



## **TOWN OF FORTVILLE SUBDIVISION CONTROL REGULATIONS – TOWN CODE CHAPTER 156**

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## GENERAL PROVISIONS

### § 156.001 TITLE.

This chapter shall be known and may be cited as the Subdivision Control Ordinance of the Town of Fortville, Indiana.

### § 156.002 AUTHORITY.

This chapter was originally adopted pursuant to I.C. 36-7-4, of the State General Assembly, and all amendments thereto.

### § 156.003 PURPOSE.

This chapter is adopted for the following purposes:

- (A) To assist the orderly and efficient development of the Town;
- (B) To provide for the coordination of new thoroughfares with existing and planned thoroughfares;
- (C) To promote the health, safety and general welfare of the residents of the Town;
- (D) To ensure the coordination with and extension of community facilities and utilities; and
- (E) To secure equitable handling of all subdivision plans by providing uniform procedures and standards.

### § 156.004 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ACCEPTED SCALES.** One inch equals 50 feet, one inch equals 100 feet, and/or one inch equals 200 feet.

**AGRICULTURAL PURPOSE.** The use of a tract of land for agricultural purposes only, including farming, dairying, pasturing, agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry.

**APPARENT RIGHT-OF-WAY.**

(1) All that area lying adjacent to and including the public road which is being used and occupied by the public and public utilities, and the area of maintenance by Town, county, or state government. The limits of the apparent right-of-way shall be defined as the greater of any of the following:

- (a) The existing fence of long standing;
- (b) The edge of existing utilities;
- (c) Field occupation lines, meaning plowed or tilled ground;

(d) Existing woody vegetation, which may signify evidence of prior fence location; or

(d) If none of the above exists, the edge of the traveled road surface, and the adjacent area of maintenance by Town, county, or state government.

(2) The **APPARENT RIGHT-OF-WAY** is subordinate to dedicated rights-of-way of record.

**BUILDING LINE.** A line drawn parallel to a lot line at a distance therefrom equal to the depth of the minimum required yard for the zone in which the lot is located, as established by the Zoning Ordinance.

**COMMISSION.** Town of Fortville Advisory Plan Commission.

**COMPREHENSIVE PLAN.** A composite of the mapped and written proposals recommending the physical development of the Town which has been duly adopted by the Town Council.

**CONSTRUCTION PLAN(S).** The maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed for the subdivision in accordance with the requirements of this chapter as a condition of approval of the plan.

**CROSS WALKWAY.** A strip of land dedicated to public use which is reserved across a block to provide pedestrian access to adjacent areas.

**DIRECTOR.** The Town's Director of Planning.

**EASEMENT.** A grant by a property owner for the use of a strip of land by the general public, a corporation, or a certain person or persons for a specific purpose or purposes.

**EROSION CONTROL PLANS.** Written description and site of pertinent information concerning erosion control measures, as defined in the General Permit Related to Stormwater Runoff Associated with Construction Activities, as provided for in 327 IAC 15-5.

**FEASIBILITY REPORT.** A written report prepared by a professional engineer or land surveyor pertaining to the suitability of the site for various types of water and sewer systems, for drainage retention or dispersion, and the subsoil conditions for various methods of street construction.

**INCIDENTAL IMPROVEMENT(S).** A physical improvement, facility, or fixture together with its associated public right-of-way limited to: asphalt surfacing, streetlights, sidewalks, multi-use paths, monuments and markers, grouting of pipe, landscaping, and/or permanent seeding.

**LOT.** A parcel or portion of land separated from other parcels or portions by a description as on a subdivision, or record of survey map, or by metes and bounds for purpose of sale, lease, or separate use. In computing the number of lots in a subdivision, any portion remaining to the owner and not intended for sale shall, nevertheless, be considered a **LOT**.

**LOT, DOUBLE FRONTAGE.** A lot, other than a corner lot, which fronts on two streets.

**NON ACCESS EASEMENT.** Public easement along a public right-of-way across which access to the property is not permitted.

**OWNER.** Any individual, firm, association, syndicate, co-partnership or corporation, having sufficient proprietary interest in the land sought to be subdivided, to commence and maintain proceedings to subdivide the same under this chapter.

**PERFORMANCE GUARANTEE.** Any guarantee which may be accepted in lieu of a requirement that certain improvements be made before the Town approves the secondary plat, including by way of illustration but not limitation, performance bonds, escrow agreements,

deposit agreements, and other similar collateral or surety arrangements approved as valid and enforceable by the county.

**PLANNED UNIT DEVELOPMENT.** A development which:

- (1) Permits flexibility in large scale development through land use controls that foster good environmental design without violating the intent of this chapter;
- (2) That permits a variety of housing accommodations including single-family, two-family or multi-family;
- (3) That permits the grouping and preservation of open space, recreation areas, school sites and lands for other public uses;
- (4) That permits the orderly physical and aesthetic relationship of residential and commercial uses; and
- (5) That permits the development of the area rather than the individual lot arrangement. No particular development shall necessarily include all the land uses set forth above.

**PRIMARY PLAT.** The map and supporting information indicating the proposed layout of the subdivision which is presented to the Commission for consideration and approval in accordance with these regulations.

**PRIVATE DRIVE** or **STREET.** The means of vehicular access to the public road or street system.

**RESERVE STRIP.** An area of land adjacent to a public right-of-way which is retained in ownership by the subdivider for the purpose of denying access to the adjacent land.

**RIGHT-OF-WAY.** A strip of land appropriated for public use as a street, highway, driveway, alley or walkway or for any drainage or public utility purpose or other similar uses.

**SECONDARY PLAT.** A drawing, in final form, showing the subdivider's subdivision plan and containing all the information required to be presented to the Plan Commission for approval and which, if approved, may be duly filed or recorded by the applicant in the office of the County Recorder.

**SEWAGE DISPOSAL REPORT.** A report of the suitability of the soil for on-lot septic systems, based on a mechanical analysis, soil classification, or other methods as determined acceptable by the Commission and the County Health Department.

**SKETCH PLAN.** A sketch plan of a proposed subdivision used to show the Plan Commission the location, proposed street and lot layout, and many other significant features of the proposed subdivision.

**STREET.** The space or area between the lot lines, abutting upon a right-of-way and designed as a way for vehicular traffic whether designated as an alley, street, highway, throughway, freeway, expressway, road, avenue, boulevard, lane, place, or however otherwise designated, and which shall include but not be limited to those illustrated in the Comprehensive Plan or Thoroughfare Plan. For the purpose of this chapter **STREET** shall be classified as follows:

- (1) **ALLEY.** A minor way which is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.
- (2) **ARTERIALS.** See definition in Thoroughfare Plan.
- (3) **CUL-DE-SAC STREET.** A local road with only one outlet, having a paved, circular turnaround area at the closed end.
- (4) **LOCAL ROADS.** See definition in Thoroughfare Plan .

(6) **LOCAL SUBDIVISION STREETS.** Low capacity and low speed streets within major subdivisions whose function is to provide direct access to homes and property.

(7) **MAJOR COLLECTOR HIGHWAYS.** Highways having less regional importance than the Arterial roads and more Town significance. They are medium capacity highways moving traffic at relatively fast rates of speed. They include both state designated routes and county roads. **MAJOR COLLECTOR HIGHWAYS** provide two traffic lanes.

(8) **MARGINAL ACCESS STREETS.** Local roads which are parallel to and adjacent to arterial streets and highways, and which provide access to abutting properties and protection from through traffic.

(9) **MINOR COLLECTOR ROADS.** Moderate capacity thoroughfares designed to accommodate relatively low speed traffic. They should, however, provide a smooth flow of traffic. Two moving lanes, unseparated, but wider than local road lanes are required.

**SUBDIVIDER.** The registered owner or the authorized agent of the registered owner of a subdivision being responsible for preparing and recording the plat of the subdivision and for carrying out all appropriate requirements outlined in these regulations for the subdividing of land.

**SUBDIVISION.**

(1) The division of a parcel of land into two 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 re-subdivision.

**SUBDIVISION** includes the division 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 division of existing parcels of land are herein called exempt divisions. These divisions are exempt from the platting provisions of this chapter. Exempt division must be one of the following types of division:

(a) A division of land into two or more tracts, all of which are at least ten acres in size;

(b) A division of land for the sale or exchange of 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 the acquisition of street right-of-way, or easement;

(e) A division of land for the sale or exchange of additional tracts between adjoining land owners, provided that no additional building sites other than for accessory buildings are created by the division; and/or

(f) A division of land into cemetery plats for the purpose of burial of corpses.

(2) **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 local governmental facilities or the creation of any public improvements.

(3) **MINOR SUBDIVISION.** The division of a single lot, tract or parcel of land, or part thereof, into not more than three (3) lots, tracts or parcels of land, including the remainder of the original tract, any one of which is less than ten acres, for the purpose, whether

immediate or future, of transfer of ownership. A **MINOR SUBDIVISION** shall not involve any new street or extension of local governmental facilities, or the creation of any public improvements.

**TECHNICAL REVIEW COMMITTEE.** A Plan Commission subcommittee, including persons with technical knowledge of various Town, county, state, and federal regulations and standards regarding development, appointed by the Plan Commission to form a Committee responsible for working with developers in reviewing the technical aspects of subdivision plans and other major development projects and making technical findings for the Plan Commission for their consideration in approving subdivision and development plans. The Committee shall be composed of the following individuals, or their representative:

- (1) Planning Director;
- (2) County Surveyor;
- (3) Public Works Director (Town Manager);
- (4) Town Engineering consultant (on an as-needed basis);
- (5) Vernon Township Fire Marshal;
- (6) Electricity company (Duke Energy)
- (7) Electricity company (Ninestar)
- (8) Natural Gas company (CenterPoint Energy/Vectren)
- (9) Any other persons as the Plan Commission or Town staff deems

appropriate.

#### **§ 156.005 JURISDICTION.**

This chapter shall apply to all incorporated land within the Town limits in accordance with Chapter 174, Acts of 1947, of the State General Assembly, and all amendments thereto.

#### **§ 156.006 CLASSIFICATION AND COMPLIANCE.**

(A) *Plat required.* All land to be divided shall be categorized and platted as either a minor subdivision or major subdivision, consistent with the definitions in § 156.004.

(B) *Building permit.* No lot in a subdivision shall be sold, no permit shall be issued to erect any building upon land in a subdivision, and no building shall be erected in a subdivision unless and until:

- (1) A final subdivision plat has been approved and recorded; and
- (2) The improvements required by the Town Council in connection therewith have either been constructed or guaranteed, as herein provided.

(C) The provisions of division (A) and (B) shall not apply to accessory structures or building alterations.

(D) *Right-to-farm deed restriction.* A deed restriction shall be included on each subdivision plat and lot indicating the right to farm of adjoining agricultural real estate as set out in Appendix BB.

#### **§ 156.007 (RESERVED)**

## **§ 156.008 TECHNICAL REVIEW COMMITTEE.**

(A) A Technical Review Committee including persons with technical knowledge of various Town, county, state and federal regulations and standards regarding development may be appointed by the Plan Commission to review the technical aspects of subdivision plans and other major development projects and make technical findings for the Plan Commission for their consideration in approving subdivision and development plans.

(B) The Committee shall be composed of the following individuals or their representative:

- (1) Planning Director;
- (2) County Surveyor;
- (3) Public Works Director (Town Manager);
- (4) Town Engineering consultant (on an as-needed basis);
- (5) Vernon Township Fire Marshal;
- (6) Electricity company (Duke Energy)
- (7) Electricity company (Ninestar)
- (8) Natural Gas company (CenterPoint Energy/Vectren)
- (9) Any other persons as the Plan Commission or Town staff deems

appropriate.

## **§ 156.009 WAIVER OF REQUIREMENTS.**

The Plan Commission is authorized to waive any or all requirements of this chapter when a literal enforcement of the chapter would result in unnecessary hardship and when the waiver will not be contrary to the public interest.

## **MINOR SUBDIVISIONS**

### **§ 156.020 SUBMISSION OF PLAT.**

(A) A subdivider shall submit to the Town an application and an accompanying plat for a minor subdivision. The plat shall be based on a boundary survey conforming to the Minimum Standards for the Competent Practice of Land Surveying administered by the State Board of Registration for Land Surveyors, as provided for in 865 IAC 1-12, and drawn on reproducible material, 18 inches by 18 inches, at an accepted scale and five prints of the plat showing:

- (1) The legal description of the minor subdivision;
- (2) Lot numbers;
- (3) Easements;
- (4) The right-of-way line;
- (5) The land surveyor's certification and seal;
- (6) The designated right-of-way in compliance with the Comprehensive Plan;
- (7) The owner's certification;
- (8) The notary seal;

- (9) The scale, graphic scale, northpoint, and date;
- (10) Building setback lines;
- (11) Monuments and markers, set or found;
- (12) The signature block in an approved form to be signed by the appropriate agencies prior to recording;
- (13) Acreage information as follows:
  - (a) Lot 1 = \_\_\_\_\_ acres;
  - (b) Lot 2 = \_\_\_\_\_ acres;
  - (c) Dedicated R/W lot 1 = \_\_\_\_\_ acres; and
  - (d) Dedicated R/W lot 2 = \_\_\_\_\_ acres.
- (14) Deed of Dedication as set forth in Appendix B.
- (15) A permanent easement reserved for locating a secondary (back-up) septic system.
- (16) Statement for drainage easements per Stormwater Ordinance.
- (17) Area map.
- (18) Flood zone statement including FIRM map number and date.
- (19) Redact statement of Social Security information.
- (20) Covenants.
- (21) A title including the name of the minor subdivision, section, township, range, civil township and county.

(B) In addition to the minor plat, the subdivider shall submit one copy of the supporting data drawn at an accepted scale showing:

- (1) The legal description and tract boundary drawing of the entire property which is being subdivided;
- (2) Significant physical and topography features of the tract;
- (3) The name of the owners of adjoining unsubdivided property;
- (4) If the property is adjacent to land presently being developed, a proposed street and lot arrangement of the entire tract with the minor subdivision lots clearly identified;
- (5) The adjoining road and the nearest major intersection;
- (6) The name and address of the subdivider;
- (7) The type of sewage disposal system;
- (8) Proposed drainage, following Ordinance 157 of the Stormwater Drainage, Erosion, and Sediment Control Regulations;
- (9) If the disturbed area equals five acres or more, supply data pursuant to § 156.096;
- (10) Show wetland delineation, if any;
- (11) Proposed location of residences with finished floor elevation at a minimum of two feet above adjacent road and distances to the property lines;
- (12) Proposed or present driveway location;
- (13) Show a proposed outlet whether it be an eight inch tile (minimum), natural waterway, or regulated drain;
- (14) Field verified elevations, including house location, pipe invert and outlet as well as benchmark used for those elevations; and
- (15) Erosion control including temporary driveway or construction entrance, silt fence, permanent and temporary seeding with timelines, undisturbed area, stockpile areas marked and protected, and the responsible person with contact phone number.

(C) The submission of the minor subdivision plat shall be accompanied by a fee set by the Town Council.

### **§ 156.021 REVIEW PROCEDURE OF TECHNICAL REVIEW COMMITTEE.**

(A) Upon receipt of a minor subdivision application, the Planning Director or designee shall schedule a meeting of the Technical Review Committee to review the minor plat and determine whether the following conditions have been satisfied:

(1) The subdivision will not impede the normal and orderly development of improvements of the parcel or surrounding properties;

(2) Necessary and adequate utilities and drainage facilities have been or are being provided;

(3) Adequate measures will be taken to provide ingress and egress to the remainder of the parcel and surrounding properties;

(4) The subdivision will not be detrimental to or endanger the public health, safety, or general welfare;

(B) If the Technical Committee finds that the proposed minor subdivision meets all the requirements as set forth in this subchapter and any applicable provisions of §§ 156.070 through 156.077 and §§ 156.090 through 156.098, they shall recommend approval of the plat and certify their recommendation to the Plat Committee for consideration.

(C) If the Technical Committee finds that the proposed subdivision does not meet all the requirements as set forth in this subchapter or in §§ 156.070 through 156.077 and §§ 156.090 through 156.098, they shall set forth their reasons in writing, provide the subdivider with a copy of their findings and certify a copy of their findings to the Plan Commission.

### **§ 156.022 (RESERVED)**

### **§ 156.023 PLAN COMMISSION PROCEDURE.**

(A) Following review of a minor subdivision by the Technical Review Committee, the application shall be referred to the Plan Commission for review and action. Upon finding that the minor subdivision does not involve opening a new public way and that it complies in all other respects with this ordinance and the Zoning Ordinance, the Plan Commission may grant approval upon conducting a Public Hearing in accordance with Indiana Code. The Chairman of the Planning Commission and Planning Director shall sign a certificate granting secondary approval of the minor plat, which shall be on the plat. The applicant shall record the plat with the County Recorder within 90 days. If not recorded within this time, the approval shall be null and void unless renewed.

## **MAJOR SUBDIVISIONS; PRIMARY PLAT**

## **§ 155.035 CONCEPT PLAN.**

Prior to the submission of a major subdivision plat, the subdivider is encouraged to submit a concept plan and consult informally with the Town staff. This will enable the subdivider to become familiar with the general requirements and conditions which might affect the subdivision and thus avoid unnecessary revisions. The concept plan should be in tentative form with sufficient detail for review and comments.

## **§ 155.036 SUBMISSION OF PRIMARY PLAT.**

In accordance with the Town's application submittal calendar, the subdivider shall submit a written application for primary plat approval together with the following:

(A) A primary plat based on a survey conforming to the Minimum Standards for the Competent Practices of Land Surveying administered by the Indiana State Board of Registration for Land Surveyors, or as provided for in 865 IAC 1-12. The primary plat shall be drawn on 24 inches by 36 inches materials at an accepted scale and encompassing all contiguous parcels of property owned by or under the control of the subdivider and showing the following:

- (1) The proposed name for the subdivision;
- (2) The location by civil township, section, township and range, or by other legal description;
- (3) The name and address of the subdivider;
- (4) The name, address and registration number of the surveyor;
- (5) The scale, northpoint and date;
- (6) The boundary line of the subdivision;
- (7) The boundary lines of adjacent tracts of unsubdivided or subdivided land, showing ownership where possible;
- (8) Existing zoning of the proposed subdivision and adjacent tracts;
- (9) Topographic contours at a minimum of two-foot intervals;
- (10) All existing permanent features either natural or manmade that may influence the design of the subdivision, such as watercourses, tree groves, swamps, sewers, water mains, culverts, utility lines, and fire hydrants. Where underground utilities exist within or adjacent to the tract, the approximate location, pipe size, and direction of flow shall be indicated;
- (11) The location, width, and names of all existing or prior platted streets or other public ways, railroad and utility rights-of-way, parks and other public open spaces, permanent buildings and structures, permanent easements, and section and corporate lines on or within 200 feet of the subdivision;
- (12) The layout of all proposed and existing lots with appropriate dimensions including the minimum lot areas in square feet for the smallest lot(s) in the subdivision and the proposed front yard setback lines;
- (13) The layout of streets, widths of rights-of-ways, proposed cross sections or roadways, and also the widths of cross-walkways and easements;
- (14) Parcels of land intended to be dedicated or temporarily reserved for public use or set aside for use of property owners in the subdivision;
- (15) The apparent right-of-way; and
- (16) Flood zone statement with FIRM map number and date.

(B) A drainage plan in conformance with the county drainage regulations showing:

- (1) Natural watercourses, marshes, and the like;
- (2) Existing drainage facilities, culverts and the like; and
- (3) The proposed drainage plan for the subdivision and analysis of existing drainage facilities to the nearest watercourse showing culverts, retention ponds, and the like.

(4) Submittal must meet the requirements of Chapter 157 Stormwater Drainage, Erosion and Sediment Control Regulations.

(C) A feasibility report in conformance with the Town's sewage disposal and drainage regulations including but not limited to the following:

(1) The feasibility of connecting to an existing sewerage system and water supply. This portion of the study shall include the distance to the nearest public sewer, its capacity and present load, and its capacity to handle the additional sewage load created by the subdivision. The same information shall be submitted for water supply;

(2) If connection to an existing sewerage or water system is not feasible, the feasibility of constructing a community sewerage and water system shall be studied. The study shall give consideration to treatment works, receiving streams, lagoons and the like, and available water supplies;

(3) If connection to a public or a private sewerage system is not feasible, a report on the feasibility of on-lot sewage disposal in conformance with the Town's sewage disposal and drainage regulations;

(4) A study of the storm water drainage of the area showing a method of dispersion or retention and the adequacy of downstream facilities. This study shall give consideration to both water entering the subdivision from adjacent land and water within the boundaries of the subdivision; and

(5) A preliminary report on the type(s) of street construction based on the specifications outlined in §§ 156.090 through 156.098.

(D) The submission of the primary plat shall be accompanied by a fee as established by the Town Council.

### **§ 155.037 PRIMARY PLAT REVIEW PROCEDURE.**

(A) Upon receipt of an application for primary plat approval, Town staff shall review the application for technical conformity with the standards fixed in this chapter. Staff shall announce the date for a hearing before the Plan Commission, and shall provide for notice in accordance with I.C. 36-7-4-706. After the staff has announced a date for a hearing before the Plan Commission, it shall:

(1) Notify the applicant in writing;

(2) Give notice of the hearing by publication in accordance with I.C. 5-3-1; and

(3) Provide for due notice to interested parties at least ten days before the date set for the hearing.

(B) The Technical Committee shall review the primary plat and make a report to the Commission.

(1) If the Technical Committee finds that the primary plat has been prepared in accordance with the terms of this chapter, they shall forward a report so stating to the Commission for consideration.

(2) If the Technical Committee finds that the primary plat has not been prepared in accordance with the terms of this chapter, they shall return the plat to the subdivider with a written specification of the items of nonconformance and shall submit a copy of the same to the Commission.

(C) If, after the hearing, the Plan Commission determines that the application and plat comply with the standards in the subdivision control this chapter, it shall make written findings and a decision granting primary approval to the plat. As a condition of primary approval, the commission may specify:

- (1) The manner in which public ways shall be laid out, graded and improved;
- (2) A provision for water, sewage, and other utility services;
- (3) A provision for lot size, number and location;
- (4) A provision for drainage design; and
- (5) A provision for other services, as specified in this chapter.

(D) If, after the hearing, the Plan Commission disapproves the plat, it shall make written findings that set forth its reasons and a decision denying primary approval. The Commission may also refer a plat back to the Technical Committee for review or study on a specific technical matter.

(E) Approval of a primary plat shall not constitute approval of a secondary plat. Rather, it shall be deemed an expression of approval to the layout submitted on the primary plat as a guide to the preparation of the secondary plat and shall permit the subdivider to proceed with construction or permanent improvements for which designs and specifications shall have been approved by the appropriate agencies. Approval of the primary plat will terminate two (2) years after the date of approval unless further extended by the Commission upon written request of the subdivider, and by filing 60 days prior to the expiration of the approval and by payment of a filing fee established by the Town Council.

(F) Subsequent approval will be required of the engineering proposals pertaining to water supply, storm drainage, sewerage and sewage disposal, grading and gradients, roadway widths, and the surfacing of streets, prior to the approval of the secondary plat.

(G) Upon approval of the primary plat, the Commission will indicate upon each copy that it has been approved. One copy shall be returned to the subdivider along with a written statement indicating the action taken by the Commission. If approved with conditions, a written copy of the conditions shall accompany each copy of the approved plat. If disapproved, the Commission shall return to the subdivider three copies of the primary plat marked "Disapproved by the Town of Fortville Plan Commission," along with a written statement indicating the reason or reasons for its disapproval.

(H) All subdivisions, business, or industrial use must comply with Chapter 157 Stormwater Drainage, Erosion and Sediment Control Regulations.

## **MAJOR SUBDIVISIONS; SECONDARY PLAT**

### **§ 156.050 GENERAL PROVISIONS.**

(A) The secondary plat will not be considered for approval until the action taken by the Commission on the required primary plat has been completed, nor shall secondary approval be granted prior to the expiration of the appeal period provided for in Indiana Code. When the secondary plat submitted does not substantially conform to the approved primary plat, the subdivider shall not file an application for secondary plat approval until the primary plat has been amended in accordance with the same procedure required for Primary Plat approval.

(B) Construction drawings are to be submitted for major subdivisions with the secondary plat. The construction drawings shall include, but not be limited to, the following:

(1) All drainage with invert and top of casting elevations, sizes, length of pipe, drainage profile, existing and proposed tile, drains, culverts, bridges, appropriate high and low water elevations of lakes and streams, and all wooded areas;

(2) Street information, including right-of-way width, type of material to be used, cross-sections, slope of pavement, all stationing, curve data, street profiles, curbs and gutters, and location and description of street signs;

(3) All information required by the Town's sewage and drainage regulations;

(4) Topography with a minimum contour interval of two feet and site-grading plan for the entire subdivision;

(5) The title, name, address, signature, and registration number of the professional engineer and/or surveyor, and the date, including revision dates;

(6) The postal address for each lot. The applicant shall provide a typewritten list of lot numbers as shown on the secondary plat with corresponding mailing addresses organized by street;

(7) Plan must comply with all the requirements under Chapter 157 Stormwater Drainage, Erosion and Sediment Control Regulations.

(8) The supplemental data sheet shall include the flood zone statement including FIRM map number and date.

### **§ 156.051 PHASING.**

The subdivider may request secondary plat approval for all or any portion of the approved primary plat, provided, however, that submission of a secondary plat covering only a portion of the area contained in the approved primary plat may be permitted only after consideration of the effect of the continuity of roads, utilities and services.

### **§ 156.052 SECONDARY PLAT.**

(A) Following the approved calendar, the subdivider shall submit for final plan approval a mylar, 18 inches by 18 inches, at an accepted scale and the number of paper copies required for each department reviewing the plat. The secondary plat shall be accompanied by a fee set by the Town Council.

(B) The secondary plat shall include:

(1) The name of the subdivision;

(2) The location by section, township and range, and the legal description of the property platted;

- (3) The name and certification of the land surveyor preparing or certifying the plat, as set out in the appendices to this chapter;
- (4) The scale, shown graphically and numerically, and the date and northpoint;
- (5) The boundary of the plat, based on a boundary survey conforming with the Minimum Standards for the Competent Practice of Land Surveying administered by the State Board of Registration of Land Surveyors, as provided in 865 IAC 1-12, having an unadjusted mathematical closure of 1:10,000, with angular and lineal dimensions;
- (6) The exact locations, width and name of all streets within and adjoining the plat, and the exact location and width of all alleys and crosswalks;
- (7) True angles and distance to the nearest established street lines or official monuments, which shall be accurately described in the plat. Also the locations of the subdivision cornerpoints and the location of the elevation benchmarks;
- (8) Municipal, township, county or section lines, or previously platted land accurately tied to the lines of the subdivision by distance and angles;
- (9) The radius angle of intersection, tangent length, length of curve, point of curvature and point of tangency for curves, radii, internal angles, points and curvatures, tangent bearings, and lengths of all arcs;
- (10) All easements for rights-of-way provided for public services and utilities;
- (11) All lot numbers and lines, with accurate dimensions in feet and hundredths;
- (12) Accurate location of all monuments;
- (13) Accurate outlines of any area, other than public ways to be dedicated, reserved for public or semipublic use with the purposes indicated thereon, and for any areas to be reserved for the use of all property owners;
- (14) Building setbacks, accurately shown with dimensions which are not in conflict with the Zoning Ordinance;
- (15) Acknowledgment, by the owner and as required by law, of the adoption of the plat and the dedication of streets, other public areas, and utility and drainage easements, as set out in Appendix B;
- (16) Each secondary plat submitted to the Commission for approval shall carry a certificate signed by the owner after Technical Committee and Plan Commission approval but before recording, as set out in Appendix C;
- (17) A notarized statement indicating that the applicant is the owner of the land to be subdivided and that the subdivision shown on the recording plat is made with his or her free consent, as set out in the Appendix C;
- (18) The proper form for the acceptance of dedications by the Town Council, as set out in Appendix C;
- (19) The proper form for the approval of the Commission, as set out in Appendix E;
- (20) Restrictive covenants regulating the use and development of the lots shall be on the secondary plat or made a part thereof, subject to the approval of the Commission. The protective covenants shall include the clauses as outlined in §§ 156.070 through 156.078 and §§ 156.090 through 156.099;
- (21) A note on the plat as follows: “Dedicated R/W in this major subdivision consists of \_\_\_\_\_ acres;” and

- (22) Statement for drainage easements per Stormwater Ordinance;
- (23) Area map; and
- (24) Redact statement of Social Security information.

**§ 155.053 FINANCIAL GUARANTEES.**

(A) Financial guarantees shall be required for all proposed incidental improvements not completed prior to signing of the secondary plat by the Plan Commission for all completed improvements as required by the subdivision control regulations.

(B) A maintenance bond shall be required prior to signing of the secondary plat by the Plan Commission and shall:

- (1) Run to the Town of Fortville from the developer;
- (2) Be in an amount not less than 20% of the cost of all improvements and installations as required by §§ 156.090 through 156.098;
- (3) Be with surety satisfactory to the Town of Fortville;
- (4) Warrant the workmanship and all materials used in the construction, installation and completion of the improvements, and installations to be of good quality and to have been constructed and completed in a workmanlike manner in accordance with the standards, specifications and requirements of this chapter and the plans and specifications submitted to the Plan Commission;
- (5) Provide that for a period of not less than 36 months after the installations and improvements have been completed or are accepted for public maintenance by the Town, the applicant will, at his or her own expense, make all repairs to the improvements and installations or the foundations thereof, which may become necessary by reason of improper workmanship or materials; and
- (6) Bear an “A” rating or better as ranked by a reputable insurance rating firm to the satisfaction of the Town.

(C) A performance bond shall be required prior to the beginning of construction by and shall:

- (1) Run to the Town of Fortville from the developer;
- (2) Be in an amount equal to 125% of the cost of all incidental improvements and installations as required by §§ 156.090 through 156.098. All improvements and installations as required in §§ 156.090 through 156.098, except for incidental improvements, shall be completed and approved prior to signing of the secondary plat.
- (3) Be with surety satisfactory to the Town; and
- (4) Be valid and effective until the improvements are installed to the satisfaction of the Town at which time all required maintenance bond(s) shall be posted for a period of not less than 36 months.
- (5) Bear an “A” rating or better as ranked by a reputable insurance rating firm to the satisfaction of the Town.

(D) Cash bonds or other negotiable securities that are acceptable and assigned to the Town may be posted with the Town in lieu of the performance bond.

(E) Town staff may grant exception(s) to the provisions of this section.

#### **§ 156.054 BOND FUNDS.**

Any funds received from the financial guarantees required by this chapter shall be used only for the purposes of making the improvements, installations or repairs for which the guarantees were provided, in accordance with the standards, specifications and requirements of this chapter.

#### **§ 156.055 COMPLETION AFFIDAVIT.**

Upon the acceptance of the improvements and installations by the Town, the applicant may obtain a completion affidavit from the Town stating that the required improvements and installations have been installed in compliance with specifications of this chapter and have been accepted for public maintenance by the Town, subject to the terms of the maintenance bond provided by the applicant.

#### **§ 156.056 REVIEW PROCEDURE OF TECHNICAL REVIEW COMMITTEE.**

(A) Upon receipt of an application for secondary plat approval, the Technical Committee shall review the secondary plat.

(1) If the Technical Review Committee finds that the secondary plat has been prepared in accordance with the terms of this chapter, they shall approve.

(2) If the Technical Review Committee finds that the secondary plat has not been prepared in accordance with the terms of this chapter, they shall return the plat to the subdivider with a written specification of the items of nonconformance.

(B) The Planning Director and Plan Commission Chairperson shall, upon the filing of an application for secondary plat approval, review the secondary plat along with the accompanying data, hear the report of the Technical Review Committee, and determine whether or not the secondary plat meets all minimum requirements and standards of this chapter and of all other applicable ordinances in the county. The Planning Director and Plan Commission Chairperson shall then take one of the following actions on the secondary plat:

(1) (a) If the Planning Director and Plan Commission Chairperson determines that upon the satisfactory completion of one or more specified conditions consistent with the requirements, standards, and specifications of this chapter, the secondary plat would comply with the terms of this chapter, the Planning Director and Plan Commission Chairperson may give conditional approval to the plat.

(b) Conditional approval of a secondary plat may include a construction agreement which is acceptable to the Planning Director and Plan Commission Chairperson and would permit the subdivider to proceed with the installation of improvements prior to recording. Written notice of the conditional approval shall constitute formal authorization to the subdivider to construct and install all or a part of the required improvements, subject to inspection and acceptance procedures required by this chapter. The subdivider shall furnish sufficient evidence to the Planning Director and Plan Commission Chairperson of the satisfactory completion of the conditions before the plat will be deemed "final approval for record."

(2) The Planning Director and Plan Commission Chairperson shall sign the secondary plat for record only after it has determined that the secondary plat meets the minimum requirements of this chapter and all applicable ordinances in the Town and that sufficient financial guarantees have been submitted in accordance with this chapter.

(3) Should the Planning Director and Plan Commission Chairperson decide to disapprove the plat, written notice of the action, together with reasons therefor, shall be transmitted to the subdivider.

(4) After review of the secondary plat; drainage calculations and construction plans must be reviewed in accordance to Chapter 157 Stormwater Drainage, Erosion and Sediment Control Regulations before construction may begin. All plans must be approved by the Town Engineer.

(C) Upon final approval of the secondary plat, Town staff shall indicate upon each copy that it has been approved. One copy shall be returned to the subdivider, along with the written statement indicating the action taken by the Planning Director and Plan Commission Chairperson. If approved with conditions, a written copy of the conditions shall accompany each copy of the approved secondary plat.

(D) Final approval of a plat by the Planning Director and Plan Commission Chairperson shall be an acceptance by the public of the offer of dedication of any street improvement, way, place, structure, utility improvements, or open space improvement, within the areas shown upon the plat.

(E) The Planning Director and Plan Commission Chairperson shall affix their signatures to the original tracing and the subdivider shall record the plat with the County Recorder within 30 days. If not recorded within this time, the approval shall be null and void, unless further extended by the Planning Director and Plan Commission Chairperson upon written request of the subdivider, prior to the expiration. The subdivider shall pay the recording fee, and shall submit a recorded hard copy and digital copy to Town staff. Until the prints have been so filed, no improvement location permit, occupancy permit, or other permits shall be issued for any lot shown upon the plat.

## **DESIGN PRINCIPLES AND STANDARDS**

### **§ 156.070 GENERAL PROVISIONS.**

(A) In determining whether an application for approval shall be granted, the Commission shall determine if the plat conforms to the principles and standards required in this chapter, which shall be deemed as minimal; and whenever the applicable requirements of other Town ordinances or adopted standards are higher or more restrictive, those requirements shall control any application for plat approval.

(B) In the subdividing of any land, due regard shall be shown for all natural features, such as tree growth, watercourses, historic spots, or similar conditions which, if preserved, will add attractiveness and value to the proposed development.

(C) Due consideration shall be given to the prevention of air and stream pollution, proper treatment and disposal of refuse and other waste, and the elimination of other blighting characteristics.

(D) The subdivision layout shall be of a character that protects the health, safety, and general welfare of the Town and its residents, and shall be consistent with the community's goals and objectives in the Comprehensive Plan.

(E) In designing a street system, the subdivider shall be guided by the following principles:

- (1) Adequate vehicular, bicycle, and pedestrian access shall be provided to all parcels;
- (2) Local street patterns shall provide reasonable direct access to the primary circulation system and a grid system shall be used to the extent possible;
- (3) Traffic generators within residential areas shall be considered in the design of the circulation pattern;
- (4) Planning and construction of residential streets shall clearly relate to their local function;
- (5) Pedestrian-vehicular conflict points shall be minimized;
- (6) Cul-de-sacs shall be used rarely, if at all, and only if needed for topographic reasons.
- (7) Concepts of New Urbanism/neo-traditional development.

(F) All plans must meet the requirements under Chapter 157 Stormwater Drainage, Erosion and Sediment Control Regulations, including drainage calculations, storm sewer design, flood plain management, and erosion control.

**§ 155.071 GEOMETRIC STREET STANDARDS.**

(A) Refer to the Town's adopted Access Control Ordinance and adopted Street Standards. In the event of a conflict, the Planning Director may determine the most appropriate standard given the context of the subdivision. All dedicated and designated rights-of-way shall conform to the following minimum dimensions:

<i>Street Right-of-Way</i>	<i>Minimum Dimensions</i>
Major arterial	See Thoroughfare Plan
Minor arterial	See Thoroughfare Plan
Collector	See Thoroughfare Plan
Local (Appendix AB)	See Thoroughfare Plan
Cul-de-sacs, when utilized	50 feet in radius
Utility easements	15 feet

(B) No more than two streets shall intersect at any one point unless specifically approved by the Commission. Generally, intersections of major streets should be at least 800 feet apart and any street jogs with centerline offsets of less than 150 feet should be avoided, as shown in Chapter 156 Appendix L. Proposed new intersections along one side of an existing street shall, wherever practicable, coincide with any existing intersection on the opposite side of the street.

(C) Generally, streets shall intersect at 90° whenever possible with a minimum distance of 100 feet; and shall generally not intersect at less than 80° onto arterial or collector streets, as shown in Chapter 156 Appendix M.

(D) To ensure adequate site distance, when the street centerline deflects more than 10°, connections shall be made by horizontal curves. Generally, the minimum centerline radius for local residential streets shall be 150 feet and for all other streets shall be 400 feet, as shown in Chapter 156 Appendix N.

(E) Generally, a tangent of at least 100 feet shall be introduced between reversed curves on local and collector streets, as shown in Chapter 156 Appendix O.

(F) Proper sight visibility shall be maintained at all intersections.

(G) The maximum vertical grade for all streets shall not exceed 5%. The minimum vertical grade of all streets shall be 0.4%.

(H) When utilized, the maximum length cul-de-sac street shall be 1,300 feet measured along the center line from the intersection at origin through the center of the circle to the end of the right-of-way. The origin of a cul-de-sac shall be defined as the centerline of the first street intersected by the cul-de-sac. Each cul-de-sac shall have a terminus of nearly circular shape with a minimum right-of-way diameter of 100’.

## **§ 156.072 GENERAL STREET STANDARDS AND REQUIREMENTS.**

(A) Half streets shall be prohibited, except where essential to the reasonable development of the subdivision in conformity with other requirements of these regulations, and where the Commission finds it will be proper to require the dedication of the other half when the adjoining property is subdivided. Wherever a half street is adjacent to a tract to be subdivided, the other half of the street shall be planned within the tract.

(B) No street names may be used which will duplicate or be confused with the names of existing streets within the Town limits. The streets which are logical extensions or continuations of, or obviously in alignment with any existing streets, either constructed or appearing on any validly recorded plat, shall bear the names of the existing streets.

(C) Rights-of-way for proposed streets shall be extended to the boundary lines of the proposed subdivision so that a connection can be made to all adjacent properties unless the extension is not feasible because of topography or other physical conditions, or unless, in the opinion the Commission, the extension is not necessary or desirable for the coordination with existing streets or the most advantageous development of adjacent tracts. In any event, no subdivision shall be designed so as to create or perpetuate the land-locking of adjacent undeveloped land.

(D) A temporarily dead-ended street shall be permitted in any case in which a street is proposed to be and should logically be extended but is not yet constructed. An adequate easement for a turnaround shall be provided for any temporary dead-end street which extends 200 feet or more in length. The easement shall be automatically vacated to abutting property owners when the dead-ended street is legally extended.

(E) In subdivisions that adjoin or include existing streets that do not conform to the minimum right- of-way dimensions as established by the Thoroughfare Plan, the subdivider shall dedicate additional width along either one or both sides of the streets of inadequate width so as to bring them up to standards, provided the area to be used for widening is owned by the subdivider or under his or her control.

(F) The following provisions shall be required as a provision of the restrictive covenants of all secondary plats to which they apply.

(1) No fence, wall, hedge, tree or shrub planting which obstructs sight lines and elevations between two and one-half and eight feet above the street shall be placed or permitted to remain on any corner lot within the triangular area formed by the street right-of-way lines and a line connecting points 40 feet from the intersection of the minor street lines, and 75 feet from the intersection of arterial streets, or in the case of a rounded property corner, from the intersection of the street right-of-way lines extended. Sight Visibility Triangles shall be shown graphically on the plat, on applicable lots, and labeled as Sight Visibility Easements.

(2) No sump pump drains or other drains shall outlet onto the street.

(3) The maintenance of all irrigation or sprinkler systems installed in the right-of-way shall be the responsibility of the individual homeowner or developer. The Town assumes no responsibility for maintenance or damage of any kind.

(4) Each homeowner (lot owner) shall be responsible for constructing a five-foot wide concrete sidewalk, unless otherwise approved by the Town, 4" thick, 6" at driveway, with expansion joints along the entire street frontage of their respective lot. The sidewalk shall be constructed prior to completing finish lot grading. The sidewalk shall be located 0.5' inside the street right-of-way line, (not on the lot) and parallel to the street right-of-way line. The lot owner is responsible for the repair and maintenance of the sidewalk. All public sidewalks shall comply with the Americans with Disabilities Act (ADA) including at intersections.

(5) The homeowner's association shall employ a management company to assist with the management, administration, operation, and maintenance of the subdivision.

(G) Pipe underdrains will be used on both sides of the street as shown in Chapter 156 Appendix P. The minimum slope of the pipe shall be 0.4%.

(K) Bicycle lanes and multi-use trails shall be provided with markings, signage, and buffering of suitable size and location in accordance with the Hancock County Trails Plan (2018).

### **§ 156.073 BLOCK STANDARDS.**

(A) Block length and width or acreage within bounding streets shall be designed to accommodate the size of the lot required in the area by this chapter and to provide for convenient access, circulation control, and safety of street traffic. Blocks that are unreasonably large or small will not be approved.

(B) The maximum block length shall be 800 feet.

(C) Residential blocks shall be of sufficient depth to accommodate two tiers of lots of minimum depth.

### **§ 156.074 LOT STANDARDS.**

(A) Subdivision lots shall be adequate for the type of development and land use proposed, and shall conform to the requirements of the Zoning Ordinance.

(B) The lot size, width, depth, shape, grade, location and orientation, shall be in proper relation to street and block design to existing and proposed topographical conditions.

(C) Every lot or parcel shall have legal access to a public street designated, designed and improved in accordance with the terms of this chapter.

(D) The minimum lot width shall conform to the requirements of the Zoning Ordinance.

(E) The minimum yard size, or setback lines, required for each lot shall be in conformance with the requirements of the requirements of the Zoning Ordinance.

(G) Corner lots shall be sufficiently larger than interior lots to allow maintenance of front setback lines on both streets.

(H) Side lines of lots shall be approximately at right angles or radial to the street line.

(I) Double frontage lots shall not be permitted.

(J) Lots abutting a watercourse, drainageway, channel or stream shall have additional minimum width or depth as required to provide an adequate building site and afford the minimum usable area required for front, rear, and side yards.

(K) All lots must have proper drainage.

### **§ 156.075 EASEMENTS.**

(A) Adequate areas of suitable size and location shall be allocated for utility easements. As a general principle, the easements shall be at least 15 feet in width, shall provide reasonable continuity from block to block and shall be located at rear lot lines and along side and front lot lines when deemed necessary.

(B) All easements must meet the requirements under Chapter 157 Stormwater Drainage, Erosion and Sediment Control Regulations.

(C) Whenever practical, the subdivider shall design for the placement of utility lines underground, following the required standards and specifications established by each utility company. The location of each underground utility system shall be shown by appropriate easement lines on the proposed plat.

(D) Where the sanitary sewer system in a subdivision consists of individual septic systems, perimeter drains installed as a part of the septic system may be located in common easements designated for drainage and utilities.

(E) The following shall be lettered on each proposed plat depicting a secondary septic field easement:

The secondary septic field easement shown on this plat shall be deemed a permanent easement and permanently reserved for the construction of a secondary septic field in the event that the primary septic field fails. The easement area shall remain undisturbed, with no buildings, structures or any other thing located within the easement. The easement should also remain free of any process or thing that might cause compaction of the soils.

### **§ 156.076 COMMERCIAL AND INDUSTRIAL SUBDIVISIONS.**

(A) It is recognized that the subdivider, in creating commercial and industrial subdivisions, faces unique problems of lot design not normally encountered in residential subdivisions. For this reason, the initial emphasis of the Commission shall be upon street layout and block arrangement. Generally, the procedural requirements shall be for the owner to follow

the regular procedure outlined in these regulations. However, the subdivider need show only two lots along with the street and block layout. Then from time to time, as prospective buyers or users express interest in lots sized to their required specifications, the owner shall submit an amendment to the approved recorded subdivision plat for consideration.

(B) Regular procedural requirements of the Commission following the receipt of a final subdivision plat shall then apply, except those streets that have been built by following an approved set of plans on the previously approved secondary plat shall not have to be rebuilt because of the adoption of new criteria by the Town. This shall also apply to storm drainage facilities within the subdivision unless runoff characteristics have been changed by the newly proposed improvements or unauthorized existing improvements.

(C) Drainage must meet all the requirements under Chapter 157 Stormwater Drainage, Erosion and Sediment Control Regulations.

### **§ 156.077 (RESERVED)**

### **§ 156.078 PONDS AND LAKES.**

(A) On all plats where there is a pond and/or lake, the following covenants shall be placed: "This pond and/or lake shall serve as detention for drainage areas and outlets for surface water for this subdivision. The pond and/or lake may serve as a supplemental water source for fire protection. Maintenance shall include but not be limited to: mowing, trimming, aquatic plant management (such as but not limited to cattails), algae control, burrowing animals, weeds, odors, insects, and water quality maintenance."

(B) The covenants must spell out who is responsible for maintenance.

(C) Signage around pond and/or lake. Danger signs shall be mounted at appropriate locations to warn of deep water and possible flood conditions. In addition, signs should be posted "WARNING: NO SWIMMING, BOATING, OR ICE SKATING PERMITTED".

(D) Safety screens or animal guards are required on all pipes entering or leaving a pond and/or lake and have a maximum opening of four inches to prevent children or animals from crawling into the structures.

## **IMPROVEMENTS AND INSTALLATIONS**

### **§ 156.090 GENERAL PROVISIONS.**

(A) Subdivision improvements shall be designed, furnished and installed by the subdivider in accordance with requirements of this chapter, and INDOT standards when applicable, and whenever the applicable requirements of any other governmental unit are higher or more restrictive, those requirements shall control any application or plat approval. No final subdivision plat shall be approved by the Commission unless the following improvements have been completed as herein specified and required, or the subdivider provides a financial guarantee therefor as specified in § 156.053.

(B) After Commission approval of the primary plat and prior to any construction in the subdivision, the subdivider shall submit copies of the construction drawings for streets and drainage facilities to the Town before construction is to begin.

(C) Supervision and inspection of construction of all required improvements shall be under the direction of the Town staff. All phases of construction are to be inspected on a regular basis. Notice is to be given to the Town personnel 24 hours in advance.

(D) A set of both paper and digital “as-built” or “record” drawings shall be submitted to the Town after the subdivision street and drainage construction is complete.

## § 156.091 STREETS.

Improvements for streets shall be performed to meet the following minimum standards and requirements:

(A) The dimensions for paved surface dimensions shall be as follows:

(1) For local and cul-de-sac streets:

Plan. (a) The width, with curb and gutter, shall be as per the Thoroughfare

(b) The terminus diameter on a local cul-de-sac shall be 100 feet;

(c) The radius at intersections shall be 25 feet.

(2) For collector streets:

Plan (a) The width, with curb and gutter, shall be as per the Thoroughfare

(b) The radius at intersections shall be 35 feet;

(c) At an intersection of a subdivision local or collector street with an arterial or major collector street or road, the Commission may require the subdivider to install acceleration and deceleration and/or passing lanes along the arterial or collector street.

(B) The minimum standards for street construction shall be in accordance with the Street and Utility Standards.

(1) The provisions for construction of the top layer of asphalt shall be as follows:

(a) 1. When 80% of the subdivision lots have homes built on them; or

2. A three-year period, starting from the date of completion and posting of a maintenance bond. A cash bond or letter of credit shall be posted to ensure the performance of the placing of the asphalt surface. If the above requirements are not met, then the Town may withhold issuance of any building permits until the asphalt surface is placed and accepted.

(2) The special requirements for industrial and commercial subdivisions are where streets are designed to serve industrial or commercial subdivisions or sites, or other developments requiring service by many heavy vehicles, the minimum pavement thickness will be that for a collector street.

(3) Temporary gravel construction shall be required at the entrance to a construction site to prevent sediment from being tracked from a site onto a public or private roadway.

(C) Concrete curbs and gutters shall be required for all streets. Refer to Thoroughfare Plan and Street & Utility Standards. Chairback curbs are required in all projects. The use of roll curbs shall be at the discretion of the Planning Director.

(D) *Sidewalks*. The plan shall include public sidewalks which shall be constructed by the builder/lot owner at the time of construction of the residence, if not in advance. The sidewalk shall extend along the entire street frontage of each respective lot and shall be constructed prior to completing finish lot grading. The sidewalk shall be located 0.5' inside the street right-of-way line (not on the lot) and parallel to the street right-of-way line. All sidewalk design and construction shall comply with the Americans Disabilities Act (ADA), as amended. Sidewalks shall be at least 5' feet wide, unless otherwise permitted by the Planning Director in the historic area of the town. The lot owner is responsible for the repair and maintenance of the sidewalk.

(E) No new subdivision street shall have open drainage swales along the streets.

(F) It shall be the responsibility of the subdivider to provide and install all required signs including street signs, stop signs, warning signs, bicycle lane and/or multi-use path signs, speed limits and any other regulatory signs as may be deemed necessary by the Town. All sign materials and installation procedures shall meet the requirements of the latest edition of the *State Manual on Uniform Traffic Control Devices*. The location and type of all signs in a subdivision shall be identified in construction drawings and presented to the Town for approval.

(G) The provisions for street lighting shall be as follows: The developer shall install or have installed with the street construction, street lights adequate to light all road intersections, curves, cul-de-sacs and entrances in the development in compliance with the following standards.

(1) The street light spacing shall be in compliance with the following minimum foot candle requirements. Street lights in general shall be on property lines and staggered on opposite sides of the street.

- |     |                                                      |     |
|-----|------------------------------------------------------|-----|
| (a) | Residential entrances                                | 1.2 |
| (b) | Residential streets                                  | 0.5 |
| (c) | Public or private parking lots                       | 1.2 |
| (d) | Park areas with playgrounds or walking/biking trails | 0.5 |

(2) All lighting components shall be of utility quality columns and fixtures with photovoltaic devices conforming to ANSI standard C136.10. Developments are encouraged to integrate decorative designs where practical.

(H) In developments having a density equal to or greater than 0.5 dwelling units per acre, the developer shall install bicycle lanes and/or multi-use trails in accordance with the adopted Hancock County Trails Plan (2018) to the satisfaction of the Planning Director or designee.

## **§ 156.092 DRAINAGE AND SANITARY SEWAGE DISPOSAL.**

In order to ensure the maintenance of a properly designed and installed drainage system, the following divisions shall be required as a provision of the restrictive covenants of all secondary plats and shall be included in all deeds written relative to the plats. The proposed owner shall sign and the signed copy of this covenant shall be on the plat:

(A) Drainage swales on dedicated drainage easements are not to be altered, dug out, filled in, tiled, or otherwise changed without the written permission of the Town. Property

owners must maintain these swales as sodded grassways or other non-eroding surfaces. Water from roofs or parking areas must be contained on the property long enough so that the drainage swales or ditches will not be damaged by the water.

(B) Any property owner altering, changing, or damaging these drainage swales or ditches will be held responsible for the action and will be given 30 days notice by mail to repair the damage, after which time, if no action is taken, the Town will cause the repairs to be accomplished, and the bill for the repairs will be sent to the affected property owner for immediate payment.

### **§ 156.093 WATER SYSTEM.**

(A) A water distribution system shall be designed and constructed by the subdivider to provide adequate water service for all lots in the proposed subdivision.

(B) A subdivision plat shall not be considered for final approval until improvement plans for a water system by one of the following methods have been submitted:

(1) A permanent water distribution system including all pipes, fire hydrants, valves, and other appurtenances shall be provided, and the distribution system shall be connected with an approved public or private water system in accordance with the satisfactory plans and specifications therefor.

(2) If the area proposed to be platted is not so located with regard to an adequate public or group water supply system, before any structure on any lot therein is occupied, an individual water supply system for the lot shall be constructed and installed in accordance with the satisfactory plans and specifications therefor. In no case will any part of the private water system be located closer than 15 feet to a property line or within 50 feet of a private sewage disposal system.

### **§ 156.094 MONUMENTS AND MARKERS.**

(A) Monuments and markers shall be installed by the subdivider of any subdivision of land. Permanent monuments and markers shall be consistent with the Minimum Standards for Competent Practice of Land Surveying administered by the Indiana State Board of Registration for Land Surveyors, as provided in 865 IAC 1-12. All monuments and markers shall be installed within 30 days after acceptance of the streets by the Town.

(B) Permanent monuments and markers set shall be  $\frac{5}{8}$ -inch diameter or larger iron or steel rebar, copper welds or their aluminum equivalent, harrison monuments or pipes weighing a minimum of one pound per foot and at least 30 inches in length.

(C) The markers shall be installed at:

- (1) The perimeter plat corners;
- (2) The beginning and end of the center lines of all streets;
- (3) The center line intersections of all streets and culs-de-sac;
- (4) The radius point of culs-de-sac;
- (5) The center line point of curvature and point of tangency of all street

curves;

- (6) The intersection of all street and alley right-of-way lines;
- (7) All the points where lot lines intersect street or alley right-of-way lines;
- (8) All angles formed by the intersection of lot lines;
- (9) All perimeter lot corners; and
- (10) All points required to delineate the location or extent of reservations, easements, or dedications not otherwise defined.

(D) Other monuments may be used if they are made of material of similar durability, which includes an element that can be found by a device capable of detecting ferrous or magnetic objects. All monuments, except those set in streets, shall have a substantial plastic or metal cap permanently affixed thereto showing the registered land surveyor's professional license number and/or the name or identification number of the land surveying firm or government agency.

(E) Where monuments as, defined in divisions (B), (C), and (D) above, cannot readily be set, survey points must be marked by a drill hole, cut cross, notch, railroad spike, or other similar permanent mark and referenced to any nearby objects such as building foundations, concrete head walls and the like.

(F) All U.S., state, county, or other official benchmarks, monuments, or triangulation stations in or adjacent to the property shall be preserved in precise position.

#### **§ 156.095 (RESERVED)**

#### **§ 156.096 EROSION CONTROL.**

Project must meet all the requirements under Chapter 157 Stormwater Drainage, Erosion and Sediment Control Regulations.

#### **§ 156.097 HYDRANTS.**

(A) The Town may require installation of dry hydrants in subdivisions with detention facilities. The hydrants shall be installed consistent with standards maintained by the Town.

(B) Any new hydrants, fire or dry, that are installed according to the Street & Utility Standards.

#### **§ 156.098 CULVERTS; PRIVATE DRIVES.**

Culverts or bridges installed as part of private drives shall be of adequate design to support firefighting apparatus.

#### **§ 156.099 (RESERVED)**

## MODIFICATIONS AND EXCEPTIONS

### § 156.110 INTENT.

The Plan Commission is hereby authorized and empowered to grant modifications and exceptions to the terms of this chapter as will not be contrary to the public interest, where owing to special conditions, fully demonstrated on the basis of the facts presented, strict compliance with specific provisions of the chapter will result in extreme practical difficulties or undue misuse of property.

(A) In the exercise of this authorization the Commission shall grant a modification or exception only upon the determination that:

- (1) The grant will not be detrimental to the public health, safety and general welfare of the county;
- (2) The grant will not adversely affect the reasonable development of adjacent property;
- (3) The grant is justified because of topographic or other special conditions unique to the property involved, in contradistinction to mere inconvenience or financial disadvantage; and
- (4) The grant is consistent with the objectives of this chapter and will not have the effect of nullifying the intent and purpose of this chapter.

(B) A written application for modifications or exceptions shall be submitted by the subdivider or Town staff indicating the specific section of this chapter under which the modifications or exception is sought and stating the grounds on which it is requested.

(C) After the application has been docketed for hearing, proper publication of notice has been published, and due consideration has been given, the Commission shall render a decision which shall be:

- (1) Recorded in the minutes of the Commission, which minutes shall include the reasoning on which the modification or exception was approved or disapproved;
- (2) Transmitted to the subdivider and applicable governmental units in accordance with the terms of this chapter;
- (3) Attached with conditions as will, in the Commission's judgment, secure substantially the objectives of the requirements, standards, and specifications of this chapter so modified or excepted; and
- (4) Attached with any covenants or other legal provisions as will, in the Commission's judgment, assure general conformity to and achievement of the subdivision plan.

(D) Before any modification or exception shall be granted, the Commission shall determine that satisfactory provision and arrangement has been made concerning the following, where applicable:

- (1) Ingress and egress to the property and proposed structures thereon with particular reference to automotive and pedestrian safety, convenience, and access in case of fire or catastrophe;
- (2) Automotive and pedestrian traffic flow with reference to adequacy, circulation ability and function within the broader planning unit;
- (3) Off-street and on-street parking and loading areas with reference to the needs of adjoining land use;

- (4) Utilities, with reference to locations, availability and compatibility;
- (5) Clear identification of property for land records;
- (6) Screening and buffering with reference to type, dimensions and character of materials;

## **ADMINISTRATION**

### **§ 156.120 AMENDMENT.**

In accordance with state statutes, the Town Council may consider amendments to this chapter as proposed by the Town Council, the Plan Commission, Town staff, or by a citizen's petition. Any proposed amendment shall be referred to the Plan Commission for public hearing, consideration, and report before any final action is taken by the Town Council.

### **§ 156.121 ENFORCEMENT.**

No plat of any subdivision shall be entitled to record in the County Recorder's office or have any validity until it shall have been approved in the manner prescribed by this chapter.

### **§ 156.122 RECORDING OF PLATS.**

All plats of a subdivision, after the same have been submitted and approved, as provided in this chapter, shall be copied upon a book of plats of the county and shall be filed and kept by the county among the county records. No amendment to such plat shall be entitled to record in the County Recorder's Office until approval by the Planning Director.

### **§ 156.123 EFFECT.**

All ordinances or parts of ordinances in conflict with the provisions of this chapter shall not be repealed by the passage of this chapter except where the repeal is specifically designated by ordinance, but the ordinance with the more restrictive applicable provisions shall be the ordinance that applies.

### **§ 156.124 APPEAL.**

Any person feeling aggrieved at any action of the Commission or Town staff, or lack of action of the Commission or Town staff, upon a proposed plat or replat, may apply in writing to the Commission, prior to the next regular meeting, for modification of the action complained of, or lack of action, on the proposed plat or replat. The application shall be considered by the

Commission at a time and in a manner as it may determine, but within 90 days following the regular meeting.

**§ 156.125 VIOLATIONS.**

Any person who violates any provision of this chapter shall be guilty of an ordinance violation. Refer to Town Code Title IX, Chapter 92 for enforcement procedures.

**APPENDIX A: SURVEY CERTIFICATION**

State of \_\_\_\_\_ )  
 ) SS:  
County of \_\_\_\_\_ )

I, \_\_\_\_\_ hereby certify that I am a Land Surveyor registered in compliance with the laws of the State of Indiana; and I do hereby further certify that I have surveyed the property described in the above caption and that I have subdivided the same into block and lots as shown on the hereon drawn plat. This plat correctly represents said survey and subdivision in every detail. Monuments shown are in place as located. All lot corners are marked with \_\_\_\_\_ . Dimensions are in feet and decimal parts thereof.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

Signature \_\_\_\_\_

(Seal)

**APPENDIX B: DEED OF DEDICATION**

We, the undersigned \_\_\_\_\_, owners of the real estate shown and described herein, do hereby lay off, plat, and subdivide said real estate in accordance with the within plat.

This subdivision shall be known and designated as \_\_\_\_\_. All right-of-way, including streets and alleys (if applicable) and public open spaces (if applicable) shown and not therefore dedicated are hereby dedicated to the public.

Front building setback lines are hereby established as shown on this plat, between which lines and property lines of the streets there shall be erected or maintained no building or structure. Building setback lines are shown for reference only; refer to the applicable Zoning Ordinance regulations for the most current requirements. The strips of ground shown on this plat and marked "Easement" are reserved for the use of public utilities for the installation of water and sewer mains, poles, ducts, lines and wires, drainage facilities subject at all times to the proper

authorities and to the easement herein reserved. No permanent or other structures are to be erected or maintained upon said strips of land, but owners of lots in this subdivision shall take their titles subject to the rights of the public utilities, and to the rights of the owners of other lots in this subdivision. Within easements, fencing may be allowed at the discretion of the Town, subject to an Easement Encroachment Agreement.

### **APPENDIX BB: RIGHT TO FARM DEED RESTRICTION**

The owner of the herein described real estate, for himself, and for all future owners and occupants of said real estate, or any parcel or division thereof, for and in consideration of the right to develop the real estate for other than agricultural uses, hereby:

- (1) Acknowledges and agrees that the real estate may be adjacent to an area zoned or used for agricultural purposes, which uses include but are not limited to:
  - (a) Production of crops;
  - (b) Animal husbandry;
  - (c) Land application of animal waste;
  - (d) Raising, breeding and sale of livestock and poultry, including confinement feeding operations;
  - (e) Use of farm machinery; and/or
  - (f) The sale of farm products.
- (2) Waives any and all objections to any agricultural uses within two (2) miles of any boundary of the real estate.
- (3) Agrees that agricultural uses do not constitute a nuisance so long as they are not negligently maintained, do not cause bodily injury to third parties, or directly endanger human health.
- (4) Agrees that this covenant is for the benefit of the Town and for all persons engaged in agricultural uses within two (2) miles of any boundary of the real estate and is enforceable by any of the foregoing.

### **APPENDIX C: CERTIFICATE OF OWNERSHIP**

State of \_\_\_\_\_ )  
 ) SS:

County of \_\_\_\_\_ )

We, \_\_\_\_\_ and \_\_\_\_\_ do hereby certify that we are the owners of the property described in the above caption and that as such owners we have caused the said above described property to be surveyed and subdivided as shown on the herein drawn plat, as our own free and voluntary act and deed.

\_\_\_\_\_ (Seal)

\_\_\_\_\_ (Seal)

State of \_\_\_\_\_ )  
 ) SS:

County of \_\_\_\_\_ )





WITNESSETH:

WHEREAS, the Principal has petitioned for and received Primary Plat approval by the Plan Commission on \_\_\_\_ day of \_\_\_\_\_, 20\_\_ for the Subdivision; and

WHEREAS, the installation of improvements required by the Plan Commission and the Fortville Town Code as a condition of approval of the Primary Plat have not been completed, constructed, and installed; and

WHEREAS, the Principal now desires recordation of the Subdivision plat prior to the installation of improvements required by the Plan Commission and the Fortville Town Code; and

WHEREAS, the Surety Company has pledged a performance bond(s) (attached) for the actions of the Principal for the completion, construction, and installation of the improvements required by the Plan Commission and the Fortville Town Code; and

WHEREAS, the terms and provisions of the performance bond(s) shall remain in full force and effect until such time when the Board has executed a written Release of Performance Bond; and

WHEREAS, the Surety Company and Principal agree that the covenants contained herein shall (i) run with the land and (ii) jointly and severally bind themselves, their heirs, executors, administrators, successors and assigns to the Town of Fortville jointly and severally for the completion, construction, and installation of the improvements required by the Plan Commission and the Fortville Town Code.

NOW, THEREFORE, the Principal agrees to the following obligations for the completion, construction, and installation of the improvements related to the development of the Subdivision:

(1) The Principal shall construct, install, and complete the following required improvements and installations for the Subdivision in compliance with all requirements, standards and specifications of the Fortville Town Code and other applicable ordinances and regulations of the Town within 12 months from the date on which the Town signs the Secondary Plat:

Check all items below covered by the performance bond(s) relating to paragraph (1), above and list dollar amount with bond number:

<u>Bond Number</u>	<u>Bond Type</u>	<u>Dollar Amount</u>
_____	Asphalt — Surface Course	_____
_____	Monuments & Markers	_____
_____	Permanent Seeding	_____
_____	Landscaping	_____
_____	Multi-Use Paths	_____
_____	Pipe Grouting	_____
_____	<u>Sidewalks</u>	_____

(3) The Principal shall, upon completion of the improvements and installations in paragraphs (1) above, but prior to acceptance thereof for public maintenance by the Town, provide a maintenance bond(s) for a period of not less than 36 months in the amount of not less than 20% of the cost of the improvements.

(4) Upon receipt by the Surety Company of written notice from the Town stating that the Principal has failed to complete, construct and install the improvements and installations required by the Plan Commission and the Fortville Town Code, the Surety Company shall, at the option and direction of the Town, promptly and at the Surety Company's expense, take one of the following actions:

(a) Arrange for the Principal, with written consent of the Town, to perform and complete the construction and installation of the improvements and installations required by the Plan Commission and Fortville Town Code;

(b) Undertake to perform and complete the construction and installation of the improvements and installations required by the Plan Commission and Fortville Town Code; or

(c) Make payment to the Town in the amount to be incurred by the Town to complete the construction and installation of improvements and installations required by the Plan Commission and Fortville Town Code. The amount of the performance bond(s) shall be credited for any payments made in good faith by the Surety Company, provided that the Surety Company's obligations under this paragraph (4)(c) shall not exceed \$\_\_\_\_\_ in the aggregate.

(5) If the Surety Company does not proceed as provided above with reasonable promptness, but in all events within thirty (30) days, the Surety Company shall be deemed to be in default on the performance bond(s) fifteen (15) days after receipt of an additional written notice from the Town to the Surety Company demanding that the Surety Company perform its obligations under the performance bond(s), the Town shall be entitled to enforce any remedy available to the Town.

(6) Upon compliance with the terms and provisions of the performance bond(s) and the execution of a written Release of Performance Bond by the Town, the performance bond(s) shall become null and void.

IN WITNESS WHEREOF, the undersigned have executed this instrument this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Name of Subdivider

By: \_\_\_\_\_  
Name of Surety Company

\_\_\_\_\_  
Signature of Principal

\_\_\_\_\_  
Signature of Attorney-in-Fact

\_\_\_\_\_  
Printed

\_\_\_\_\_  
Printed

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Notice of Address

\_\_\_\_\_  
Notice of Address

By: \_\_\_\_\_  
TOWN OF FORTVILLE

ATTEST:  
  
\_\_\_\_\_

Attached: Executed Performance Bond(s)

**APPENDIX G: PERFORMANCE BOND FORM**

**(Submitted on letterhead of Surety Company with executed power-of-attorney form attached.)**

Bond No. & Rating:

Project Name/Section:

KNOW ALL MEN BY THESE PRESENTS: That We, the undersigned: (Developer and Contractor or Developer, only) (Street Address) (City, State, Zip), as principal and (Surety Name and Address), as Surety, are held and firmly bound unto the Town of Fortville, Indiana, (hereinafter called the "Obligee") as Obligee, in the sum of (amount) dollars (\$ dollar amount), in lawful current money of the United States, for which payment will and truly be made, we bind ourselves, our heirs, successors, executors, and assigns, jointly and severally, firmly by these presents.

SEALED WITH OUR SEALS AND DATED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

THE CONDITIONS of this obligation are such that:

WHEREAS, the Principal has entered into an Agreement (attached) with the Obligee for the installation of the following physical improvements:

Paths	Asphalt Surfacing	Landscaping
	Survey Monuments & Markers	Multi-Use
	Permanent Seeding	Pipe Grouting
	Sidewalks	Streetlights

as required by the Fortville Town Code in accordance with all the provisions of the ordinances, rules, and regulations of the Town of Fortville, Indiana.

NOW THEREFORE, if the said Principal, hereinbefore set forth, shall fully and faithfully perform all the work specified to be done and performed by said Agreement between said Principal of the bond and the Town of Fortville, in accordance with this Agreement, which Agreement is made part hereof by reference, the same as if fully incorporated herein; then this obligation shall be void and of no further legal effect; otherwise, this bond shall remain in full force and effect in law.

However, upon default by the Principal in completing the required improvements as specified herein in accordance with the aforementioned Agreement, the Surety shall complete the improvements or pay to the Town of Fortville, Indiana, a sum up to the total amount provided in the bond to complete such improvements to the satisfaction of the Town. Payment shall be made upon receipt of a statement signed by an authorized signer of the Obligee, stating that: "a claim has been made and there has been a failure of the developer to comply with the terms of the construction plan requirements for the above mentioned improvements in said subdivision". Upon approval by the Town, this instrument may be proportionately reduced as the improvements are completed.

It is expressly being understood and agreed that the liability of the Surety for any and all claims hereunder, shall in no event exceed the full amount of this obligation herein stated.

IN TESTIMONY WHEREOF, we have hereunto set our hands, in the presence of a Notary Public this day, month, and year above written.

By: _____	By: _____
Company Name (Principal)	Surety Company
_____ Signature	_____ Signature of Attorney-in-Fact
_____ Type/Print Signatory's Name and Title	_____ Type/Print Attorney-in-Fact

Subscribed and sworn before me, a Notary Public, in and for said County and State, this day of \_\_\_\_\_, 20\_\_\_\_.

Notary Public  
County of Residence  
Commission

Expiration  
Attached: Executed Power of Attorney Form  
Executed Performance Bond  
Executed Performance Bond Agreement

**APPENDIX H: PERFORMANCE BOND COMPLETION AFFIDAVIT**

This is to certify:

- (a) That the following improvements as designated and engineered for:  
Section of \_\_\_\_\_ of  
(Name of Subdivision)

are complete and the as-built construction plans show them to be in accordance with the specifications and requirements of the Fortville Town Code;

(b) That surety has been posted to guarantee all materials and workmanship and to guarantee repair of any damage that may be inflicted upon the improvements listed in the course of completion of the subdivision; and

(c) That the Town of Fortville has accepted these improvements subject to the terms of the Maintenance Bond Agreement with the subdivider (attached).

(LIST IMPROVEMENTS)

TOWN OF FORTVILLE

Attached: Executed Maintenance Bonds, Forms, and Agreement

**APPENDIX I: RELEASE OF PERFORMANCE BOND**

WHEREAS, the Principal and Surety Company have posted a Performance Bond(s) for the improvements and installations (the "Improvements") required by the Fortville Town Code and all other applicable ordinances and regulations of the Town of Fortville for Section

\_\_\_\_\_ of \_\_\_\_\_; and  
(Name of Subdivision)

WHEREAS, the Town of Fortville has issued a Performance Bond Completion Affidavit indicating that all Improvements have been constructed and installed in compliance with all requirements, standards, and specifications of the Fortville Town Code and all other applicable ordinances and regulations.

Check all items covered by this Release:

	Asphalt Surfacing	Landscaping
	Survey Monuments & Markers	Multi-Use
Paths	Permanent Seeding	Pipe Grouting
	Sidewalks	Streetlights

NOW, THEREFORE, the Performance Bond(s) issued for the above-indicated improvements is/are hereby released.

ATTEST: TOWN OF FORTVILLE

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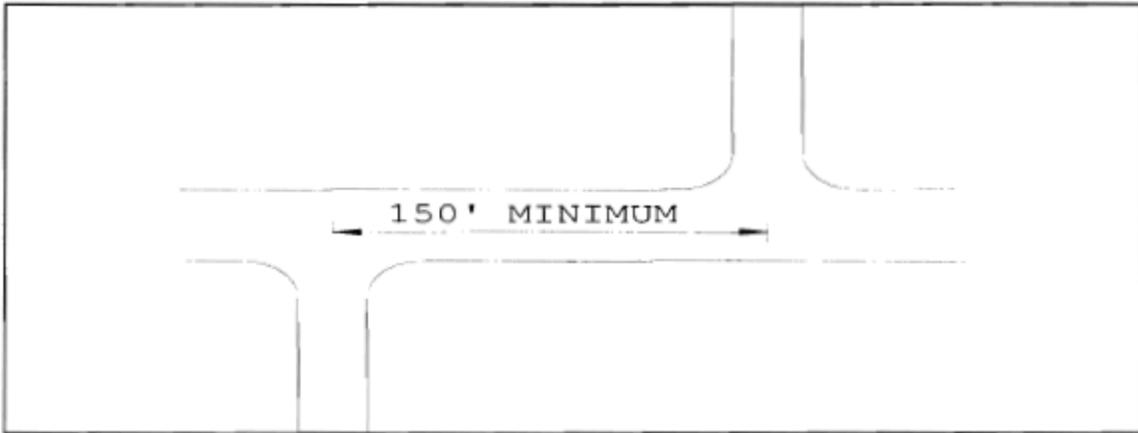
(Ord. 1993-9G, passed 9-27-93; Am. Ord. 2003-10F, passed 10-12-03)

**APPENDIX J: (RESERVED)**

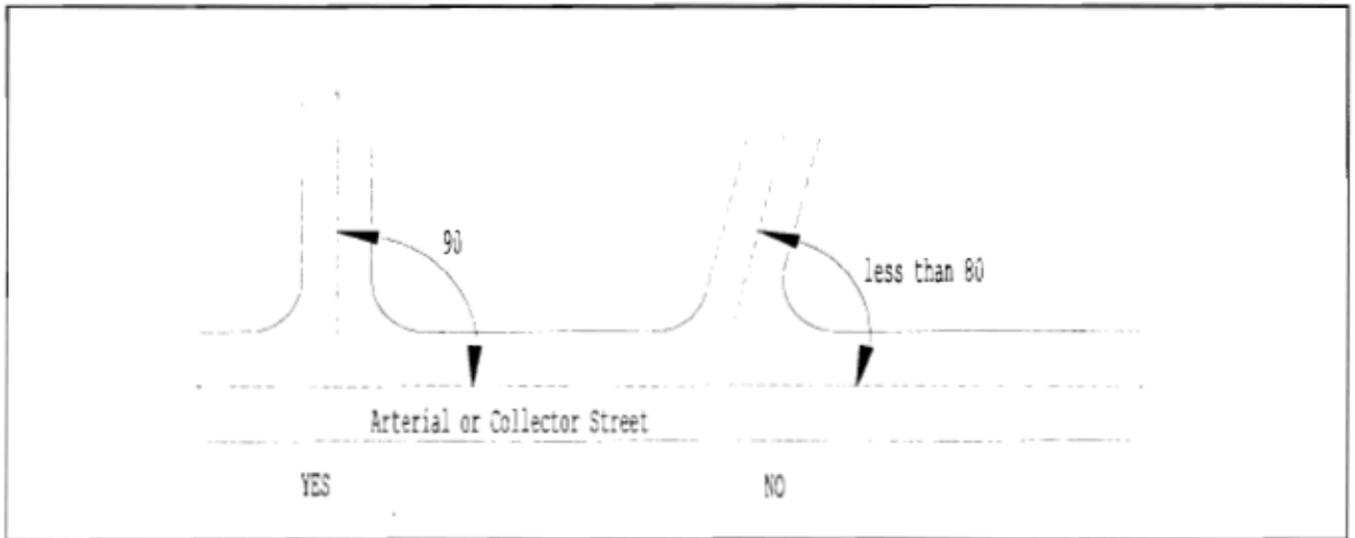
**APPENDIX K: TECHNICAL REVIEW COMMITTEE APPROVAL  
CERTIFICATE**

Approved by the TOWN OF FORTVILLE TECHNICAL REVIEW COMMITTEE  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

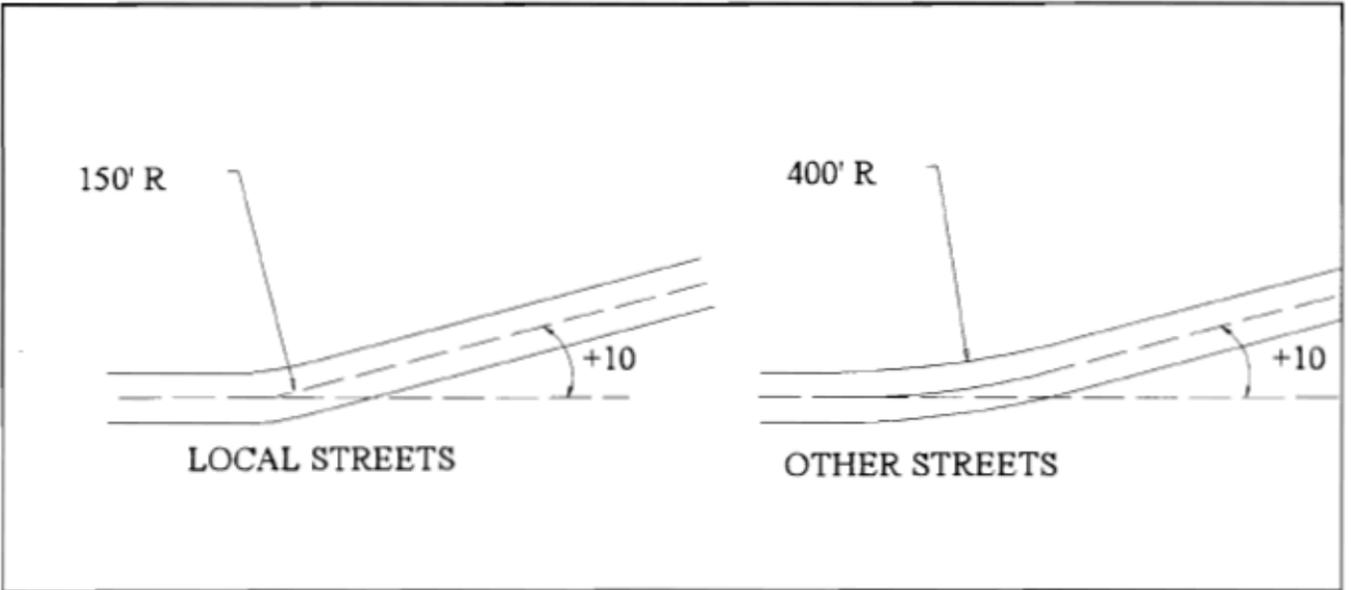
**APPENDIX L: CENTERLINE OFFSETS**



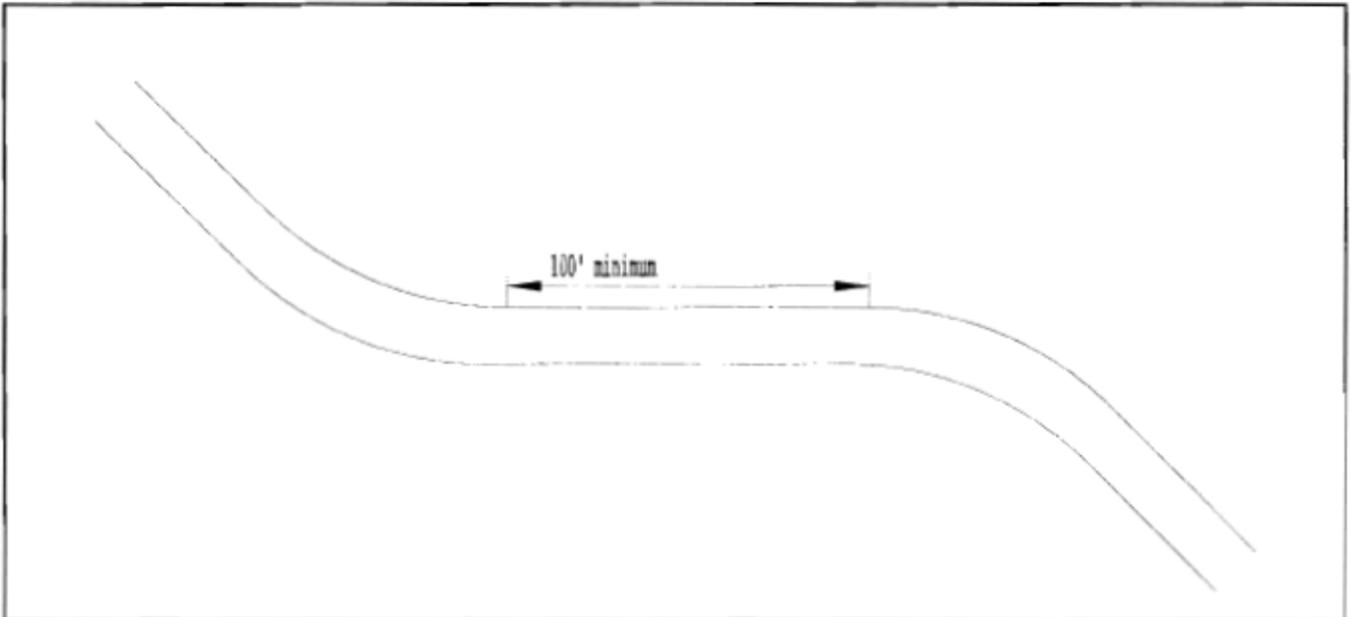
**APPENDIX M: INTERSECTION DETAIL**



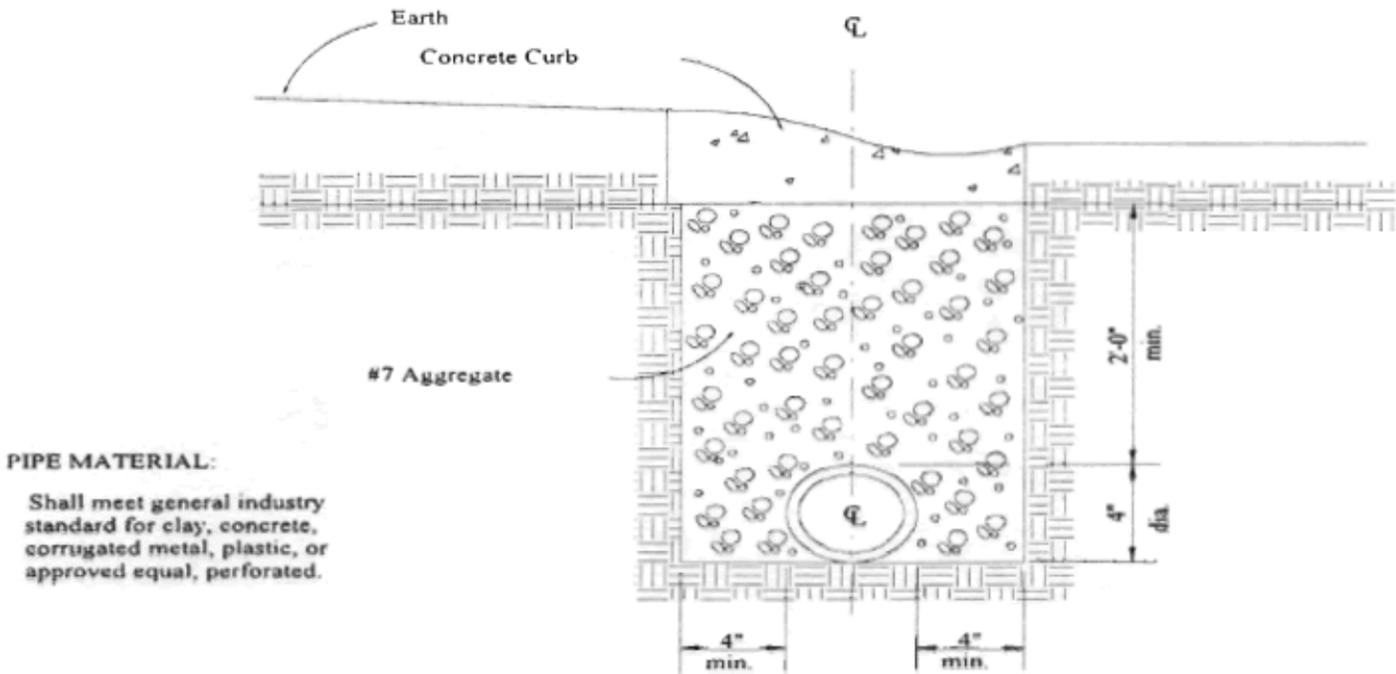
## APPENDIX N: CENTERLINE DEFLECTION



## APPENDIX O: REVERSE CURVE TANGENT



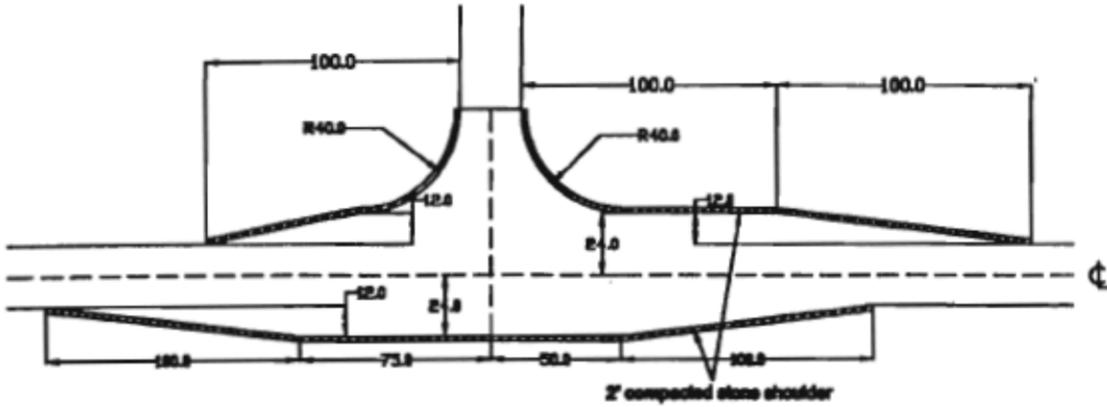
## APPENDIX P: PIPE UNDERDRAIN—TYPICAL INSTALLATION



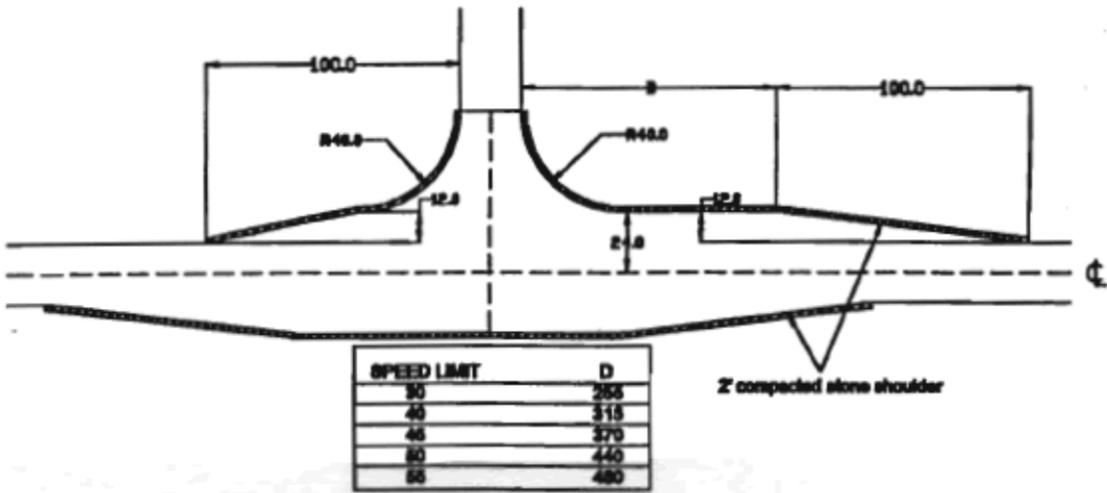
**APPENDIX Q: SUBDIVISION ENTRANCE - DECLARATION, ACCELERATION AND PASSING BLISTER LANES (WHEN REQUIRED)**

**Local Roads:**

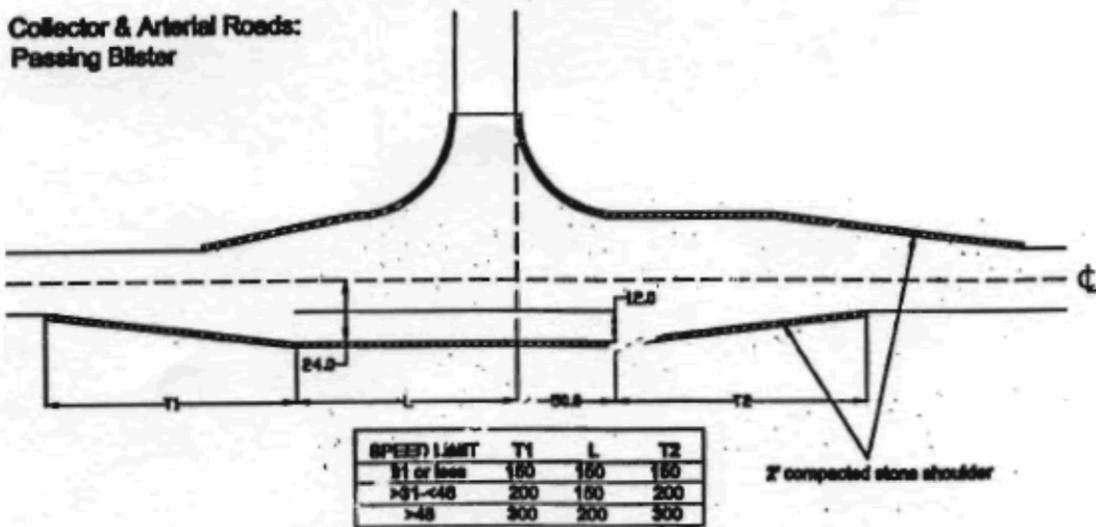
**Subdivision Control Regulations**



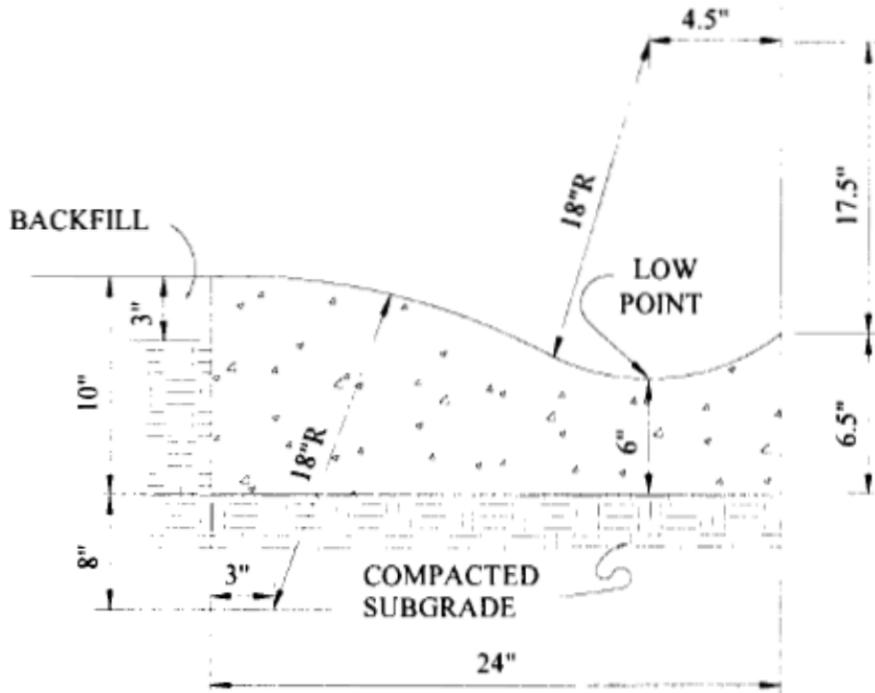
**Collector & Arterial Roads:  
Deceleration Lane & Acceleration Taper**



**Collector & Arterial Roads:  
Passing Blister**



## APPENDIX R: TYPICAL CONCRETE CURB AND GUTTER (ROLL CURB, WHEN APPROVED FOR USE)



## APPENDIX S: WAIVER OF LIEN AND AFFIDAVIT OF PAYMENT FORM (when posting Maintenance Bond)

Comes now \_\_\_\_\_ by and through \_\_\_\_\_, as its representative and being duly sworn upon his oath states the following:

1. That \_\_\_\_\_ is the developer of a certain subdivision within the Town of Fortville, Indiana, known as \_\_\_\_\_.
2. Contained within said subdivision is certain infrastructure and other improvements designed by developer and its engineers and installed by the developer and those persons or entities listed on Exhibit "A". Said infrastructure and improvements shall include streets, sidewalks, sewers, landscaping, lighting, and any other infrastructure located within an easement or right-of-way dedicated to the Town of Fortville, Indiana.
3. That attached hereto and incorporated herein is Exhibit "A" being a list of all independent contractor, subcontractors, mechanics, and/or material men who provided any goods, labor, or services in any manner associated with the design and/or installation of the infrastructure and/or improvements referred to above.
4. Affiant, by his signature below, on behalf of the developer and those persons or entities listed on Exhibit "A" hereby waives all legal rights to file any type of lien whatsoever

against the real estate within or on which the aforementioned infrastructure and/or improvements is located and furthermore represents and warrants that all persons and/or entities on Exhibit "A" have been paid in full all sums due them for the design and/or installation of said infrastructure and/or improvements.

5. Affiant further warrants and represents that each person and/or entity on Exhibit "A" has been notified by the developer in writing in advance of the signing of this Affidavit that developer intends by this Affidavit to waive any and all lien rights that may exist on behalf of all those listed on Exhibit "A" and has not received any objection to the execution of this Affidavit from any representative of those listed on Exhibit "A".

AND FURTHER AFFIANT SAYETH NOT.

I swear under the penalties of perjury that the above and foregoing is true \_\_\_\_\_.  
(Name of Developer)

Comes now \_\_\_\_\_ and acknowledges his signature as set forth above this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Subscribed and sworn before me, a Notary Public, in and for said County and State, this day of \_\_\_\_\_, 20\_\_.

Notary Public

County of Residence

Commission Expiration

## APPENDIX T: MAINTENANCE BOND AGREEMENT FORM

This Maintenance Bond Agreement is hereby presented by

\_\_\_\_\_,  
(Name of Subdivider), the "Principal"  
and

(Name of Bonding Company), the "Surety Company"  
This Maintenance Bond Agreement is hereby presented by

\_\_\_\_\_,  
(Name of Subdivider), the "Principal"  
and

(Name of Bonding Company), the "Surety Company"  
to the Town of Fortville (the "Town") this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, for purposes of obtaining the Town's acceptance of public maintenance of certain improvements and installations within

Section \_\_\_\_\_ of  
(Name of Subdivision), the  
"Subdivision"  
located in the Town of Fortville, Indiana.

WITNESSETH:

WHEREAS, the Principal has installed certain improvements and installations within the Subdivision to the satisfaction of the Town, but the following improvements and installations have not been accepted for public maintenance:

Check all items below covered by the maintenance bond(s) and list dollar amount with bond number:

<u>Number</u>	<u>Bond Type</u>	<u>Dollar Amount</u>	<u>Bond</u>
	Asphalt – Intermediate Course	_____	
	Asphalt – Surface Course	_____	
	Curbs	_____	
	Erosion Control	_____	
	Final Grading & Lawn Preparation	_____	
	Lot Drainage	_____	
	Survey Monumentation	_____	
	Multi-Use Paths	_____	
	Sanitary Sewer	_____	
	Sidewalks	_____	
	Storm Drainage	_____	
	Street Base (stone, asphalt, etc.)	_____	
	Street Lights	_____	
	Street Signs	_____	
	Water System	_____	
_____			
_____			

WHEREAS, the Principal now desires for the Town to accept public maintenance of certain improvements and installations within the Subdivision; and

WHEREAS, the Surety Company has pledged a maintenance bond for any maintenance actions required of the Principal related to said improvements and installations; and

WHEREAS, the terms and provisions of the maintenance bond(s) shall remain in full force and effect until such time when the Board has executed a written Release of Maintenance Bond; and

WHEREAS, the Surety Company and Principal jointly and severally bind themselves, their heirs, executors, administrators, successors and assigns to the Town of Fortville jointly and

severally for the maintenance of the above-listed improvements required by the Plan Commission and the Hancock County Code, and agree to be held and firmly bound unto the Board; and

WHEREAS, the Principal certifies that all improvements and installations within the Subdivision have been completed in accordance with the requirements, standards, and specification of the Fortville Town Code, other applicable ordinances and regulations of the Town, and the construction plans for the Subdivision as approved by the Town.

NOW, THEREFORE, Principal:

(1) Warrants the workmanship and materials used in the construction, installation and completion of said improvements and installations to be of good quality and constructed and completed in a workmanlike manner in accordance with the requirements, standards and specifications of the Fortville Town Code, other applicable ordinances and regulations of the Town, and the construction plans for said improvements and installations as approved by the Town; and

(2) Agrees to maintain said improvements and installations at the Principal's own expense for a period of not less than 36 months after the date on which said improvements and installations are accepted for public maintenance by the Town, and shall make all repairs thereto which may become necessary by reason of improper workmanship or materials.

(3) Upon receipt by the Surety Company of written notice from the Town stating that the Principal has failed to maintain said improvements and installations as required by the Fortville Town Code and the maintenance bond(s), the Surety Company shall, at the option and direction of the Town, promptly and at the Surety Company's expense take one of the following actions:

(a) Arrange for the Principal, with written consent of the Town, to maintain the improvements and installations as required by the Fortville Town Code and the maintenance bond(s);

(b) Undertake maintain the improvements and installations as required by the Fortville Town Code and the maintenance bond(s); or,

(c) Make payment to the Town in the amount to be incurred by the Town to maintain the improvements and installations as required by the Fortville Town Code and the maintenance bond(s). The amount of the maintenance bond(s) shall be credited for any payments made in good faith by the Surety Company, provided that the Surety Company's obligations under this paragraph (3)(c) shall not exceed \$\_\_\_\_\_ in the aggregate.

(4) If the Surety Company does not proceed as provided above with reasonable promptness, but in all events within thirty (30) days, the Surety Company shall be deemed to be in default on the maintenance bond(s) fifteen (15) days after receipt of an additional written notice from the Town to the Surety Company demanding that the Surety Company perform its obligations under the maintenance bond(s), the Town shall be entitled to enforce any remedy available to the Town.

(5) Upon compliance with the terms and provisions of the maintenance bond(s) and the execution of a written Release of Maintenance Bond by the Town, the obligations contained herein shall become null and void.

IN WITNESS WHEREOF, the undersigned have executed this instrument this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By: \_\_\_\_\_  
Name of Subdivider

By: \_\_\_\_\_  
Name of Surety Company

\_\_\_\_\_  
Signature of Principal

\_\_\_\_\_  
Signature of Attorney-in-Fact

\_\_\_\_\_  
Printed

\_\_\_\_\_  
Printed

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Notice of Address

\_\_\_\_\_  
Notice of Address

By: TOWN OF FORTVILLE  
\_\_\_\_\_

Attached: Executed Maintenance Bond(s) and Forms

### APPENDIX U: MAINTENANCE BOND FORM

(Submitted on letterhead of Surety Company with executed power-of-attorney form attached.)

Bond No. & Rating:

Project Name and Section:

KNOW ALL MEN BY THESE PRESENTS: That We, the undersigned: (Developer and Contractor or Developer, only) (Street Address) (City, State, Zip), as principal and (Surety Name and Address), as Surety, are held and firmly bound unto the Town of Fortville, Indiana, in the penal sum of (amount) dollars (\$ dollar amount), in lawful current money of the United States, for which payment will and truly be made, we bind ourselves, our heirs, successors, executors, and assigns in solido, by these presents.

Dated and signed at \_\_\_\_\_, Indiana this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

THE CONDITIONS of this obligation are such that:

WHEREAS, the Principal has entered into an Agreement (attached) with the Obligee for the maintenance of the following physical improvements:

Course	Asphalt – Intermediate Course	Asphalt Surface
	Curbs	Erosion Control
	Final Grading & Lawn Preparation	Lot Drainage
	Survey Monumentation	Multi-Use Paths
	Sanitary Sewer	Sidewalks
	Storm Drainage	Street Base (stone,
asphalt, etc.)	Street Lights	Street Signs
	Water System	_____

as required by the Fortville Town Code in accordance with all the provisions of the ordinances, rules, and regulations of the Town of Fortville, Indiana; and

WHEREAS, the above named principal did on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, enter into a certain Agreement (attached) with the Town of Fortville to maintain for a period of 36 months from \_\_\_\_\_, 20\_\_\_\_, the improvements in (Name/Section) Subdivision, and keep all items indicated above constructed by him in good condition, and shall make such repairs to any defects in materials or workmanship as may develop or be discovered when called upon to do so by the Town of Fortville.

NOW THEREFORE, if the aforesaid Principal shall well and truly and faithfully perform said contract and comply with all its terms, covenants, and conditions, according to its tenor and discharge all of said principal's obligations hereunder and shall fully pay and discharge all of said principal's obligations to the Town of Fortville, Indiana, then this obligation shall be null and void; otherwise to be and remain in full force, effect, and virtue.

IN TESTIMONY WHEREOF, we have set our hands, in the presence of the two undersigned competent witnesses this day, month and year above written.

By: \_\_\_\_\_ By: \_\_\_\_\_  
Company Name (Principal) Surety Company  
\_\_\_\_\_  
Signature Signature of Attorney-in-Fact  
\_\_\_\_\_  
Type/Print Signatory's Name and Title Type/Print Attorney-in-Fact

Subscribed and sworn before me, a Notary Public, in and for said County and State, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Notary Public

County of Residence

Commission Expiration

Attached: Executed Maintenance Bond  
Executed Performance Bond Agreement

**APPENDIX V: RELEASE OF MAINTENANCE BOND**

WHEREAS, the Principal and Surety Company have posted a Maintenance Bond(s) for the maintenance of improvements and installations (the "Improvements") required by the Fortville Town Code and all other applicable ordinances and regulations of the Town of Fortville for Section

\_\_\_\_\_ of \_\_\_\_\_ and  
(Name of Subdivision)

WHEREAS, the Bond(s) is/are applicable to the following improvements (*Check all items to be covered by this Release*):

- |        |                                  |                   |
|--------|----------------------------------|-------------------|
| Course | Asphalt – Intermediate Course    | Asphalt – Surface |
|        | Curbs                            | Erosion Control   |
|        | Final Grading & Lawn Preparation | Lot Drainage      |
|        | Monumentation                    | Multi-Use Paths   |
|        | Sanitary Sewer                   | Sidewalks         |

Storm Drainage  
asphalt, etc.)  
Street Lights  
Water System

Street Base (stone,  
Street Signs

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WHEREAS, the Improvements have been maintained at the Principal's own expense for a period of not less than 36 months after the date on which said Improvements were accepted for public maintenance by the Town of Fortville.

NOW, THEREFORE, the Maintenance Bond(s) issued for the above-indicated improvements is/are hereby released.

ATTEST: TOWN OF FORTVILLE

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**APPENDIX W: SECONDARY PLAT SIGN-OFF LIST**  
**(used prior to recordation of Plat)**

- \_\_\_\_\_ Plan Commission
- \_\_\_\_\_ Drainage Approval
- \_\_\_\_\_ Address Approval
- \_\_\_\_\_ Erosion Control Plan Approval
- \_\_\_\_\_ Town Engineer Approval
- \_\_\_\_\_ County Board of Health Approval (if applicable)
- \_\_\_\_\_ Planning Director Approval
- \_\_\_\_\_ Public Works Director (Town Manager) Approval

Name of Subdivision

Location

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(Petitioner's or Agent's Signature)

(Date)