will be provided by the Subdivider or if such land is considered by the Planning Commission to be unsuitable for such use by reason of flooding or improper drainage, objectionable earth and rock formation, topography or any other feature harmful to the health and safety of possible residents and the community as a whole.

The Application for approval of a plat of a Subdivision shall be accompanied by seven (7) copies of all maps and data. No Application shall be considered at a meeting unless it has been filed with the Zoning Administrator at least twenty (20) days before the date of such meeting.

The Subdivider shall provide the following:

- A. A location map (that may be prepared by indicating the data by notations on available county-prepared maps) showing:
 - 1. Proposed Subdivision name and location;
 - 2. Any thoroughfares related to the Subdivision;
 - 3. Existing elementary and high schools, parks and playgrounds serving the area proposed to be subdivided and other community facilities; and
 - 4. Title, scale, approximate true North Arrow and date.
- B. A Primary Plat showing:
 - 1. Proposed Subdivision name;
 - 2. Names and addresses of the Owner, Subdivider and the planner, land planning consultant or surveyor who prepared the plat;
 - 3. Scale, approximate true North Arrow and date. The Primary Plat of the Subdivision shall be drawn to a scale of fifty (50) feet to one (1) inch or one hundred (100) feet to one (1) inch;
 - 4. Accurate boundary lines of the parent tract and all proposed lots, with dimensions and angles that provide a survey of the tract, in accordance with Indiana Administrative Code IAC 865-1-12, as amended;

5. Roads, streets and rights-of way on and adjoining the site of the proposed Subdivision, showing the names (that shall not duplicate other names of roads or streets in the community, except as designated by the Planning Commission) and including roadway widths, approximate gradients, types and widths of pavement, curbs, sidewalks, crosswalks, tree planting and other pertinent data;
6. Layout of lots, showing dimensions, lot number and area of each lot. For lots smaller than one (1) acre, the lot area shall be indicated in square feet. For lots one (1) acre or larger, the lot area shall be indicated in acres;
7. Building setback lines and dimensions;
8. Location, size, details and specifications of storm and sanitary sewers, water distribution system and street lighting system;
9. Locations, widths and purposes of existing and proposed easements;
10. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds or other public, semipublic or community purposes;
11. Contours at vertical intervals of two (2) feet if the general slope of the site is less than ten (10) percent and at vertical intervals of five (5) feet if the general slope is greater than ten (10) percent;
12. Ground water levels stated in depth to water table and a description of the surface and sub-surface drainage systems to an approved outlet;
13. Location and frontage of all adjoining property, the names of adjoining plats and the owners of unplatted adjacent property;
14. Legend and notes;
15. Other features or conditions that would affect the Subdivision favorably or adversely;
16. Erosion Control Plan to be followed during construction;
17. Accurate distances and directions to the nearest established road or street corners and official section corner monuments. Reference corners shall be accurately described on the plat;
18. Accurate locations of all existing and recorded roads and streets intersecting the boundaries of the tract;
19. Road and street lines with accurate dimensions in feet and hundredths of feet, with angles to road, street, alley and lot lines;
20. Location, type, material and size of all monuments and markers;
21. Accurate location of proposed sidewalks;
22. Drainage improvements with calculations supporting the design of the drainage system;
23. The delineation of the phases, if any, of the Development, including the lots and improvements to be included in each phase; and
24. All required plat certifications as described in Section 2.5 of this Title.

C. Support Information

The following support information shall be submitted with the Primary Plat:

1. Proof of septic or sanitary sewer service in the form of approved septic system permits for each lot within the Subdivision or a letter from a sanitary sewer service provider indicating that sufficient capacity exists to accommodate the proposed Subdivision;
2. A description of the composition and operation of the Owners Association, if any; and
3. The protective covenants or private restrictions, if any, to be incorporated in the plat of the Subdivision. These may be on separate sheets.

D. Fees

1. The Application shall be accompanied by the filing fees specified by Planning Commission rule and posted in the Planning Commission office.
2. No part of any filing fee shall be returnable to the Applicant except by order of the Planning Commission or of a court of competent jurisdiction. All fees shall be payable to the Henry County Planning Commission and shall be deposited according to procedures established by the County Auditor.
3. Exemptions from Fee Requirement

Governmental agencies shall be exempt from paying fees for Improvement Location Permits, land use certificates or any other permit prescribed by these regulations.

4. Waiver of Fee Requirement

An Applicant or Petitioner may request a waiver of the fee requirement pursuant to and in accordance with the Henry County Code.

2.4 STEP 2: PRIMARY PLAT APPROVAL

- A. After an Application has been filed for approval of a Primary Plat, the Planning Commission shall hold a public hearing on the Application. Public notice setting forth the time and place of the hearing shall be given at least ten (10) days before the date of the hearing in a newspaper of general circulation in the County.
- B. At least ten (10) days prior to the Planning Commission's hearing on the Application, the Applicant, in the manner prescribed in the Planning Commission's Rules of Procedure, shall notify all interested parties, the appropriate school corporation and fire department of the hearing by certified mail. Prior to the hearing, the Applicant shall provide the Planning Commission with an affidavit that affirms that the required notices were mailed and with certified mail receipts demonstrating that the required notices were delivered or returned as undeliverable. If the Applicant fails to provide such proof of notice before the meeting, the Application shall be tabled.
- C. Following the Planning Commission's hearing on the Application, the Planning Commission shall take the following actions:
 1. Approve, approve with conditions or disapprove the Primary Plat based on the plat's compliance with the improvement, reservation and design standards and all other relevant procedures and requirements of these regulations;

2. Approve, approve with conditions or disapprove requested modifications in the manner prescribed by Title 1, Section 14.0;
 3. Approve, approve with conditions or disapprove a plan for sectionalizing (phasing) Secondary Plat Approval in the manner prescribed by Title 1, Section 14.0;
 4. If Primary Plat Approval is granted, establish the estimated completion cost of the required improvements (itemized by type of improvement and by phase) based on the recommendations of the County Highway Engineer and the Zoning Administrator; and
 5. If Primary Plat Approval is granted and the Applicant desires to complete the required improvements prior to Secondary Plat Approval, authorize the Planning Commission President to execute the Subdivision Improvement Agreement on behalf of the Planning Commission, in the manner prescribed in the Planning Commission's Rules of Procedure.
- D. The Planning Commission shall make written findings of fact in support of its decision during or before the following month's Planning Commission meeting. For purposes of review, the Planning Commission's decision shall be deemed to have been made on the date that the written findings of fact are approved by the Planning Commission. The Zoning Administrator shall provide the Applicant with a copy of the Planning Commission's written findings within ten (10) days of the Planning Commission's approval of the findings.
- E. If the Planning Commission approves the Application, the President and the Secretary of the Planning Commission shall sign the Primary Plat Approval certification.
- F. Unless extended, Primary Plat Approval shall be effective for a period of two (2) years ("Primary Plat Approval Period") after the date of Primary Plat Approval (including conditional approval), at the end of which time Secondary Plat Approval of the Subdivision must have been obtained by the Applicant and certified by the Designated Officials. Any plats not receiving Secondary Plat Approval within the period of time set forth herein shall be null and void and the Applicant shall be required to submit a new Application for Subdivision Approval subject to the zoning restrictions and Subdivision regulations in effect at the time of resubmission. Upon the request of an Applicant and upon a finding that the Applicant has been unable to prepare the proposed Development for Secondary Plat Approval despite due diligence, the Planning Commission may extend the Primary Plat Approval Period for one (1) period of two- (2-) years beyond the expiration date of the original Primary Plat Approval Period without further notice and public hearing.
- G. If the Planning Commission disapproves the Application, the Applicant or the Applicant's heirs, successors or assigns may not refile the Application unless the Technical Review Committee determines that the circumstances have changed so as to defeat the basis of the Planning Commission's disapproval (e.g., relevant portions of the Zoning Ordinance and/or the Subdivision Control Regulations have been amended or the proposed Primary Plat has been amended to address the deficiencies identified in the Planning Commission's findings).
- H. Subdivision Improvement Agreement
1. Requirement
- The Applicant must obtain Subdivision Improvement Agreement Approval from the Planning Commission before commencing the construction or installation of the required improvements.

2. Purpose and Objective

The purpose and objective of Subdivision Improvement Agreement Approval is to establish a written understanding, in contract form, regarding the nature, extent and completion of the required improvements before the Applicant contracts for or commences the construction or installation of the required improvements, so that:

- (a) Compliance with Primary Plat Approval and these regulations may be promoted;
- (b) The Planning Commission and the County may share information and public improvement experience with the Applicant;
- (c) The activities of the Applicant, governmental service providers and utility service providers may be coordinated; and
- (d) The unnecessary expenditure of development resources, both public and private, may be avoided.

I. Subdivision Improvement Agreement: Approval Procedure

1. Following Primary Plat Approval and prior to or simultaneous with the submission of the plat for Secondary Plat Approval, the Applicant shall, by letter, request Subdivision Improvement Agreement Approval from the Planning Commission. The Applicant's letter shall be accompanied by three (3) sets of detailed construction plans as described in Section 2.5 and a proposed form of Subdivision Improvement Agreement as described in Section 2.4.
2. Within fifteen (15) days of receipt, the Zoning Administrator and the County Highway Engineer shall review the Subdivision Improvement Agreement and the construction plans for compliance with these regulations and Primary Plat Approval. Following their review, the Zoning Administrator and County Highway Engineer shall each prepare a written report, with recommendations, on the agreement and plans and shall provide the Applicant and the Planning Commission with copies of their reports.
3. Upon a finding by the Planning Commission that the Subdivision Improvement Agreement and the construction plans comply with these regulations and Primary Plat Approval, the President of the Planning Commission shall execute the agreement on behalf of the Planning Commission and the Zoning Administrator shall stamp the plans "Approved" and return one set to the Applicant.
4. Prior to the approval and execution of the Subdivision Improvement Agreement and the stamping of the construction plans:
 - (a) The Applicant shall not commence the construction or installation of the required improvements; and
 - (b) The Zoning Administrator shall neither approve building or Improvement Location Permits for the required improvements nor grant Secondary Plat Approval of the plat or any section thereof.
5. The installation of the required improvements shall be inspected by the County Highway Engineer. Such inspections are required in all instances, regardless of whether the work is performed before or after Secondary Plat Approval. Failure to request or to procure the inspection of the work performed before Secondary Plat Approval may be cause for denial of Secondary Plat Approval.

2.5 STEP 3: SECONDARY PLAT

The Secondary Plat shall meet the following specifications:

- A. The Secondary Plat may include all or only a part of the Primary Plat that has received approval.
- B. The original drawing of the Secondary Plat of the Subdivision shall be drawn to a scale of fifty (50) feet to one (1) inch or one hundred (100) feet to one (1) inch. Three (3) black or blue line prints shall be submitted with the original Secondary Plat or, in order to conform to modern drafting and reproduction methods, three (3) black line prints and one (1) reproducible print shall be submitted.
- C. The following basic information shall be shown:
 1. Subdivision name;
 2. Name and address of the Owner and Subdivider;
 3. Graphic scale, approximate true North Arrow and date;
 4. Accurate boundary lines, with dimensions and angles, that provide a survey of the tract, closing with an error of not more than one (1) foot in five thousand (5,000) feet;
 5. Accurate metes and bounds description of the boundary;
 6. Accurate distances and directions to the nearest established road or street corners or official monuments. Reference corners shall be accurately described on the plat;
 7. Accurate locations of all existing and recorded roads or streets intersecting the boundaries of the tract;
 8. Source of title of the Applicant to the land as shown by the last entry in the books of the County Recorder;
 9. Road or street names;
 10. Complete curve notes for all curves included in the plat;
 11. Road or street lines with accurate dimensions in feet and hundredths of feet, with angles to road, street, alley or lot lines;
 12. Lot numbers and dimensions;
 13. Building lines and dimensions;
 14. Accurate locations of easements for utilities and any limitations on such semi-public or community use;
 15. Accurate dimensions for any property to be dedicated or reserved for public, semi-public or community use;
 16. Location, type material and size of all monuments and lot markers;
 17. Plans and specifications for the improvements required in this Code;

18. Restrictions of all types that will run with the land and become covenants in the deeds for lots; and

19. Plat Certifications

(a) Certification by a registered land surveyor in the following form:

I hereby certify that I am a registered land surveyor, licensed in compliance with the laws of the State of Indiana, that this plat correctly represents a survey completed by me on _____, 20____, that all the monuments shown thereon actually exist and that the location, size, type and material of said monuments are accurately shown.

(SEAL) Signature _____

(b) Certification of dedication of roads and streets and other public property in the following form:

"We, the undersigned _____, owners of the real estate shown and described herein, do hereby certify that we have laid off, platted and subdivided, and do thereby lay off, plat and subdivide, said real estate in accordance with the within plat.

This Subdivision shall be known and designated as _____, an addition to _____. All roads, streets and alleys shown and not heretofore dedicated are hereby dedicated to the public.

Front and sideyard building lines are hereby established as shown on this plat, between which lines and the property lines of the roads or streets there shall be erected or maintained no building or structure.

There are strips of ground _____ feet in width as shown on this plat and marked "Easement" reserved for the use of utilities for the installation of water and sewer mains, surface drainage, poles, ducts, lines and wires, subject at all times to the proper authorities and to the easement herein reserved. No permanent or other structures are to be erected or maintained upon said strips of land, but owners of lots in this Subdivision shall take their titles subject to the rights of the utilities.

(Additional dedications and protective covenants or private restrictions would be inserted here upon the Subdivider's initiative or upon the recommendation of the Planning Commission. Important provisions are those specifying the use to be made of the property and, in the case of residential use, the minimum habitable floor area.)

The foregoing covenants (or restrictions) are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 20__, (a twenty-five (25) year period is suggested), at which time said covenants (or restrictions) shall be automatically extended for successive periods of ten (10) years unless changed by vote of a majority of the then owners of the building sites covered by these covenants or restrictions, in whole or in part. Invalidation of any one (1) of the foregoing

1. A certificate that all improvements and installations for the Subdivision required for its approval have been made or installed in accordance with specifications; or
 2. A bond or other proof of financial responsibility as prescribed herein that shall:
 - (a) Run to the County Commissioners;
 - (b) Be one hundred ten (110) percent of an amount determined by the Planning Commission to be sufficient to complete the improvements and installations in compliance with this Code;
 - (c) Be with surety satisfactory to the Planning Commission; and
 - (d) Specify the time for the completion of the improvements and installations.
 3. Other proof of financial responsibility may take the following forms: an irrevocable letter of credit, a performance bond or an escrow agreement.
 4. The proof of financial responsibility may be released only upon receipt of a certificate by a registered professional engineer or a registered land surveyor that all improvements and installations for the plat of the Subdivision required for its approval have been made or installed in accordance with specifications and approved by the County Highway Engineer.
- B. Within a reasonable time after Application for Secondary Plat Approval, the Planning Commission shall approve or disapprove it. If the Planning Commission approves, the certifying signature of its President and Secretary shall be affixed thereto. If it disapproves, it shall set forth the reasons for such disapproval in its own records and provide the Applicant with a copy.
- C. A plat of a Subdivision shall not be filed with the Auditor of Henry County, and the Recorder of Henry County shall not record it, unless it has been granted Secondary Plat Approval and signed by all required signatories. If submitted and recorded, the plat shall not be considered a legal Subdivision and Building Permits for lots within the illegally recorded Subdivision shall not be issued.
- D. Phasing of Subdivisions
1. The Applicant may seek Secondary Plat Approval of a portion or section of the Primary Plat. The Planning Commission may impose such conditions upon filing of Applications for Secondary Plat Approval of the sections as it deems necessary to assure the orderly development of the Subdivision (e.g., sequential lot numbering). The Planning Commission may require that the performance bond and financial responsibility be in such amount as will be commensurate with the section or sections of the plat for which Secondary Plat Approval is sought and may defer the remaining required Performance Bond (or other assurance) principal amount until the remaining sections of the plat are offered for filing. Such sections must contain at least twenty (20) lots or ten (10) percent of the total number of lots contained in the approved Primary Plat, whichever is less. The approval of all remaining sections not filed with the Zoning Administrator shall automatically expire four (4) years from the date of Primary Plat Approval, unless the Primary Plat Approval Period has been extended.
 2. Real estate parcels, rights-of-way, Subdivision boundaries and lot lines shall be drafted with precise endpoints snapped together. Easements and setback lines should be trimmed to meet the snapped boundary features. Lot numbers or parcel identifiers may

be either blocks or text, but each lot should be individually labeled, with the label insertion point within the lot boundary. If lot monumentation symbols are used, they should be inserted at the intersection or endpoint of the snapped boundary features.

- E. Until the Secondary Plat is recorded, Secondary Plat Approval shall be effective for a period of one (1) year ("Secondary Plat Approval Period") after the date of Secondary Plat Approval, at the end of which time the Secondary Plat shall have been recorded. Any plats not recorded within the period of time set forth herein shall be null and void, and the Applicant shall be required to resubmit a new Application for Subdivision Approval subject to the zoning restrictions and Subdivision regulations in effect at the time of resubmission. Upon the request of an Applicant and upon a finding that the Applicant has been unable to satisfy the requirements to satisfy the requirements to execute the Certificate of Secondary Plat Approval despite due diligence, the Planning Commission may extend the Secondary Plat Approval Period for one (1) year beyond the expiration date of the original period, without further notice and public hearing, or for a longer period of time upon notice to interested parties and hearing.
- F. It shall be the responsibility of the Subdivider to file the approved Secondary Plat with the County Recorder within thirty (30) days of the date of execution of the Certificate of Secondary Plat Approval. Failure of the Subdivider to file the plat, as herein provided, within thirty (30) days shall constitute a violation of this Ordinance.
- G. Within thirty (30) days of Secondary Plat Approval, the Applicant shall submit one (1) electronic copy of the Secondary Plat to the County GIS Department for incorporation into the County's Mapping System. The digital drawing file shall be in AutoCAD format, unless otherwise specified by the County GIS Department staff. For the County to efficiently manage the geographic information system, Applicants shall submit their plats in conformance with the layering requirements specified by the County GIS Department.
- H. Upon the completion of the improvements and installations required of a Subdivider for the approval of a Secondary Plat and prior to the acceptance thereof for public maintenance by the County Commissioners or, if applicable, by any other governmental unit, the Subdivider shall provide a three- (3-) year Maintenance Bond that shall:
 - 1. Run to the County Commissioners and, if applicable, to any other governmental unit having legal responsibility for the maintenance of said improvements and installations;
 - 2. Be in amount equal to twenty-five (25) percent of the cost of said improvements and installations as estimated by the Planning Commission;
 - 3. Provide surety satisfactory to the County Commissioners;
 - 4. Warrant the workmanship and all materials used in the construction, installation and completion of said improvements and installations to be of good quality and to have been constructed and completed in a workmanlike manner in accordance with the standards, specifications and requirements of this Code and the satisfactory plans and specifications therefor; and
 - 5. Provide that for a period of three (3) years after said installations and improvements have been completed or are accepted for public maintenance by any appropriate governmental unit or agency thereof, the Subdivider shall at his own expense make all repairs to said improvements and installations or the foundations thereof that may become necessary by reason of improper workmanship or materials, with such maintenance, however, not to include any damage to said improvements and installations resulting from forces or circumstances beyond the control of said Subdivider

or occasioned by the inadequacy of the standards, specifications or requirements of this Code.

2.7 PLANNED UNIT DEVELOPMENTS

The Owner or Subdivider or prospective Developer of an area proposed to be developed as a Planned Unit Development pursuant to the Zoning Ordinance for Henry County, Indiana, shall make Application for a Preliminary Development Plan of the proposed Development at the same time Application is made for a Primary Plat for a Subdivision of land. The Planning Commission shall act on both Applications at the same time.

2.8 MODIFICATIONS

- A. The Planning Commission may authorize modifications from the requirements and standards of the Subdivision Control Ordinance (including the waiver of standards or regulations) upon finding that:
1. Practical difficulties have been demonstrated;
 2. The requested modifications would not contravene the intent of the Comprehensive Plan, the Zoning Ordinance, the Official Zoning Maps of the County or these regulations;
 3. Granting the modifications would not be detrimental to the public safety, health or welfare and would not adversely affect the delivery of governmental services (e.g., water, sewer, fire protection, etc.);
 4. Granting the modifications would neither substantially alter the essential character of the neighborhood nor result in substantial injury to other nearby properties;
 5. The conditions of the parcel that give rise to the practical difficulties are unique to the parcel and are not applicable generally to other nearby properties;
 6. The requested modifications represent the minimum modifications necessary to meet the intent of the regulations;
 7. The practical difficulties were not created by the Applicant, Developer, Owner or Subdivider; and
 8. The practical difficulties cannot be overcome through reasonable design alterations.
- B. In approving modifications, the Planning Commission may impose such conditions as will, in its judgment, substantially secure the objectives of these regulations.
- C. With respect to each requested modification and each imposed condition, the Planning Commission shall prepare and approve written findings of fact. Such findings shall address each of the conclusory findings set forth in Subsection A above and shall cite the specific facts that support each of the conclusory findings and that support each of the imposed conditions.
- D. Applications for modifications shall be submitted to the Planning Commission, in writing, as a part of the Primary Plat Application. On the Application, the Applicant shall describe the requested modifications and shall submit proposed findings of fact in support of each requested modification. The Applicant shall bear the burden of establishing a sufficient factual basis for each requested modification.
- E. The Planning Commission's decision to grant or deny a modification or to impose a condition is discretionary.

2.9 APPEALS

The Primary Plat Approval or disapproval by the Planning Commission or the imposition of a condition on Primary Plat Approval is a secondary decision of the Planning Commission that may be reviewed by certiorari procedure as provided by Indiana Code IC 36-7-4-1016.

2.10 PRINCIPLES AND STANDARDS OF DESIGN

The Secondary Plat of the Subdivision shall conform to the following principles and standards of design:

A. General

The Subdivision plat shall conform to the principles and standards that are generally exhibited in the Comprehensive (Master) Plan.

B. Roads or Streets

The Subdivision roads or streets shall meet the standards and requirements set forth in Title 3 of this Development Code. Where the requirements established herein are more restrictive, however, the Subdivision shall conform to the more restrictive standard.

C. Blocks

1. Blocks should not exceed thirteen hundred twenty (1,320) feet in length.
2. Blocks should be of sufficient width to permit two tiers of lots of appropriate depth except where an interior road or street parallels a Limited Access Highway or a Railroad Right-of-Way.

D. Lots

1. All lots shall abut on a public or private road or street.
2. Side lines of lots shall be at approximately right angles to straight roads or streets and on radial lines on curved roads or streets. Some variation from this rule is permissible, but pointed or very irregular lots should be avoided.
3. Double frontage lots should not be platted, except that where desired along Limited Access Highways, lots may face on an interior road or street and back on such thoroughfares. In that event, a planting strip for a screen, at least twenty (20) feet in width, shall be provided along the back of each lot.
4. Widths and areas of lots shall not be less than required in the Zoning Ordinance for single-family dwellings for the Zoning District in which the Subdivision is located, except that when a water main supply system or a sanitary sewer system is not available, the lot area necessary to install a private water supply or private sewage disposal system on the lot in accordance with Indiana Board of Health regulations shall become the required minimum lot area.
5. The depth-to-width ratio of the usable area of a lot shall be a maximum of three (3) to one (1).
6. Wherever possible, unit shopping centers, based upon sound development standards, should be designed in contrast to the platting of lots for individual commercial use.

7. Corner residential lots shall be wider than normal in order to permit appropriate setbacks from both roads or streets.
8. Building pads shall have a six- (6-) inch drop within the first ten (10) feet from the proposed structure.
9. Agricultural Remainders

When a Major Subdivision is created on property where the principal use is agriculture, the agricultural portion of the parent tract remaining after the Subdivision (“the Agricultural Remainder”) shall be shown on the plat. The Agricultural Remainder shall be labeled on the plat as “Not a Building Lot.” The Agricultural Remainder does not have to be surveyed and monumented in the field. Permits on the Agricultural Remainder shall not be issued until that portion of the Agricultural Remainder is platted as a lot. Existing dwellings on an Agricultural Remainder may be repaired, remodeled or replaced, as long as there is only one (1) dwelling on the Agricultural Remainder.

E. Easements

Where alleys are not provided, easements for utilities shall be provided. Such easements shall have minimum widths of twenty (20) feet, and where located along lot lines, one-half (.5) of the width shall be taken from each lot. In the case of lots extending to the boundary of the lands platted and not adjoining another plat, the full width of the easement shall be provided on such peripheral lots. Before determining the location of the easements, the plat shall be discussed with the local utility companies to assure their proper placement for the installation of such services.

F. Building Lines

Building lines shall be as provided in the Zoning Ordinance.

G. Public Open Spaces

Where sites for parks, schools, playgrounds or other public uses are located within the Subdivision area as shown in the Comprehensive Plan, the Planning Commission may request their dedication for such purposes or their reservation for a period of one (1) year following the date of the Secondary Plat Approval of the plat. In the event a governmental agency concerned passes a resolution expressing its intent to acquire the land so reserved, the reservation period shall be extended for an additional six (6) months.

2.11 STANDARDS OF IMPROVEMENTS

The improvement of the Subdivision shall conform to the following standards:

A. Monuments and Markers

1. Monuments and markers shall be placed so that the center of the pipe or marked point shall coincide exactly with the intersection of lines to be marked and shall be set so that the top of the monument or marker is level with the finished grade.
2. Monuments shall be set:
 - (a) At the intersection of all lines forming angles in the boundary of the Subdivision; and
 - (b) At the intersection of road or street property lines.

3. Markers shall be set:
 - (a) At the beginning and ending of all curves along road or street property lines;
 - (b) At all points where property lines intersect curves, either front or rear;
 - (c) At all angles in property lines of lots; and
 - (d) At all other lot corners not established by a monument.
4. Monuments shall be of stone, pre-cast concrete or concrete poured in place with minimum dimensions of four (4) inches by four (4) inches by thirty (30) inches. They shall be marked on top with an iron or copper dowel set flush with the top of the monument or deeply scored on top with a cross. Markers shall consist of iron pipes or steel bars at least thirty (30) inches long and not less than five-eighths (5/8) inch in diameter.

B. Roads and Streets

Roads and streets shall be designed and installed per Title 3 of this Development Code.

C. Sewer and Water

Sewage disposal systems and potable water systems shall be designed and installed per Title 4 of this Development Code.

D. Utilities

Utilities shall be designed and installed per Title 5 of this Development Code.

E. Stormwater Drainage

Stormwater drainage systems shall be designed and installed per Title 6 of this Development Code.

F. Erosion Control

Erosion control systems shall be designed and installed per Title 7 of this Development Code.

G. Curbs and Gutters

Curbs and gutters shall be designed and installed per Title 3 of this Development Code.

H. Sidewalks

Whenever a proposed Subdivision lies adjacent to or between other Subdivisions that have been provided with sidewalks, the Planning Commission may require that sidewalks be installed along both sides of all roads or streets.

Proposed sidewalks shall be labeled upon said plat in accordance with the satisfactory construction plans and specifications therefor submitted by the Applicant and in accordance with the following specifications and requirements:

1. Sidewalks shall be composed of Portland Cement Concrete, shall have a minimum width of four (4) feet, a minimum depth of four (4) inches and shall otherwise conform to

Sections F3301, F3302 and F3303 of the "Standard Specifications for Road and Bridge Construction and Maintenance" of the State Highway Department of Indiana, 1957, or any subsequent amendments thereto.

2. The outside edge of sidewalks shall normally be placed one (1) foot from the right-of-way line, and the area between the sidewalk and curb or road or street pavement shall constitute a parkstrip.
- I. Road or Street Signs

The Subdivider shall provide the Subdivision with standard City, County or Town road or street signs at the intersections of all roads or streets.

2.12 AMENDMENTS

All amendments to this Title of the Code shall be in conformance with Indiana Code IC 18-7-4.

2.13 PENALTY

Any person in violation of these regulations may be punished in accordance with the provisions of Indiana Code IC 36-1-3-8, specifically a fine of not more than \$2,500 per violation, cost of prosecution and attorneys' fees. Each day a violation exists constitutes a separate violation.

2.14 CONTENTS OF APPENDIX

An appendix is added to this Title that consists of the following forms:

- A. Sample Subdivision Improvement Agreement Form.
- B. Sample Maintenance Bond Form.
- C. Completion Affidavit.

SECTION 3.0 SUBDIVISION CONTROL: MINOR SUBDIVISIONS

3.1 MINOR SUBDIVISIONS: PROCEDURE

The following alternate procedure for the administration of Minor Subdivision Applications may not be used until it has been adopted by rule of the Planning Commission.

- A. For Subdivisions classified by the Zoning Administrator as Minor Subdivisions, the Applicant may choose to seek Primary Plat Approval under the procedures of this Section in lieu of those specified by Section 2.3.
- B. Applications for Primary Plat Approval shall:
 1. Be made on the forms available at the office of the Planning Commission and be signed by the Owner of the property to be subdivided;
 2. Be presented to the Zoning Administrator in duplicate;
 3. Be accompanied by seven (7) copies of the survey drawing as described in Section 2.3, together with the supporting material specified in Section 2.3.

4. Be accompanied by a copy of the driveway permit issued by the County Highway Department for each lot to be accessed by a County road or street;
 5. Be accompanied by the fee established by the Planning Commission;
 6. Be accompanied by a copy of the deed prepared for each of the proposed lots. Each deed must contain at least the following information:
 - (a) Metes and bounds legal description with reference to any existing or proposed easements;
 - (b) Dedication of right-of-way to the public, where applicable. Right-of-way dedication shall be of a width sufficient to meet one-half (0.5) the required right-of-way width for that specific public road or street as indicated on the County Road and Street Map and of a length along that public road or street equal to the length of that parcel along the roadway; and
 - (c) The following notation:

“This parcel was created through the Minor Subdivision procedure and approved by the Henry County Planning Commission on [date of Planning Commission approval].”
- C. Within ten (10) days of receipt of a complete Primary Plat Approval Application, the Zoning Administrator shall:
1. Review the Primary Plat Approval Application for technical conformity with these regulations;
 2. Prepare a report and recommendation, including recommended conditions of approval;
 3. Schedule a Technical Review Committee review of the Primary Plat Approval Application. This review shall take place within fifteen (15) days of the Zoning Administrator’s receipt of the complete Primary Plat Approval Application. The Zoning Administrator shall be responsible for determining whether the Primary Plat Approval Application is complete and shall promptly notify the Applicant, in writing, if the Primary Plat Approval Application is determined to be incomplete. The Technical Review Committee must provide notice of its review at least forty-eight (48) hours prior to the date and time scheduled for the review, in accordance with Indiana Code IC 5-14-1.5;
 4. Provide the report to the Technical Review Committee; and
 5. Provide the Applicant with a copy of the report and notify the Applicant of the date, time and place of the Technical Review Committee review.
- D. The Technical Review Committee shall review the Primary Plat Approval Application for compliance with these regulations. The Technical Review Committee may continue its review from time to time, as it deems necessary. The Technical Review Committee may approve the Primary Plat Approval Application, approve the Primary Plat Approval Application with conditions or disapprove the Primary Plat Approval Application. However, if the Technical Review Committee determines that the Primary Plat Approval Application and plat comply with these regulations, it shall grant primary approval.
- E. Upon approval, the Zoning Administrator shall sign a Certificate of Primary Plat Approval for the Applicant’s survey drawing.

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- F. Within five (5) days of making its decision, the Technical Review Committee shall prepare written findings of fact in support of its decision. For purposes of review, the Technical Review Committee's decision shall be deemed to have been made on the date of its adoption of the findings.
- G. Within ten (10) days of the Technical Review Committee's decision on the Primary Plat Approval Application, the Zoning Administrator, in the manner prescribed in the Planning Commission's Rules of Procedure, shall notify interested parties, by certified mail, of their right to appeal the Technical Review Committee's decision.
- H. In order to appeal a decision of the Technical Review Committee, the Applicant or Appellant must file notice of appeal with the Zoning Administrator within ten (10) days after a copy of the Technical Review Committee's decision and findings are mailed to the interested parties. The appeal of a decision of the Technical Review Committee may be taken only to the Planning Commission.
- I. Upon the filing of a notice of appeal, the Primary Plat Approval Application shall be subject to the procedures of Section 2.3.
- J. The Applicant's proposed Subdivision shall be subject to the procedures and requirements for Secondary Plat Approval:
1. The Planning Commission shall disapprove or grant Secondary Plat Approval of the Minor Subdivision Application and make written findings in support of its decision. In order to be recorded, the deeds and survey drawing must be found by the Planning Commission to be in conformance with these regulations and with the Primary Plat Approval.
 2. Secondary Plat Approval may not be granted within thirty-one (31) days of the Primary Plat Approval.
 3. After the Planning Commission has granted Secondary Plat Approval, the Planning Commission's seal shall be affixed to the deeds and survey drawing.
 4. It shall be the responsibility of the Subdivider to file the approved deeds and survey drawing with the County Recorder within thirty (30) days of the date of Secondary Plat Approval. Failure of the Subdivider to file the deeds and survey drawing, as herein provided, shall constitute a violation of this Code.
 5. The Subdivider, upon recording, shall provide the Zoning Administrator with one (1) copy of each recorded deed and survey drawing.

K. Agricultural Remainders

When a Minor Subdivision is created on property where the principal use is agriculture, the agricultural portion of the parent tract after the Subdivision ("the Agricultural Remainder") shall be shown on the survey drawing based on the metes and bounds or other deed descriptions. The Agricultural Remainder shall be labeled on the survey drawing as "Not a Building Lot." The Agricultural Remainder does not have to be surveyed and monumented in the field. Permits on the Agricultural Remainder shall not be issued until that portion of the Agricultural Remainder is platted as a lot. Existing dwellings on an Agricultural Remainder may be repaired, remodeled or replaced, so long as there is only one (1) dwelling unit on the Agricultural Remainder.

3.2 MINOR SUBDIVISIONS: SURVEY DRAWING

- A. The Minor Subdivision survey drawing shall be presented in permanent black ink on reproducible matte-finish mylar or reproducible matte finish polyester film, at least four (4) mils thick, at an appropriate scale (as determined by the Zoning Administrator) on eleven (11) inch by seventeen- (17-) inch sheets. The sheets shall be numbered in sequence, if more than one (1) sheet is used.
- B. The survey drawing shall contain:
1. The name of the Subdivision, followed by the words "Survey Drawing";
 2. The names, addresses, telephone numbers and registration numbers of the professionals responsible for the design of the proposed Subdivision, the design of the proposed public improvements, the property survey and the preparation of the plat and supporting materials;
 3. The names and deed records of all interested parties, as defined in Section 2.3;
 4. The written legal description of the property to be subdivided;
 5. The date of the plat, legend, notes, approximate true North Arrow and graphic scale;
 6. The parcel boundary lines with dimensions, bearings, curve data and references to section, township and range lines or corners of the property to be subdivided;
 7. The boundary lines of all Subdivision lots, with dimensions, bearings, curve data and lot numbers;
 8. The acreage of each lot, to the nearest hundredth (may be presented in a table);
 9. The accurate location of all existing and platted roads or streets intersecting or abutting the boundaries of the property to be subdivided;
 10. The accurate locations and dimensions of any existing or proposed easements;
 11. The location of all monuments erected, corners and other points established in the field shall be shown and noted in their places on the plat. The legend for metal monuments shall indicate the kind of metal, the diameter and length of the monuments;
 12. The surveyor's certificate and seal; and
 13. A reference to the County or State highway right-of-way, existing or dedicated as necessary, in the written legal description and illustrated on the drawing.
- C. The survey drawing shall be prepared by a land surveyor licensed by the State of Indiana.
- D. All numbers appearing on the survey drawing shall be in Arabic style and all letters and/or words shall be in Roman print and in the English language.

3.3 MINOR SUBDIVISIONS: STANDARDS

By definition, Minor Subdivisions do not involve construction of the elements mentioned thus far in this Title. However, Minor Subdivisions must meet the following standards in order to be considered for approval:

A. Access

1. All parcels created from the parent tract shall have safe ingress and egress, as determined by the County Highway Engineer, without the construction of any new roads or streets or substantial improvements to existing roads or streets;
2. All lots must have legal access to a platted private or public road or street that has been accepted and continuously maintained by a public agency. Right-of-way must be dedicated to the County in accordance with the road classification specified in the County Road and Street Plan.
3. Platted access easements may be used, provided each access easement serves a maximum of two (2) lots, has a minimum width of twenty-two (22) feet, is less than six hundred (600) feet in length and provides a fifty- (50-) foot radius cul-de-sac at the end of the road or street.
4. Roads, streets or access easements shall have an all-weather gravel or hard surface suitable for the vehicular traffic they will carry. Access easements shall have a stone base of at least six (6) inches of Type O Compacted Aggregate (No. 53).
5. Frontage on limited access roads or streets where driveways cannot open shall not be considered legal access for the lot. Such lots shall be shown with a "No Access" notation on the survey drawing.
5. If better access can be provided through construction of a new road or street, because of topography, natural or man-made features or other conditions, the Subdivision shall be considered a Major Subdivision and follow the process described in Section 2.3.

B. Suitability for Building

All lots in the Subdivision shall provide suitable building sites for the purpose for which the land is to be used. A Minor Subdivision shall only be approved if it meets the following criteria:

1. If the property contains slopes of ten (10) percent or more, contours at a maximum interval of ten (10) feet shall be shown on the plat. Lots served by an individual septic system must have contiguous land area with slopes of less than ten (10) percent for at least the minimum area required by the Indiana Department of Health.
2. The location and acreage of all bodies of water must be shown on the plat. Each lot shall have a contiguous land area with at least seventy-five (75) percent of the minimum Zoning District lot size available for a building site. The remaining area may contain permanent or seasonal water bodies.
3. Limits of the floodway and floodway fringe shall be shown on the proposed plat. Each lot shall contain enough land outside of the floodway to accommodate the permitted uses of the property and an individual septic system if a public or private sewage disposal system is not available. Development in the floodplain may only occur when the lowest floor is two (2) feet above the one hundred- (100-) year flood level.
4. Building pads shall have a six- (6-) inch drop within the first ten (10) feet from the proposed building.

C. Utilities and Drainage

1. Sewage Disposal

Each lot shall be served by an existing or proposed public or private sewage disposal system approved by the Indiana Department of Health or the Henry County Health Department or each lot shall have adequate land with soils suitable for a septic system. If the soil survey indicates that the soils have severe limitations for septic systems, then each lot shall be large enough to accommodate two (2) absorption fields. A four (4) inch perimeter tile is required around all septic systems. If sewer service is required and lines must be extended to any lots, then the Subdivision will be considered a Major Subdivision.

2. Water Service

Each lot shall be served by an existing or proposed public water system approved by the Indiana Department of Health or the Henry County Health Department or by a private well that has received a location approval from the Henry County Health Department. If water service is required and lines must be extended to any lots, then the Subdivision will be considered a Major Subdivision.

3. Drainage

All lots shall be provided with drainage improvements. A Drainage Plan must be submitted and each lot must have eight- (8-) inch drainage tiles with outlet.

D. Orderly Development

1. The Subdivision shall not impede orderly development of land or the provision of public services or improvements.
2. The Subdivision shall not interfere with the implementation of the Comprehensive Plan.
3. The Subdivision shall not interfere with the provision of roads or streets for access to adjoining properties, in the event that the adjacent property is developed in the future.

E. Endangerment

The Subdivision shall not be detrimental to nor endanger the public health, safety or general welfare.

APPENDIX**SAMPLE FORMS****APPENDIX A
SAMPLE SUBDIVISION IMPROVEMENT AGREEMENT FORM**

This Agreement, made by and between Henry County, Indiana, and [name of Subdivider] ("Subdivider").

Preamble

WHEREAS, Subdivider applied to the Henry County Planning Commission ("Planning Commission") for Primary Plat Approval for the [name of Subdivision];

WHEREAS, on [date of approval], the Planning Commission granted Subdivider Primary Plat Approval for the [name of Subdivision] but conditioned such approval on the installation of certain public improvements throughout the Subdivision;

WHEREAS, the Henry County Subdivision Control Ordinance states and requires that each Secondary Plat submitted to the Planning Commission shall be accompanied by a Subdivision Improvement Agreement that is secured by a financial guarantee, if the required public improvements have not been completed;

WHEREAS, Subdivider applied to the Henry County Zoning Administrator ("Zoning Administrator") for Secondary Plat Approval, as authorized by the Planning Commission, for the [name of Subdivision];

WHEREAS, Subdivider has not completed the required public improvements, namely improvements to [general description of public improvements], and desires to submit a Subdivision Improvement Agreement, secured by [type of financial guarantee], in order to qualify for Secondary Plat Approval.

NOW, THEREFORE, IN CONSIDERATION OF THE PROMISES AND MUTUAL COVENANTS CONTAINED IN THIS AGREEMENT:

Promises and Mutual Covenants:

1. Subdivider agrees to obtain and submit to the Planning Commission Attorney a(n) [type of financial guarantee] in the amount of [amount of financial guarantee], in favor of Henry County, to secure the completion of all required public improvements at the [name of Subdivision].
2. Subdivider agrees to complete the [name of Subdivision] public improvements on or before [date of dedication of public improvements], in accordance with the construction and design standards set forth or incorporated in the Henry County Subdivision Control Ordinance and in accordance with the development plans set forth or incorporated in the approved [name of Subdivision] Plat and Application materials.
3. The parties acknowledge and agree that the Zoning Administrator may withhold Improvement Location Permits for any undeveloped [name of Subdivision] lot unless and until Subdivider has completed the public improvements that serve that lot.
4. The parties acknowledge and agree that time is of the essence and that any failure by Subdivider to strictly adhere to the foregoing schedule (paragraph number 2 above) would constitute a material breach of this Agreement. Upon such a violation, or any other violation of this Agreement, the Planning Commission may submit a claim under the [type of financial guarantee] in an amount sufficient to cover the breach.

- 5. The parties acknowledge and agree that by accepting the [type of financial guarantee] from Subdivider and that by entering into this Agreement, the County has not and does not waive any of its rights with respect to the enforcement of the Henry County Subdivision Control Ordinance and/or approval granted thereunder in relation to the [name of Subdivision], against the Subdivider.

IN WITNESS WHEREOF, the Henry County Planning Commission, by its President, the Henry County Board of County Commissioners and Subdivider execute this Agreement this _____ day of [month], [year].

SUBDIVIDER

[name of Subdivider]

HENRY COUNTY
PLANNING COMMISSION

HENRY COUNTY
BOARD OF COUNTY COMMISSIONERS

President

President

Vice President

Member

Zoning Administrator

Member

ATTEST:

Henry County Auditor

**APPENDIX B
SAMPLE MAINTENANCE AGREEMENT FORM**

State of Indiana:
County of Henry:

THIS AGREEMENT made and entered into this _____ day of _____, 20____, by and between [name of Subdivider] ("Subdivider") and Henry County, Indiana, herein represented by the Board of County Commissioners.

WITNESSETH:

WHEREAS, the Subdivider has subdivided lots _____ through _____, _____ Subdivision, and has received approval and acceptance from the Henry County Planning Commission for Subdivision improvements constructed therein; and

WHEREAS, under the provisions of the Henry County Subdivision Control Ordinance, the Subdivider is required to maintain certain improvements for a period of three (3) years;

NOW THEREFORE, it is hereby agreed by and between the Subdivider and the Board of County Commissioners that the Subdivider hereby agrees to keep all filled trenches, pipes, manholes, structures and paved and unpaved surfaces created in _____ Subdivision in good condition and to make such repairs to any defect in materials or workmanship as may develop or be discovered when called upon to do so by the Planning Commission.

It is agreed that this Agreement shall be in full force and effect for a period of three (3) years from _____, 20____.

IN WITNESS WHEREOF, these presents have been signed in the presence of the undersigned competent witnesses at _____ on this _____ day of _____, 20____.

WITNESSES:

[Name of Subdivider or Development Company]

HENRY COUNTY INDIANA
BOARD OF COUNTY COMMISSIONERS

President

Member

Member

ATTEST:

Henry County Auditor

**APPENDIX C
SAMPLE COMPLETION AFFIDAVIT**

This is to certify:

- A. That the following improvements as shown in the approved plans and specifications for _____ Subdivision are complete and that inspection reports attested by a Professional Engineer or Land Surveyor approved by the Henry County Commissioners show them to be in substantial accordance with the specifications and requirements of Henry County's Subdivision Control Ordinance;
- B. That surety has been posted to guarantee all materials and workmanship and to guarantee repair of any damage that may be inflicted upon the improvements listed in the course of completion of the Subdivision; and
- C. That the Board of Commissioners of Henry County, Indiana, has accepted these improvements and will henceforth be responsible for all maintenance on them, subject to the terms of the maintenance agreement with the Subdivider dated _____.

[List Improvements]

HENRY COUNTY INDIANA
BOARD OF COUNTY COMMISSIONERS

President

Date

Member

Member

ATTEST:

Henry County Auditor