

LaGrange County

Subdivision Control Ordinance

LaGrange County, Indiana

Effective Date: November 17, 2005

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ARTICLE 1: GENERAL PROVISIONS

(A) TITLE

This Ordinance shall be known as, referred to, and cited as the "Subdivision Control Ordinance of LaGrange County, Indiana," and is hereinafter referred to as "this Ordinance."

(B) AUTHORITY

- (1) This Ordinance is adopted under the authority granted by the 700 Series of §36-7-4 of the Indiana Code and amendments thereto.
- (2) Regulation of the subdivision of land and the attachment of reasonable conditions to land subdivision is an exercise of valid police power delegated by the State of Indiana to LaGrange County. The developer has the duty of compliance with reasonable conditions laid down by the Plan Commission for design, dedication, improvement, and restrictive use of the land to conform to the physical and economic development of the County and to the health, safety, and general welfare of the future lot owners in the subdivision and the community at large.

(C) POLICY

- (1) It is declared that it is the policy of LaGrange County to consider the subdivision of land and subsequent development of the land as subject to control of the County pursuant to the Comprehensive Plan for the orderly, planned, efficient, and economical development of the County.
- (2) Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace, and land shall not be subdivided until adequate infrastructure and services exist or are guaranteed in accordance with Article 4, Section H, and proper provision has been made for drainage, water, sewerage, and public facilities such as parks, recreational facilities, streets, and sidewalks.
- (3) All modifications of existing and proposed improvements shall conform with and be properly related to the Comprehensive Plan and the standards contained in other applicable ordinances and regulations.

(D) GENERAL PURPOSE

This Ordinance is adopted for the following purposes:

- (1) To promote the public health, safety and general welfare;
- (2) To guide the future growth and development of the County in accordance with the Comprehensive Plan;
- (3) To ensure that necessary facilities are available concurrent with development, in an amount and size commensurate with the size of the subdivision and the land uses to which the land will be allocated;

- (4) To ensure that the community will bear no more than its fair share of the cost of providing facilities and services by requiring the developer to pay fees, furnish land, provide infrastructure, and establish mitigation measures to ensure that the development provides its fair share of capital facilities needs generated by the development;
- (5) To provide pedestrian and vehicular connectivity among subdivisions;
- (6) To secure suitable sites for building purposes and protect the property values thereof;
- (7) To provide assurance that future plats, subdivisions and dedications will be improved in accordance with an established public policy;
- (8) To provide for open spaces through the most efficient design and layout of the subdivision;
- (9) To preserve the natural beauty and topography of the County and to ensure appropriate development with regard to these features;
- (10) To prevent the pollution of air and water, safeguard surface and groundwater, conserve and stabilize topsoil, and to otherwise encourage the wise use of resources throughout the County
- (11) To supply proper land records for the convenience of the public and for appropriate identification and permanent location of real estate boundaries.

(E) APPLICABILITY AND JURISDICTION

- (1) The provisions of this Ordinance shall apply to all lands within the unincorporated portions of LaGrange County *and the incorporated Towns of LaGrange, Topeka, Shipshewana and Wolcottville (Amendment 06-OA-01)*, including land owned by local, county, state, or federal agencies, to the extent allowed by law.
- (2) Lots that straddle jurisdictional boundaries shall be avoided wherever possible. If a subdivision is located in more than one jurisdiction, approval is required from each plan commission having jurisdiction, unless a valid interlocal agreement provides otherwise. If access to a subdivision is required across land in another jurisdiction, the applicant shall provide evidence that such access is legally established. The Commission shall permit such access only if it finds that the access complies with the standards of this Ordinance.

(F) CONFLICT OR CONSISTENCY WITH OTHER LAWS, COVENANTS, OR DEED RESTRICTIONS

(1) Conflicts and Relationship with Other Regulations

- (a) When the provisions of this Ordinance are inconsistent with one another, or when the provisions of this Ordinance conflict with provisions found in other ordinances, codes, or regulations adopted by LaGrange County, the more restrictive provision shall govern unless the terms of the provisions specify otherwise.

- (b) It shall be the developer's or applicant's responsibility to determine and comply with all other applicable county, state, or federal codes or regulations governing development and land use activities.

(2) Relationship with Private-Party Easements, Covenants, or Agreements

This Ordinance is not intended to interfere with or abrogate any easements, covenants, or agreements between parties, provided that wherever this Ordinance proposes a greater restriction upon the use of buildings or land, upon the location or height of buildings or structures, or upon requirements for open areas than those that are imposed or required by such easements, covenants, or agreements between parties, the provision of this Ordinance shall govern. In no case shall the county be obligated to enforce the provisions of any easements, covenants, or agreements between parties.

(G) COMPLIANCE

- (1) No lot other than a legal lot of record shall be sold nor advertised for sale; no permit to erect any building upon land in a subdivision shall be issued; and no building shall be erected in a subdivision, unless and until a final major subdivision plat or minor plat has been approved and recorded.
- (2) For subdivisions recorded after a financial guarantee is posted for the improvements, no occupancy permit shall be issued for any building unless in addition to all requirements of the building code, the following improvements are in place to provide for safe access to the building(s) for the occupants and for emergency vehicles:
 - (a) Streets having a compacted subgrade and a binder course
 - (b) Traffic control signs and street name signs
- (3) Minimum Requirements

The provisions of this Ordinance shall be held to be minimum requirements necessary for the promotion of the public health, safety, and general welfare, and shall be liberally construed in favor of the County and shall not be construed to be a limitation or repeal of any other power now possessed by LaGrange County.

(H) SEVERABILITY

If any Court of competent jurisdiction rules any provision of this Ordinance invalid, that ruling shall not affect any provision not specifically included in the judgment. If any Court of competent jurisdiction rules invalid the application of any provision of this Ordinance to a particular property, building, or other structure, or use, that ruling shall not affect the application of the Ordinance provisions to any property, building, other structure, or use not specifically included in the judgment.

(I) EFFECTIVE DATE AND TRANSITIONAL PROVISIONS

- (1) **Effective Date**

This Ordinance shall take effect after publication of the notice of adoption as provided by IC 36-7-4-701.

(2) Violations Continue

Any violation under previous ordinances repealed by this Ordinance shall continue to be a violation under this Ordinance and be subject to penalties and enforcement under Articles 4 and 5, unless the use, development, construction, or other activity complies with the provisions of this Ordinance.

(3) Approved Projects

- (a) Any Commission approval of a preliminary plat granted before the effective date of this Ordinance shall remain valid, provided that the final plat is approved within 120 days after such effective date.
- (b) Any Commission approval of a final plat granted before the effective date of this Ordinance shall remain valid, provided that the final plat is recorded in the Office of the County Recorder within 189 days after such effective date.

(4) Complete Applications

- (a) Any project for which a complete application was submitted and accepted by the County prior to the effective date of this Ordinance may, at the applicant's option, be reviewed wholly under the terms of the previous Subdivision Control Ordinance. If approved, these projects may be carried out in accordance with the standards in effect at the time of application. Any re-application for an expired permit shall meet the standards in effect at the time of re-application.
- (b) Projects for which no application has been submitted and accepted as complete prior to the effective date of this Ordinance shall be subject to all requirements and standards of this Ordinance.

ARTICLE 2: TYPES OF SUBDIVISIONS

(A) EXEMPT SUBDIVISIONS

(1) Purpose and Intent

It is the intent of this section to provide a streamlined procedure for simple subdivisions or changes in lot lines. Those divisions of land or resubdivisions that do not substantially affect the comprehensive plan, do not require extensions of streets or utilities, and have minimal impact on the development pattern of LaGrange County are exempt from the requirements for Plan Commission or Plat Committee approval but are subject to staff review in accordance with Article 4, Section D.

(2) Applicability

The provisions of this Section apply to the following divisions which are classified as exempt for the purposes of this ordinance:

- (a) A resubdivision which involves only the removal of interior lot lines, with the outside perimeter of the property remaining unchanged, resulting in fewer parcels than were contained in the original parcel;
- (b) A resubdivision which involves only the changing of notations written on the plat or correction of errors thereon;
- (c) A division of land pursuant to an allocation of land by court decree;
- (d) The division of land into cemetery plots;
- (e) A resubdivision to correct errors in an existing legal description, provided that no additional building lots are created;
- (f) A division of land for the sale or exchange of tracts between adjoining land owners, provided that no additional building sites are created;
- (g) A division or resubdivision of land for the acquisition by the public or by a utility for street right-of-way or easement;
- (h) A first subdivision of no more than one lot in an area zoned for residential use.

(B) MINOR SUBDIVISIONS

(1) Purpose and Intent

The purpose of a minor subdivision is to provide a simplified review and approval procedure for land divisions that do not involve construction of new streets and that comply in all respects to the standards contained in this ordinance. Minor subdivisions require primary and secondary approval, in accordance with the procedures set forth in Article 4, Section E.

(2) Applicability

A proposed subdivision may be processed under the provisions of this Section if the staff determines that there will be no opening of new public ways.

(C) MAJOR SUBDIVISIONS

(1) Purpose and Intent

The purpose of the major subdivision procedure is to ensure that new development is consistent with the Comprehensive Plan and with the standards of this Ordinance, to ensure that new developments will have adequate streets, utilities and other infrastructure elements, and to ensure satisfactory completion of all required improvements. Major subdivisions require a public hearing, and primary and secondary approval in accordance with the procedures set forth in Article 4, Section F.

(2) Applicability

Any subdivision that does not meet the requirements to be considered as an exempt or a minor subdivision shall be subject to the requirements applicable to major subdivisions.

ARTICLE 3: DEVELOPMENT AND DESIGN STANDARDS

(A) MINOR SUBDIVISIONS

(1) General Requirements

Applications for primary or secondary approval of minor subdivisions shall be made in accordance with the Commission's Rules of Procedure.

(2) Lots

- (a) All lots shall have suitable building sites, properly related to topography and other natural or man-made features. A suitable building site is an area not containing wetlands, floodway areas, soils with severe limitations for foundations, environmental hazards, or other similar conditions that are adverse to construction, and is large enough to accommodate the principal structure, on-site sewage disposal system (if applicable), and customary accessory structures such as garages, decks, and patios.
- (b) All lots shall have the minimum frontage required by the zoning ordinance on a public street or approved private access easement.
- (c) Whenever possible, residential lots shall be designed to have access from Subdivision Streets, not from streets of higher classification. Where access must be gained from a street of higher classification, the county surveyor may require that multiple lots be served by a single jointly used access drive in order to limit the points of traffic conflict on the street. When such a combined drive is required, the plat shall include an easement providing for joint use and maintenance.

(3) Streets and Access

(a) Access

All parcels in the subdivision and adjacent land shall have adequate ingress and egress without the construction of any new streets or substantial improvement to existing streets.

- (i) All lots shall have legal access to a platted private access easement or to a public street that has been accepted for maintenance by, or has been continuously maintained for a period of ten years immediately preceding the filing of the subdivision, by a public agency regularly having responsibility for such maintenance. Such public street also shall have a hard surface, suitable for vehicular traffic, that is at least twenty feet in width, is in good repair, and has a geometry suitable for the traffic that it will carry after the proposed subdivision.
- (ii) Frontage on limited access streets on which driveways cannot open shall not constitute legal access.

- (iii) If by reason of topography, natural or man-made features, or other conditions relating to the property requested for subdivision, better access can be provided through construction of a new street, the petition shall be considered as a major subdivision.
- (iv) All lots shall have driveway locations that will provide adequate sight distance and will be properly spaced according to County standards.

(b) Landlocked Properties

Land adjacent to the property involved in the subdivision shall have adequate access according to the criteria contained in this section. New subdivisions shall not be permitted to landlock nor to continue the landlocking of adjacent property.

(c) Access Easements

Access easements shall comply with the following criteria:

- (i) Easements providing legal access to land shall be at least 50 feet in width.
- (ii) Access easements shall be so located as to be suitable as future public streets meeting the standards of this Ordinance.
- (iii) No more than four lots, parcels or tracts shall gain access from an access easement.
- (iv) When such easements are permitted, the plat shall contain a notation clearly stating that the easement is private and that the County will provide no maintenance or services relating to such easement.

(4) Water Supply

- (a) When a public water supply is available within 300 feet of any point on the boundary of the property to be subdivided, the subdivider shall extend such system to serve the lots in the minor subdivision. For purposes of this section, an available system is one with sufficient capacity that can be utilized via existing rights-of-way or easements.
- (b) When a public water supply is not available, the Commission may approve the use of individual wells. Wells and cisterns shall be located and/or constructed in accordance with the regulations of the ISDH. Any well serving an individual lot shall be located on such lot.

(5) Sewage Disposal

- (a) When a sanitary sewer system approved by the state is available within 300 feet of any point on the boundary of the property proposed for subdivision, the subdivider shall extend such sewer system to serve the lots in the minor subdivision. Such system shall meet the standards of the state. If the service provider imposes a higher standard, the higher standard shall apply. For purposes of this section, an available system is one with sufficient capacity that can be utilized via existing rights-of-way or easements.
- (b) When a public sewer system is not available as specified in Subsection a, private sanitary waste systems may be used. Such system shall be designed and installed in accordance with the regulations of the Health Department. Any septic system serving only an individual lot shall be entirely located on such lot. Two filter field locations approved by the Health Department shall be required. The septic system and both filter fields shall be protected from damage during construction.

(B) MAJOR SUBDIVISIONS

(1) General Requirements

- (a) Applications for primary or secondary approval of major subdivisions shall be made in accordance with the Commission's Rules of Procedure.
- (b) The developer shall complete all improvements and installations required by this Ordinance within the time limits established in Article 4, Section H.
- (c) If the major subdivision is to have a lot owners association that is responsible for ongoing compliance of the development with this ordinance, the association shall meet the following requirements:
 - (i) Membership shall be automatic for all owners of lots in the subdivision.
 - (ii) The association shall be incorporated.
 - (iii) The association shall be organized by the developer and shall be financed by the developer until a sufficient number of lots have been sold to enable the association to be financially solvent without a subsidy from the developer.
- (d) Major subdivisions may be accompanied by covenants. When necessary to ensure compliance with a provision of this ordinance or a condition of subdivision approval imposed by the Commission, the Commission may require that the County be a party to or have enforcement authority over specified covenants or restrictions. The covenants must be filed in the Office of the LaGrange County Recorder.

- (e) All materials and construction procedures required by this Ordinance shall conform with the most recent editions of *The Indiana Department of Transportation Standard Specifications*; and the following AASHTO publications: *Road Design Manual*, *Bridge Design Manual*, *A Policy on Geometric Design of Highways and Streets*.

(2) Lots

- (a) All lots shall have satisfactory building sites properly related to topography and other features.
- (b) All lots shall be capable of containing driveways having sight distance that complies with the standards set forth in Figure 3-B-1.
- (c) Lot sizes and dimensions shall comply with the minimum standards of the Zoning Ordinance.
- (d) Each lot shall have the full required frontage on a public street. To the fullest extent practical, residential lots shall front on residential subdivision streets in such a manner as to provide neighborhood cohesiveness. Lots laid out in lines along and with direct access to arterial, or collector streets shall not be permitted.
- (e) Residential double-frontage lots shall be permitted only where necessary to provide separation of residential development from street traffic or due to conditions peculiar to the property. Non-residential double-frontage lots are acceptable; however, the Commission shall require a landscape buffer along any frontage that constitutes a rear or side yard. Such buffer shall be at least 10 feet in depth along the lot frontage.
- (f) Residential lots shall be designed to have access from Subdivision Streets, not from streets of higher classification. Where no alternative exists to access from a street other than a subdivision or marginal access street, the Commission may require that multiple lots be served by a single jointly used access drive in order to limit the points of traffic conflict on the street. When such a combined drive is required, the plat shall include an easement providing for joint use and maintenance.
- (g) The depth to width ratio of any single-family residential lot shall not be greater than 3:1 unless the Commission finds that such lot configuration is needed to provide for wise use of the land.
- (h) Driveway separations shall be provided in accordance with the LaGrange County Highway Standards Manual.

(3) Streets

(a) General

- (i) The Commission shall not approve any major subdivision unless the area to be subdivided has access to an existing public street. Such access shall be wide enough to permit the construction of new intersecting streets meeting the minimum standards of this ordinance. If the Commission finds that existing streets that will

provide access to the subdivision are not adequate to provide safe ingress and egress for the increased traffic resulting from the subdivision, the Commission shall deny the subdivision. Streets that by reason of pavement condition, topography, sight distance, width, or other conditions are not suitable for the increased traffic shall be considered inadequate, and subdivision shall be permitted only if the developer formulates methods acceptable to the Commission of mitigating the unsuitable conditions.

- (ii) The owners of property to be subdivided on existing streets shall deed to the County any additional right-of-way needed to comply with the minimum right-of-way widths for those streets as indicated in the Thoroughfare Plan. Where topography or design features necessitate additional right-of-way or easements to permit construction of a street to the established pavement width for such street, the Commission shall require the owner to dedicate to the County such additional right-of-way or provide such easement.
- (iii) The subdivision plat shall indicate proposed street names. The Commission shall recommend the street names for County Commissioners' approval only if the street names are appropriate, do not duplicate existing street names, and will not be confusing to emergency personnel or others needing to locate addresses.
- (iv) Streets shall be laid out with due regard to topography, soil conditions, natural features, function, clarity of movement, and economy of street length. All streets shall be properly integrated with existing and proposed streets.
- (v) New streets shall be extended to the boundary lines of the tract to be subdivided, unless topography or other physical conditions preclude such extension. Whenever practicable, the Commission shall require that streets be designed to provide connections to existing and future subdivisions.
- (vi) Subdivision streets shall be designed to discourage use by through traffic. Traffic calming measures shall be utilized within subdivisions. Such measures include but are not limited to traffic circles, frequent intersections, traffic control signs and markings, and medians
- (vii) Permanent dead-end streets shall not be permitted. Temporary dead-end streets shall be permitted only when such streets are to be extended as part of street pattern approved by the Commission. Where temporary dead-end streets extend along more than one lot, a temporary turn-around with a minimum radius of 50 feet and a minimum 6-inch stone surface shall be provided.
- (viii) Private streets and half-streets shall not be permitted.
- (ix) The Commission shall not approve any Subdivision Street intersecting with a state highway unless the developer provides written approval from INDOT for such intersection.
- (x) Streets shall conform to the LaGrange County Highway Standards Manual.

- (xi) Minimum sight distances for vehicles from access points on driveways or at intersections onto adjacent roads shall be as shown in Figure 3-B-1.

Figure 3-B-1

Vehicle Sight Distances							
20 mph	30 mph	40 mph		50 mph		60 mph	
2-lane	2-lane	2-lane	4 or more	2-lane	4 Or more	2-lane	4 or more
300 ft.	300 ft.	350 ft.	390 ft.	520 ft.	550 ft.	700 ft.	750 ft.

- (xii) All traffic control devices required by this ordinance shall comply with the Manual on Uniform Traffic Control Devices.

(b) Other Installations

The subdivider shall be responsible for installing street name signs, traffic control devices, subdivision identification signs, and any other similar features shown on the subdivision plat.

(c) Landscaping

When a subdivision is designed so that rear lot lines abut a street, a landscape screen shall be provided along such street frontage. A landscape easement, at least 10 feet in width shall be included on the plat.

(d) Easements

- (i) Each subdivision shall include appropriate easements for drainage and utilities, in accordance with the drainage plan. When located along streets, such easements shall have a minimum width of 10 feet. When located along side or rear property lines or interior to any lot, such easements shall have a minimum width of 15 feet or 7½ feet on each side of the lot line. The Commission shall require larger easements when necessary for carrying out the purposes of this Ordinance.
- (ii) Easements shall have multiple functions wherever possible.
- (iii) Easements shall provide reasonable continuity from block to block.
- (iv) The Commission shall require easements for the maintenance of dams or other features when such easements are necessary to provide access for personnel and/or equipment to perform such maintenance.

(e) Intersections

- (i) Streets shall be laid out so as to intersect as nearly as possible at right angles. In no case shall two new streets intersect at an angle less than 75 degrees. An oblique street shall be curved approaching an intersection and shall be approximately at right angles for at least 100 feet therefrom. No more than two streets (four approaches) shall intersect at any one point.
- (ii) Proposed new intersections with an existing street shall, wherever practicable, coincide with any existing intersections on the other side of such street. Centerline offsets of less than 150 feet shall not be permitted, except where the intersected street has separated dual drive lanes with no median breaks at either intersection. Where new streets intersect collector or arterial streets, their alignment shall be continuous.
- (iii) Intersections shall be designed with a flat grade wherever practical. For intersections in areas with steep slopes, the developer shall provide a leveling area having a rate no greater than 2% at a distance of 60 feet, measured from the nearest right-of-way line of the intersecting street.
- (iv) Intersections shall be separated in accordance with the LaGrange County Highway Standards Manual.

(4) Drainage and Stormwater

- (a) Natural drainage patterns and natural stream channels shall be maintained wherever possible. Stream channels subject to the jurisdiction of IDNR shall not be altered without IDNR approval.
- (b) The subdivider shall design and construct a drainage system to handle surface water from the entire subdivision and the drainage area of which it is a part. The system shall meet the minimum standards contained in this section.
- (c) The subdivider shall prepare a drainage report addressing the existing and proposed drainage conditions and shall evaluate the ability of the proposed watercourse, channels, drainage tiles, farm tiles, storm sewers, culverts, and other improvements to handle the runoff. A registered professional engineer or land surveyor shall prepare this report, which shall contain the following:
 - (i) Estimates of the water entering the subdivision. Estimates shall assume that the upper watershed will be fully developed according to the current zoning ordinance.
 - (ii) Conditions of the watershed that may affect runoff, such as subsoil type, positive drainage channels, or obstructions.
 - (iii) Quantities of flow at each pickup point or culvert.

- (iv) Description of major and minor drainage systems. The minor system will usually consist of but not be limited to storm sewers, drainage ditches, drainage swales, storm inlets or infiltration structures. The minor system shall be designed to handle a 10-year storm. The major system will usually consist of but not be limited to roadways, culverts, bridges or overflow drainageways. The major system shall be designed to handle a 50-year storm.
 - (v) The location of existing subsurface drainage tiles and a plan to preserve or relocate the tiles.
 - (vi) Proposed facilities which may include holding lagoons, stormwater ponds, or infiltration facilities shall be prepared by a registered professional engineer and shall include data coordinating field tests with design assumptions and estimates of expected annual maintenance costs.
- (d) The storm drainage system shall be separate and independent of any sanitary sewer system. The storm water drainage system shall be designed by the Rational Method or other method approved by the county surveyor, and a copy of the design computations shall be submitted with the plans. Inlets shall be provided so that surface water is not carried across or around any intersection, nor for a distance of more than 600 feet in a gutter, or when the encroachment of stormwater into the street disrupts traffic. When calculations indicate that the curb capacities are exceeded at a point, no further allowance shall be made for flow beyond that point, and catch basins or inlets shall be used to intercept flow at that point. Surface water drainage patterns shall be shown for each lot and block.
- (e) Drainage systems shall be designed so that there is no increase in the rate of runoff leaving the property in the subdivision after development. The county surveyor shall review the proposed drainage facilities and provide the Commission an evaluation as to whether the system is of sufficient size, based upon the provisions of the required construction standards and specifications, assuming conditions of maximum potential watershed development permitted by the zoning ordinance.
- (f) The applicant shall provide information regarding the effect of each proposed subdivision on existing drainage facilities outside the subdivision. Where it is anticipated that the additional runoff related to the development of the subdivision will overload an existing downstream drainage facility, the Commission shall not approve the subdivision until provision has been made for mitigating the drainage problem.
- (g) The Commission may approve for subdivision areas that are not in designated floodway or floodway fringe areas but contain soils that are subject to flooding only if the subdivider fills the affected areas to an elevation sufficient to place building sites and streets two feet above ponding levels.
- (h) Each block shall be adequately drained, whether through the streets or by use of a ditch, culvert, or other approved method.

- (i) All roads abutting or included within property to be subdivided shall be provided with drainage systems in accordance with the standards contained in this Ordinance.
- (j) Any disturbed or graded area shall be protected from erosion.
- (k) The Commission may require retention ponds to regulate the flow at the outfall.
- (l) Off-road drainage shall be extended to a watercourse or ditch of adequate size to receive the stormwater.
- (m) Connection to a state drainage system is allowed only with written approval from INDOT. Connection to a county regulated drain is allowed only with written approval in accordance with the Indiana Code requirements for such drains. Connection to a county road ditch is allowed only with written approval from the county surveyor.
- (n) The commission shall not approve any subdivision for which there is not adequate provision for maintenance of drainage systems. Such provision may include but is not limited to acceptance of the system by the County Drainage Board or establishment of a lot owners association with responsibility to set and collect fees for drainage system maintenance. Roadside ditches shall not be filled without written approval of the county surveyor.

(5) Water Supply

- (a) Where a public water system is available within 300 feet of any point on the boundary of the proposed subdivision, the developer shall install a public water system to serve the project. The system shall comply with the Great Lakes Upper Mississippi River Board of State Public Health and Environmental Managers Recommended Standards for Water Works. If the service provider requires a higher standard, the subdivider shall comply with such standard. Such system shall include fire hydrants and water lines of adequate capacity to serve such hydrants.
- (b) The subdivider shall install fire hydrants with a maximum spacing of 500 feet from any residence and a maximum separation of 1000 feet throughout the subdivision.
- (c) The location of all fire hydrants and all water supply improvements shall be shown on the improvement plans, and all such improvements shall be installed at the cost of the developer.

(6) Sewage Disposal

- (a) When a sanitary sewer system approved by the state is available within 300 feet of any point on the boundary of the property proposed for subdivision, the developer shall extend such sewer system to serve the entire subdivision. Such system shall meet the standards of the state. If the service provider imposes a higher standard, the higher standard shall apply. For purposes of this section, an available system is one with sufficient capacity that can be utilized via existing rights-of-way or easements and employing gravity flow or lift stations.

- (b) The location of all sewer system improvements shall be shown on the improvement plans, and all such improvements shall be installed at the cost of the developer.
- (c) When a sanitary sewer system is not available as specified in Subsection A, the Commission may approve the use of private sanitary waste disposal systems. Such system shall be designed and installed in accordance with the regulations of the ISDH. Any septic system serving only an individual lot shall be entirely located on such lot. Two filter field locations approved by the Health Department shall be required. The septic system and both filter fields shall be protected from damage during construction.
- (d) Developers proposing to use private sanitary waste disposal systems shall provide a map showing the soil types within the subdivision.
- (e) Alternative systems such as drip systems and constructed wetlands are permitted with proper approval from ISDH and are permitted only where an approved public sanitary sewer system is not available. Mixed systems are not permitted. When alternative systems are used, the developer shall include in the covenants a requirement that the lot owners association maintain the system. Such covenant shall be substantially similar to that contained in Article 7, Section M.
- (f) The Commission shall approve a cluster or package system only in cases where no other sanitary sewer system is available and only after making a specific finding that a management arrangement is in place to ensure the continued effective operation and maintenance of the system. The developer shall provide to the Commission the following:
 - (i) Assurance that fees will be collected sufficient to cover the cost of operating and maintaining the system.
 - (ii) Assurance that a person or firm of suitable qualifications will be employed to ensure continued proper operation of the system.
 - (iii) Assurance that there will be continuous operation of the system in the event of a power outage or natural disaster.
 - (iv) Assurance that all inspections and reports required by the ISDH or IDEM will be completed and that copies of all such reports will be provided to the staff.
 - (v) Provisions authorizing the County to collect fees and levy fines against the property owners singly and collectively in the event that the management arrangement is not strictly adhered to.

(7) Pedestrian System

- (a) For any subdivision with a density of 3 lots per acre or higher, the developer shall provide sidewalks on both sides of all new Subdivision Streets.

- (b) When proposed subdivisions, as provided in Subsection a above, abut existing streets that do not have sidewalks, the developer shall install such sidewalks. If the property to be subdivided abuts only one side of the existing street, the developer shall be responsible for sidewalks only on that side.
- (c) Sidewalks shall be separated from the curb by a grassed or landscaped area at least 4 feet in width.
- (d) The sidewalks shall be constructed of Portland cement concrete pavement in accordance with the requirements of the Americans With Disabilities Act and the Indiana Accessibility Code and shall meet the minimum specifications for sidewalks are shown in Figure 3-B-2:

Figure 3-B-2

Sidewalk Requirements		
Street Classification	Minimum Width	Minimum Concrete Depth
Arterial	8 feet	5 inches
Collector	6 feet	5 inches
Local	5 feet	4 inches
Subdivision/Marginal Access	5 feet	4 inches

- (e) The Commission may permit alternative locations for sidewalks where such alternative design is justified because of topography, to preserve existing trees, or other similar conditions.

(8) Monuments and Markers

The developer shall install monuments and markers in accordance with the standards of the County Surveyor. The locations and types of monuments and markers shall be shown on the improvement plans. Such monuments and markers shall be maintained in the required locations during the development of the subdivision. Financial guarantees for such monuments and markers shall not be released until all other subdivision improvements have been completed and accepted by the County and shall be released only if the monuments and markers are in place at that time.

(9) Construction Practices

- (a) All lots and other land included within a subdivision shall be graded in accordance with the approved construction plans. Except for land covered by buildings, included in streets, or where the grade has not been changed and natural vegetation not seriously disturbed, the land shall be covered with topsoil having an average finish depth of at least four inches. If the existing topsoil does not meet this depth requirement, the developer shall add a sufficient amount of topsoil to meet that standard. Topsoil shall not be removed from residential lots nor used as spoil but shall be redistributed so as to provide at least four inches of cover between sidewalks and curbs and between shoulders and right-of-way lines and shall be stabilized by seeding or planting.

- (b) Seeding and planting shall be completed in accordance with standard nursery practices.
- (c) When necessary to protect existing development, the Commission shall designate a construction entrance for the new subdivision. Construction signs and barricades shall comply with the Indiana Department of Transportation Standard Specifications.
- (d) The developer shall employ best management practices as identified by the IDNR Rule 5 and shall adhere to the erosion control plan during construction and shall protect installations within the subdivision, such as catch basins and other drainage structures, from damage during construction.

(10) Maintenance and Ownership of Common Facilities and Open Space

- (a) Any common facilities or open space areas designated in subdivisions shall remain undivided. Ownership of open space may be by an undivided interest of each lot owner, by the lot owners association, or by a recognized land trust or conservancy, such as but not limited to the Nature Conservancy or the Trust for Public Land. If ownership is by a lot owners association, a conservation or open space easement in favor of the County or an established land trust or conservancy shall be established. Open space or recreation areas may be dedicated to the County only if the affected County agency agrees to accept such dedication. Common recreational facilities such as a clubhouse, swimming pool, or tennis courts shall be owned by the lot owners association.
- (b) Any lot owners association that will have ownership of common facilities or open space shall meet the following criteria:
- (c) The association shall be responsible for insurance and taxes on the facilities or open space. The association shall have the authority to place liens on the property of any of its members who fail to pay their association dues in a timely manner.
- (d) The association shall have adequate staff to manage the common facilities, maintain its property in good condition, and handle the financial and business affairs of the association.
- (e) The association shall prepare an annual report and provide a copy of the report together with a list of association officers to the Department.
- (f) Any land trust owning such property shall be an incorporated non-profit organization having as a primary purpose the conservation of open space, natural areas, and/or agricultural land.

(11) Survey and Plat Preparation Standards

- (a) All surveys shall be conducted and plats prepared in accordance with the Indiana Survey Standards adopted by the Indiana Society of Professional Land Surveyors and any amendments thereto. In the event of any difference between those standards and this Ordinance, the stricter requirement shall apply.

Article 3: Development and Design Standards
(B) Major Subdivisions

- (b) All plats shall be neat, legible, reproducible, and reducible.
- (c) All plats shall contain a legend using standard symbols.

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ARTICLE 4: ADMINISTRATION

(A) ADMINISTRATIVE AND DECISION-MAKING BODIES

Figure 4-A-1 summarizes the roles and responsibilities of the administrative and decision-making bodies with regard to subdivision control.

Figure 4-A-1

Administrative and Decision Making Authority				
S = Staff Review	R = Review and Recommend	D = Final Decision	A = Appeal	
Subdivision Action	Staff	Plat Committee	Plan Commission	County Commissioners
Text Amendments	S		R	D
Exempt Subdivisions	D		A	
Minor Subdivision Primary Approval	S	D	A	
Minor Subdivision Secondary Approval	D	A	A	
Major Subdivision Primary Approval	S	R	D	
Major Subdivision Secondary Approval	D		A	
Modifications	S	R	D	
Interpretation	D	A	A	

(1) County Commissioners

- (a) In accordance with IC 36-7-4-701, the County Commissioners shall, in the zoning ordinance, designate the districts in which subdivision of land may occur. The County Commissioners also shall adopt the Subdivision Control Ordinance.
- (b) The County Commissioners shall accept appropriate performance guarantees, maintenance guarantees, and dedications of rights-of-way or public improvements.

(2) Plan Commission

- (a) In accordance with IC 36-7-4-701, after the Subdivision Control Ordinance is adopted, the LaGrange County Plan Commission has exclusive authority over the approval of subdivisions.
- (b) In accordance with IC 36-7-4-704, the Plan Commission shall adopt uniform fees proportioned to the cost of checking and verifying proposed plats.

- (c) The Commission shall, in accordance with IC 36-7-4-705, establish uniform rules with regard to investigations and hearings and shall maintain accurate records of proceedings before the Commission.
- (d) The Plan Commission shall appoint the members of the Plat Committee, as provided by IC 36-7-4-701 and the Commission's Rules of Procedure.
- (e) The Plan Commission shall conduct public hearings and make written findings as to whether the proposed subdivision complies with the standards of this Ordinance.

(3) Plat Committee

- (a) A Plat Committee is hereby established in accordance with IC 36-7-4-701. The membership shall be as described in the Plan Commission Rules of Procedure.
- (b) The Plat Committee is authorized to grant primary approval, without notice or hearing, of a minor subdivision that complies in all respects with the standards of this ordinance, subject to the right to appeal to the Plan Commission.
- (c) The Plat Committee shall keep accurate records of its proceedings and shall operate in accordance with the Plan Commission Rules of Procedure.

(4) Staff

- (a) The staff is hereby designated to administer and interpret this Ordinance. Any staff interpretation of the ordinance may be appealed to the Plan Commission.
- (b) The staff shall accept applications and filing fees for subdivisions.
- (c) In accordance with IC 36-7-4-705, the staff shall review proposed subdivisions for technical conformity with the standards set forth in this Ordinance and shall set a date for a public hearing on each proposed subdivision.
- (d) The staff is hereby authorized to grant secondary approval to minor and major subdivisions, provided that the staff finds that all conditions of primary approval have been met.

(B) AMENDMENTS

In accordance with IC 36-7-4-701, this Ordinance may be amended in the same manner as the Zoning Ordinance.

(C) MODIFICATIONS

(1) General

- (a) The Commission may grant such modifications to the requirements and standards of this Ordinance as will not be contrary to the public interest, where owing to extraordinary conditions, fully demonstrated by the applicant on the basis of facts presented, strict compliance with the provisions of this Ordinance will result in practical difficulties or misuse of property. It is the intent of this Ordinance that this authority will be used sparingly and only when the applicant has clearly demonstrated that all criteria in Article 4, Section (D) (2) are met. The burden of proof is on the applicant.
- (b) In granting modifications, the Commission may require such conditions as will, in its judgment secure substantially the purposes of this Ordinance.
- (c) A request for a modification from the terms of this Ordinance shall be submitted in writing at the time when the subdivision is filed with the Commission for consideration for primary approval. The request shall state fully the grounds for the application and all facts relied upon by the applicant.

(2) Findings

In the exercise of its authority under this section, the Commission shall grant modifications only upon finding that all of the following criteria are met:

- (a) The modification will not be detrimental to the public health, safety, or general welfare;
- (b) The modification will not adversely affect adjacent property;
- (c) The modification is justified because of exceptional topographic or other physical conditions unique to the property involved and is not to correct mere inconvenience or financial disadvantage;
- (d) The conditions upon which the modification request is based are unique to the property for which the relief is sought and are not applicable generally to other property;
- (e) The modification is consistent with the intent and purposes of this ordinance and with the Comprehensive Plan
- (f) The condition necessitating the modification was not created by the owner or applicant;
- (g) The relief sought will not in any manner vary the provisions of the Zoning Ordinance.

(D) EXEMPT SUBDIVISIONS

(1) General

- (a) The staff is hereby authorized to certify that subdivisions qualify as exempt under the terms of this ordinance.
- (b) The staff shall review all exempt subdivision applications and shall determine whether such subdivision is within one of the categories listed as exempt in Article 2, Section A and shall issue a written finding to the applicant.

(2) Filing

- (a) An application for approval of an exempt subdivision shall be filed with the department on forms specified by the department.
- (b) Applications for exempt subdivisions shall contain all required materials as specified in the Plan Commission Rules of Procedure.

(3) Recording

The approved drawing of the exempt subdivision must be recorded in the Office of the LaGrange County Recorder within the time limit established in Figure 4-G-1, or the approval will be null and void.

(E) MINOR SUBDIVISIONS

(1) General

- (a) The Plat Committee is hereby authorized to grant primary approval to Minor Subdivisions. The Committee may impose such conditions as are necessary to ensure compliance with the standards of this Ordinance.
- (b) The Zoning Administrator or designee thereof is hereby authorized to grant secondary approval to Minor Subdivisions. Such approval shall be granted only after expiration of the appeal period and after all conditions of primary approval imposed by the Plat Committee have been met.

(2) Filing

- (a) An application for approval of a Minor Subdivision shall be filed with the department on forms specified by the department.
- (b) Applications for Minor Subdivisions shall contain all required materials as specified in the Plan Commission Rules of Procedure.

(3) Amendment

If the applicant desires to make changes to a Minor Subdivision that has received primary approval from the Plat Committee, the applicant shall follow the same procedure as for the initial approval.

(4) Appeal

A final decision of the Plat Committee may be appealed to the Plan Commission in accordance with the provisions of IC 36-7-4-700 et seq. or other applicable law or statute. In accordance with IC 36-7-4-708, any appeal must be filed in writing within 10 days after the notice of Plat Committee action is mailed to interested parties.

(5) Recording

The approved drawing of the Minor Plat must be recorded in the Office of the LaGrange County recorder within the time limit established in Figure 4-G-1, or the approval will be null and void.

(F) MAJOR SUBDIVISIONS

(1) General

- (a) The Plan Commission, in accordance with IC 36-7-4-702 is authorized to grant primary approval to Major Subdivisions after a duly advertised public hearing. The Committee may impose such conditions as are necessary to ensure compliance with the standards of this Ordinance.
- (b) The Zoning Administrator or designee thereof is hereby authorized to grant secondary approval to Major Subdivisions. Such approval shall be granted only after all conditions of primary approval imposed by the Plan commission have been met.

(2) Filing

- (a) An application for primary approval of a Major Subdivision shall be filed with the department on forms specified by the department.
- (b) Applications for Minor Subdivisions shall contain all required materials as specified in the Plan Commission Rules of Procedure.

(3) Recording

The approved drawing of the Major Plat must be recorded in the Office of the LaGrange County Recorder within the time limit established in Figure 4-G-1, or the approval will be null and void.

(G) VALIDITY OF APPROVAL

(1) Time Periods

Approvals granted under the terms of this Ordinance shall be valid for the time periods indicated in the Figure 4-G-1.

Figure 4-G-1

Validity of Approval		
Type of Approval	Action Required	Deadline for Action
Exempt Subdivision	Recording of drawing	30 days from date of staff approval
Primary Approval of Minor Subdivision	Application for Secondary Approval	6 months from date of Primary Approval
Secondary Approval of Minor Subdivision	Recording of Plat	3 months from date of Secondary Approval
Primary Approval of Major Subdivision	Application for Secondary Approval	18 months from date of Primary Approval
Secondary Approval of Major Subdivision	Recording of Plat	18 months from date of Secondary Approval

(2) Expiration

In the event that the required action is not taken within the specified time period, the approval shall be null and void.

(3) Extensions

The Commission may grant extensions of time if the applicant demonstrates to the Commission's satisfaction that there are extenuating circumstances that necessitate or justify the extension. The applicant must request such extension before the expiration of the approval period.

(4) Phasing

The Commission may allow a subdivision to be developed in phases. The applicant shall request phasing and provide a phasing schedule at the time of filing for primary approval. If the Commission approves the development to be completed in phases, secondary approval of each phase shall automatically extend deadline for secondary approval of subsequent phases for an additional 18 months.

(H) IMPROVEMENTS AND FINANCIAL GUARANTEES

(1) Completion of Improvements

All improvements required by the Commission shall be shown on the improvement plans and must be completed within two years from the date of approval, with the following exceptions:

- (a) If sidewalks are to be installed as lots are developed, the Commission may approve time extensions for sidewalk completion with the submission of an appropriate financial guarantee. Each extension shall be for a maximum of two years, and no more than 3 such extensions may be granted. In

deciding whether to grant the extension, the Commission shall consider the degree of completion of construction in the subdivision, the effect of the extension on property owners in the subdivision, and weather or other conditions affecting construction.

- (b) The County Highway Engineer may approve a time extension for installing the final paving course (surface coat) with the submission of an appropriate financial guarantee. The time extension shall be for a maximum of two years, and only one such extension may be granted. In deciding whether to grant the extension, the engineer shall consider the degree of the completion of the subdivision, the effect of the extension on property owners in the subdivision, and weather or other conditions affecting the construction. The engineer's decision to deny an extension may be appealed to the Commission.
- (c) Other extensions of time may be approved by the Commission with the submission of an appropriate financial guarantee if unusual conditions exist that impede timely completion. In deciding whether to grant the extension, the Commission shall consider the degree of the completion of the subdivision, the effect of the extension on property owners in the subdivision, and weather or other conditions affecting the construction.

(2) Secondary Approval and Performance Guarantees

A subdivision plat may be recorded only after secondary approval has been given as specified in this chapter. Secondary approval shall not be given until one of the following has been accomplished:

- (a) The County Commissioners have accepted for perpetual maintenance of required public improvements and all improvements have been satisfactorily completed in accordance with the approved plans.
- (b) The applicant has posted financial guarantees in an amount equal to one hundred twenty-five percent of the cost of the improvements. The form and length of the guarantees must be acceptable to the county attorney. If time extensions are granted under Article 4, Section (H) (1), the cost estimate must be reviewed and the amount of the guarantee increased if necessary.

(3) Maintenance Guarantees

As a condition of the acceptance of improvements and/or release of financial guarantees posted under the terms of this section, the subdivider shall post with the Commissioners financial guarantees ensuring maintenance of the improvements in good repair. These guarantees shall be in an amount equal to twenty-five percent of the estimated cost of all improvements and shall be in effect for a period of one year.

(4) Release of Financial Guarantees

- (c) After completion of all public improvements and prior to the release of the performance guarantee on the improvements, the subdivider shall provide drawings showing the actual location of all installed street improvements, sanitary and storm sewer improvements, water mains, fire hydrants, improvements, valves and stubs, monuments and markers, drainage facilities and other installed permanent improvements. This map shall be certified by a registered engineer or land surveyor. One copy of these plans shall be submitted to the County Highway Engineer and one copy shall be submitted to the Planning Department.
- (d) The Commissioners may grant a partial release from a financial guarantee for portions of the improvements which are complete and accepted by such Commissioners, provided that the maintenance guarantee as specified in Article 4, Section (H) (3) is posted for such portion of the improvements.

(5) Inspection

(a) Preconstruction

Before beginning any work within the subdivision, the developer shall meet on the site with appropriate representatives of the county. These representatives may include but are not limited to the county surveyor, the county engineer, the county health officer, and the county extension educator.

(b) Construction

The appropriate county representatives shall inspect and require that the installation of all improvements take place in accordance with plans approved by the Commission. The county representatives shall have authority over the schedule of construction, materials used, methods of construction, and workmanship to ensure compliance with the approved plans and terms of the agreement.

ARTICLE 5: VIOLATIONS AND PENALTIES

(A) COMPLAINT

Whenever a violation of this Ordinance occurs or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the staff. The staff shall properly record such complaint and immediately investigate. If acts elicited by such investigation are sufficient to establish a reasonable belief that a violation has occurred on the part of the party investigated, such official shall issue a citation in accordance with this Section and/or file with the County Attorney a complaint against such person requesting action thereon as provided by this Ordinance and in accordance with law.

(B) NUISANCE DECLARED

Any buildings erected, raised or converted, or land or premises used in violation of any section of this Ordinance or regulation thereof is hereby declared to be a common nuisance and the owner thereof shall be liable for maintaining a common nuisance, which may be restrained or enjoined or abated in any appropriate action or proceeding.

(C) PENALTIES

Any person who violates any Section of this Ordinance or regulation thereof or fails to comply with any of its requirements, including violations of conditions and safeguards established in connection with this Ordinance, shall be guilty of an ordinance violation and upon conviction, shall be fined in a sum not less than \$25 nor more than \$500 for each day's violation, plus court costs and attorney fees.

The owner of any premises or part thereof, and any architect, builder, contractor, realtor, agent or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

(D) INJUNCTION

The Commission or any designated administrative official may institute a suit or injunction in the Circuit or Superior Court of LaGrange County to restrain any person from violating the Sections of this Ordinance.

The Commission may institute a suit for mandatory injunction directing a person to remove a structure erected in violation of the Sections of this Ordinance or to make the same comply with its terms. If such Commission is successful in its suit, the respondent shall bear the costs of the action including reasonable attorney's fees.

(E) OTHER REMEDIES

Nothing herein contained shall prevent the County, City or Town from taking such other lawful action as is necessary to prevent or remedy any violation.

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ARTICLE 6: DEFINITIONS AND RULES OF INTERPRETATION

(A) MEANING AND INTENT

All provisions, terms, phrases, and expressions contained in this Ordinance shall be construed according to this Ordinance's stated purpose and intent.

(B) TEXT CONTROLS

In case of any difference of meaning or implication between the text of this Ordinance and any heading, drawing, table, or figure, the text shall control.

(C) LISTS AND EXAMPLES

Unless otherwise specifically indicated, lists of items or examples that use terms such as "including," "such as," or similar language are intended to provide examples, not to be exhaustive lists of all possibilities.

(D) COMPUTATION OF TIME

Unless the terms of a specific provision state otherwise (e.g., some provisions specify "business days"), periods of time defined by a number of days shall mean a number of consecutive calendar days, including all weekend days, holidays, and other non-business/working days; however, if the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded.

(E) REFERENCES TO OTHER REGULATIONS, PUBLICATIONS AND DOCUMENTS

Whenever reference is made to a resolution, ordinance, statute, regulation, or document, that reference shall be construed as referring to the most recent edition of such regulation (as amended), resolution, ordinance, statute, regulation, or document or to the relevant successor document, unless otherwise expressly stated.

(F) PUBLIC OFFICIALS AND AGENCIES

All public officials, bodies, and agencies to which references are made are those of LaGrange County, unless otherwise expressly stated. Whenever reference is made to a public official's Ordinance or name of a public agency, that reference shall be construed as referring to the most up-to-date Ordinance or agency name, or to the relevant successor official or agency.

(G) DELEGATION OF AUTHORITY

Whenever a provision appears requiring the head of a department or another officer or employee of the County to perform an act or duty, that provision shall be construed as authorizing the department head or officer to delegate the responsibility to subordinates, unless the terms of the provision specify otherwise.

(H) TECHNICAL AND NON-TECHNICAL WORDS

Words and phrases not otherwise defined in this Ordinance shall be construed according to the common and approved usage of the language, but technical words and phrases not otherwise defined in this Ordinance that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

(I) MANDATORY AND DISCRETIONARY TERMS

The word “shall” is always mandatory, and the words “may” or “should” are always permissive.

(J) CONJUNCTIONS

Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

- (1) And indicates that all connected items, conditions, provisions, or events shall apply; and
- (2) Or indicates that one or more of the connected items, conditions, provisions, or events shall apply.

(K) TENSE AND USAGE

Words used in one tense (past, present, or future) include all other tenses, unless the context clearly indicates the contrary. The singular shall include the plural, and the plural shall include the singular.

(L) GENDER

The masculine shall include the feminine, and vice versa.

(M) DEFINITIONS

- (1) **AASHTO** means the American Association of State Highway and Transportation Officials
- (2) **Access Easement** means a private way meeting the standards of this Ordinance that provides access to lots, tracts or parcels of land.
- (3) **Alley** means a minor way that provides vehicular access to the back side of property that abuts a street.
- (4) **Applicant** means the owner or authorized representative thereof of land proposed for subdivision.
- (5) **As-built Plans** means a drawing or drawings accurately indicating the location and design details of all improvements installed in relation to the subdivision.

- (6) **Block** means property abutting on one side of a street, and lying between the two nearest intersecting or intercepting streets, or between the nearest intersection of an intercepting street and railroad right-of-way, waterway or other definite barrier. For purposes of this definition, a cul-de-sac less than 100 feet in length does not constitute an intersecting or intercepting street.
- (7) **Building Site** means the three-dimensional space within which a structure is permitted to be built on a lot and that is defined by maximum height regulations, and minimum yard setbacks and is large enough to accommodate the principal structure, any on-site sewage disposal system, and customary accessory structures such as garages, decks, and patios.
- (8) **Cluster Treatment System or Cluster Private Sanitary Waste Disposal Treatment System** means a waste disposal system serving more than one lot and in which solids and grease are removed in one or more septic tanks and the effluent discharged to a common drainage field.
- (9) **Commission** means the LaGrange County Plan Commission.
- (10) **Community Sewer System** means a package wastewater treatment plant or a cluster private sanitary waste disposal treatment system.
- (11) **Comprehensive Plan** means the complete plan or any of its parts for the development of LaGrange County adopted in accordance with IC 36-7-4as is now or may hereafter be in effect.
- (12) **Construction Plans** means any maps or drawing accompanying a subdivision plat showing the location and design details of improvements to be installed for the subdivision in accordance with the requirements of this Ordinance.
- (13) **County Commissioners** means the Board of County Commissioners of LaGrange County, Indiana.
- (14) **County Extension Educator** means the LaGrange County Extension educator.
- (15) **County Health Department** means the LaGrange County Health Department.
- (16) **County Surveyor** means the LaGrange County surveyor.
- (17) **Covenant** means a restriction placed on the development or use of land through a written, recorded instrument.
- (18) **Department** means the LaGrange County Planning Department.
- (19) **Developer** means any individual subdivider, firm, association syndicate, partnership, corporation, trust or any other legal entity commencing proceedings under these regulations to effect a subdivision of land. (See Subdivider)
- (20) **Development Agreement** means a document that establishes the contractual relationship between the developer of a subdivision and the County for the installation of improvements in accordance with the standards and specifications set forth in this Ordinance.
- (21) **Drainage Swale** means a natural or constructed waterway, usually broad and shallow, covered with erosion-resistant grasses, used to conduct surface water from a field, diversion or other site feature.
- (22) **Drainage System** means any combination of surface and/or subsurface drainage components fulfilling the drainage requirements of this Ordinance.

- (23) **Easement** means a grant by the property owner of the use of part of the owner's land by another for a specified purpose.
- (24) **Erosion** means the wearing away of the land surface by the action of wind, water or gravity.
- (25) **Exempt Subdivision** means a subdivision meeting the criteria in Article 2, Section A.
- (26) **Floodway** means that area shown on the LaGrange County Flood Boundary and Floodway Maps of current adoption as meeting the definition of floodway promulgated by the Federal Emergency Management Agency and the Indiana Department of Natural Resources.
- (27) **Floodway Fringe** means that area shown on the LaGrange County Flood Boundary Maps of current adoption as meeting the definition of floodway fringe promulgated by the Federal Emergency Management Agency (FEMA) and the Indiana Department of Natural Resources.
- (28) **Flood Hazard Area** means any floodplain, floodway, floodway fringe district or any combination thereof as illustrated on the flood boundary and floodway map prepared by the Federal Emergency Management Agency (FEMA). This is the area immediately affected by floodwater during a "one-hundred-year flood."
- (29) **Floodplain** means the floodway and the floodway fringe and any other areas indicated on the Flood Boundary maps as "flood prone areas" for which no data are available.
- (30) **Flood Protection Grade** means the following:
 - (a) For residential buildings, the elevation of the lowest floor of a building or structure. If a building contains a basement, the basement is considered the lowest floor.
 - (b) For commercial and industrial buildings, the water surface elevation for which the building is protected according to standards and specifications established by the Federal Emergency Management Agency.
- (31) **IDEM** means the Indiana Department of Environmental Management.
- (32) **IDNR** means the Indiana Department of Natural Resources.
- (33) **Improvement Plans or Drawings** means the maps, drawings and text accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of this chapter as a condition of the approval of the plat.
- (34) **ISDH** means the Indiana State Department of Health.
- (35) **LaGrange County Highway Standards Manual** means the manual adopted by the Board of County Commissioners, and any amendments thereto.
- (36) **Landscape Screen** means any combination of fences, walls, hedges, shrubs, trees and other landscape materials which effectively provide a solid, dense and opaque mass, to prohibit view, absorb sound and provide site delineation. Such screen shall provide total opacity throughout the year.

- (37) **Legal Description** means a property description recognized by law that defines boundaries by reference to government surveys, coordinate systems, or recorded maps and is sufficient to locate property with oral testimony.
- (38) **Legal Lot of Record** means a lot created in accordance with applicable regulations and shown or described on a plat or deed in the Office of the County Recorder.
- (39) **Lot** means, for the purpose of these regulations, a parcel of land of sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on a dedicated, maintained public street, approved private street, or access easement.
- (40) **Lot, Double-Frontage** means a lot having frontage on two parallel streets or that fronts upon two streets that do not intersect at the boundaries of the lot.
- (41) **Lot Frontage** means the linear distance of a lot measured at and along the front lot line where the lot abuts a street or other approved access.
- (42) **Lot Width** means the distance between side lot lines as measured at and along the front setback line.
- (43) **Manual on Uniform Traffic Control Devices** means the book by that title prepared by the Joint Committee on Traffic Control Devices, U.S. Department of Commerce, Bureau of Public Roads, as amended.
- (44) **Major Subdivision** means all subdivisions other than those subdivisions meeting the applicability requirements set forth in Article 2, Section C (minor plat applicability) or the definition of “exempt subdivision.”
- (45) **Minor Subdivision** means a division of land fronting an existing public right-of-way, not requiring any new streets, alleys, roads or opening of a new public right-of-way and which complies in all other respects with this subdivision control ordinance and the zoning ordinance of the County.
- (46) **NRCS** means the Natural Resources Conservation Service
- (47) **Open Space** means any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment.
- (48) **Open Space, Common** means land within or related to a development, not individually owned or dedicated for public use, that is designed and intended for the common use or enjoyment of the residents and their guests of the development and may include such complementary structures and improvements as are necessary and appropriate.
- (49) **Owner (legal title)** means the person(s) listed in the most recent official records of the township or county assessor.
- (50) **Package system or Package system wastewater treatment plant** means a prefabricated mechanical treatment facility installed to treat the sewage generated from the lots in a subdivision.

- (51) **Parent Tract or Property** means the land from which the new lot or tract of land is being taken, as recorded in the recorder's office at the time of adoption of this Ordinance. No lot created after the effective date of this Ordinance shall be considered to be a parent tract.
- (52) **Person** includes an individual, corporation, firm, partnership, association, organization or any other unit or legal entity.
- (53) **Petitioner** means the owner(s) of land proposed to be subdivided or his/her representative.
- (54) **Plat** means a map indicating the subdivision or resubdivision of land, and intended to be recorded in the LaGrange County recorder's plat books.
- (55) **Plat Committee** means a committee appointed by the Commission to review and act upon minor plats.
- (56) **Plat, Final** means a drawing prepared in accordance with the provisions of this ordinance, submitted for secondary approval and intended for recording.
- (57) **Plat, Minor.** See minor subdivision.
- (58) **Primary Approval** means approval granted by the Commission to a preliminary plat. The primary approval shall include all conditions needed to bring the plat into conformance with this ordinance.
- (59) **Principal Building** means a building in which the principal use of the lot on which it is located is conducted, including a building that is attached to such a building in a substantial way, such as by a roof (with respect to residential uses, it means the main dwelling).
- (60) **Resubdivision or Replat** means any change in a map of a recorded subdivision plat affecting any street layout, easement, area reserved for public use, lot line, or affecting any map or plan legally recorded prior to the adoption of any regulations controlling subdivision. A replat shall be considered a minor plat, provided, that no new streets or roads or utility extensions are required. If streets or utility extensions are required, then the plat shall be considered a major subdivision of land.
- (61) **Secondary Approval** means the final approval granted to a subdivision by the Commission or a designated representative. This approval authorizes the owner or agent to record the plat.
- (62) **Setback** means the distance between a building and any lot line.
- (63) **Setback Line** means the line that is the required minimum distance from any lot line and that establishes the area within which the building or structure must be erected or placed.
- (64) **Street** means a right-of-way dedicated or otherwise legally established for public use, which affords the principal means of access to abutting property. A street may be designated as a highway, thoroughfare, parkway, boulevard, road, avenue, lane, drive or other appropriate name. A street may also be classified according to function as follows:
 - (c) **Expressways** are limited-access highways that carry large volumes of traffic and are of more importance regionally than locally. They provide continuous, high-speed traffic flow.

- (a) **Arterial Streets** are high-capacity, high-volume streets that provide access to and through the county. The primary function of these streets is traffic movement, not access to property.
 - (b) **Collector Streets** are medium-volume roads that collect and distribute traffic from lower-classification streets to arterials and expressways or activity centers. Traffic movement on these roads is a higher priority than access to property.
 - (i) **Major Collector Streets** are intended primarily for non-residential traffic. Direct access to property from these streets is extremely limited.
 - (ii) **Minor Collector Streets** are intended primarily for residential traffic. Direct access to property from these streets is permitted under specified circumstances.
 - (c) **Local Streets** are medium-volume roads that form the majority of the county road network. Often they are part of the numbered county road system and are typically longer than subdivision streets. While in some cases these streets may provide direct access to property, their primary function is traffic movement.
 - (d) **Subdivision Streets** are low-capacity, low-speed roads intended primarily to serve as direct access to property.
- (65) **Street, Dead-End** means any street with only one outlet but having no paved turn-around at the closed end.
- (66) **Street, Half** means a street for which only half the required right-of-way is dedicated or improved.
- (67) **Subdivider** means any person who (1) having an interest in land, causes it, directly or indirectly, to be subdivided as defined herein, or (2) directly or indirectly, sells, leases or develops or offers to sell, lease or develop, or advertises to sell, lease, or develop, any interest, lot, parcel, site, or unit in a subdivision, or (3) engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision or any interest, lot, parcel, site, or unit in a subdivision, or (4) is directly or indirectly controlled by or under direct or indirect common control with any of the foregoing. (See Developer.)
- (68) **Subdivision** means the division of a parcel of land, of less than 10 acres, into two or more lots, parcels, sites, units, plats or interests for the purpose of offer, sale, lease, or development. It also includes resubdivision or the grant of a right-of-way or access easement.
- (69) **Subdivision, Major.** See Major subdivision.
- (70) **Subdivision, Minor.** See Minor subdivision.
- (71) **Subsurface Drainage** means a system of pipes, tile, conduit or tubing installed beneath the ground surface used to collect ground water from individual parcels, lots or building footings.
- (72) **Surface Drainage** means a system by which the stormwater runoff is conducted to an outlet. This would include the proper grading of parking lots, streets,

driveways, yards, etc., so that the stormwater runoff is removed without ponding and flows to a drainage swale, open ditch or a storm sewer.

- (73) **Thoroughfare Plan (Official)** means the part of the comprehensive plan, now or hereafter adopted which includes a major street and highway plan and sets the location, alignment, identification, and classification of existing and proposed public streets, highways and other thoroughfares.
- (74) **Wetland** means those areas where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions. The Indiana Wetlands Inventory Maps produced by the Indiana Department of Natural Resources Division of Water will be used as references in determining the size and location of wetlands.
- (75) **Zone A** means floodplain.

ARTICLE 7: CERTIFICATES AND NOTATIONS

(A) SURVEYOR CERTIFICATE

The following certificate shall appear on all plats.

I, _____ (name) _____ hereby certify that I am a professional land surveyor, licensed in compliance with the laws of the State of Indiana; that, to the best of my knowledge, this plat correctly represents a survey completed by me, or under my direct supervision, on _____ (date) _____ ; that any changes from the description appearing on the last record transfer of the land contained in the final plat are so indicated; that all monuments shown thereon actually exist or will be installed (before the release of the financial guarantees) and their position is correctly shown, and, that all dimensional and geodetic data are correct.

(Signature) (Seal)

(B) OWNER CERTIFICATE

The applicable portions of this certificate shall appear on all plats.

We, the undersigned _____ (names) _____ owners of the real estate shown and described herein, do hereby certify that we plat and subdivide said real estate in accordance with this plat.

The subdivision shall be known and designated as _____ consisting of _____ lots and _____ blocks and containing _____ acres.

All rights-of-way and public lands shown and not heretofore dedicated or deeded to the public are hereby reserved for public use.

Clear title to the land contained in this plat is guaranteed. Any encumbrances and special assessments are explained as follows:

The setback lines shall be determined by the regulations of the LaGrange County, Indiana Zoning Ordinance of current adoption.

There are strips of ground shown on this plat and marked easement, reserved for the use of public utilities and subject to the paramount right of the utility or County to install, repair, maintain or replace its installation.

Article 7: Certificates and Notations
(C) Primary Approval Certificate

All drainage easements identified on the plat are specifically authorized to be used for drainage purposes. All grades shall be maintained as constructed. Additional cut and fill work within drainage easement areas is prohibited unless authorized by the LaGrange County Plan Commission.

WITNESS OUR HANDS AND SEALS this _____ day of _____, 20____.

Before me, the undersigned Notary Public, in and for the County and State, personally appeared _____ and each separately and severally acknowledged the execution of the foregoing instrument as his or her voluntary act and deed, for the purposes therein expressed.

Witness my hand and Notarial Seal this _____ day of _____, 20____.

Notary Public (Seal)

(C) PRIMARY APPROVAL CERTIFICATE

Plan commission primary approval certificate (for all plats which are approved by the full plan commission).

PRIMARY APPROVAL

Under authority provided by IC 36-7-4-700, Subdivision Control, and any amendments thereto, this plat was given PRIMARY APPROVAL by LaGrange County, Indiana, as follows:

Approved by the County Plan Commission at a meeting held _____, 20____

President

Secretary

Void unless secondary approval is received by _____, 20____.

(D) SECONDARY APPROVAL CERTIFICATE

SECONDARY APPROVAL

All conditions of primary approval have been met and this plat is granted SECONDARY APPROVAL.

Approved by the Planning Department _____, 20_____

Zoning Administrator

Void unless Recorded by _____, 20_____

(E) PLAT COMMITTEE MINOR PLAT APPROVAL

PRIMARY APPROVAL

Under authority provided by IC 36-7-4-700, Subdivision Control, and any amendments thereto, this plat was given PRIMARY APPROVAL by LaGrange County, Indiana, as follows:

Approved by the Plat Committee at a meeting held _____, _____

Chairman

Secretary

Void unless secondary approval is received by _____, _____.

(F) IMPROVEMENT PLANS CERTIFICATE

IMPROVEMENT PLANS

This document contains or is a part of the approved improvement plans for the following subdivision: _____. The improvements to be installed in this subdivision will not be accepted for maintenance by the Board of County Commissioners unless and until all improvements shown hereon have been installed and are in substantial compliance with these plans.

Zoning Administrator

Date

(G) DEDICATION CERTIFICATE

BOARD OF COUNTY COMMISSIONERS DEDICATION ACCEPTANCE

Be it resolved by the Board of County Commissioners, LaGrange County, Indiana, that the dedications shown on this plat are hereby approved and accepted this _____ day of _____

Chairman

Attest:

(H) TAX CERTIFICATE

The real property has been duly entered for taxation and transferred on the records of the Auditor of LaGrange County.

This _____ day of _____, _____

LaGrange County Auditor

(I) FLOOD HAZARD NOTATION

All plats located within or partially within the flood hazard area shall add the following notation to the owner's certificate:

Minimum flood protection. The minimum flood protection grade in _____ is set at or above _____ feet, M.S.L., which is two (2) feet above the 100 year frequency flood.

The above certificate is not required for administrative and agricultural plats in Zone A (elevation undetermined); however, the extent of the floodplain as show on the FIRM or FBFM must still be shown on the plat.

(J) PRIVATE ACCESS EASEMENT NOTATION

Those plats containing private access easements shall add the following notation to the owner's certificate:

This plat contains property shown as private access easements. The responsibility for maintenance and snow removal shall be assumed by the property owners and not by the County.

(K) RECORDING NOTATIONS

- (a) Recording is hereby authorized by the owners:
_____.
- (b) Entered for taxation this _____ day of _____, _____.
- (c) Recorded in Plat Book _____, page number _____, this the _____ day of _____, _____, at _____ O'clock. Instrument No. _____ Fee Paid.
- (d) _____, Recorder, LaGrange County.
- (e) Copy of plat received by _____, Assessor.

(L) REPLAT NOTATION

Replats and plat amendments shall contain the following as part of the recording notation.

Notation made on the original plat of _____, Plat Book _____, Page _____.

(M) SEWAGE SYSTEM COVENANT

As required in Article 3, Section (B) (6), the covenants applying to any major subdivision utilizing an alternative sewage disposal system shall include the following:

The _____ (Name of Subdivision) _____ Lot Owners Association shall be responsible for the repair, maintenance, improvement, and replacement of the sewage disposal system installed within _____ (Name of Subdivision) _____ pursuant to the provisions of Article 3, Section (B) (6) of the Subdivision Control Ordinance of LaGrange County, Indiana.

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