

Avilla Subdivision Regulations

Table of Contents

Preface

Section 1

General Provisions	Page 1
1.1 Title	Page 1
1.2 Policy	Page 1
1.3 Purposes of These Regulations	Page 1
1.4 Authority And Jurisdiction	Page 2
1.5 Enactment	Page 2
1.6 Repealer	Page 2
1.7 Interpretation, Conflict, and Separability	Page 2
1.8 Amendments	Page 3
1.9 Conditions	Page 3
1.10 Resubdivision of Land	Page 3
1.11 Vacation of Plats	Page 4
1.12 Variances	Page 4
1.13 Enforcement, Violation, and Penalties	Page 5

Section 2

Definitions	Page 7
2.1 Usage	Page 7
2.2 Definitions	Page 7

Section 3

Application and Approval Procedures	Page 19
3.1 General Procedures	Page 19
3.2 Major Subdivisions	Page 20
Figure 3-1 Approval Process for Major Subdivisions	Page 25
3.3 Minor Subdivisions	Page 26
Figure 3-2 Approval Process for Minor Subdivisions	Page 29
3.4 Exempt Divisions	Page 30

Section 4

Requirements for Improvements, Reservations, and Design	Page 33
4.1 General Improvements	Page 33
4.2 Lot Improvements	Page 34
Figure 4-1 Lot Line Design	Page 36
Figure 4-2 Frontage Design	Page 36
4.3 Streets	Page 37
Table 4-1 Street Standards	Page 43
4.4 Drainage and Storm Sewers	Page 44
Figure 4-3 Subdivisions of Flood Plain	Page 47
Figure 4-4 Flood Plain Delineation	Page 47
4.5 Water Facilities	Page 48
4.6 Sewerage Facilities	Page 49

4.7 Sidewalks Page 50

4.8 Utilities Page 51

4.9 Public Uses Page 51

Table 4-2 Recreation Requirements Page 52

4.10 Preservation of Natural Features and Amenities Page 54

Section 5

Assurance for Completion of Improvements Page 57
5.1 Improvements and Performance Bond Page 57
5.2 Inspection of Public Improvements Page 59
5.3 Maintenance of Public Improvements Page 59
5.4 Issuance of Building Permits Page 60

Section 6

Specifications for Documents to be Submitted Page 61
6.1 Preliminary Plat Page 61
6.2 Final Subdivision Plat Page 62
6.3 Exempt I Divisions Page 63
6.4 Exempt II Divisions Page 63

Appendix

Required Forms and Certificates Page 65
Form One
Request for Primary Approval of a Major Subdivision Plat Page 67
Form Two
Notice of Public Hearing on Subdivision Plat Page 69
Form Two
Notice of Public Hearing on Subdivision Plat Page 71
Form Four
Notice to Interested Parties Page 73
Form Five
Affidavit of Notice to Interested Parties for Primary Subdivision Approval Page 75
Form Six
Sign Posing Affidavit Page 77
Form Seven
Request for Secondary Approval of Subdivision Plat Page 79
Form Eight
Certificate of Approval (All Subdivisions) Page 81
Form Nine
Land Surveyor's Certificate Page 83
Form Ten
Dedication Certificate Page 85
Form Eleven
Subdivision Performance Bond Page 87
Form Twelve
Performance Bond-Secured by Deposit Page 89
Form Thirteen
Irrevocable Letter of Credit Page 91

Form Fourteen
Maintenance Bond Page 93
Form Fifteen

Preface

Avilla's Subdivision Regulations was updated through the use of the Unified Zoning Ordinance and Subdivision Regulations of Tippecanoe County as its model. The regulations document has been broken into seven sections which are organized as follows:

Contained in the first section are the general "enactment" provisions which establish the legal basis of these regulations in relation to the corresponding enabling legislation as it is found in the Indiana Code.

The first two subsections of section 1 establish the policies of the town in regard to the subdivision of land and make the purposes of regulating this process explicit. They serve as explanatory guidelines for both the private and public participants in new or altered development of land. They underpin the administration of the regulations, giving them a clear, strong legal basis. It is important that these policies should be pre stated rather than merely implied if the intent of the regulations is to be clear.

Section 1.4 explains the legal authority on which the regulations are based.

Section 1.6 explains that even though any part of the ordinance is invalidated or modified by subsequent laws or regulations the validity of the rest of it is unaffected.

The purpose of Section 1.7 is to establish that the subdivision regulations do not nullify or affect previous legislation or pending litigation or existing development except as may be expressly stated in the regulations.

Section 1.8 provides for the repeal of existing subdivision regulations to make clear that only the new regulations are those in force; Section 1.9 provides for amending the new regulations; and Section 1.10 explains the legal purpose and scope of the subdivision regulations.

The procedures for the resubdivision of previously subdivided land are set forth in Section 1.11 in order that obsolete, previously approved designs may be revised to meet current development standards.

Section 1.12 explains the procedure for the vacation of plats when this is deemed desirable by the owner; Section 1.13 sets forth criteria and procedures for a plan commission to allow conditional variances where there would be extraordinary (noneconomic) hardships or practical difficulties resulting from strict compliance with the regulations.

Section 1.14 sets forth the means of enforcing and penalties for violation of these regulations.

The purpose of section 2 is to explain the meaning of the more important terms used in the text of these model subdivision regulations. By making these meanings explicit, the risk of arbitrary administrative decisions is reduced and fair administration of the regulations enhanced; also, those preparing applications will have their tasks made easier if the purposes and requirements of the regulations are clearly understandable. Common understanding of the regulations will facilitate adherence to them and accomplishment of their stated public purposes for all parties involved in the approval process.

Particular attention is directed to the definition of "Subdivision" because this, especially, must be made clear in the regulations. This textual definition of "Subdivision" protects towns, cities, and counties against a number of developmental

problems. By creating single lot building sites for residential, commercial, or other purposes, "seloffs" may, under many ordinances, avoid the subdivision regulatory review process altogether. This frequently results in the creation of residential or commercial strip development along roads or other streets unsuited to them. Such development contributes to access, traffic safety, and other problems characteristic of uncontrolled incremental development. The definition also facilitates review by excluding from detailed regulation types of subdivision not needing such rigorous regulatory protection.

The third section sets forth the procedures for the application and approval of subdivisions. It is very important that these requirements be as simple and the procedures as speedy as is consistent with careful consideration of the complex of factors to be taken into account and the number of agencies who are necessarily participants in the process because of their legally mandated responsibilities in regard to the public interest.

Subsection 3.1 makes clear the obligation of the Plan Commission to review and approve or disapprove subdivision applications. The procedures described here are designed to facilitate coordination between the submission requirement endeavors of developers and the Commission's processing of applications. They explain in detail the regulatory requirements in order to eliminate confusion and delay. They are intended to help developers to reduce their expenses for obtaining application review and to reduce the amount of review time for all concerned. Shortened procedures are specified for minor subdivisions because they usually need less detailed consideration.

Coordination of subdivision approval with related zoning change applications and/or the use of flexible or planned unit development zoning regulations are dealt with in this section. Such coordination is critical for expediting the approval process in cases where both of these interrelated ordinances are involved.

Section 4 explains the requirements for improvements, reservations, and design of subdivisions.

Section 4.1 deals with the required general improvements with which the various classes of subdivisions must be provided. It explains what government standards and regulatory functions are involved and must be coordinated in carrying out the Comprehensive Plan.

Each subdivision should achieve at least the minimum standards for the elements of sound development and section 4.2 outlines these standards.

Section 4.3 deals with streets. Access is important for all parcels in any development and design of subdivisions must provide every parcel with adequate access to major streets without overburdening local internal streets with traffic.

Section 4.4 discusses the requirements for drainage and storm sewerage.

Section 4.5 deals with the provision of adequate potable water for human consumption and adequate water for fire protection. The location of wells, where permitted, must take into consideration water quality and quantity visavis water table levels and drawdown and the possibility of water contamination by sewage effluents from septic tank drain fields, polluted streams and other sources.

Sanitary sewerage and sewage treatment facilities are discussed in Section 4.6. Those facilities must be adequate to prevent water pollution and other health problems. Requiring separate storm and wastewater sewerage systems is important for longrun water pollution prevention even if the rest of the urbanized area still has combined sewers because, in all probability, the existing combined systems eventually will have to be replaced by separate systems to meet future higher standards. Where individual septic tanks or small "package" disposal systems for subdivisions are permitted, the maintenance of these systems must be ensured. If a public sewer system is available, connection to it should be mandatory.

Sidewalks and other pedestrian access requirements are provided for in Section 4.7. Consideration of the needs of pedestrians as well as vehicles is often important for achieving the pedestrian access and movement goals of the Comprehensive Plan.

Section 4.8 prescribes the location of easements for grouping utility lines so as to facilitate maintenance. By requiring these lines all to be underground, this section ensures that they will not detract from the appearance of the development.

Section 4.9 deals with the provision of land for public uses. Securing land for parks, recreation, and other public uses generally requires that the land to be so used be accessible to the general public and be dedicated to the appropriate local government.

Here it should be observed that additional exactions for offsite public facilities necessary for supporting development and/or reflecting the direct and indirect costs to the public as a result of development are being increasingly required by states and local governments in the form of "impact fees".

Section 4.10 deals with the preservation of irreplaceable natural features and amenities. It states the very important public purposes served by such measures, particularly the preservation of existing trees.

Section 5 discusses the requirements for the completion of a subdivision development.

Section 5.1 deals with the completion of improvements, the financing of improvements, and provisions for assuring their completion by means of a performance bond, escrow deposit or other means of monetary security guaranteeing such completion. The purpose of this requirement is to prevent an unnecessary financial burden for local government and/or purchasers of property in the development. This Section also describes procedures in the event of failure to complete improvements and for acceptance of dedication offers.

Section 5.3 provides for the maintenance of improvements pending their acceptance by the Town and for ensuring their satisfactory condition for at least three years after their acceptance.

Section 5.4 provides for deferral or waiver of required improvements where circumstances make either of these actions both appropriate and in the public interest.

Section 5.5 details requirements for and procedures for the issuance of building permits and occupancy certificates.

The sixth section specifies precisely the information that must be supplied by the applicant in writing and by drawings. It describes the data and documents and the degree of detail of information they must contain and the form in which it must be submitted. Standardization and uniformity of information are necessary in order to eliminate uncertainty for the applicant and to facilitate speedy and equitable administration of the ordinance.

Section 1
General Provisions

1.1 Title

These regulations shall hereafter be known and cited as the Subdivision Regulations of Avilla, Indiana.

1.2 Policy

(1) It is hereby declared to be the policy of the Town of Avilla to consider the subdivision of land and the subsequent development of the subdivided plat as subject to the official comprehensive plan and related policies (such as those embodied in the Town's Zoning Ordinance) for the orderly and efficient development of the Town.

(2) Land to be subdivided shall be of such a character that it can be developed without peril to health or peril from flood, fire or other menace, and land shall not be subdivided until having access and until improvements and proper provision have been made for drainage, water, sewerage, other necessary new public improvements such as schools, parks, recreation facilities, and transportation facilities adequate for serving the subdivision. Private wells and septic systems in lieu of public water and sewer facilities are allowable where permitted under the Avilla Zoning Ordinance and approved by the Noble County Health Department.

(3) Both existing and proposed public facilities serving the subdivision shall be properly related and conform to the official Avilla Comprehensive Land Use Plan, related policies and implementation programs including the Capital Budget, Official Map, Thoroughfare Plan, Zoning Ordinance and Housing and Building Codes.

1.3 Purposes of These Regulations

(1) To protect and provide for the public health, safety, and general welfare of the Town of Avilla.

(2) To guide the future development and renewal of the Town of Avilla in accordance with the Comprehensive Plan and related policies.

(3) To provide for the safety, comfort, and soundness of the buildings, structures and related open spaces.

(4) To protect the compatibility, character, economic stability and orderliness of all development through reasonable design standards.

(5) To guide public and private policy and action to provide adequate and efficient public and private facilities, the most aesthetically pleasing and beneficial interrelationship between land uses, conserve natural resources such as natural beauty, woodlands, open spaces, and energy both during and after development.

1.4 Authority And Jurisdiction

(1) This ordinance which was enacted pursuant to Indiana home rule and planning enabling legislation (Indiana Code, titles 36134 and the 3674700 series, as amended) authorizes the Avilla Plan Commission to review and approve or disapprove plats for subdivision throughout the Town's jurisdiction which show lots, blocks, or sites with or without new streets or highways. This authority extends to the development or resubdivision of undeveloped portions of already recorded plats.

(2) No building permit or certificate of occupancy shall be issued for any parcel or plat of land which was created by subdivision after the effective date of, and not in conformity with, the provisions of these subdivision regulations, and no excavation of land or construction of any public or private improvements shall take place or be commenced except in conformity with the regulations contained herein and in conformity with construction standards adopted by the Town of Avilla.

1.5 Enactment

In order that land may be subdivided in accordance with these purposes and policies, these subdivision regulations are hereby adopted.

1.6 Repealer

Upon the adoption of the Avilla Subdivision Regulations according to law, the Subdivision Regulations of the Town of Avilla adopted September 1990, as amended are hereby repealed, except for such sections expressly retained herein.

1.7 Interpretation, Conflict, and Separability

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

(2) Conflict with Public and Private Provisions

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

(b) Private Provisions. These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirements of these regulations, or the determinations of the Commission in approving a subdivision or in enforcing these regulations, and such private provisions are not inconsistent with these regulations or determinations thereunder, then such private provisions shall be operative and supplemental to these regulations and determinations made thereunder. [Note: Private provisions can only be enforced privately unless a public agency has been made party to such agreements.]

(3) Separability. 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 of Avilla hereby declares that it would have enacted the remainder of these regulations even

without any such part, provision or application.

1.8 Amendments

For the purpose of providing for the public health, safety, and general welfare, the Town of Avilla, 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 and/or the town in the manner prescribed by law.

1.9 Conditions

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 to this town. The developer has the duty of compliance with reasonable conditions laid down by the Commission for design, dedication, improvement, and restrictive use of the land in order to conform to the physical and economical development of the town and to the safety and general welfare of the future plot owners in the subdivision and of the town at large.

1.10 Resubdivision of Land

(1) Procedure for Resubdivision. For any change in a map of an approved or recorded subdivision plat, if such change affects any street layout shown on such map, or area reserved thereon for public use, or any lot line, or if it affects any map or plan legally reached prior to the adoption of any regulations controlling subdivisions, such parcel shall be approved by the Commission by the same procedure, rules, and regulations as for a subdivision.

(2) Procedure for Subdivisions Where Future Resubdivision is Indicated. Whenever a parcel of land is subdivided and the subdivision plat shows one or more lots containing more than one acre of land and there are indications that such lots will eventually be resubdivided into smaller building sites, the Commission may require that such parcel of land allow for the future opening of streets and the ultimate extension of adjacent streets. Easements providing for the future opening and extension of such streets may be made a requirement of the plat.

1.11 Vacation of Plats

Any recorded plat or part of any recorded plat may be vacated only in accordance with I.C. 3673 as amended 1982, 1983, and 1986.

1.12 Variances

(1) General. Where the Commission finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve variances to these subdivision regulations so that substantial justice may be done and the public interest secured, provided that such variances shall not have the effect of nullifying the intent and purpose of these regulations; and further provided the Commission shall not approve variances unless it shall make findings based upon the evidence presented to it in each specific case that:

(a) the granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other nearby property;

(b) the conditions upon which the request for a variance is based are unique to the property for which the variance is

sought and are not applicable generally to other property;

(c) because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations are carried out;

(d) the variance will not in any manner contravene the provisions of the Zoning Ordinance, Comprehensive Plan, or Official Map as interpreted by the Commission and the County Engineer;

(2) Conditions. In approving variances, the Commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of these regulations.

(3) Procedures. A petition for any such variance shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for the consideration of the Commission. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

1.13 Enforcement, Violation, and Penalties

(1) General

(a) It shall be the duty of the President of the Plan Commission to enforce these regulations and to bring any violations or lack of compliance to the attention of the Town of Avilla's Attorney .

(b) No owner, or agent of the owner, of any parcel of land located in a proposed subdivision shall transfer or sell any such parcel before a plat of such subdivision has been approved by the Commission, in accordance with the provisions of these regulations, and filed with the County Recorder.

(c) The division of any lot or any parcel of land into a subdivision, as defined in this ordinance, by the use of metes and bounds description for the purpose of sale, or transfer, or lease resulting in the creation of one or more new building sites shall not be permitted. All such described divisions shall be subject to all of the appropriate requirements of this ordinance.

(d) No Improvement Location Permit or Building Permit required under the Uniform Building Code, the Zoning Ordinance or this ordinance shall be issued on any property subject to this ordinance until the provisions of this ordinance have been complied with.

(2) Violations and Penalties. Any person who violates a provision of this ordinance or any regulations herein contained, shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than fifty dollars (\$50.00) and not more than five hundred dollars (\$500.00) for each day's violation.

(3) Restraining Provisions

(a) Any land within the participating jurisdictions subdivided in violation of the terms of this ordinance after the effective date hereof, is hereby declared to be a common nuisance, which may be restrained, enjoined or abated in any appropriate action or proceeding.

(b) The Commission may institute an injunction suit requesting an individual or governmental unit be directed to remove a structure erected in violation of this ordinance, or to make the same comply with its terms. If the Commission is

successful in its suit, the respondent shall bear the costs of the action.

(c) The Commission may institute a suit for mandatory injunction requesting an individual or governmental unit be directed, where such individual or governmental unit has violated any provisions of this ordinance, to comply with the provisions of this ordinance. If the Commission is successful in its suit, the respondent shall pay the Commission's reasonable attorney fees and all costs related to the enforcement of this Ordinance.

Section 2
Definitions

2.1 Usage

- (1) For the purpose of these regulations, certain numbers, abbreviations, terms, and words used herein shall be used, interpreted, and defined as set forth in this section.
- (2) Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the plural number include the singular; the word "herein" means "in these regulations"; the word "regulations" means "these regulations".
- (3) A "person" includes a corporation, a partnership, and an incorporated association of persons such as a club; "shall" is always mandatory; "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied".

2.2 Definitions

Accessory Building. A subordinate structure, the use of which is incidental to that of the dominant use of the principal building or land.

Administrator. The officer appointed by and/or delegated the responsibility for the administration of these regulations by the planning commission. This term shall be construed to include those planning commission members working under the direction of the Plan Commission President in the exercise of his responsibilities in regard to the processing of these Subdivision Regulations.

Advisory Plan Commission. A plan commission serving a single local government jurisdiction established as defined under the Indiana Code, § 36712 (1981) as amended.

Agency. See Public Agency.

Alley. A public or private vehicular rightofway primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

Applicant. The owner of land proposed to be subdivided or his agent or his legal representative.

Arterial. Either a Primary Arterial or a Secondary Arterial as defined in this section.

Block. A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rightsofway, shorelines of waterways, or boundary lines of municipalities.

Bond. Any form of security including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the Plan Commission. All bonds shall be approved by the Commission wherever a bond is required by these regulations.

Buffer Landscaping. Any trees, shrubs, walls, fences, berms, or related landscaping features required under this ordinance or the Zoning Ordinance on private lots and privately maintained for buffering lots from adjacent properties or public rights of way for the purpose of increasing sound and/or visual privacy. (See Screening also.)

Building. Any roofed structure built for the support, shelter, or enclosure of persons, animals, unmovable, or movable property of any kind.

Building Code. That town ordinance or group of ordinances establishing and controlling the standards for constructing buildings, utilities, mechanical equipment and all forms of structures and permanent installations and related matters, within the town. Also referred to herein as the Avilla Town Building Code.

Building Permit. A certificate issued by the building permit official of a governing body permitting a person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure within its jurisdiction, or cause the same to be done.

Building Permit Official. That official of local government authorized to issue building permits.

Capital Improvements Program. A proposed schedule of all future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project. All major projects requiring the expenditure of public funds, over and above the annual local government's operating expenses, for the purchase, construction, or replacement of the more durable, longer lived physical assets for the community are included.

Central Sewerage System. A community sewer system including collection and treatment facilities established by the developer to serve a new subdivision or an existing public sewer system.

Central Water System. A community water supply system including existing and new wells and/or surface water sources and intakes, treatment facilities, and distribution lines and includes such of the above facilities established by the developer to serve a new subdivision.

Certificate. The signed and attested document which indicates that a subdivision has been granted secondary approval by the Commission subsequent to proper public notice of its hearing.

Checkpoint Agency. A public agency or organization called upon by the Commission to provide expert counsel with regard to a specific aspect of community development or required by law to give its assent before subdivision may take place.

Collector Street. A street intended to move traffic from local streets to secondary arterials. (A collector street serves a neighborhood or large subdivision and should be designed so that no residential properties face onto it and no driveway access to it is permitted unless the property is to be in multifamily use for four (4) or more dwelling units.)

Commission. The Avilla Plan Commission as referred to herein.

Commission Attorney. The licensed attorney designated by the Avilla Plan Commission to furnish legal assistance for the administration of this ordinance or as provided by statute.

Comprehensive Plan. Inclusive physical, social, and economic plans and policies in graphic and verbal statement forms for the development of the Town, prepared and adopted by the Commission, pursuant to the State Acts, and including any part of such plan and/or policies separately adopted and any amendment to such plan and/or policies, or parts thereof.

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, § 32161 through 31.

Construction Plan(s). The maps or drawings showing the specific location and design of improvements to be installed for the subdivision in accordance with the requirements of this ordinance.

County Auditor. That County official empowered to examine and settle all accounts and demands that are chargeable

against the County and not otherwise provided for by statute.

County Engineer. The licensed engineer designated by the County to furnish engineering assistance in the administration of these regulations.

County Housing Code. (See Housing Code.)

County Recorder. That county official empowered to record and file land description plats.

Culdesac. A local street with only one (1) outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement including public safety vehicles.

Deadend Street. A street or a portion of a street with only one (1) vehicular traffic outlet, and no turnaround at the terminal end.

Department. (See Public Agency.)

Designated Officials. Those officials of the Commission designated in the subdivision ordinance as required signatories for the execution of secondary approval.

Developer. The owner of land proposed to be subdivided or his representative. Consent for making applications for development approval shall be required from the legal owner of the premises.

Drives, Private. Vehicular streets and driveways, paved or unpaved, which are wholly within private property except where they intersect with other streets within public rightsofway.

Easement. An authorization grant by a property owner for the use by another of any designated part of his property for a clearly specified purpose(s).

Escrow. A deposit of cash with the Commission in lieu of an amount required and still in force on a performance or maintenance bond. Such escrow funds shall be held by the Town Clerk-Treasurer.

Exempt Divisions. (See definition of Subdivision.)

Final Plat. The map, drawing, or plan described in this ordinance of a Subdivision and any accompanying material submitted to the Commission for secondary approval, and which if approved and signed by the designated officials, may be submitted to the County Recorder for recording.

Flood Hazard Areas. Those flood plains which have not been adequately protected from flooding by the Regulatory Flood by means of dikes, levees, or reservoirs, and are shown on the FloodwayFlood Boundary Maps of the Federal Insurance Administration or maps provided to the Commission from the State Natural Resources Commission.

Flood Plain. The area adjoining the river or stream which has been or may hereafter be covered by flood water from the Regulatory Flood.

Flood Protection Grade. The elevation of the lowest point around the perimeter of a building at which flood waters may enter the interior of the building.

Floodway. (See Regulatory Floodway.)

Floodway Fringe. Those portions of the Flood Hazard Areas lying outside the Floodway, shown on the FloodwayFlood

Boundary Maps of the Federal Insurance Administration.

Foundation. The supporting member of a wall or structure.

Frontage. That side of a lot abutting on a street or way and ordinarily regarded as the front of the lot. Lots shall not be considered to front on stub ends of streets and in the case of corner lots will be considered to front on both intersecting streets. (No access for any one lot is permitted to more than one street and that street generally will be the one calculated to have lower traffic volumes and less frequent intersections.)

Frontage Street. Any street to be constructed by the developer or any existing street in which development shall take place on both sides.

Front Yard. A yard as defined herein, encompassing the horizontal space between the nearest foundation of a building to the rightofway line and that rightofway line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the rightofway line. The front yard of a corner lot shall be that yard abutting the street upon which the lot has its least frontage.

Governing Body. The body of the relevant local government having the power to adopt ordinances.

Grade. The slope of a street, or other public way, specified in percentage (%) terms.

Health Department and (County) Health Officer. The agency and person designated by the County to administer the health regulations within the County's jurisdiction.

High Density. Those residential zoning districts in which the density is equal to or greater than eight (8) dwelling units per acre.

Highway, Limited Access. A freeway, or expressway, providing for through traffic, in respect to which owners or occupants of abutting property or lands and other persons have no legal right to access to or from the same, except at such points and in such manner as may be determined by the public authority having jurisdiction over such a highway.

Housing Code. That county ordinance controlling the continuing safety and healthfulness of buildings for human occupation within the County's jurisdiction. Also referred to herein as the County Housing Code.

Improvements. (See Lot Improvements or Public Improvements.)

Indiana Code. The Burns Indiana Statutes Code Edition, which codifies all Indiana statutes for reference purposes. The latest edition with any amending supplements must be referred to for the laws "now" in force and applicable. (Usually abbreviated as I.C. herein.)

Individual Sewage Disposal System. A septic tank, seepage tile sewage disposal system, or any other approved sewage treatment device approved by the Health Department.

Interested Parties. Those parties who are the owners of properties adjoining or adjacent to the proposed subdivision.

Joint Ownership. Joint ownership among persons shall be construed as the same owner; "constructive ownership" for the purpose of imposing subdivision regulations.

Land Divider. The owner of a parcel of land to be further divided through making an exempt division.

Landscaping. (See Buffer Landscaping, Screening and Shade Trees.)

Local Street. A street intended to provide access to other streets from individual properties and to provide rightofway beneath it for sewer, water, and storm drainage pipes.

Lot. A tract, plot, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or of building development.

Lot, Corner. A lot situated at the intersection of two (2) streets, the interior angle of such intersection not exceeding 135 degrees.

Lot Improvement. Any building, structure, work of art, or other object, or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment. Certain lot improvements shall be properly bonded as provided in these regulations.

Low Density. Those residential zoning districts in which the density is one (1) dwelling unit per acre.

Major Street. A collector or arterial street.

Major Street Plan. (See Official Map.)

Major Subdivision. Any subdivision not classified as a minor subdivision, including but not limited to subdivisions of four (4) or more lots, or any size subdivision requiring any new street or extension of the local governmental facilities, or the creation of any public improvements.

Map. A representation of a part or the whole of the earth's surface, in signs and symbols, on a plane surface, at an established scale, with a method of orientation indicated.

Marker. A stake, pipe, rod, nail, or any other object which is not intended to be a permanent point for record purposes.

Master Plan. (See Comprehensive Plan.)

Medium Density. Those residential zoning districts in which the density is four (4) dwelling units or less per gross acre.

Minor Subdivision. Any subdivision containing not more than three (3) lots fronting on an existing street which is an improved rightofway maintained by the Town not involving any new street or the extension of municipal facilities, or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the Comprehensive Plan, Official Map, Zoning Ordinance, or this ordinance.

Model Home. A dwelling unit used initially for display purposes which typifies the kind of units that will be constructed in the subdivision. Such dwelling units may be erected, at the discretion of the Commission, by permitting a portion of a major subdivision involving no more than two (2) lots to be created according to the procedures for minor subdivisions, as set out in these regulations.

Monument. A physical structure which marks the location of a corner or other survey point.

Nonresidential Subdivision. A subdivision whose intended use is other than residential, such as commercial or industrial. Such subdivision shall comply with the applicable provisions of these regulations.

OffSite. Any premises not located within the area of the property to be subdivided, whether or not in the same ownership of the applicant for subdivision approval.

Official Map. The map or maps established by the Town pursuant to law showing the existing and proposed streets, highways, parks, drainage systems and setback lines theretofore laid out, adopted and established by law, and any amendments or additions thereto adopted by the Town or additions thereto resulting from the approval of subdivision plats by the Commission and the subsequent filing of such approved plats.

Official Master Plan. (See Comprehensive Plan.)

Ordinance. Any legislative action, however denominated, of a local government which has the force of law, including any amendment or repeal of any ordinance.

Owner. Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under these regulations.

Parcel. A part or portion of land having a legal description formally set forth in a conveyance together with the boundaries thereof, in order to make possible its easy identification.

Perimeter Street. Any existing street to which the parcel of land to be subdivided abuts on only one side.

Plan Commission. The Town's plan body as established in accordance with Indiana law, often referred to herein simply as the Commission.

Planned Unit Development. Planned unit development is a means of land regulation which permits large scale, unified land development in a configuration and possibly a mix of uses not otherwise permitted "as of right" under the Avilla Zoning ordinance but requiring under that ordinance or a special ordinance a special review and approval process.

Plat. A map indicating the subdivision or resubdivision of land filed or intended to be filed for record with the County Recorder.

Preliminary Plat. The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the Commission for approval.

Primary Approval (Preliminary Plat Approval). An approval for a preliminary plat (or approval with conditions imposed) granted to a subdivision by the Commission after having determined in a public hearing that the subdivision complies with the standards prescribed in this Ordinance (per I.C. § 3674700 series: Subdivision Control).

Primary Arterial. A street intended to move through traffic to and from such major attractors as central business districts, regional shopping centers, colleges and/or universities, military installations, major industrial areas, and similar traffic generators within the town jurisdiction; and/or as a route for traffic between communities; a major thoroughfare.

Principal Use Building. A building in which the principal use of the lot or parcel is conducted. Standards recognized by the State of Indiana shall be used to determine whether a given structure constitutes one or more buildings in cases where ambiguities exist.

Public Agency. An agency or government department acting under the aegis of and representing an elected or appointed council, commission, or other policymaking or advisory body of federal, state or local government to whom it is responsible.

Public Improvement. Any drainage ditch, street, highway, parkway, sidewalk, pedestrianway, tree, lawn, offstreet parking area, lot improvement, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established. (All such improvements shall be properly bonded.)

Rear Yard. A yard as defined herein, encompassing the horizontal space between the nearest foundation of a building to a rear lot line and that rear lot line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the rear lot line. The rear yard of a corner lot shall be that yard at the opposite end of the lot from the front yard.

Registered Land Surveyor. A land surveyor properly licensed and registered or through reciprocity permitted to practice in the State of Indiana.

Registered Professional Engineer. An engineer properly licensed and registered in the State of Indiana or permitted to practice in Indiana through reciprocity.

Regulatory Flood. That flood having a peak discharge which can be equaled or exceeded on the average of once in a one hundred (100) year period, as calculated by a method and procedure which is acceptable to and approved by the State Natural Resources Commission; this flood is equivalent to a flood having a probability of occurrence of one percent (1%) in any given year.

Regulatory Flood Elevation. The maximum elevation, as established by the Indiana Department of Natural Resources, reached by the Regulatory Flood at the locations in question relevant to approval of a given subdivision under consideration.

Regulatory Floodway. The channel of a river or stream and those portions of the Flood Plains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flow of the Regulatory Flood of any river or stream shown on the Floodway/Flood Boundary Maps of the Federal Insurance Administration.

Restrictive Covenants. Limitations of various kinds on the usage of lots or parcels of land within a subdivision which are proposed by the subdivider, and, in the case of public health, safety and welfare by the Commission, that are recorded with the plat and run with the land.

Resubdivision. A change in a map of an approved or recorded subdivision plat if such change affects any street layout on such map or area reserved thereon for public use, or any lot line, or setback; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

Rightofway. A strip of land occupied or intended to be occupied by a street, pedestrianway, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, special landscaping, or for another special use. The usage of the term "rightofway" for land platting purposes shall mean that every rightofway hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such rightofway and not included within the dimensions or areas of such lots or parcels. Rightofway intended for streets, crosswalks, water mains, sanitary sewers, storm drains, screening or special landscaping, or any other use involving maintenance by a public agency shall be dedicated to public use by the subdivider on whose plat such rightofway is established.

Road(s). (See Street(s).)

Sale or Lease. Any immediate or future transfer of ownership, or any possessory interest in land, including contract of sale lease, devise, intestate succession, or transfer, of an interest in a subdivision or part thereof, whether by metes and bounds, deed, contract, plat, map, lease, devise, intestate succession, or other written instrument.

Same Ownership. Ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations, in which a stockholder, partner, or associate, or a member of his family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

Screening. Either (a) a strip of at least ten (10) feet wide, densely planted (or having equivalent natural growth) with

shrubs or trees at least four (4) feet high at the time of planting, of a type that will form a yearround dense screen at least six (6) feet high; (b) an opaque wall or barrier or uniformly painted fence at least six (6) feet high; or (c) earth berms at least six (6) feet high. Either (a), (b), or (c) shall be maintained in good condition at all times and may have no signs affixed to or hung in relation to the outside thereof except as permitted or required under the Zoning Ordinance. Where required by the Zoning Ordinance a screen shall be installed along or within the lines of a plot as a protection for adjoining or nearby properties.

Secondary Approval (Final Plat Approval). The stage of application for formal Plan Commission approval of a final plat of a subdivision which, if approved and signed by the designated officials may be submitted to the County Recorder for filing.

Secondary Arterial. A street intended to collect and distribute traffic in a manner similar to primary arterials, except that these streets service minor traffic generating areas such as communitycommercial areas, primary and secondary educational plants, hospitals, major recreational areas, churches, and offices, and/or designed to carry traffic from collector streets to the system of primary arterials.

Setback. A line parallel to and equidistant from the relevant lot line (front, back, side) between which no buildings or structures may be erected as prescribed in the Avilla Zoning Ordinance.

Shade Tree. A tree in a public place, special easement, or rightofway adjoining a street as provided in these regulations.

Side Lot Lines. Any lines separating two lots other than front or rear lot lines.

Special Landscaping. Areas of tree planting, shrubs, or other landscape features serving a public purpose and maintained by the town. (See also Buffer Landscaping and Screening.)

State Acts. Such legislative acts of the State of Indiana as they affect these regulations.

State Plane Coordinates System. A system of plane coordinates, based on the Transverse Mercator Projection for the Western Zone of Indiana, established by the United States Coast and Geodetic Survey for the State of Indiana.

Street, Deadend. (see Dead-end Street).

Street RightofWay Width. The distance between property lines measured at right angles to the center line of the street.

Streets, Classification. For the purpose of providing for the development of the streets, highways, and rightsofway in the governmental unit, and for their future improvement, reconstruction, realignment, and necessary widening, including provision for curbs and sidewalks, each existing street, highway, and rightofway, and those located on approved and filed plats, have been designated on the Official Map and classified therein. The classification of each street, highway, and rightofway is based upon its location in the respective zoning districts of the town and its present and estimated future traffic volume and its relative importance and function as specified in the Avilla Comprehensive Plan.

Structure. Anything constructed or erected that requires location on or in the ground or is attached to something having a location on or in the ground.

Subdivider. Any person who (1), having a proprietary interest in land, causes it, directly or indirectly, to be divided into a subdivision; or who (2), directly or indirectly sells, leases, or develops, or offers to sell, lease, or develop, or advertises for sale, lease, or development, any interest, lot, parcel site, unit, or plat in a subdivision; or who (3) engages directly, or through an agent, in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision of any interest, lot, parcel site, unit, or plat in a subdivision; and who (4) is directly or indirectly controlled by, or under direct or indirect common control with any of the foregoing.

Subdivision. The division of a parcel of land into two (2) or more lots, parcels, sites, units, plats, or interests for the purpose of offer, sale, lease, or development, either on the installment plan or upon any and all other plans, terms, and conditions, including resubdivision. Subdivision includes the division of development of land zoned for residential and nonresidential uses, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat, or other recorded instrument. The following kinds of divisions of existing parcels of land are herein called "Exempt Divisions" and are classified into two categories: Exempt I and Exempt II. These divisions are exempt from most provisions of this ordinance. Exempt I divisions must be one of the following types of division:

- (a) A division of land into two (2) or more tracts of which all tracts are at least ten (10) acres in size;
- (b) A division of land for the transfer of a tract or tracts to correct errors in an existing legal description, provided that no additional building sites other than for accessory buildings are created by the division;
- (c) A division of land pursuant to an allocation of land in the settlement of a decedent's estate or a court decree for the distribution of property;
- (d) A division of land for federal, state or local government to acquire street right-of-way;
- (e) A division of land for the transfer of a tract or tracts between adjoining lots provided that no additional principal use building sites are created by the division. The lots so created hereunder shall have only one principal use building site each. (See Principal Use Building.)
- (f) A division of land into cemetery plots for the purpose of burial of corpses.

Exempt I divisions are subject only to the provisions of Sections 3.4 and 6.3 of this ordinance, but shall be exempt from other provisions of this ordinance not specified or referred to in those sections.

Exempt II divisions are divisions of land into not more than four (4) parcels three (3) acres or more in size but less than twelve (12) acres. Such divisions shall conform to Sections 3.4 and 6.4 of this ordinance but shall be exempt from other provisions of this ordinance not specified or referred to in those Sections.

Subdivision Agent. Any person who represents, or acts for or on behalf of, a subdivider or developer, in selling, leasing, or developing, or offering to sell, lease, or develop any interest, lot, parcel, unit, site, or plat in a subdivision, except an attorney-at-law whose representation of another person consists solely of rendering legal services, and is not involved in developing, marketing or selling real property in the subdivision.

Subdivision, Exempt. (See Subdivision.)

Subdivision, Major. (See Major Subdivision.)

Subdivision, Minor. (See Minor Subdivision.)

Temporary Improvement. Improvements built and maintained by a subdivider during construction of the subdivision and intended to be replaced by a permanent improvement prior to release of the performance bond or turnaround improvements at the ends of stub streets intended to be replaced when the adjoining area is developed and the through street connection made.

Town Building Code. (See Building Code.)

Town Council. Referred to herein as the Town.

Town Government. That governmental body of the town empowered to adopt planning and public policy ordinances: the town commission, herein referred to only as the town.

Yard. A space on the same lot with a principal building, such space being open, unoccupied and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings are expressly permitted.

Zoning Ordinance. That Town of Avilla ordinance setting forth the regulations controlling the use of land in the unincorporated areas and in those jurisdictions within the town not controlling land use through their own zoning ordinances. Also referred to as the County Zoning Ordinance.

Section 3 Application and Approval Procedures

3.1 General Procedures

(1) Discussion of Requirements: Prior to submitting any of the materials required by this ordinance, the applicant or his representative should discuss with the Plan Commission President and/or plan commission the nature of the land division being proposed, so that the applicant may be instructed concerning the classification of his subdivision and what regulatory procedures apply to it and must be followed under this ordinance in order to secure primary and secondary approval. Where applicable, requirements concerning the general layout of streets and for reservations of land, street improvements, drainage, sewerage, fire protection, and similar matters, as well as the availability of existing services should be discussed. The Plan Commission President shall also advise the applicant, where appropriate, to discuss the proposed land division with those other officials who must eventually approve those aspects of the subdivision plat coming within their jurisdiction. The distinction between major and minor subdivisions and exempt divisions as defined in this ordinance, shall be made by the Plan Commission President at this time. The subdivider at this meeting should provide the Plan Commission President with adequate information to enable him to determine that the proposed division is an major, minor or exempt division.

(2) Classification of Land Divisions. All land to be divided shall be categorized into one of the three (3) main classes of land division indicated in this ordinance's definition of subdivision. These classes are:

- (a) major subdivisions,
- (b) minor subdivisions, and
- (c) exempt divisions.

Exempt divisions are not subject to the requirements of this ordinance beyond the determination by the Plan Commission President that they meet all the requirements for exempt divisions set forth in Section 3.4 herein. However, lots created by Exempt I divisions (except Exemption F) shall be ten (10) or more acres in size to be eligible as principal use building sites (Exemption A in the definition of subdivision), unless such lots have been created by order of a court (Exemption C). No building site for principle use created through Exemption A shall be reduced below ten (10) acres unless through subdivision or by order of a court (Exemption C). For purposes of this paragraph, a lot is "created" on the date of its recording. (See Section II for the definition of a principal use building.) Before any permit shall be granted for a structure to be erected on land to be subdivided into a major or minor subdivision, the subdividing owner or his subdivision agent shall apply for and secure approval of the proposed subdivision in accordance with either Section 3.2 or Section 3.3 of this ordinance as appropriate. Before any permit shall be granted for a structure to be erected on a parcel of land to be created or altered by an exempt division, the land divider or his agent shall certify to the satisfaction of the Plan Commission President that all requirements for exemption have been met, as detailed in Section 3.4 of this ordinance, in order to exempt the land division from all other requirements of this ordinance.

3.2 Major Subdivisions

(1) General Procedures for Primary and Secondary Approval. Should the Plan Commission President, in meeting with subdivider, classify the proposed land division as a major subdivision, the subdivider shall follow the procedures and be subject to the processes outlined in Figure 31, and detailed in this Section. The applicant seeking approval of a major subdivision shall submit a preliminary subdivision plat to be approved, conditionally approved, or rejected by the Commission at a public meeting, and a final subdivision plat which must be found in compliance with the preliminary plat as approved by the Commission or otherwise approved in order to be signed and recorded.

(2) Official Submission Dates. The deadline for submittal of a preliminary plat shall be (30) calendar days prior to regular plan commission meeting where it will be publicly heard.

(3) Preliminary Plat Procedures for Primary Approval

(a) Submission Requirements. Following meeting with the subdivider and determination of the type of subdivision being designed, the subdivider may file for primary approval of a preliminary plat. This submission shall:

(i) Be made on forms available at the office of the Commission and be submitted with fee of twenty-five dollars (\$25.00).

(ii) Include indication of all land which the applicant proposes to subdivide and all land immediately adjacent and across any street or railroad rightofway, extending six hundred (600) feet there from, but not more than two property owners deep from the proposed subdivision, with the names and addresses of the title owners as shown in the Auditor's files. This information may be shown on a separate current Plat Map reproduction from the Auditor's Office showing the boundaries of the subdivision superimposed thereon.

(iii) Be presented in duplicate to the Plan Commission or designate (Superintendent of Utilities) no later than thirty (30) calendar days prior to the regular meeting of the Commission at which it is intended to be heard.

- (iv) Be accompanied by two (2) copies of the preliminary plat as described in this ordinance.
- (b) Placement on the Commission Agenda. Subsequent to the submission for primary approval, the Commission shall place the matter on its next regular meeting agenda for formal action.
- (c) Administrative Review. Subsequent to placement on the agenda, and prior to the date of public hearing, the Plan Commission President and other appropriate members of the Commission shall review the proposal and prepare a report to the entire Commission and applicant indicating a recommendation with regard to the subdivision being proposed.
- (d) Public Hearing Notification Requirements. The Commission shall hold a public hearing on the preliminary plat and notice of such hearing shall be in two (2) local newspapers of general circulation ten (10) days prior to the hearing (per I.C. 531) at the applicant's expense. Interested parties shall also be notified by the applicant of the date, time, place and purpose of the public hearing on the subdivision at least ten (10) days in advance of the hearing by certified mail. The applicant shall file with the Commission at the time of the public hearing an affidavit so testifying along with the certified mail receipts provided by the post office.
- (e) Primary Approval of the Preliminary Plat. After the Commission has held a hearing upon the preliminary plat, the Plan Commission President's report, testimony, and exhibits submitted at the public hearing, the applicant shall be advised of any required changes and/or additions. The Commission shall at a public hearing, grant primary approval, or disapprove the preliminary plat. One (1) copy of the preliminary plat shall be returned to the applicant with the date of approval, conditional approval, or disapproval and the reasons therefore accompanying the plat within five (5) days of the public hearing. Before the Commission approves a preliminary plat showing park reservation(s) or land for another local governmental unit, the Commission shall obtain approval of the park or land reservation from the participating jurisdiction. Primary approval by the Commission is subject to review by certiorari. Secondary approval of a subdivision cannot occur until a minimum of thirty (30) days has elapsed since the granting of primary approval, per I.C. 3674708(d).
- (f) Effective Period of Primary Approval. Unless extended, the primary approval of a preliminary plat shall be effective for a period of five (5) years after the date of primary approval, at the end of which time secondary approval of the subdivision must have been obtained and certified by the Designated Officials. Any plats not receiving secondary approval within the period of time set forth herein shall be null and void, and the developer shall be required to resubmit a new application for sketch plan review and certificate subject to all the zoning restrictions and subdivision regulations in effect at the time of resubmission. Upon request of the applicant the Commission may extend the primary approval of a preliminary plat in increments of two (2) years beyond an expiration date without further notice and public hearing.

(4) Final Plat Procedure (Secondary Approval)

- (a) Submission Requirements. Following primary approval or conditional primary approval of the preliminary plat, approval of the construction plans, and all permits have been obtained, the applicant, if he wishes to proceed with the subdivision, shall file with the Plan Commission President a request for secondary approval of a final plat. The application shall:
 - (i) be submitted on forms available at the Office of the Commission;
 - (ii) include the entire subdivision, or section thereof which derives access from an existing state, county, or municipal roadway;
 - (iii) be accompanied by two (2) copies of the final plat as described in this ordinance;
 - (iv) totally comply with the ordinance and the terms and conditions of primary approval;
 - (v) be accompanied by the performance bond, if required, in a form satisfactory to the Commission Attorney and in an amount established by the Commission upon recommendation of the participating jurisdiction and shall guarantee the completion of all required subdivision and offsite public improvements;

(vi) be accompanied by any restrictive covenants in a form approved by the Commission, where they have been proposed by the subdivider or required by the Commission.

(b) Determination of Conformance (Secondary Approval). In order to be recorded, a final plat shall either be found to be in conformance with the primary approval by the Plan Commission President, or by the Commission at a public meeting of the Plan Commission. If the final subdivision plat deviates from the preliminary plat that received primary approval, the subdivision shall be resubmitted to the Commission at a public hearing for a new primary approval.

(i) For secondary approval of a final plat, the Commission shall determine conformance with the primary approval at a public hearing. The subdivider shall request Commission review in writing no less than thirty (30) calendar days prior to the date of the public meeting at which he intends to have his final plat reviewed. The Commission shall place the matter on its next regular meeting agenda. The Plan Commission President shall review the proposal and prepare a report with recommendations to the Commission and the applicant; and, at the public hearing, the Commission shall approve or disapprove the final plat. If granted secondary approval it shall be signed by the Plan Commission President and Secretary. If not granted secondary approval, then the subdivider shall be informed as to the insufficiency of his submittal.

(5) Signing and Recording a Plat

(a) Signing of Plat

(i) When the filing of a performance bond is required, the President of the Plan Commission shall endorse approval on the plat by signing the certificate only after the bond has been approved, and all the conditions of the primary approval have been satisfied.

(ii) When installation of improvements is required the President of the Plan Commission shall endorse secondary approval of the plat by signing the certificate after all conditions of the primary approval have been satisfied, all improvements satisfactorily completed and accepted for public maintenance (as required by section 5.1(2)(e)) and a maintenance bond provided (as required by section 5.3 (2)). There shall be written evidence that the required public facilities have been installed in a manner satisfactory to the participating jurisdiction as shown by a certificate signed by the Town Board, Superintendent of Utilities and/or the County Engineer that the necessary improvements have been accomplished.

(b) Assurance to Subdivider. If the subdivider elects to install all improvements before he applies for secondary approval and it is shown that the conditions of the ordinance have been met, and if the final plat completely conforms to the primary approval, the Commission shall have no other recourse than to grant secondary approval.

(c) Recording of Final Plat

(i) The Designated Officials shall sign the certificate which shall be part of the tracing cloth or reproducible mylar of the subdivision plat, plus two (2) mylar prints of the subdivision plat. The mylar prints shall be returned to the subdivider and his engineer or surveyor.

(ii) It shall be the responsibility of the subdivider to file the plat with the County Recorder within thirty (30) days of the date of signature. Failure of the Subdivider to file the plat as herein provided within thirty (30) days shall constitute a violation of this ordinance. It shall also be the responsibility of the subdivider to provide a receipt showing that final plat has been recorded. Such receipt will be asked of the subdivider by the Avilla Plan Commission.

Plan Commission or Plan Commission President meets with subdivider to discuss plans

|
|

Subdivider submits PRELIMINARY PLAT to Plan Commission President 30 days prior to Commission meeting for Public Hearing

At least 30 days

|
|

Plan Commission President prepares report for hearing

|

f rejected, subdivider may refile	-----At public hearing, Commission	approves, conditionally approves, or disapproves	
--	------------------------------------	--	--

|

Surveyor prepares FINAL PLAT and submits for review

|

At least 30 days from preliminary approval to Commission review of Final Plat

|

|

Subdivider Final Plat reviewed by Commission at public meeting for secondary approval

|

|

If not found in compliance, may

r
e
s
u
b
m
i
t
f
o
r
s
e
c
o
n
d
a
r

y
a
p
p
r
o
v
a
l

If approved, President and

Secretary of Commission sign copy of f

Figure 3-1 Approval Process for Major Subdivisions

3.3 Minor Subdivisions

(1) General Procedures for Approval. Should the Plan Commission President, in meeting with the subdivider, classify the proposed land division as a minor subdivision, the subdivider shall follow the procedures and be subject to the process outlined in Figure 32, detailed in this Section, and outlined in I.C. 36-7-4-701(d). The applicant seeking approval of a minor subdivision shall submit for primary approval two (2) copies of a preliminary subdivision plat which must be found in compliance with the plans as decided upon in initial meeting with the plan commission or Plan Commission President or otherwise approved by the Commission in order to be signed and recorded.

(2) Submission Date. Upon submission of a preliminary plat for a minor subdivision, the Plan Commission President and/or Plan Commission will review the proposed subdivision and approve, conditionally approve, or disapprove said preliminary plat. One (1) copy of the preliminary plat shall be returned to the applicant with the date of approval, conditional approval, or disapproval and the reasons therefore accompanying the plat within five (5) days after the public hearing. Primary approval by the commission is subject to review by certiorari. Within ten (10) days of primary approval, the plan commission shall provide for due notice to interested parties of their right to appeal under I.C. 36-7-4-708. Proper notice shall be given by the commission in accordance with I.C. 36-7-4-706. Following approval, an application for final plan approval shall be submitted no less than thirty (30) calendar days prior to either a regularly scheduled public meeting of the Commission at which the proposal is intended to be acted upon. The Plan Commission shall place such application on the agenda of the first regularly scheduled meeting of the Commission to occur thirty (30) days after the date on which a complete application is submitted.

(3) Approval of the Final Plan. After the Commission has examined the final plan, and all reports, recommendations, testimony, and exhibits submitted, the Commission shall, at a regularly scheduled hearing, approve, conditionally approve or disapprove the final plan. One (1) copy of the final plan shall be returned to the applicant with the date of approval, conditional approval, or disapproval and the reasons therefore accompanying the final plan within five (5) days after the public hearing. Approval by the Commission is subject to review by certiorari. Secondary approval of a subdivision cannot occur until the minimum of thirty (30) days has elapsed since the granting of primary approval or conditional approval or conditional primary approval per I.C. 3674708(d).

(4) Effective Period of Primary Approval. Unless extended, the primary approval of a minor preliminary plat shall be effective for a period of two (2) years after the date of primary approval, at the end of which time secondary approval of the subdivision must have been obtained and certified by the President and Secretary of the Commission. Any plats not receiving secondary approval within the period of time set forth herein shall be null and void, and the developer shall be required to resubmit a new application for sketch plan review and certificate, subject to all the zoning restrictions and subdivision regulations in effect at the time of resubmission. Upon written application of the applicant, the Commission may extend the primary approval of a minor sketch plan in increments of two (2) years beyond an expiration date without further notice and public hearing.

(5) Final Subdivision Plat Procedure for Secondary Approval

(a) Application Requirements. Following approval or conditional approval of the preliminary plat, the applicant, if he wishes to proceed with the subdivision, shall file with the administrator an application for secondary approval of a subdivision plat. The application shall:

(i) be submitted on forms available at the Office of the Commission;

- (ii) include the entire subdivision or section thereof;
- (iii) be accompanied by two (2) copies of the final subdivision plat as described in this ordinance;
- (iv) totally comply with the ordinance and the terms and conditions of approval;
- (v) be accompanied by the performance bond, if required, in a form satisfactory to the Commission Attorney and in an amount established by the Commission upon recommendation of the participating jurisdiction and shall guarantee the completion of all required subdivision and offsite public improvements; and,
- (vi) be accompanied by restrictive covenants in a form approved by the Commission, where proposed by the subdivider or required by the Commission.

(b) Determination of Conformance (Secondary Approval). In order to be recorded, a final subdivision plat shall either be found to be in conformance with the approved preliminary plat by the Plan Commission President, or by the Commission. If the final subdivision plat deviates from the preliminary plat that received primary approval, the subdivision shall be resubmitted to the Commission for a new primary approval.

(6) Signing and Recording a Plat

(a) Signing of Plat

(i) When the filing of a performance bond is required, the Designated Officials of the Commission shall endorse approval on the plat by signing the certificate after the bond has been approved and all the conditions of the primary approval have been satisfied.

(ii) When installation of improvements is required the Designated Officials of the Commission shall endorse secondary approval on the plat by signing the certificate after all conditions of the primary approval have been satisfied, all improvements satisfactorily completed and accepted for public maintenance (as required by section 5.1(2)(e)), and a maintenance bond provided (as required by section 5.3(2)). There shall be written evidence that the required public facilities have been installed in a manner satisfactory to the participating jurisdiction as shown by a certificate signed by the Town Board and/or the Superintendent of Utilities that the necessary improvements have been accomplished.

(b) Assurance to Subdivider. If the subdivider elects to install all improvements before he applies for secondary approval and it is shown that the conditions of the ordinance have been met, and if the final plat completely conforms to the primary approval, the Commission shall have no other recourse than to grant secondary approval.

(c) Recording of Plat

(i) The Designated Officials shall sign the certificate granting secondary approval which shall be part of the tracing cloth or reproducible mylar of the subdivision plat, plus two (2) mylar prints of the subdivision plat. The mylar prints shall be returned to the applicant and his engineer or surveyor.

(ii) It shall be the responsibility of the subdivider to file the plat with the County Recorder within thirty (30) days of the date of signature. Failure of the subdivider to file the plat as herein provided within thirty (30) days shall constitute a violation of this Ordinance. It shall also be the responsibility of the subdivider to provide a receipt showing that final plat has been recorded. Such receipt will be asked of the subdivider by the Avilla Plan Commission.

PRELIMINARY PLAT submitted to Plan Commission President upon determination of accordance with
minor subdivision definition

|
|

If d i s a p p r o v e d m u s t r e f i l e	Plan Commission President or Plan Commission	approve, conditionally approve, or disa
---	--	---

|
|

Preparation of FINAL PLAT

|

If not found in compliance

Plan Commission President checks for compliance with

m u s t r e p r e p a r e F I N A L P L A T		PRELIMINARY PLAT and approves, co
--	--	-----------------------------------

|

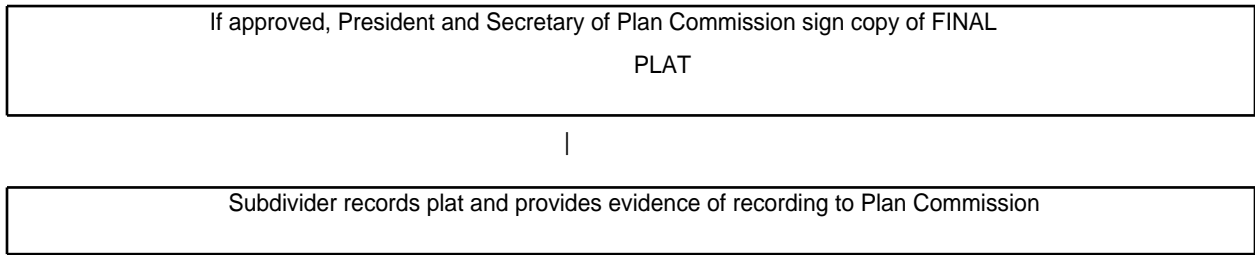


Figure 3-2 Approval Process for Minor Subdivisions

3.4 Exempt Divisions

(1) General Procedure for Exempt I Divisions. In order for a land division to be considered an Exempt I division the information prescribed for the applicable type of division under Section 6.3 shall be submitted to the Plan Commission President so that he can determine whether the division meets the provisions of the definition and Section 3.1 for this classification and therefore can issue to the subdivider a Statement of Compliance to the applicable provisions of this ordinance. Both the subdivider and the Plan Commission President shall hold copies of the Statement of Compliance. (see Appendix, Form 15) When the parcel so exempted by this Statement is conveyed to another party the copy of the instrument of such conveyance shall be recorded with the County Recorder bearing a stamp of approval signed by the Plan Commission President indicating that such Statement of Compliance has been obtained as ascertained by the copy(s) of the Statement which have been held for this purpose.

(2) General Procedure for Exempt II Divisions. In order for a land division to be considered an Exempt II Division and thus be exempted from all other provisions of this ordinance except the definitional requirements in Section 2.2 under Subdivisions, the requirements of Section 3.1, and certain conditions shall be met and certified to the appropriate agency by the Plan Commission President after his determination of qualification for this status has been made. (See Discussion of Requirements, Section 3.1.)

(3) Necessary Conditions for Exempt II Divisions. In addition to definitional requirements and Section 3.1, a land division qualifying as an Exempt II Division shall be shown as meeting the following conditions.

(a) If a parcel created by such an exempt division does not have sanitary sewer service available to it, that tract shall contain within its boundaries sufficient soil of a kind defined by Indiana State Board of Health Bulletin HSE 25R or its successor to allow for the proper installation of an onsite sewage disposal system.

(b) If a parcel created by such an exempt division has frontage on a public road, the land divider shall ensure that the

public real property is of a width sufficient to meet onehalf (1/2) of the required rightofway width for that specific public road as indicated on the Official Map and of a length along that public road equal to the length of that parcel along that roadway

(c) If a parcel created by such an exempt division has frontage on a public road, the depth of that parcel shall not be greater than twice the length of that frontage, such depth being measured from the front lot line to the rear lot line of the parcel.

(d) If a parcel created by such an exempt division requires a private roadway because such parcel lacks frontage on a public road, such roadway shall be constructed to the permit issuer's (Superintendent of Utilities') satisfaction.

(e) Certification of Exempt II Divisions. As the conditions in Section 3.4 (2) apply, the land divider shall provide to the Administrator all information regarding the design of the following: septic-sewage disposal systems, rights-of-way, and lot frontage.

(f) Exempt Division Review Process. Within fourteen (14) working days of the land divider's complete submission of the required information in the case of Exempt I Divisions (Section 6.3) the Plan Commission President shall review the submission and notify the land divider that his proposed land division either qualifies as an exempt division and is thus exempt from all other provisions of this ordinance, or does not qualify as an exempt division and is thus subject to the relevant subdivision processes described in this ordinance.

Section 4

Requirements for Improvements, Reservations, and Design

4.1 General Improvements

(1) Conformance to Applicable Rules and Regulations. In addition to the requirements established herein, all subdivision plats shall comply with the following laws, rules, and regulations:

(a) all applicable state and local statutory provisions;

(b) the Avilla Zoning Ordinance and all other applicable laws and ordinances of the appropriate jurisdictions;

(c) the Comprehensive Plan, Official Map, Thoroughfare Plan or Capital Improvements Plan, if applicable;

(d) the special requirements of these regulations and any rules of the Health Department having jurisdiction and/or appropriate state agencies;

(e) the rules and regulations of the Indiana Department of Transportation if the subdivision or any lot contained therein abut a state highway or state frontage road or the Noble County Highway Department, if applicable;

(f) the highway and drainage standards and regulations adopted by the Town and all boards, commissions, agencies, and officials of the Town; and,

(g) all pertinent standards contained within still valid planning guides published by the Plan Commission.

(2) Plat approval may be withheld if a subdivision is not in conformity with the above guides and requirements or with the policies and purposes of these regulations established in Section 1.4 of this ordinance.

(3) Self-Imposed Restrictions. If the owner places restrictions on any of the land contained in the subdivision greater than those required by the Zoning Ordinance or these regulations, such restrictions or reference thereto may be required to be indicated on the subdivision plat, or the Commission will require that restrictive covenants be recorded with the County Recorder in a format meeting approval with the Avilla Plan Commission.

(4) Plats Straddling Jurisdictional Boundaries. Whenever access to the subdivision is required across land in another jurisdiction the Commission may request assurance from the Town Attorney that such access is legally established, and from the Superintendent of Utilities or Town Engineer that the access road is adequately improved, or that a performance bond has been duly executed and is sufficient in the amount to assure the construction of the access road. Lot lines shall be laid out so as not to cross municipal boundary lines.

(5) Boundary Improvements

(a) The subdivider shall have placed, under the supervision of a Registered Land Surveyor, concrete monuments four (4) inches square or four (4) inches in diameter and thirty (30) inches long with an iron pipe cast in the center, at each corner or angle of the ultimate outside boundary. They shall be set following grading of each phase of the subdivision.

(b) The subdivider shall have placed, under the supervision of a Registered Land Surveyor, pipes or steel rods, threefourths (5/8) of an inch in diameter by thirty (30) inches in length at the corners of each lot. They shall be set prior to the issuance of any Building Permit.

(6) Character of the Land. Land which the Commission finds to be unsuitable for subdivision or development because of flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements, or other features which might reasonably be harmful to the safety, health, and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas, shall not be subdivided or developed unless adequate methods are formulated by the developer and approved by the Commission, upon recommendation of the Superintendent of Utilities or Town Engineer or County Surveyor, to solve the problems created by the unsuitable land conditions. Such land shall be set aside for such uses permitted by the Zoning Ordinance as shall not involve any such danger.

(7) Subdivision Name. The proposed name of the subdivision shall not duplicate, or too closely approximate phonetically, the name of any other subdivision in the area covered by these regulations. The Commission shall have final authority to designate the name of the subdivision which shall be determined at the time of primary approval.

4.2 Lot Improvements

(1) Lot Arrangement. The lot arrangement shall be such that there will be no foreseeable difficulties for reasons of topography or other conditions in securing building permits to build on each of the created lots in compliance with the Zoning Ordinance and Health Regulations and in providing driveway access to buildings on such lots from the appropriate approved street.

(2) Lot Dimensions. Lot dimensions shall comply with the minimum standards in the Zoning Ordinance. Where lots are more than double the minimum required area for the zoning district, the Commission may require that such lots be arranged so as to allow further subdivision and the opening of future streets where they would be necessary to serve all such potential lots in compliance with the Zoning Ordinance and these regulations. In general, side lot lines shall be at right angles to the street lines (or radial to curving street lines) unless a variation from this rule will give a better street or lot plan. Dimensions of corner lots shall be large enough to allow for erection of buildings, observing the minimum front yard setback from both streets. Depth and width of properties reserved or laid out for business, commercial, or industrial purposes shall be adequate to provide for all of the offstreet parking and loading facilities required for the type of use and development contemplated, as established in the Zoning Ordinance. (See Figure 4.1)

(3) Double Frontage Lots and Access to Lots

(a) Double Frontage Lots. Double frontage and reversed frontage lots shall be avoided except where necessary to provide for the separation of residential development from the traffic on bordering arterials or to overcome specific disadvantages of topography and orientation affecting the subdivided lots. (See Figure 4.2)

(b) Access from Arterials. Lots shall not, in general, derive access from an arterial street. Where driveway access from an arterial street may be the only possible access for several adjoining lots, the Commission may require that such lots be served by a combined access drive in order to limit possible traffic hazards from multiple access to such streets. Where possible, driveways should be designed and arranged so as to avoid requiring vehicles to back into traffic on arterials.

Figure 4-2 Frontage Design

(4) Lot Drainage. Lots shall be laid out so as to provide positive drainage away from all buildings and individual lot drainage shall be coordinated with the general storm water drainage pattern for the area. Drainage shall be designed so as to avoid the accumulation of storm water on any one or more lots from adjacent lots. It shall be the responsibility of the lot owner to maintain the lot grade, as it applies to drainage, as provided for in the approved construction plans.

(5) Debris and Waste. No cut trees, timber, debris, earth, rocks, stones, soil, junk, rubbish, or other waste material of any kind shall be buried in any land, or left or deposited on any lot or street at the time of occupancy within a subdivision, nor shall any be left or deposited in any area of the subdivision at the time of expiration of the performance bond or dedication of public improvements, whichever is sooner.

(6) Fencing. Each subdivider and/or developer shall be required to furnish and install fences wherever the Commission determines that a hazardous condition may exist. The fences shall be constructed according to standards established by the Town Engineer and Superintendent of Utilities and shall be noted as to height and material on the final plat. No certificate of occupancy shall be issued until said fence improvements have been duly installed.

(7) Waterbodies and Watercourses. If a tract being subdivided contains a water body, an association of property owners or neighborhood organization shall be created whereby the ownership of and responsibility for safe maintenance of the water body is so placed that it will not become a local government responsibility. No part of the minimum area of a lot required under the Zoning Ordinance may be satisfied by land which is under water. Where a watercourse separates the buildable area of a lot from the street from which it has access, provisions shall be made for installation of a culvert or other structure, of a design approved by the Superintendent of Utilities or Town Engineer.

4.3 Streets

(1) General Requirements

(a) Frontage on Improved Streets. No subdivision shall be approved unless the area to be subdivided shall have frontage on and access from an existing street on the Official Map, or if there is not an Official Map, such street could be:

(i) an existing state, county, or township highway, or

(ii) a street shown upon a plat approved by the Commission and recorded in the office of the County Recorder. Such

street or highway must be suitably improved as required by the highway rules, regulation specifications, or orders, or be secured by a performance bond required under these regulations, with the width and rightofway required by these regulations or as indicated on the Official Map or Thoroughfare Plan. Whenever the area to be subdivided is to use an existing street frontage, such street shall be suitably improved as provided herein above.

(2) Grading and Improvement Plan. Streets shall be graded and improved and conform to the County construction standards and specifications and shall be approved as to design and specifications by the Superintendent of Utilities or Town Engineer.

(3) Topography and Arrangement

(a) Streets shall be related appropriately to the topography. All streets shall be arranged so as to obtain as many as possible of the building sites at, or above, the grades of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and sharp curves shall be avoided. Specific standards are contained in the design standards of these regulations.

(b) All streets shall be properly integrated with the existing and proposed system of thoroughfares and dedicated rightsofway as established on the Official Map or Comprehensive Plan.

(c) All arterials and collector streets shall be properly related to special traffic generators such as industries, business districts, schools, churches, and shopping centers, to population densities; and to the pattern of existing and proposed land uses.

(d) Local streets shall be laid out to conform as much as possible to the topography, to discourage use by through traffic, to permit efficient drainage and utility systems, and to require the minimum number of streets necessary to provide convenient and safe access to the property.

(e) Rigid, rectangular "gridiron" street patterns are generally to be avoided, and the use of casually curvilinear streets, culdesacs, or loop streets shall be encouraged where such use will result in a more desirable layout and relate better to the existing topography. On flat land, innovative, varying geometrical street patterns shall be encouraged where they are likely to enhance visual interest and a sense of order for those using them (e.g., nongrid rectilinear, trapezoidal, polygonal, or other geometric patterns).

(f) Proposed streets shall, where appropriate, be extended to the boundary lines of the tract to be subdivided unless this is prevented by topography or other physical conditions, or unless in the opinion of the Plan Commission such extension(s) is/are not necessary or desirable for the coordination of the layout of the subdivision under consideration with the existing street layout or for the most advantageous future development of adjacent tracts (see paragraph 11(a)).

(g) In business and industrial developments, the streets and other accessways shall be planned in connection with the grouping of buildings, location of rail facilities, and the provision of alleys, truck loading and maneuvering areas, walkways, bikeways, and parking areas so as to minimize conflict of movement between the various types of vehicular and pedestrian traffic.

(4) Blocks

(a) Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depths. Exceptions to this prescribed block width shall be permitted in blocks adjacent to arterial streets, rail roads, and waterways.

(b) The lengths, widths, and shapes of blocks shall be such as are appropriate for the locality and the type of development contemplated, but block lengths in residential areas shall not exceed one thousand two-hundred fifty (1250) feet nor be less than three hundred (300) feet in length.

(c) The Commission may require the reservation of easements through the block to accommodate utilities, drainage

facilities, or pedestrian traffic. Pedestrianways or crosswalks not less than eight (8) feet wide, may be required by the Commission through the center of blocks more than eight hundred (800) feet long or at other appropriate locations and at the ends of the culdesacs where deemed essential to provide for circulation or access to schools, playgrounds, shopping centers, transportation, or other community facilities. Blocks designed for industrial uses shall be of such length and width as may be determined to be suitable by the Commission for the intended use.

(5) Access to Collector Streets. Where possible, lots in single family residential subdivisions fronting on collector streets shall be avoided and lots at the corners of intersections between local and collector streets shall front on the local street and have driveway access to it only and not to the collector street. In multiple family residential areas entrances to group parking lots shall have access only to collector streets (where possible) and such entrances shall be widely spaced.

(6) Access to Arterials. Where a subdivision borders on or contains an existing or proposed arterial, the Commission may require that access to it be limited by one of the following means:

(a) the subdivision of the lots so as to front onto a parallel local street and back onto the arterial; no access shall be provided from the arterial and screening shall be provided within a strip of land along the rear property line of such lots;

(b) a series of culdesacs, or loop streets entered from, and designed generally to be at right angles to an access street that is at some distance from and parallel to the arterial street, with the rear lines of their terminal lots backing onto the arterial; and,

(c) a marginal access or service road (separated from the arterial by a landscaped and/or decoratively fenced grass strip and having access thereto at widely spaced suitable points).

(7) Street Names. Plans, as submitted, shall indicate names of proposed streets. Names shall be sufficiently different in sound and in spelling from other street names in the Town, County or other nearby areas so as to avoid confusion. A street which is, or is planned as, a continuation of an existing street shall bear the same name.

(8) Street Regulatory Signs. The applicant shall provide and install a street sign at every street intersection within his subdivision. The Town shall inspect and approve all street signs before issuance of certificates of occupancy for any residence on the approved streets.

(9) Street Lights. Installation of street lights shall be required in accordance with design and specification standards approved by the Superintendent of Utilities.

(10) Reserve Strips. The creation of reserve strips shall not be permitted adjacent to a proposed street in such a manner as to deny access to it from adjacent property if such street is a local service street rather than a collector or arterial street. (See paragraphs (5) and (6) above.)

(11) Construction of Streets

(a) Construction of Streets other than Culdesacs. The arrangement of streets shall provide for the continuation of streets between adjacent subdivisions or other properties when such continuation is necessary for the convenient movement of traffic, for effective fire protection, for efficient provision of utilities, and where such continuation is in accordance with the Comprehensive Plan. If the adjacent property is undeveloped and the street must be a deadend (stub) street temporarily, the rightofway for a temporary turnaround shall be provided for all such temporary deadend streets, with the notation on the subdivision plat that land outside the normal street rightofway shall revert to abutters whenever the street is continued. Temporary turnarounds may be provided at the ends of such stub streets.

(b) Culdesacs (Permanent Deadend Streets). Where a street does not extend beyond the boundary of the subdivision and its continuation is not required by the Commission for access to adjoining property, its terminus shall normally not be nearer to such boundary than fifty (50) feet. However, the Commission may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic, or utilities. A culdesac turnaround shall be provided at the end of a permanent deadend street in accordance with Town construction standards and specifications available from the

Superintendent of Utilities or Town Engineer's office. For greater convenience to traffic and more effective police and fire protection, permanent deadend streets shall be limited in length in accordance with the design standards in these regulations.

(12) Design Standards

(a) General. In order to provide for streets of suitable location, width, and improvement to accommodate prospective traffic and afford satisfactory access for police, firefighting, snow removal, sanitation, and street maintenance equipment, and to coordinate street location in order to achieve a convenient system and avoid undue hardships to adjoining properties, the following design standards for streets are hereby required. (Street classifications may be indicated in the Comprehensive Plan, or on the Official Map; otherwise, they shall be determined by the Commission.)

(b) Street Surfacing and Improvements. After sewer and water utilities have been installed by the developer, the applicant shall construct curbs and gutters and shall surface or cause the roadways to be surfaced to the widths prescribed in these regulations. Said surfacing shall be of such character as is suitable for the expected traffic and in harmony with similar improvements in the surrounding areas. Types of pavement shall be as determined by the town or superintendent of utilities. Adequate provision shall be made for culverts, drains, and bridges. All street pavement, shoulders, drainage improvements and structures, curbs, turnarounds, and sidewalks shall conform to all construction standards and specifications adopted by the Commission, town, or the superintendent of utilities and shall be incorporated into the construction plans required to be submitted by the developer for plat approval.

(c) Excess Rightofway. Rightofway widths in excess of the standards designed in these regulations shall be required whenever, due to topography, additional width is necessary to provide for adequate and stable earth slopes. Such slopes shall not be in excess of three to one.

(d) Railroads and Limited Access Highways. Railroad rightsofway and limited access highways where so located as to affect the subdivision of adjoining lands shall be treated as follows.

(i) In residential districts a buffer strip at least 25 feet in depth in addition to the normal depth of the lot required in the district shall be provided adjacent to the railroad rightofway or limited access highway. This strip shall be part of the platted lots and shall be designated on the plat: "This strip is reserved for screening. The placement of structures hereon other than earth berms, walls, fences and other landscape screening devices approved by the Commission is prohibited."

(ii) In districts zoned for business, commercial, or industrial uses, the nearest street extending parallel or approximately parallel to a railroad shall, wherever practical, be at a sufficient distance therefrom to ensure a suitable depth for commercial or industrial sites.

(iii) Streets parallel to a railroad when intersecting a street which crosses the railroad at grade shall, to the extent practicable, be at a distance of at least 150 feet from the railroad rightofway. Such distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of appropriate approach gradients.

(e) Intersections

(i) Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two (2) new streets at an angle of less than seventyfive (75) degrees shall not be acceptable. An oblique street should be approximately at right angles for at least one hundred (100) feet therefrom. Not more than two (2) streets shall intersect at any one point unless specifically approved by the Commission.

(ii) Proposed new intersections along one side of an existing street shall, wherever practicable, coincide with any existing intersection on the opposite side of such street. Street jogs with centerline offsets of less than 150 feet shall not be permitted except where the intersected street has separated, dual drives, without median breaks at either such intersection. Where local streets intersect with arterials, their alignment shall be continuous. Intersections of arterials shall

be at least eight hundred (800) feet apart.

(iii) Minimum curb radius at the intersection of two (2) local streets shall be at least twenty (25) feet; and minimum curb radius at an intersection involving a collector street shall be at least twentyfive (25) feet. Alley intersections and abrupt changes in alignment within a block shall have the corners cut off in accordance with standard engineering practice to permit safe vehicular movement.

(iv) Intersections shall be designed with a flat grade wherever practical. In hilly or rolling areas, at the approach to an intersection a leveling area shall be provided having not greater than a two percent (2%) grade at a distance of sixty (60) feet, measured from the nearest rightofway line of the intersecting street.

(v) Where any street intersection will involve earth banks or existing vegetation inside any lot corner that would create a traffic hazard by limiting visibility, the developer shall cut such ground and/or vegetation (including trimming trees) in connection with the grading of the public rightofway to the extent deemed necessary by the Superintendent of Utilities or Town Engineer to provide an adequate sight distance.

(vi) The crossslopes on all streets, including intersections shall be three percent (3%) or less.

(f) Bridges of primary benefit to the applicant, as determined by the Commission, shall be constructed at the full expense of the applicant without reimbursement from the Town. The sharing of expense for the construction of bridges not of primary benefit to the applicant as determined by the Commission, will be fixed by special agreement between the Town and the applicant. Said cost shall be charged to the applicant prorata as the percentage of his land developed and so served.

(13) Street Dedications and Reservations

(a) New Perimeter Streets. Street systems in new subdivisions shall be laid out so as to eliminate or avoid new perimeter halfstreets. Where an existing halfstreet is adjacent to a new subdivision, the other half of the street shall be improved and dedicated by the subdivider. The Commission may authorize a new perimeter street where the subdivider improves and dedicates the entire required rightofway width within his own subdivision's boundaries.

(b) Widening and Realignment of Existing Streets. Where a subdivision borders an existing narrow street or when the Comprehensive Plan, Official Map, thoroughfare Plan, or zoning setback regulations indicate plans for realignment or widening of a street that would require use of some of the land in the subdivision, the applicant shall be required to improve and dedicate such streets at his own expense. Such frontage streets and other streets on which subdivision lots front shall be improved and dedicated by the applicant at his own expense to the full width required by these subdivision regulations. Land reserved for any street purposes may not be counted in satisfying the yard or area requirements of the Zoning Ordinance.

DESIGN STANDARDS FOR STREETS

Street Type	Min. Width	Min. Pavement	Max. Grade	Min. Radius of Curve	Min. Length of Transition	Min. Sight Distance	Min. Corner Radius	Min. Turn-Around
-------------	------------	---------------	------------	----------------------	---------------------------	---------------------	--------------------	------------------

Residential	arterial	60 ft	36 ft	7.5%*	100 ft	150 ft*	240 ft*	25 ft	N/A
	local street	50 ft	24 ft	7.5%		100 ft	200 ft		100/80 ft
	collector	50 ft	30 ft	7.0%		150 ft	200 ft		100/80 ft
Non-residential	arterial	80 ft	40 ft	6.0%*	200 ft	200 ft*	240 ft*	40 ft	N/A
	local street	60 ft	30 ft	6.0%		200 ft	200 ft		160/140 ft
	collector	70 ft	36 ft	6.0%		200 ft	240 ft		160/140 ft

* or as required by local government engineer and/or Indiana State Highway Commission

STANDARDS APPLIED TO ALL STREETS

Minimum Grade	0.5%
Minimum Block Length	300 ft
Maximum Block Length	1250 ft
Maximum Cul-de-sac Length	800 ft

Maximum Length of Vertical Curves	100 ft, but not less than 20 ft for each percent of algebraic difference in grade
-----------------------------------	---

TABLE 4-1
Street Standards

4.4 Drainage and Storm Sewers

(1) General Requirements. The Commission shall not recommend for approval any subdivision plat which does not make adequate provision for storm or flood water runoff channels or basins. The storm water drainage system shall be separate and independent of any sanitary sewer system. Storm sewers, where required, shall be designed by methods approved by the Commission and/or the Noble County Drainage Board, and a copy of the design computations shall be submitted along 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 400 feet in the gutter or when the encroachment of storm water into the street disrupts traffic. When calculations indicate that 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 and every lot and block.

(2) Nature of Storm Water Facilities

(a) Location. The applicant may be required by the Commission to carry away by pipe or open ditch any spring or surface water that may exist, either previously to, or as result of the subdivision. Such drainage facilities shall be located in the street rightofway where feasible, or in perpetual, unobstructed easements of appropriate width, and shall be constructed in accordance with the Town's or County's, if applicable, construction standards and specifications.

(b) Accessibility to Public Storm Sewers

(i) Where a public storm sewer is accessible, the applicant shall install storm sewer facilities, or if no outlets are within a reasonable distance adequate provision shall be made for the disposal of storm water, subject to the specifications of the Superintendent of Utilities or Town Engineer. However, in subdivisions containing lots of less than 15,000 square feet in area and in business and industrial districts, underground storm sewer systems shall be constructed throughout the subdivision and be conducted to an approved outfall. Inspection of facilities shall be conducted by the Superintendent of Utilities, Town Engineer or County Surveyor.

(ii) If a connection to a public storm sewer will be provided eventually, as determined by the Superintendent of Utilities, Town Engineer, or County Surveyor and the Commission, the developer shall make arrangements for future storm water disposal by the public utility system at the time the plat receives final approval. Cost provision(s) for such connection(s) shall be incorporated by inclusion in the amount of the performance bond or equivalent required for the subdivision plat.

(c) Accommodation of Upstream Drainage Areas. A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The Superintendent of Utilities, Town Engineer or County Surveyor shall determine the necessary size of the facility, based on the provisions of the required construction standards and specifications assuming conditions of maximum potential watershed development permitted by the Zoning Ordinance.

(d) Effect on Downstream Drainage Areas. The Superintendent of Utilities, Town Engineer or County Surveyor shall determine the effect of each proposed subdivision on existing drainage facilities outside the area of the subdivision. County drainage studies together with such other studies as may be available and appropriate, shall serve as a guide to needed improvements. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the Commission may withhold secondary approval of the subdivision until provision (such as a storage facility) has been made for the improvement of said potential condition in such sum as the Commission shall determine. No subdivision shall be approved unless adequate drainage from it will be provided to an adequate drainage water course or facility.

(e) Areas of Poor Drainage. Areas which are not in the Flood Plain but contain soils which are subject to flooding may be approved for subdivision by the Commission, provided that the subdivider fills the affected areas of said subdivision to an elevation sufficient to place building sites and streets two (2) feet above ponding levels.

(f) Areas of High Seasonal Water Tables. In areas characterized by soils having a high seasonal water table as determined by the Noble County Soil and Water Conservation District, lots shall be limited to slab type construction unless the Commission determines that appropriate engineering techniques will be applied to alleviate the subsurface problem.

(g) Floodway Areas. If a subdivision of land is proposed within the Flood Plain, Floodways shall be preserved and not diminished in capacity by filling or obstruction, except as approved by the Noble County Drainage Board or Department of Natural Resources in writing. No residential building site may be located within the Floodway. (See Figures 4-3 and 4-4)

(h) Floodway Fringe Areas. Where a subdivision is proposed within an area of the Flood Plain designated as a Floodway Fringe, the Commission may approve such subdivision provided that: all streets are elevated sufficiently to be above the Regulatory Flood elevation; all lots for residential usage have a Flood Protection Grade two (2) feet above the Regulatory Flood elevation; where provided, water and sanitary sewer facilities are constructed to eliminate contamination of or by, flood water; and, approval to fill the area from the Army Corps. of Engineers, Department of Natural Resources, or any other state or local organizations regulating floodways has been obtained in writing. Lands below the Regulatory Flood elevation shall not be used for computing the area requirement for any lot. (See Figures 4-3 and 4-4)

(i) Flood Plain Areas. Where a subdivision is proposed within an area of the Flood Plain for which Floodway and Floodway Fringe designations have not been made, the Commission shall not approve such a subdivision unless all streets are raised sufficiently to be above the Regulatory Flood elevation; all lots for residential usage have a Flood Protection Grade of two (2) feet above the Regulatory Flood elevation; where provided, public water and sanitary sewer facilities are constructed to eliminate contamination of or by flood water; and, filling to achieve the above will not raise the level of the Regulatory Flood Elevation more than one-tenth (1/10) of one (1) foot for that reach of the stream. All filling in the Flood Plain must be approved in writing by the Army Corps. of Engineers, Department of Natural Resources, or any other state or local organization regulating flood plain areas. Lands below the Regulatory Flood elevation shall not be used for computing the area requirement for any lot.

(j) Recording of Plats in the Flood Plain and Floodway Fringe. All final plats having within their boundaries areas whose elevation is below that of the Regulatory Flood Elevation shall show and label the Regulatory Flood Boundary and elevation, as of the date the final plat is drawn, on the final plat for recording.

