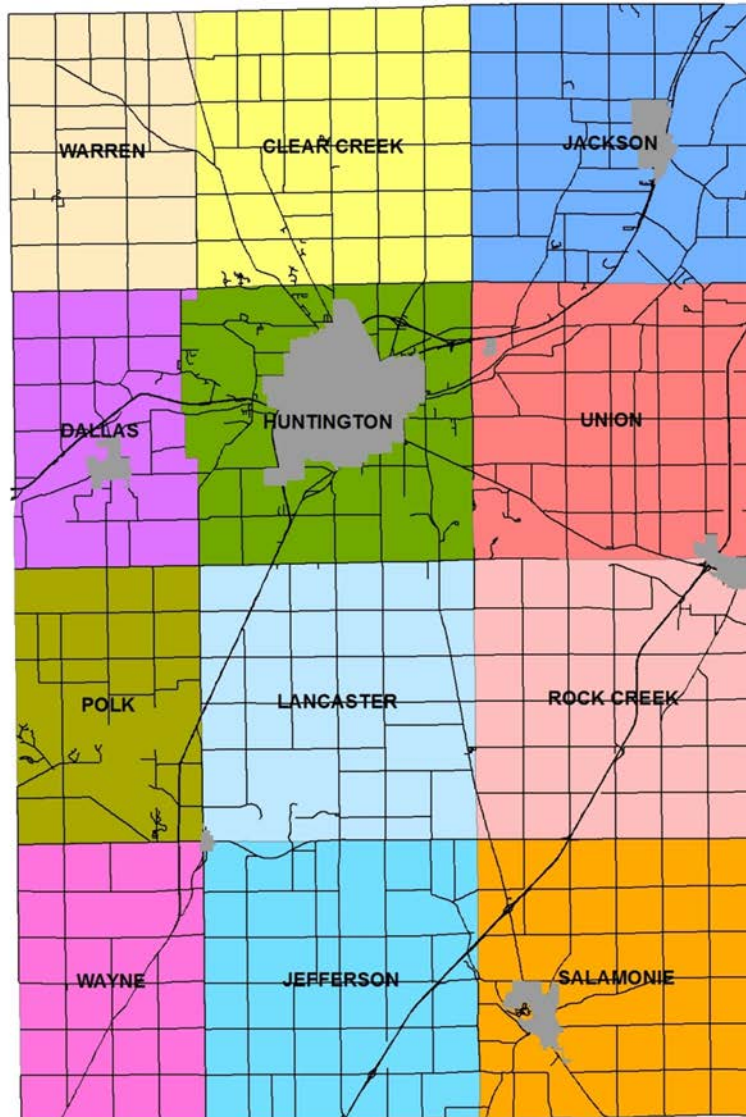


# TOWN OF MARKLE, INDIANA



## SUBDIVISION CODE REFERENCE BOOK

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(Ord. 2012-07)

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(Ord. 2015-04)

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**SECTION 1: TITLE**

- A. This Ordinance and all Ordinances supplemental or amendatory hereto, shall be known and cited as the Subdivision Code of the Town of Markle, Indiana.

**SECTION 2: PURPOSE**

- A. The purpose of this Subdivision Code is:
  - 1. To protect and provide for the public health, safety and general welfare;
  - 2. To guide development in accordance with the Comprehensive Plan;
  - 3. To provide for the safety, comfort and soundness of the built environment and related open spaces;
  - 4. Establish reasonable standards and procedures for the subdivision and re-subdivision of land, in order to further orderly layout and use of land;
  - 5. To protect the compatibility, character, economic stability and orderliness of all development through the application of reasonable design standards;
  - 6. To ensure that adequate facilities and infrastructure will be provided for in conjunction with development;
  - 7. To conserve and protect natural resources;
  - 8. To promote the coordination of existing and proposed roads, utilities and community facilities;
  - 9. To ensure the provision of drainage facilities, safeguarding of the water table, and protection from flooding or causing an increased risk of flooding; and
  - 10. To avoid scattered, illogical, and uncontrolled subdivisions of land that would result in the imposition of an excessive expenditure of public funds for the distribution or supply of infrastructure and/or services.

**SECTION 3: AUTHORITY**

- A. The provisions in this Ordinance are enacted pursuant to Indiana Code 36-7-4-700 series and Indiana Code 36-7-4-1000 series.

- B. The Town of Markle Plan Commission has exclusive control over the approval of plats and replats. The Subdivision Plat Committee is a sub-committee of the Town of Markle Plan Commission.
- C. The Huntington Countywide Department of Community Development is hereby authorized and directed to administer and enforce all of the provisions of this Ordinance. The Executive Director of the Department is the administrative official of the Department responsible for the administration and enforcement of this Ordinance.
- D. The jurisdiction of the Commission/Committee shall include:
  - 1. All incorporated areas in the Town of Markle, Indiana and the unincorporated areas within Huntington County, Indiana where the Town of Markle Plan Commission has exercised its right to extend its statutory extraterritorial jurisdictional area over contiguous unincorporated land outside the municipality.
- E. The Commission/Committee does not review, approve, or enforce covenants. Covenants are private land use and development controls enforced by property owners and Homeowners Associations within a subdivision.
- F. Restrictions, notes, easements, building setback lines, and similar annotations on a recorded subdivision plat are enforced by the Commission/Committee.

**SECTION 4: DEFINITIONS**

**ALLEY** - A public or private access way primarily designed to serve as secondary access to the side or rear of a property.

**APPLICANT** - The owner(s) or designated representative of land proposed to be subdivided.

**ARTERIAL** - A street intended to carry a high proportion of the total vehicular traffic of the County.

**BLOCK** - A tract of land bounded by streets, or by a combination of streets or other rights-of-ways.

**BOARD** - The Town of Markle Board of Zoning Appeals

**BUILDING** - A structure having a roof supported by columns or walls designed, built, or used for the enclosure, shelter or protection of persons, animals, or property.

**CENTRAL SEWAGE SYSTEM** - A community sanitary sewer system including collection and treatment facilities established by the developer to serve a new subdivision; or an existing public sanitary sewer system.

**CENTRAL WATER SYSTEM** - A community water supply system, including wells and/or surface water sources, treatment facilities, and distribution lines established by the developer to serve a new subdivision; or an existing public water system.

COLLECTOR STREET - A street intended to move traffic from local streets to arterial streets.

COMBINATION LEGAL – A document requirement for a non-conforming parcel request to be adjoined with an existing contiguous taxable parcel of record.

COMMISSION - The Town of Markle Plan Commission.

CONDOMINIUM - The division of building(s) and the related land into horizontal property interests meeting the requirements of and controlled by Indiana statutes for condominiums as prescribed by the Indiana Code, 32-1-6-1 through 31.

COUNTY - Huntington County, Indiana.

COVENANT - A restriction placed on the use or development of land through a recorded document.

CUL-DE-SAC - A local street with only one (1) vehicular traffic outlet, and a turnaround at the end of the street.

DEAD-END STREET - A street with only one (1) vehicular traffic outlet, and no turnaround at the end of the street.

DEPARTMENT - The Huntington Countywide Department of Community Development.

DETENTION BASIN - A manmade or natural water collector facility designed to collect surface and sub-surface water in order to impede its flow and to release the same at a rate acceptable to the Commission.

DEVELOPER - The owner(s), or designated representative thereof, of land proposed to be subdivided.

DEVELOPMENT - The construction, reconstruction, conversion, structural alteration, relocation or enlargement of any buildings; use or change in use of any buildings or land; or any extension of any use of land or any clearing, grading or other movement of land under the jurisdiction of the Commission.

DIRECTOR - Executive Director of the Huntington Countywide Department of Community Development.

DRAINAGE - The removal of surface water or groundwater from land by drains, grading or other means.

DRAINAGE SYSTEM - The conveyance system through which water flows from the land, including all watercourses, water bodies, and pipes.

DRIVEWAY - A means of vehicular access to not more than two (2) lots which provides access to parking spaces, garage, dwelling, or other structure.

EASEMENT - An authorization granted by a property owner(s) for limited use of private land specifically specified on the plat.

EROSION - The detachment and movement of soil or rock fragments, or the wearing away of the land surface, by water, wind, ice or gravity.

EXEMPTION CLAUSE - Any lot(s) that is subdivided from a parent parcel that is greater than twenty (20) acres in size – as long as the parent parcel itself remains at least twenty (20) acres in size – will be exempt from counting towards the two (2) permitted Minor Subdivisions. The lot(s) divided from the parent parcel will not be deemed a new parent parcel and will require Major Subdivision approval for further subdivision.

FLOODPLAIN - The channel proper and the areas adjoining any wetland, lake or watercourse, which have been or hereafter may be covered by the regulatory flood. (Additional Flood definitions and regulations are contained in Section 917 of the Town of Markle Zoning Ordinance, as amended).

FRONTAGE - The width of a lot measured along a street or private road.

HEALTH DEPARTMENT - The Huntington County Department of Health.

HUNTINGTON COUNTY ROAD MANUAL - The Huntington County Manual of Standard Specifications for Roads and Streets (Ordinance No. 1985-3, as amended).

INDIVIDUAL SEWAGE DISPOSAL SYSTEM - Any sewage treatment device approved by the Health Department to service an individual lot.

INFRASTRUCTURE - Facilities and services needed to sustain residential, commercial and industrial activities.

INTERESTED PARTIES - The property owners defined by the Rules of Procedure of the Commission who are to be notified of required public hearings.

LEGAL DESCRIPTION - A description which definitively describes property by reference to government surveys, coordinate systems or recorded maps.

LEGAL DRAIN - Any drainage system that is under the jurisdiction of the Huntington County Drainage Board as provided by IC-36-9-27.

LOCAL STREET - A street intended to provide access to other streets from individual properties.

LOCATION MAP - A map showing the location of the property proposed to be subdivided and its relationship with the closest intersecting streets/roads in all directions.

LOT - A tract, parcel, plot, or portion of a subdivision or any other parcel of land intended as a unit for the purpose of transfer of ownership or of building development.

LOT LINE ADJUSTMENT – Any time additional property is obtained and added to an existing taxable parcel of record by means of an approved survey.

LOT AREA - The size of a lot measured within the lot lines and expressed in terms of acres or square feet.

LOT, CORNER - A lot situated at the intersection of two (2) streets/roads.

LOT, DOUBLE-FRONTAGE - A lot which has frontage upon two parallel streets/roads, or which has frontage upon two streets/roads which do not intersect at the boundaries of the lot.

LOT LINE - A line dividing one lot from another lot or from a street, alley, or other right-of-way.

LOT LINE, FRONT - The line separating a lot from a street/road right-of-way.

LOT LINE, REAR - The lot line not intersecting a front lot line that is most distant from and most closely parallel to the front lot line.

LOT LINE, SIDE - Any lot line other than a front or rear lot line.

MAINTENANCE BOND - A form of security which may be required by the jurisdiction to ensure that required public improvements are designed according to Section 17 and will function as required for a specific period of time.

MONUMENT - An object which marks the location of a corner of a lot or subdivision, or other survey point.

PARENT PARCEL - A separate and distinct parcel of land as recorded at the time of adoption of this Ordinance in its original form as of January 1, 2005. The parent parcels can be subdivided a maximum of two (2) times as a Minor Subdivision with additional Minor Subdivisions occurring under the exemptions clause. All other subdivisions of a parent parcel will constitute a Major Subdivision.

PLAT - A drawing indicating the subdivision of land filed for and approved by the Subdivision Plat Committee or Commission and recorded with the Huntington County Recorder.

PLAT COMMITTEE - A committee established under the Rules of Procedure of the Commission responsible for review of subdivisions requiring Commission action.

PRESIDENT - The president of the Town of Markle Plan Commission Subdivision Plat Committee.

PRIMARY PLAT - The preliminary drawing(s), described in this Ordinance, indicating the proposed design of the subdivision to be submitted to the Commission.

PRIVATE ROAD - Vehicular access way to three (3) or more lots that is not an accepted public road or a road maintained by the jurisdiction.

PROPERTY OWNER - Any person, firm, corporation, partnership, association, organization or any other group that acts as a unit or legal entity with vested interest in the property.

PUBLIC IMPROVEMENT - Any street, sanitary sewer line, potable water line, storm water line, drainage structure or other facility for which the jurisdiction may ultimately assume the responsibility for maintenance and operation.

REPLAT - Any change in a recorded secondary plat of a subdivision in accordance with Section 20.

RETENTION BASIN - A manmade or natural water collector facility designed for the permanent storage of water.

RIGHT-OF-WAY - A strip of land occupied or intended to be occupied by a street, sidewalk, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, county drain, special landscaping, or for another special public use.

SECONDARY PLAT - The final drawing(s), described in this Ordinance, indicating the final design of the subdivision.

STORM WATER DETENTION - Provision(s) for storage of storm water run-off and the controlled release of such run-off.

STREET - A public right-of-way used or intended to be used for the passage or travel by motor vehicles.

SUBDIVISION - Any addition to, moving or creating of property lines on a recorded taxable parcel of record.

SUBDIVISION COORDINATOR - The person serving as staff to the Subdivision Plat Committee, preparing requested subdivision request.

SUBDIVISION, MAJOR - The division of a parcel of land wherein a proposed lot(s) is provided access from, or having frontage on, a new or existing street or new private road. Also any additional lot(s) created from a parent parcel exceeding the two (2) permitted Minor Subdivisions less than the twenty (20) acre size exemption clause.

SUBDIVISION, MINOR - The division of a parcel of land wherein all proposed lots have contiguous non-limited access road frontage on an existing approved street or private road, and also not exceeding the two (2) permitted Minor Subdivision splits less than twenty (20) acres in size. All subdivisions that have contiguous non-limited access road frontage on an existing approved street or private road and are greater than twenty (20) acres will be processed as Minor Subdivisions and will not count towards the two (2) subdivisions from a parent parcel exemption clause.

YARD - A required open space clear from the ground upward, unoccupied and unobstructed by any building or structure except as expressly permitted by the Zoning Ordinance.



YARD, FRONT - A yard extending the full width of the lot between the nearest line of the building or structure and the front lot line.

YARD, REAR - A yard extending the full width of the lot between the nearest line of the building or structure and the rear lot line.

YARD, SIDE - A yard extending the full length of the lot between the nearest line of the building or structure and the side lot lines, which extend from the front lot line to the rear lot line.

ZONING ORDINANCE - The Town of Markle Zoning Ordinance.

## **SECTION 5: POLICY**

- A. The subdivision of land is subject to the policies set forth in the Comprehensive Plan and Zoning Ordinance for the orderly and efficient development of the jurisdiction and land shall not be subdivided until proper provisions have been made for drainage, water, sewage, transportation facilities and other elements of viable community infrastructure.
- B. All required public improvements shall comply with the Ordinances, Codes, and regulations of the jurisdiction. All streets/roads shall be constructed in accordance with the Huntington County Road Manual.
- C. All proposed rights-of-way that contain public improvements to be dedicated to the jurisdiction, must have required financial surety in accordance with Section 17 before the jurisdiction will consider the request.
- D. No plat that includes rights-of-way will be accepted by the jurisdiction if the improvements in those right-of-way are to remain private.
- E. Any plat submitted to the jurisdiction for approval which includes improvements in rights-of-way shall have those improvements completed and accepted by the jurisdiction prior to the issuance of any Improvement Location Permit or Building Permit on a lot within said subdivision.
- F. The jurisdiction will not accept any rights-of-way for a street/road, or accept any street for maintenance purposes, unless the total Street network is at least one-thousand five-hundred (1,500) feet in length or provides access to at least twenty (20) lots.
- G. The usage of the term “right-of-way” for land plotting purposes shall mean that every right-of-way shown on a secondary plat is to be separate and distinct from the created lots or parcels adjoining such right-of-way. Right-of-way cannot be included within the dimensions or areas of such lots or parcels. Right-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains or any other use involving maintenance by a public agency shall be dedicated to public use by the applicant on whose plat such right-of-way is established.

- H. The width of all rights-of-way to be dedicated to the jurisdiction shall be in accordance with the Huntington County Road Manual.
- I. When the requirements of the Subdivision Code conflict with state laws or federal laws, the most restrictive provision shall apply. It is not the responsibility of the Department, Plat Committee, or the Plan Commission to seek out the most restrictive regulations.
- J. No action shall be taken on a request before the Town of Markle Subdivision Plat Committee until all application and submittal requirements have been satisfied and fees paid.
- K. Lots approved by the Commission, or Department under Ordinance 1992-14, as amended, are considered legal lots of record. Any conditions placed on approval of an exempt subdivision under Ordinance 1992-14, as amended remain in effect indefinitely. Provided that no conditions were placed on the approval limiting building on the lots, the lots are considered legal building sites for the purposes of this Ordinance. Lots created after the effective date of Ordinance 1992-14 (December 7, 1992) as amended, but not approved by the Department as an exempt subdivision or by the Commission as a subdivision, are not legal lots of record.
- L. Any subdivision of land where the newly created parcel is legally joined with an existing parcel of record shall not count towards the maximum number of permitted Minor Subdivisions allowed under this Ordinance.
- M. Any previously approved subdivision plat without a stamped "Record By" deadline, that has not been recorded, shall be deemed null and void if not recorded within 180 days from the effective date of this ordinance.

#### **SECTION 6: INTERPRETATION**

- A. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.
- B. The Director is responsible for all interpretation of this Ordinance. An appeal to an interpretation may be filed with the Commission in accordance with Section 22.
- C. This Ordinance repeals and replaces all previous subdivision regulations and amendments thereto as adopted by the Town Council of Markle, Indiana. Where this Ordinance is in conflict with another Ordinance(s), the more restrictive provision shall apply.

#### **SECTION 7: ADMINISTRATION**

- A. No land under the jurisdiction of the Commission shall be subdivided until approval is granted by the Plat Committee or Commission. No document transferring ownership of a lot, which was created by subdivision, shall be filed and recorded in the County Auditor's or Recorder's Office without approval by the Plat Committee or Commission.

- B. No Improvement Location Permit or Building Permit shall be issued for any lot created by subdivision on or after December 7, 1992 unless approval of the lot was granted by the Department or Commission as required under Ordinance 1992-12, as amended, or until approval of the subdivision is granted by the Plat Committee or Commission under this Ordinance.
- C. No Improvement Location Permit or Building Permit shall be issued for any lot within a Major Subdivision which requires Commission approval until all required public improvements are completed and accepted by the jurisdiction.
- D. The Commission shall have the authority to grant variances from the requirements of this Ordinance in accordance with Section 21.
- E. In specific cases and for documented reasons, the Department, Plat Committee, or Commission may waive the submission of a particular document or item required.
- F. The Plat Committee shall be established by the Commission for the purpose of reviewing all subdivisions requiring action by the Commission to ensure conformance with the regulations of this Ordinance. The Committee shall be established and conduct its activities in conformance with the Commission's Rules of Procedure. The Committee shall have authority to make final decisions on all Minor Subdivisions, secondary plats, and may prepare a report of findings for the Commission prior to public hearing for all Major Subdivisions or other requests as they relate to the subdivision of land.
- G. Per the Commission Rules of Procedure, the Plat Committee shall consist of five (5) members, one (1) representative of the County Health Department, one (1) representative of the County Surveyor's Office, one (1) representative of the Plan Commission, one (1) representative of the County Highway Department, and one (1) representative of the Department of Community Development. The Subdivision Coordinator shall serve as Secretary and Staff.

**SECTION 8: SUBDIVISION REVIEW PROCESS**

- A. The Subdivision Coordinator or Director shall make a determination on whether a subdivision is to be reviewed as a Minor or Major Subdivision.
- B. The decision of the Plat Committee or Director regarding the determination may be appealed to the Commission within 10 days after the date that the decision is made.
- C. Sketch plat review of a subdivision may be submitted to the Plat Committee, and be reviewed as follows:
  1. Application and sketch plat drawing shall be filed in accordance with this Ordinance and the Rules of Procedure of the Commission along with payment of any applicable filing fees.
  2. All applications shall be reviewed by the Plat Committee in accordance with the review schedule established by the Committee.

3. The Plat Committee shall review the sketch plat drawing and provide the applicant with any information available regarding the proposed subdivision.
  4. Any comments made by Plat Committee members are for information purposes only, and are not binding decisions. The information obtained through the review is to be utilized to prepare and submit a subdivision application.
- D. The Plat Committee or its designee may conduct a site inspection of the property proposed to be subdivided.

### **SECTION 8.1: SUBDIVISION TYPES**

This Subdivision Ordinance recognizes two types of subdivision plats: Major Subdivision Plats and Minor Subdivision Plats.

A. Minor Subdivision Plats:

1. Subdivision of no more than two (2) lots off a parent parcel of any applicable size. The subdivision must contain the standard minimum requirements of the zoning district in which it is located and leave the same minimum requirements, including contiguous non limited access frontage, on the remaining parent parcel.

B. Major Subdivision Plats:

1. Subdivision of more than two (2) lots off of a parent parcel of less than twenty (20) acres in size. The subdivided parcels must contain the standard minimum requirements of the zoning district in which it is located and leave the same minimum requirements, including contiguous non limited access frontage, on the remaining parent parcel.

C. Lot Line Adjustments:

1. Any non-conforming parcel request that does not create any additional lot and is incorporated with an existing contiguous parcel of record by a combination legal.

### **SECTION 8.2: STANDARD REQUIREMENTS**

A. Minor Subdivisions:

1. Survey must identify or state acreage taken from each taxable parent parcel(s) used to create the new parcel.
2. No more than two (2) newly created lots off a parent parcel under twenty (20) acres in size is allowed.

3. The required minimum road frontage must be maintained through the depth of the entire parcel.
4. All easements pertaining to the proposed parcel or the original parent parcel must be shown on the requested Minor Subdivision as well as be included in the legal description.
5. All structures on both the newly created and parent or remaining parcels, within 50 feet of any new or existing property line must be shown on the submitted survey and meet the required setbacks for the zoning district.
6. Existing residential parcels must show the location of the well and septic system (absorption field, tank, etc.) on the survey per ISDH (rule 410-IAC 6-8.2) as amended. If required, an adequate on-site evaluation performed by a state certified soil scientist shall show adequate soil texture, structure and depth to a limiting layer that would allow for the pursuit of an onsite sewage system permit pursuant to (410-1AC 6-81 and Ordinance 2011-04 as amended).
7. The requested subdivision will not require creating a new public right-of-way, new private or public streets, or improvements to an existing public or private street. If any of these are required, the subdivision request will be treated as a Major Subdivision.
8. If applicable, all floodplains must be shown on the survey.
9. All survey monuments must be set before an application will be considered by the Committee.
10. All newly created lots shall have driveway locations which will provide minimum requirements for visibility as set forth by the jurisdiction.
11. The newly created parcel and remaining parent parcel cannot be more than three (3) times deeper than they are wide (Ex: 200' road frontage 600' depth). However, the 3-1 ratio shall not apply to subdivisions where a parcel will contain ten (10) or more acres.
12. All certified surveys must comply with the most current IAC 865.

## B. Major Subdivision

1. Primary Plats
  - a. Must conform to all submittal requirements of the Plan Commission.
  - b. Must provide a drainage plan.
  - c. Must provide a storm water (detention/retention) plan.
  - d. All roads must comply with, and be constructed to standards set forth in the Huntington County Road Manual, if the subdivision is within the corporate limits of a municipality; the

street requirements of the municipality shall apply.

- e. Must show the location, dimension, bearings, building lines, and acreage of all proposed lots; the location, bearing, and length of all lines of the subdivision shall be expressed in feet and decimals of a foot.
- f. Must show the location and name of all existing platted streets, roads, alleys, and rights-of-way intersecting the boundaries of the subdivision.
- g. Must show the location of existing and newly created easements, with width and depth, including but not limited to utility and County Regulated Drain easements.
- h. Must show proposed street names or numbers in accordance with the jurisdiction's House Number Ordinance.
- i. Must show all lot numbers, which are to be consecutively numbered.
- j. Must show the location, type, and size of all existing and proposed monuments.
- k. All structures on both the newly created and parent or remaining parcels, within 50 feet of any new or existing property line must be shown on the submitted survey and meet the required setbacks for the zoning district.
- l. Must show the deed record (book and page number) of properties adjacent to the subdivision, or reference adjacent subdivisions by name.
- m. Must show the location of any lands which are within the floodway or 100-year floodplain, including the elevation and flood zone designation(s).
- n. Must show the location of any streams or water bodies.
- o. Must show the name, signature, license number, seal, and address of the licensed land surveyor responsible for completing the survey.
- p. Must show the name and address of the property owners.
- q. All survey monuments must be set before a survey/request will be considered by the Committee.
- r. All surveys/request reviews will be done in accordance with Section 9 & Section 10.

## 2. Secondary Plat

- a. Secondary Plat approval cannot be requested until 30 calendar days from the date of Primary Plat approval.

b. Secondary Plats must follow the procedures set forth in Section 13.

C. Lot Line Adjustment

1. All non-conforming lot line adjustments must have certified surveys of the non-conforming parcel that comply with the standards for conforming Minor Subdivision parcels.
2. All non-conforming lot line adjustments must have a combination legal, combining the newly created non-conforming lot with an existing contiguous taxable parcel of record.
  - a. Combination legal must be metes and bounds description or platted lot descriptions, including or together with the newly created parcel of the non-conforming lot line adjustment.
    1. Must be one contiguous lot line once combination form has been approved.
  - b. All monuments shall be identified as per IAC 865-12.\
3. All lot line adjustment surveys and combination legals must be processed for taxation and recording.
4. If adding the newly created lot line adjustment creates a non-conforming taxable parcel of record, then approval from the Town of Markle Plan Commission or the Town of Markle Board of Zoning Appeals will be required prior to Subdivision Plat Committee approval.”

**SECTION 9: MINOR SUBDIVISION REVIEW PROCESS**

- A. This section applies to all subdivisions of land where the proposed lot(s) conform with the requirements listed in Section 8.2-A.
1. The application, survey, and all required documentation shall be filed in accordance with this Ordinance and the Rules of Procedure of the Commission.
  2. All applications filed shall be reviewed by the Plat Committee in accordance with the review schedule established by the Committee.
  3. The Plat Committee meeting shall be open to the public. Notice to interested parties and legal publication is not required. The Plat Committee shall make written findings of fact prior to making a decision on the subdivision request.
  4. When reviewing an application, the Plat Committee may consider any of the following, including but not limited to:
    - a. Proximity of proposed lot(s) lines to structures and other improvements on neighboring properties;

- b. Newly created contiguous, non-limited access road frontage and residual contiguous, non-limited road frontage;
  - c. Compliance with all health Codes and Ordinances;
  - d. Topography of the proposed lot(s) and adjacent area;
  - e. Soil classification of the proposed lot(s) and adjacent area;
  - f. Size of the proposed lot(s) as it relates to storm water runoff, watershed;
  - g. Ability to provide permittable, acceptable access to each lot.
5. Based upon the review of the application, the Plat Committee may require the following before making a decision on the application:
- a. Submittal of a drainage plan, which shall include a proposal for the management of storm water runoff from the proposed new lot(s);
  - b. Application, location, and approval of a drive cut permit from the jurisdiction, Huntington County Highway Department, or Indiana Department of Transportation, as appropriate;
  - c. Approval of the Huntington County Drainage Board, if applicable;
  - d. Soils evaluation to determine the ability of the proposed lot(s) to support a septic system;
  - e. Compliance with all Health Department regulations applicable to the request.
6. The Plat Committee may approve a Minor Subdivision only upon a determination in writing that:
- a. The Minor Subdivision is in compliance with all applicable Codes and Ordinances of the jurisdiction;
  - b. Adequate water and septic or sewage service can be obtained for each proposed lot. Subject to the requirements of 410 IAC 6-8.2 and Huntington County Ordinance 2011-04;
  - c. Adequate storm water management facilities are provided for each lot;
  - d. A local, county, or state driveway approach permit can be obtained for each lot with location approval.
7. The Plat Committee shall make an affirmative finding on all of the factors described in Section 9-A-6 in order to approve a Minor Subdivision. The decision of the Plat Committee shall be signed by the President of the Plat Committee as recorded in the minutes.



8. Minor Subdivision approval shall be valid for a period of two (2) years as indicated on the stamp and signature affixed to the front of the plat.
9. The Plat Committee may defer any decision on a Minor Subdivision to the full Commission for their review and decision.
10. The Plat Committee may impose reasonable conditions as part of its approval. Reasonable conditions include, but are not limited to:
  - a. Shared vehicular access points for driveways;
  - b. Swales and detention basins to detain storm water runoff;
  - c. Protection of an area on the lot from soil disturbance;
  - d. Relocation of known field tiles;
  - e. Providing a way for the natural flow of water to cross the lot;
  - f. Combination of lots;
  - g. Proof that existing septic systems are properly maintained and comply with County/State Health requirements.
11. An applicant may appeal to the Commission any decision of the Plat Committee.
12. An appeal must be filed within ten (10) days of the date of the Plat Committee's decision.
13. If Minor Subdivision approval or denial is decided by the Commission, the approval or denial is the final decision of the Commission. That decision may be reviewed as provided in IC 36-7-4-1016.

#### **SECTION 10: MAJOR SUBDIVISION REVIEW PROCESS**

- A. Any subdivision of land beyond two (2) Minor Subdivisions, less than twenty (20) acres in size, on a taxable parent parcel or wherein a proposed lot(s) are provided access from, have frontage on, a new street or private road, or have contiguous non-limited access road frontage on an existing public road shall be reviewed as follows:
  1. Application, primary plat drawing and required documentation shall be filed in accordance with this Ordinance and the Rules of Procedure of the Commission.
  2. Within thirty (30) days after the receipt of the application for primary plat approval, the Department shall announce the date for a public hearing before the Commission.

3. Prior to the scheduled public hearing before the Commission, the Plat Committee and Department shall review the primary plat for conformance with the regulations of this Ordinance and the Zoning Ordinance. The Plat Committee shall prepare a report and submit its findings to the Commission prior to the primary plat public hearing.
4. A public hearing shall be held by the Commission on the primary plat. Notice to interested parties shall be in accordance with the Rules of Procedure of the Commission. The Commission shall make written findings of fact prior to making a decision on the primary plat.
5. The Commission may approve a primary plat only upon a determination in writing that:
  - a. The primary plat is in compliance with all applicable Codes and Ordinances of the jurisdiction;
  - b. Adequate water and septic or sewage can be obtained for each proposed lot. Subject to the requirements of 410 IAC 6-8.2 and Huntington County Ordinance 2011-04 as amended;
  - c. Adequate storm water management facilities are provided for each lot;
  - d. Adequate vehicular access facilities are provided for by the applicant; and
  - e. A local, county, or state driveway approach permit can be obtained for each lot with location approval.
6. The Commission shall make an affirmative finding on all of the factors described in Section 10-A-5 in order to approve a primary plat. The decision of the Commission shall be signed by the President of the Commission as recorded in the minutes.
7. The Commission may impose reasonable conditions as a part of its approval.
8. Primary plat approval or denial by the Commission or the imposition of a condition on primary plat approval is the final decision of the Commission. That decision may be reviewed as provided in IC 36-7-4-1016.
9. Secondary plat approval shall not occur until a minimum of thirty (30) days after the date of primary plat approval.
10. Application for secondary plat approval shall be submitted within two (2) years from the date of primary plat approval, or the primary plat approval becomes invalid. For sectioned or phased subdivisions, an automatic two (2) year extension will be granted to the undeveloped sections or phases as each section or phase is approved and recorded. Major subdivisions that include three (3) or more sections or phases may request to have an alternate completion schedule approved by the Commission.
11. The secondary plat shall be reviewed by the Plat Committee. The Plat Committee may approve a secondary plat only upon a determination in writing that:

- a. The secondary plat is in compliance with all applicable Codes and Ordinances of the jurisdiction;
  - b. The secondary plat is consistent with the approved primary plat; and
  - c. All conditions of approval of the primary plat have been complied with.
12. Required documentation (Section 5-C) for newly created roads to be dedicated to the jurisdiction must have the appropriate approval before the submittal, if applicable.
  13. For any reason, including, but not limited to the secondary plat being inconsistent with the approved primary plat, the Plat Committee may vote to defer the secondary plat request to the Commission. The Commission may require the applicant to re-file for primary plat approval.
  14. The Plat Committee shall make an affirmative finding on each of the factors described in Section 10-A-11 in order to approve a secondary plat. The decision of the Plat Committee shall be signed by the President of the Plat Committee as approved according to the minutes.
  15. The Committee or Commission may impose reasonable conditions as a part of its approval.
  16. An applicant may appeal to the Commission any decision of the Plat Committee. An appeal must be filed within ten (10) days of the date of decision by the Plat Committee.
  17. If a secondary plat is deferred or appealed to the Commission, the Commission shall consider the factors described in Section 10-A-11. An affirmative finding shall be made on each factor in order to approve a secondary plat. Plat shall be signed by Commission President, Commission Secretary and Director
  18. If secondary plat approval or denial is decided by the Commission because of an appeal or deferral from the Plat Committee, the approval or denial is a final decision of the Commission. That decision may be reviewed as provided in Indiana Code 36-7-4-1016.
  19. Once a secondary plat is approved, the required signatures within the certification blocks on the plat shall be obtained prior to recording the secondary plat.
  20. The signed secondary plat shall be recorded by the applicant in the Huntington County Auditor's and Recorder's Office. The secondary plat shall be recorded within one (1) year from the date of its approval or it becomes invalid.

**SECTION 11: MINOR SUBDIVISION SUBMITTAL REQUIREMENTS**

- A. All requests for Minor Subdivision approval shall be submitted with the following information:

1. Completed application form;
2. Filing fee paid as outlined in the Town of Markle Zoning Ordinance;
3. Six (6) copies of the certified drawing, prepared by a land surveyor licensed by the State of Indiana, on one or more sheets of paper measuring not more than thirty (30) inches by forty-two (42) inches, drawn to a scale not smaller than one-hundred (100) feet to the inch, and including the following information:
  - a. Legal description of the lots;
  - b. Date of the survey, north arrow, and scale;
  - c. Name, signature, license number, seal, and address of the land surveyor; and
  - d. Recorded deed document number.
4. A copy of the surveyor's report; and
5. Any additional information requested by the Department, Committee, or Commission relating to compliance review under Section 8.2A.

## **SECTION 12: MAJOR SUBDIVISION – PRIMARY PLAT SUBMITTAL REQUIREMENTS**

- A. All requests for primary plat approval shall be submitted with the following information:
  1. Completed application form;
  2. Filing fee paid as outlined in the Town of Markle Zoning Ordinance;
  3. Eighteen (18) copies of the drawing, prepared by a land surveyor licensed by the State of Indiana, on one or more sheets of paper measuring not more than thirty (30) inches by forty-two (42) inches, drawn to a scale not smaller than one-hundred (100) feet to the inch, and including the following information:
    - a. Legal description of the subdivision;
    - b. Date of the survey, north arrow, and Scale;
    - c. Name, Signature, License number, Seal, and address of the land surveyor;
    - d. Name and address of the property owner(s);
    - e. Location map;

- f. Name of the subdivision to be shown at the top of the drawing;
  - g. Acreage of the tract to the nearest tenth of an acre.
4. Three (3) copies of the Drainage plan submitted in accordance with the Town of Markle Storm Water Control Ordinance.
  5. Documentation on the capacity and availability of water and sewage systems as follows:
    - a. If the subdivision is to be served by a public water or sanitary sewer system, the applicant must provide documentation that such system has the capacity and capability to serve the subdivision and guarantees of a sufficient number of connections to serve all lots in the subdivision;
    - b. If the subdivision is to be served by a private water or sanitary sewer system, the applicant must provide documentation that the system design has been, or can be, approved by the Indiana Department of Environmental Management, that there are arrangements to ensure continued operation and maintenance of the system, that the system has or will have sufficient capacity to serve the subdivision, and guarantees of a sufficient number of connections to serve all lots in the subdivision;
    - c. If the subdivision is to be served by individual water or sewage disposal systems, the applicant must provide documentation that such systems have been, or can be, approved by the Health Department.
    - d. Documentation sufficient to show all streets and public improvements will comply with the requirements of this Ordinance and all other Codes and Ordinances of the jurisdiction.
  6. A copy of the deed of the parent parcel.
  7. A copy of the surveyor's report.
  8. Any additional information requested by the Department, Plat Committee, or Commission, which relates to compliance review.

### **SECTION 13: MAJOR SUBDIVISION – SECONDARY PLAT SUBMITTAL REQUIREMENTS**

- A. All requests for Secondary Plat approval shall be submitted with the following information:
  1. Six (6) copies of the drawing submitted for approval, prepared by a land surveyor licensed by the State of Indiana, containing the same information as required on the primary plat, except for any changes or additions required by the conditions of primary plat approval. The primary plat may be used as the secondary plat if it meets these requirements and is revised in accordance with the Commission's primary plat approval and conditions;



IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal.

\_\_\_\_\_  
( ) Notary Public

My Commission Expires: \_\_\_\_\_

My County of Residence is: \_\_\_\_\_

-----  
The dedications of right-of-ways indicated on this subdivision plat are hereby accepted by the Town Council of Markle, Indiana.

This acceptance does not constitute agreement by the Town to construct or maintain any public improvement within the right-of-way.

Accepted this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Town Council Member

\_\_\_\_\_  
Town Council Member

\_\_\_\_\_  
Town Council Member

ATTEST:

\_\_\_\_\_  
Town Clerk-Treasurer

- 
- C. It is the responsibility of the applicant to have all signatures acquired and the proper number of copies provided in accordance with the Subdivision Ordinance.
  - D. Upon approval, one (1) original reproducible mylar shall be provided to be signed and subsequently recorded in the office of the County Recorded and three (3) copies of the signed mylar shall be produced to be distributed to the County Assessor, County Auditor, and Department.

## **SECTION 14: TIME EXTENSION FOR PRIMARY PLAT APPROVAL**

- A. A primary plat is valid for two (2) years from the date of approval, unless an alternate completion schedule has been requested and approved by the Commission. At any time prior to the expiration of primary plat approval, no more than one (1) extension of up to two (2) years may be requested according to the following procedure. For subdivisions containing sections or phases, an automatic two (2) year extension will be granted as each section or phase is recorded. Subsequent extensions for phased subdivisions may be requested in accordance with this Section.
  - 1. A completed application requesting time extension for primary plat approval shall be submitted to the Department.
  - 2. A narrative explaining the reasons for the subdivision not being developed within the original timeline, the status of compliance with original conditions of approval, and the anticipated schedule for completing the platting process shall also be submitted.
  - 3. As part of a complete application, the Director may require additional information to determine compliance with previous conditions of approval.
- B. The Director may grant the extension only upon determining that all submittal requirements have been met, the project is in compliance with all applicable Codes and Ordinances of the jurisdiction, and that the project is in compliance with its original conditions of approval. As part of granting a time extension, the Director may impose additional reasonable conditions.

## **SECTION 15: GENERAL REQUIREMENTS**

- A. If revisions are required or made to a submitted survey or subdivision plat, a list of those revisions shall be submitted with the revised survey or subdivision plat.
- B. If the survey, subdivision plat, or drainage plan is required to be revised, or is revised by the applicant, more than three (3) times prior to obtaining approval, the Plat Committee or Commission may deny the application and require the applicant to file a new application and repay the filing fee.
- C. No lot, which was created by the subdivision of land, shall be sold until the subdivision is approved by the Plat Committee or Commission and recorded.
- D. Prior to the commencement of any construction work on private roads or public improvements within or a part of a Major Subdivision, construction plans shall be submitted to the Department for review and approval by the appropriate jurisdiction officials.
- E. The proposed name of the subdivision shall not duplicate, or closely approximate, the name of any other subdivision within the City of Huntington, Towns or Huntington County, Indiana. The Commission shall have final authority to approve the name of the subdivision.



- F. Street names or numbers shall be assigned by the Department in accordance with the House Number Ordinance, as amended.
- G. If land upon which a subdivision is proposed is located in more than one jurisdiction, approvals from the individual Plan Commissions of the jurisdictions from which public utilities are provided shall be required.
- H. Monumentation within the subdivision shall be set on the property as follows:
  - 1. At the intersection of all lines forming angles in the boundary of the subdivision;
  - 2. At the intersection of street right-of-way lines; and
  - 3. At all lot corners.
- I. Monumentation on the property shall be set in accordance with Indiana Administrative Code 865, as amended. For Minor Subdivisions, monumentation shall be set prior to submittal of the survey. For Major Subdivisions, monumentation shall be set prior to submittal of the Secondary Plat.
- J. If a farm drainage tile exists on or crosses land proposed to be subdivided, the applicant shall provide proper maintenance procedure for the protection and maintenance of the tile. The tile may be relocated at the expense of the applicant.
- K. Frontage on limited access streets on which driveways cannot connect to or open on shall not constitute legal frontage.
- L. As built plans of all public improvements shall be submitted to the Department prior to acceptance of the improvements by the jurisdiction.
- M. If a private road provides access to a subdivision, the following requirements shall be adhered to:
  - 1. Each proposed lot shall maintain the minimum lot frontage on the private road as required within the applicable zoning district;
  - 2. The private road shall be constructed in accordance with the Huntington County Road Manual. No Certificate of Occupancy shall be issued on any building constructed, which is provided access by a private road until the road is completed in accordance with the Huntington County Road Manual; and
  - 3. A note shall be placed on the face of the subdivision plat indicating: "The streets in this subdivision are classified as private roads, and are not accepted by the Town into the Public Roadway System. The Town does not maintain private roads".
- N. All private roads shall have addresses as a named private road, and must provide a legal road sign of the named road at the Public Road and other regulatory signage as required by the Huntington County Road Manual.

- O. All Major Subdivisions must establish covenants and an entity responsible for maintenance of all common areas within the subdivision, including all detention/retention ponds and private roads where applicable. Common areas shall have notes on the plat stating their purpose and any limitations or restrictions.

**SECTION 16: DESIGN PRINCIPLES AND STANDARDS**

- A. The design principles and standards contained in this Section apply to all subdivisions.
- B. All proposed lots shall meet the minimum lot width, frontage, and area requirements established for the applicable zoning district by the Zoning Ordinance.
- C. All proposed streets, alleys, and other rights-of-way, and all private roads, shall be designed and constructed in conformance with the Huntington County Road Manual.
  - 1. Street name identification signs and traffic control signage shall be installed in accordance with the Huntington County Road Manual.
  - 2. Alleys are permissible when the gross density of the subdivision exceeds six (6) units per acre.
  - 3. Alleys shall have a minimum right-of-way width of twenty (20) feet and a minimum pavement width of twelve (12) feet.
- D. The layout of new streets, alleys, and other rights-of-way shall be designed in relation to existing streets and must be approved by the Commission. The Commission may require the following:
  - 1. Connection to existing streets adjacent to the subject property, abutting the property, or within a reasonable distance from the property;
  - 2. More than one (1) point of ingress and egress;
  - 3. Provisions for future extension of the street(s) beyond the boundary line of the subdivision;
  - 4. Temporary cul-de-sacs on streets, which are proposed for continuation;
  - 5. Dedication of any additional right-of-way necessary along existing public roads;
  - 6. Frontage road; and
  - 7. Acceleration and deceleration lanes.
- E. In residential subdivisions, the road system shall be designed to serve the needs of the neighborhood.

- F. The road system shall be designed to permit the safe, efficient, and orderly movement of traffic; to meet the needs of the present and future population served; to have a simple and logical pattern; to respect natural features and topography; and to present an attractive streetscape.
- G. Curb and gutter are required on all new streets when the subdivision contains three or more lots per gross acre.
- H. Each proposed lot shall have frontage on a private road or dedicated local, County, State, or Federal Street of a width as required by the applicable zoning district. Each lot shall be able to have direct access from the lot to a private road or dedicated local, County, State, or Federal Street.
- I. Buildings on residential lots shall front on streets within the subdivision whenever possible.
- J. On double frontage lots within a residential subdivision, a no-access easement shall be provided along collector and arterial streets to prohibit access to those streets.
- K. If a subdivision is proposed to be serviced by public water, sanitary sewer or other public improvements, the applicant, property owner, and/or developer of the subdivision shall be responsible for all costs and construction activity associated with the extension of all water, sanitary sewer, and other public improvements unless otherwise agreed upon by the service provider.
- L. Corner lots shall be sufficiently larger than interior lots to provide land necessary to comply with required setbacks on each street.
- M. Lots shall be designed to provide suitable building sites and related yard areas. Irregularly shaped lots may be permitted by the Commission where it deems such a pattern to be more appropriate to the site conditions than regularly shaped lots. Financial advantage for the property owner/developer and/or the ability to create a greater number of lots is not in itself sufficient reason for allowing irregularly shaped lots.
- N. The subdivision shall create lots of reasonable utility and/or livability, which are capable of being used without imposing an unreasonable burden upon future owners.
- O. Block lengths in agricultural or residentially zoned areas shall not exceed one thousand four hundred (1,400) feet.
- P. Double frontage lots within a subdivision shall be discouraged.
- Q. Blocks should have sufficient width to provide for two (2) tiers of lots of appropriate depths.
- R. Lots shall not exceed a depth to width ratio of three (3) to one (1). This ratio shall apply to all Major and Minor subdivisions that occur in Agricultural or Residentially zoned properties. However, the 3-1 ratio shall not apply to Minor Subdivisions where the resulting lots will contain ten (10) or more acres.

- S. Sidewalks, with a minimum width of four (4) feet and located a minimum of two (2) feet from the curb line of a street, are required on both sides of the street(s) under the following circumstances:
  - 1. When the subdivision contains three (3) or more lots per gross acre;
  - 2. When the subdivision is close to pedestrian generators, such as a school or retail area;
  - 3. To continue a sidewalk on an existing street;
  - 4. To link together areas of development;
  - 5. To provide pedestrian access to future developments; or
  - 6. If required by any ordinance of a municipality.
- T. Easements with a minimum width of fifteen (15) feet shall be provided for utilities, drainage, and similar purposes. Easements for pedestrian access shall have a minimum width of ten (10) feet. If a legal drain exists on the property, an easement of a size in accordance with the Indiana Code requirements for legal drains shall be provided.
- U. All floodplain and floodway areas located within the subdivision shall be protected by a conservation easement. A note on the plat shall state, "No building or structure, and no filling or dredging activity, shall be allowed within the Special Flood Hazard Area."
- V. Existing natural drainage ways should be maintained.
- W. Landscaping should be provided at subdivision entrances and in public areas.
- X. The Subdivision name shall be displayed at the entrance and shall comply with the respective signage regulations of the Zoning Ordinance.
- Y. If a centralized water system is provided, fire hydrants shall be provided and spaced so that each residence shall be within five hundred (500) feet of a hydrant.
- Z. A dry fire hydrant, installed in accordance with the specifications provided by the jurisdiction, shall be provided under the following circumstances:
  - 1. If the subdivision is not serviced by a central water system; and
  - 2. If a retention or wet detention pond is provided on the property.

#### **SECTION 17: IMPROVEMENTS AND MAINTENANCE BONDS**

- A. Prior to the issuance of any Improvement Location Permit or Building Permit, all the streets, sanitary sewer lines, water lines, stormwater drainage infrastructure, and other public

improvements shall be completed by the applicant and accepted by the jurisdiction. All improvements shall be completed in compliance with all plans that were approved by the Plat Committee and Commission.

- B. In lieu of completion, dedication, and acceptance of all public improvements, the applicant may submit improvement guarantees in one of the following manners:
  - 1. A performance bond, securable to the Town of Markle, Indiana, in an amount equivalent to one-hundred ten percent (110%) of the estimated cost of completion of the required public improvements;
  - 2. A certified check made payable to the Town of Markle, Indiana, in an amount equivalent to one-hundred ten percent (110%) of the estimated cost of completion of the required public improvements;
  - 3. An irrevocable letter of credit securable to the Town of Markle, Indiana, in an amount equivalent to one-hundred ten percent (110%) of the estimated cost of completion of the required public improvements; or
  - 4. A certificate of deposit payable to the Town of Markle, Indiana, in an amount equivalent to one-hundred ten percent (110%) of the estimated cost of completion of the required public improvements.
- C. The Commission shall determine the amount of the guarantee to ensure sufficient funds will exist for the satisfactory construction and installation of the uncompleted portion of required public improvements.
- D. The Town Council of Markle, Indiana, shall establish the period of time the applicant will have to complete the public improvements. The improvement guarantee shall cover this period of time. Two (2) months prior to the expiration of the guarantee, the Town Council shall determine the status of the public improvements and indicate the Town's intent to secure funds pledged by the guarantee. The Town Council may grant a time extension if sufficient improvement guarantees are again provided.
- E. All public improvements shall be inspected by the local, County, State, or Federal department/agency having jurisdiction over such improvements.
- F. A maintenance bond shall be submitted prior to dedication and acceptance of all public improvements in accordance with the Huntington County Road Manual.
- G. Sidewalks, when required, shall be completed on a lot prior to occupancy of the building or structure on the lot.

**SECTION 18: VACATION OF PLAT**

- A. A petition for vacation of any part of a plat such as roads or alleyways shall be filed with the legislative body in accordance with Indiana Code 36-7-3-10 and the Rules of Procedure of the Commission. A filing fee as stated in the Zoning Ordinance shall be paid to the Department.
- B. The owner of land in a plat may file with the Commission a petition to vacate all of the previously approved plat pertaining to the land owned by the petitioner. A petition shall be filed in accordance with Indiana Code 36-7-3-11 and the Rules of Procedure of the Commission. A filing fee as stated in the Zoning Ordinance shall be paid to the Department. The Plan Commission shall make a determination on the findings as required in Indiana Code 36-7-3-11. Upon vacation of the entire plat covenants may also be dissolved.

**SECTION 19: VACATION OF PUBLIC WAY OR PLACE OR EASEMENT**

- A. A petition for vacation of all or part of a public way or place shall be filed in accordance with Indiana Code 36-7-3-12.
- B. A petition for vacation of a platted easement shall be filed in accordance with Indiana Code 36-7-3-16.

**SECTION 20: REPLAT**

- A. No replat shall be filed with the County Auditor or County Recorder without the approval of the Plat Committee or Commission.
- B. Application shall be filed in accordance with the Rules of Procedure of the Commission.
- C. A filing fee shall be paid to the department as stated in the Zoning Ordinance.
- D. The Plat Committee may approve a replat under the following circumstances:
  - 1. No additional lots are created or established.
  - 2. No lot is altered in a manner, which would reduce it below the minimum requirements of the Zoning Ordinance without approval from the Board of Zoning Appeals.
- E. The following certification shall be placed on the face of the amended plat:

Amended plat approved by the Subdivision Plat Committee on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
COMMITTEE PRESIDENT

\_\_\_\_\_  
DATE

- F. The name of the subdivision including the language "Amended Plat of ' \_\_\_\_\_'" shall be placed at the top of the amended plat drawing. The plat shall reference the recording information of the original plat. A notes section shall be provided on the amended plat explaining what amendments have been made.
- G. A replat which proposes to create additional lots shall be reviewed by the Commission in the same manner as a Minor Subdivision if the proposed lot(s) have frontage on an approved street or private road, or as a Major Subdivision if the proposed lot(s) are provided access from, or have frontage on, a new street or private road.

### **SECTION 21: VARIANCE PROCEDURE**

- A. The Commission may approve a Variance from the requirements of this Ordinance only upon a determination in writing that:
  - 1. The Variance will not be injurious to the public health, safety, and general welfare;
  - 2. The use and value of the area adjacent to the property to be subdivided will not be affected in a substantially adverse manner;
  - 3. The need for the Variance arises from some condition peculiar to the property involved; and
  - 4. Because of the particular physical surroundings, shape, or topographical conditions of the subject property involved, an undue hardship to the owner would result, as distinguished from a mere inconvenience, if the strict applications of these regulations are enforced.
- B. The Commission shall make an affirmative finding on each of the factors described in Section 21-A in order to approve a Variance request.
- C. The Board may impose reasonable conditions as a part of its approval.
- D. The approval or disapproval by the Commission of a variance request is a final decision of the Commission that may be reviewed as provided in Indiana Code 36-7-4-1016.
- E. The Commission does not have the authority to grant a variance from a requirement of the Zoning Ordinance.

### **SECTION 22: APPEALS**

- A. An interpretation of this Ordinance by the Director, or a decision of the Director or Plat Committee, may be appealed to the Commission. The following procedures shall apply:

1. Appeal shall be filed on a form provided by the Department within ten (10) days of the date of the Director's interpretation or Plat Committee's decision;
  2. The Commission shall review the appeal request at their next regular or special meeting provided the appeal is filed in time to be placed on the agenda. If the agenda has been issued, the appeal shall be scheduled for the next following Commission meeting;
  3. The Commission may affirm, rescind, or modify the decision of the Director or Plat Committee. Only that item or items to which an appeal is filed shall be heard and decided by the Commission;
  4. A public hearing is not required for a review of an appeal. The Commission, during its review, may consider comments from interested parties on the appeal; and
  5. Filing fee paid as required for an appeal.
- B. A final decision of the Commission may be reviewed by per IC 36-7-4-1016(1).

### **SECTION 23: ACCESS TO PROPERTY/INSPECTIONS**

- A. The Plat Committee, Commission, and designated persons acting on their behalf, may inspect any property in the jurisdiction at any reasonable time for the purposes of determining compliance with the provisions of this Ordinance, or for administering and enforcing applicable law relating to the subject matter of this Ordinance.
- B. By making application for subdivision approval as provided in this Ordinance, the applicant(s) certify that the applicant is acting for her/him/itself and as agent for the property owner(s) relating to access to the property for the inspection purposes referred to herein.

### **SECTION 24: SAVINGS PROVISION**

- A. These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the Town under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the Town except as shall be expressly provided for in these regulations.

### **SECTION 25: AMENDMENTS**

- A. For the purpose of providing for the public health, safety, and general welfare, the Town, on recommendation of the Commission, may from time to time amend the provisions imposed by



these subdivision regulations. Public hearings on all proposed amendments shall be held by the Commission in the manner prescribed by law.

#### **SECTION 26: SEPARABILITY**

- A. If any part or provision of these regulations or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The Town hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application.

#### **SECTION 27: ENFORCEMENT, VIOLATIONS, REMEDIES AND PENALTIES**

- A. It shall be the duty of the Director to enforce the provisions of this Ordinance.
- B. The following shall constitute a violation of this Ordinance and be subject to the enforcement remedies and penalties provided by this Ordinance:
1. The transfer or sale of any lot or parcel of land created by subdivision before such lot or parcel has been approved by the Plat Committee or Commission;
  2. The division of any lot or parcel of land which was not completed in compliance with the requirements of this Ordinance;
  3. Use or development of property in a manner which does not conform to the approved subdivision or plat;
  4. Failure to correctly install or properly maintain the improvements required by this Ordinance, as shown on the approved plat or construction plans. Such improvements include, but are not limited to streets, sidewalks, water lines, sanitary sewer lines, drainage improvements, or signage;
  5. Altering, damaging, or removing any improvements required by this Ordinance;
  6. Failure to comply with a condition of approval;
  7. Breach of an executed improvement guarantee posted with the Town;
  8. Act contrary to the provisions and requirements of this Ordinance; or
  9. Failure to comply with a Stop Work Order issued by the Director and/or Department.

- C. Any activity considered a violation of this Ordinance is declared to be a common nuisance.
- D. A person acting as owner, agent, principal, lessee, contractor, engineer, surveyor, or otherwise who, either individually or in concert with another, acts contrary to the provisions and requirements of this Ordinance, shall be liable for violating this Ordinance and maintaining a common nuisance.
- E. No improvement location permit or building permit shall be issued for any lot or parcel of land that is not in compliance with the provisions of this Ordinance.
- F. Private covenants or agreements imposing standards different than those in this Ordinance shall not modify provisions of this Ordinance or impose an enforcement obligation on the Director, Plat Committee, or Commission.
- G. The owner, tenant, or occupant of any structure or land and any architect, engineer, surveyor, contractor, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this Ordinance may be held responsible for the violation and suffer the penalties and be subject to the remedies provided.
- H. The following process shall be followed by the Director when pursuing a violation of this Ordinance:
  - 1. The Director shall send written notice to the person responsible for the violation(s), and to the property owner of the property involved, indicating the nature of the violation and ordering the action necessary to correct it.
  - 2. If the violation(s) are not corrected, the Director shall send a written notice identified as being the final notice, and shall state what action the Director can take if the violation is not corrected. The notice shall indicate that an appeal may be filed to the Commission, and shall indicate the procedure for filing an appeal.
  - 3. In all violation notices, a reasonable time period shall be allotted for compliance.
  - 4. If the violations are not corrected after the deadline provided for in the final notice, the Director may impose one or more of the remedies listed in Section 26-I.
  - 5. The Director may have the Department or Town Attorney file a complaint against the person(s) responsible for the violation and prosecute the alleged violation.
- I. The Director may impose any one or all of the following remedies listed below for any violation of this Ordinance:
  - 1. A STOP WORK ORDER whereby all work on the subdivision and/or property shall cease at the time of posting. A written STOP WORK ORDER shall be sent to the property owner, contractor, or other appropriate individual as to what action is necessary to remove the STOP WORK ORDER. All corrective work or action necessary to release the STOP WORK ORDER shall be

completed within the stated time limitation. Failure to adhere to this time limitation is a violation of this Ordinance;

2. A revocation of any permit issued for work on the property;
  3. The Plat Committee, Commission, or Director may bring an action in the Circuit or Superior Court to invoke any legal, equitable, or special remedy for the enforcement of this Ordinance, or action taken under this Ordinance. Further, an action may also seek the imposition of a penalty under Indiana Code 36-7-4-1018;
  4. Bring action for injunction in the Circuit or Superior Court. This action may seek to enjoin a person or entity from violating, or continuing to violate any provision of this Ordinance and maintaining a common nuisance. Further, it may seek the prevention, removal, or abatement of the violation; and
  5. Any other remedy or penalty provided for herein, or by other applicable law.
- J. Any person found to be in violation of this Ordinance in an enforcement action brought under this Ordinance shall be responsible to pay reasonable costs and expenses, including attorney fees, incurred to the Plat Committee, Commission or Department in connection with the prosecution of such action initiated by them.