

City of Butler, Indiana

Subdivision Code



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GENERALLY

§ 151.01 APPROVAL REQUIRED

- (A) No plat or replat of a subdivision of land located within the territorial jurisdiction of the Butler Plan Commission shall be filed with the Auditor or recorded by the Recorder of DeKalb County until it is approved by the Butler Plan Commission, and such approval has been entered in writing on the plat by the President and Secretary of the Commission.
- (B) The owner or subdivider shall provide a preliminary plan of the subdivision which shall show the manner in which it is coordinated with the Master Plan and its provisions. The subdivider shall specifically state that he has read and is familiar with the Master Plan, this code, and the zoning code.

§ 151.02 DEFINITIONS

All definitions and guidelines contained in § 150.003 are hereby incorporated by reference and made a part of this Subdivision Code.

REQUIREMENTS

§ 151.05 DESIGN GENERALLY

- (A) No land shall be subdivided for residential use if the land is considered by the Commission to be unsuitable for such use by reason of flooding or improper drainage, objectionable earth and rock formation topography, or any other feature harmful to the health and safety of possible residents and the community as a whole.
- (B) All proposed subdivisions shall conform to the Thoroughfare Plan. Whenever a tract to be subdivided embraces any part of a major street, boulevard, or parkway so designated on the Thoroughfare Plan, that part of such proposed public way shall be platted by the subdivider in the locations and of the width indicated on the Thoroughfare Plan. Due consideration shall also be given by the subdivider and owners of adjoining property for the provision of school sites, park sites, rights-of-way for public utility lines, sites for business centers, industrial locations, and other features as indicated on the Master Plan.

§ 151.06 STREET AND ALLEY LOCATION AND ARRANGEMENT

- (A) The street and alley layout shall conform to the neighborhood plan of the Commission for the development of the neighborhood in which the proposed subdivision is located.
- (B) Proposed streets shall be adjusted to the contour of the land so as to produce usable lots and streets of reasonable gradient.

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(C) Wherever there exists a dedicated or platted portion of a street or alley adjacent to the tract to be subdivided, the other portion of the street or alley shall be platted to the prescribed width.

§ 151.07 MINIMUM STREET AND ALLEY WIDTHS

(A) Major streets shall have rights-of-way with widths not less than those indicated on the Thoroughfare Plan.

(B) Streets in any of the business districts designated in Chapter 150 shall have rights-of-way not less than 80 feet in width.

(C) Other streets shall have rights-of-way not less than 50 feet in width.

(1) In residential subdivisions, streets will have the minimum cartways described below:

(a) 28 feet when all homes in the subdivision have a two-car garage or larger, or

(b) 32 feet when some or all homes in the subdivision have a garage with a capacity of less than two cars.

(D) Alleys shall have widths of not less than 20 feet nor more than 30 feet.

(E) Dead-end streets shall have rights-of-way not less than 50 feet in width. All dead-end streets shall not exceed 600 feet in length, and shall terminate in a circular right-of-way with a minimum right-of-way diameter of 80 feet and a minimum cartway diameter of 50 feet, unless the Commission approves an equally safe and convenient alternative to the recommended turning circle.

§ 151.08 MINIMUM RADII OF CURVATURE ON THE CENTER LINES

Where a deflection angle of more than 10° in the alignment of a street occurs, a curve, measured from centerline, shall be introduced, providing for:

(A) Major streets, a minimum radius of 300 feet, but should be much greater wherever possible.

(B) Other streets, a minimum radius of 100 feet, but should be much greater wherever possible.

§ 151.09 TANGENTS

Between reversed curves, the minimum tangents shall be:

(A) Major streets, 200 feet.

(B) Other streets, 50 feet.

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§ 151.10 INTERSECTIONS

- (A) At street intersections, property line corners shall be rounded by an arc at least 20 feet in radius.
- (B) All streets intersecting a major street shall do so at right angles or as nearly as possible. Where the intersection angle is less than 60°, the foregoing radii shall be increased by not less than 40%.

§ 151.11 BLOCKS

- (A) The width of blocks shall be sufficient to allow two tiers of lots as described in § 151.12 (A) and (B).
- (B) Blocks shall not exceed 1,320 feet in length.
- (C) In blocks over 750 feet in length, the Commission may require, at or near the middle of the block, public walk connecting adjacent streets or other public areas. Such walkway shall be at least ten feet in width and shall be intended for the use of pedestrians only.

§ 151.12 LOTS

- (A) In any Agriculture or Residence District, the minimum width and area for lots shall conform to the requirements of the zoning code, but in no case shall the width be less than 70 feet at the setback line, and the area contain less than 6,000 square feet if a public water supply and sanitary sewers are provided; 8,000 square feet if a public water supply but no sanitary sewer are provided; or 10,000 square feet if neither public water supply nor sanitary sewer are provided.

Where property is located in a Business or Manufacturing District, the minimum permissible lot size and frontage shall be at the discretion of the Commission.

- (B) The depth-to-width ratio of the usable area of a lot shall be not greater than three to one.
- (C) Building setback lines shall not be less than those required by the zoning code.
- (D) Whenever possible, side lines of lots shall be at right angles or radial to street lines.
- (E) Every lot shall abut on a street.
- (F) Through lots having frontage on two parallel or approximately parallel streets will be permitted only at the discretion of the Commission.
- (G) Except where alleys are provided for the purpose, each lot shall have an easement for utilities along the rear lot line and along the side lot line where necessary. No easement shall be less than ten feet wide on each lot, making an overall easement width of 20 feet.
- (H) When the terrain so requires, easements for sanitary sewers along lot lines, other than the rear lot lines, shall be provided.

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§ 151.13 PUBLIC SPACES

Whenever a park, recreation area, school site, or other open space shown on the Master Plan is located in whole or in part in the proposed subdivision, the Commission may require the dedication of those spaces or their reservation for a period of not less than 3 years.

§ 151.14 MONUMENTS AND MARKERS

- (A)** Monuments shall be made of concrete with a diameter of not less than six inches and a length of 36 inches. Monuments shall be cast in place, and a copper dowel, 3/8 inch in diameter and 2-1/2 inches long, shall be imbedded in the center of the monument so that the dowel does not extend more than 1/4 inch above the surface of the monument.
- (B)** Monuments shall be set so that the top is level with the established grade adjoining it, and placed so that the marked point on the metal center shall coincide exactly with the intersection of street property lines, the intersection of all angles in the boundary line, and the beginning and ending of all curves along streets on the inside street lines.
- (C)** Lot corners not marked by concrete monuments as required above shall be marked by galvanized or wrought-iron pipe or iron or steel bars at least three feet in length and not less than 5/8 inch in diameter, the top of the pipe or bar to be set level with the established grade of the ground adjoining it.

REQUIRED IMPROVEMENTS

§ 151.19 SITE STANDARDS

- (A)** The purpose of setting standards for good subdivision and site design is to create a functional and attractive development to minimize adverse impacts, and to ensure a project will be an asset to a community. The following standards are designed to result in a well-planned community, without adding unnecessarily to development costs.
- (B)** Design of the development shall take into consideration all existing local and regional plans for the surrounding community.
- (C)** The following specific areas shall be preserved as undeveloped open space, to the extent possible within the context of reasonable use of the land, in accordance with all possible federal, state, and local regulations:
 - (1)** Unique or fragile areas, including wetlands as defined by Section 404, Federal Water Pollution Control Act of 1972, and delineated on maps prepared by the U.S. Fish and Wildlife Service.

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- (2) Significant trees or stands of trees, including exceptionally large trees, rare trees, or trees of exceptional horticultural or landscape value.
- (3) Lands located in a flood plain.
- (4) Habitats of endangered wildlife.
- (5) Historically significant structures or sites.

(D) The development shall be laid out to avoid adversely affecting ground water or aquifer recharge, to reduce cut and fill, to avoid unnecessary impervious cover, to prevent flooding, to provide adequate access to lots and sites, and to mitigate adverse effects of shadow, noise, odor, traffic, drainage, and utilities on neighboring properties.

(E) Residential development design:

- (1) In conventional developments, the Commission may allow for variation in lot areas, dimensions, and setbacks for the purpose of encouraging flexibility, economy, and environmental soundness in layout and design, provided that the average lot's areas and dimensions, yards, and setbacks within the subdivision conform to the minimum requirements of the municipal development regulations, and provided that such standards shall be appropriate to the type of development permitted.
- (2) Every lot shall have sufficient access to it for emergency vehicles as well as for those needing access to the property in its intended use.
- (3) The placement of units in residential developments shall take into consideration topography, privacy, building height, orientation, drainages and aesthetics.
- (4) Buildings shall be spaced and/or arranged to ensure adequate privacy for individual units.

(F) Commercial and industrial development design. Commercial and industrial developments shall be designed according to the same principles governing the design of residential developments; namely, buildings shall be located according to topography, with environmentally sensitive areas avoided to the maximum extent practicable; factors such as drainage, noise, odor, and surrounding land uses shall be considered in siting buildings; sufficient access shall be provided; and adverse impacts buffered.

(G) Circulation system design:

- (1) The road system shall be designed to permit the safe, efficient, and orderly movement of traffic, to meet, but not exceed, the needs of the present and future population served, to have a simple and logical pattern, to respect natural features and topography, and to present an attractive streetscape.

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- (2) In residential subdivisions, the road system shall be designed to serve the needs of the neighborhood and to discourage use by through traffic.
- (3) The pedestrian system shall be located as required for safety. In conventional developments, walks shall be located parallel to the street, with exceptions permitted to preserve natural features or to provide visual interest. In planned developments, walks may be placed away from the road system, but they may also be required parallel to the street for safety reasons.
- (4) Bikeways shall be required only if specifically called for in the comprehensive land use plan.

§ 151.20 STREETS, ALLEYS, CURBS, GUTTERS, AND SIDEWALKS

- (A) Streets shall be completed to grade and to specification as shown on plans, profiles, and cross-sections prepared by the subdivider and approved by the Board of Public Works. The streets shall be graded, surfaced, and improved to the dimensions required by the Board of Public Works. The Board of Public Works shall check all streets, alleys, curbs, gutters, and sidewalks against the Thoroughfare Plan to make sure there is no safety hazard involved in said layout.
- (B) Alleys, curbs, gutters, and sidewalks, if required or built, shall be completed according to standards and grades required and approved by the Board of Public Works.
- (C) On the completion of the street, alley, curb, gutter, and sidewalk improvements, plans and profiles, as built, shall be filed with the Board of Public Works.
- (D) Sidewalks required.
 - (1) In all residential subdivisions, sidewalks shall be required on each side of every street. All sidewalks shall have a minimum width of 48 inches. Concrete sidewalks shall have a minimum thickness of four inches. A 24-inch wide utility strip, suitable for planting with grass or other ground cover, shall run between the sidewalk and the street. The Commission may consider alternatives to this requirement, as long as pedestrian access and safety are clearly accounted for in the alternative design.
 - (2) In commercial developments, sidewalks shall also be necessary to the extent necessary to ensure pedestrian safety and access.
- (E) Curbing required.
 - (1) Generally, curbing shall be required on all new public streets for the purposes of drainage, safety, and delineation and protection of pavement edge.
 - (2) The Commission may waive the curbing requirement, when appropriate, for one of the following reasons or for another valid reason:

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- (a) Shoulders are required by state regulations;
- (b) Soil or topography make the use of shoulders and/or drainage swales preferable;
- (c) The development will take place in a part of the community with a primarily rural character; or
- (d) Setbacks will exceed 40 feet and sufficient off- street parking can be shown to exist.

(3) Flexibility regarding curb type shall be permitted, as long as the type accommodates the drainage system.

(F) Street lighting required.

- (1) Lighting shall be provided in accordance with a plan designed by the utility company.
- (2) Lighting for safety shall be provided at intersections, along walkways, at entryways, between buildings, and in parking areas.
- (3) Spacing of standards shall be equal to approximately four times the height of the standard.
- (4) The maximum height of standards shall not exceed 25 feet.

(G) Underground wiring required.

- (1) All electric, telephone, television, and other communications lines, both main and service connections, servicing new developments shall be provided by underground wiring.
- (2) The Commission may modify this requirement, as circumstances may dictate. For example, a new development served by overhead lines would not be required to bury those lines, but service connections should still be placed underground.
- (3) In situations where overhead wiring is unavoidable, steps must be taken to minimize the negative aesthetic impact of such an arrangement.

§ 151.21 SEWERS

(A) The subdivider shall provide the subdivision with a complete public sewer system which shall connect with a sanitary sewer outlet, if available, meeting the standards as set forth by the Board of Public Works, or, for the disposal of sanitary sewage by means of septic tanks with absorption systems or seepage pits, all constructed according to the minimum requirements of the State Board of Health.

(B) The phrase "the subdivider shall provide" shall be interpreted to mean that the subdivider shall install the facility referred to, or that the subdivider shall require, as a condition of the sale of each

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lot or parcel in the subdivision, that the facilities referred to in this section and § 151.22 shall be installed by the developer of the lot in accordance with these regulations.

(C) On the completion of the installation of a public sewer system, the plans for such system as built shall be filed with the Board of Public Works.

§ 151.22 WATER

The subdivider shall provide the subdivision inside the city limits with a complete water main supply system which must be hooked up with the city water supply system, meeting the standards as set forth by the Board of Public Works, or, a private water supply for each lot to be installed in accordance with the minimum requirements of the State Board of Health.

§ 151.23 STORM DRAINAGE

The subdivider shall provide the subdivision with an adequate storm water sewer system whenever the evidence available to the Commission indicates the natural surface drainage is inadequate.

§ 151.24 STREET SIGNS

The subdivider shall provide the subdivision with standard street signs at the intersection of all streets.

PROCEDURE

§ 151.29 PRE-APPLICATION CONFERENCE OPTION

For the purpose of expediting applications and reducing subdivision design and development costs, the developer may request a pre-application conference. The pre-application conference allows the applicant, appropriate city officials, and other interested parties to make each other aware of issues, such as infrastructure limitations, that may affect a project's development, in accordance with the following requirements:

(A) A pre-application conference shall be arranged at the written request of an applicant; it is not a required step in the subdivision approval process. In the request, the applicant shall specify which city officials he or she wishes to meet with.

(B) The pre-application conference shall allow the applicant to meet with appropriate city representatives, as well as with representatives of parties likely to be affected by the applicant's plans. Other individuals or representatives of organizations may be present at the request of the Mayor, Commission President, or applicant.

(C) To prepare participants for the pre-application conference, the applicant shall submit certain materials ten days in advance of the conference. The necessary materials shall be designated by the Commission. A list of these materials shall be available in the Clerk-Treasurer's office.

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- (D)** The following materials are recommended, but not required for the pre-application conference (applicants should note that their providing the most information possible will result in the most productive pre-application conference):
 - (1)** Proposed name of subdivision or development.
 - (2)** Plat drawn at scale of 100:1.
 - (3)** Scale of sketch (or plat), including the graphic scale, north point, and date.
 - (4)** Vicinity key map showing tracts, subdivisions, and streets immediately surrounding the proposed subdivision, as well as access to surrounding streets.
 - (5)** Existing zoning of proposed subdivision and adjacent tracts.
 - (6)** Indication of parcels of land to be dedicated or reserved for public use of property owners in subdivision.
 - (7)** Documentation including any other information, questions, or concerns that would be pertinent to the discussion at the pre-application conference.
- (E)** If requested by the applicant, a brief written summary of the pre-application conference shall be provided within ten working days of the final meeting.
- (F)** The applicant shall not be bound by the determination of the pre-application conference, nor shall the city or the Commission be bound by any such review. The pre-application conference is informational only and nothing said or done at the conference is binding on the applicant or the city. All formal discussion of any aspect of a subdivision shall be made by the appropriate governmental bodies as specified in this Subdivision Code and the ordinances of the city.

§ 151.30 APPLICATION

- (A)** Whenever any subdivision of land is proposed to be made, the subdivider or his agent shall submit a written application for a certificate of approval and two copies of a preliminary plat of said subdivision with the Commission, and file the application with the Plan Commission at least ten days before the meeting at which the Commission is expected to consider the application and plat.
- (B)** The application shall specify the intent of the subdivider with respect to the land use, drainage, sewage disposal, water supply, and street improvements proposed for the subdivision; shall include satisfactory evidence that the proposed water supply and sewage disposal systems meet the minimum requirements for such systems established by the State Board of Health; and shall state any deed restrictions which are to be placed on the property to be subdivided and the expected date of its development.

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- (C) At the time of filing an application for approval of a plat, the application shall be accompanied by a certified check or money order payable to the Clerk-Treasurer in the amount of the current fee system then in effect for each lot in the proposed subdivision.
- (D) On the acceptance of the application by the Commission, the Secretary shall surrender the check or money order to the Clerk-Treasurer for deposit in the City Plan Commission Fund.

§ 151.31 PRELIMINARY PLAT

The preliminary plat shall be prepared in accordance with § 151.05 through 151.14 and 151.20 through 151.24, and shall be presented as follows:

- (A) The plat shall be drawn at a scale of 100 feet to one inch on a sheet not less than 17 by 21 inches or more than 30 by 36 inches in size, except that when the drawing at that scale requires more than a sheet 30 by 36 inches in size, the plat may be drawn at a scale of 200 feet to one inch.
- (B) The plat shall include a vicinity key map at an appropriate scale showing the layout of the proposed subdivision and all existing subdivision, street, and tract lines of acreage parcels of land immediately adjoining the proposed subdivision and between it and the nearest existing thoroughfares. It shall also show how streets and alleys in the proposed subdivision may connect with existing and proposed streets and alleys in the neighboring subdivisions or undeveloped property to produce the most advantageous development of the entire neighboring area.
- (C) The plat shall contain the following information:
 - (1) Description.
 - (a) Proposed name of the subdivision.
 - (b) Location, with complete legal description.
 - (c) Name and address of subdivider.
 - (d) Name, address, and seal of registered professional engineer or land surveyor preparing the plat.
 - (e) Scale of plat, including the graphic scale, north point, and date.
 - (2) Existing conditions.
 - (a) Boundary line of proposed subdivision indicated by solid heavy line.
 - (b) 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 or structures, and section and municipal corporation lines, within or adjacent to the tract.
 - (c) In case of replat, all descriptive lines of the original plat being vacated shall be shown by dotted lines in their proper position in relation to the new arrangement of the plat, the new plat being clearly shown in solid lines so as to avoid ambiguity or confusion.

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- (d) Existing drainage ditches, sewers, water mains, culverts, or other underground facilities within the tract, indicating pipe sizes, grades, and exact location, as obtained from public records.
- (e) Boundary lines of adjacent unsubdivided and sub- divided land, showing owners' names.
- (f) Existing zoning of proposed subdivision and adjacent tracts.
- (g) Contours based on a fixed and easily recognized datum, at not more than five feet nor less than one foot vertical intervals, as required by the Commission.
- (h) Location and results of soil percolation tests if individual sewage disposal systems are proposed.

(3) Proposed conditions:

- (a) Layout of streets, their names and widths, and also widths of alleys, crosswalks, and easements. The names of the streets shall conform as far as is practicable to the names of corresponding streets existing in the vicinity of the subdivision.
- (b) Layout, dimensions, and number of lots.
- (c) Parcels of land to be dedicated or reserved for public use or set aside for use of property owners in the subdivision.
- (d) Building setback lines, showing dimensions.

§ 151.32 APPROVAL OF PRELIMINARY PLAT

The Commission shall consider the application and preliminary plat at the first regular meeting following its proper submittal. If the Commission is satisfied that all conditions have been satisfactorily met by the subdivider, it shall tentatively approve the application and set a date for a public hearing on the proposed plat, giving written notification to the subdivider, and publishing a notice of the hearing in a newspaper of general circulation printed and published in the city at least ten days prior to the date set for the hearing. The cost of publishing the notice of the hearing shall be paid to the publisher by the subdivider at the time of inserting the notice. After the public hearing, the Commission may give its approval of the preliminary plat which shall be governed by the following qualifications:

- (A) The approval of a preliminary plat by the Commission is strictly tentative, involving merely the general acceptability of the layout as submitted.
- (B) The Commission may introduce such changes or revisions as are deemed necessary to the interests and needs of the community.
- (C) Tentative approval shall be effective for a maximum period of six months unless, on application of the subdivider, the Commission grants an extension. If the final plat has not been recorded within this time limit, the preliminary plat must again be submitted to the Commission for approval.
- (D) Any person feeling himself aggrieved at any action of the Commission on any proposed plat or replat may apply in writing to the Commission, prior to its next regular meeting, for modification

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of the action complained of. Such application shall be considered by the Commission at such time and in such manner as it may determine, but within 40 days following the regular meeting.

§ 151.33 FINAL PLAT

After approval of the preliminary plat by the Commission, and the fulfillment of the requirements of this code, one tracing of the final plat of the subdivision, drawn with India ink on the best grade of tracing cloth, and one reproduction of the tracing on tracing cloth shall be submitted to the Commission. On the final approval of the plat, the reproduction shall become the property of the Commission. The final plat may be submitted for approval immediately after hearing, and on approval of the preliminary plat by the Commission. In case the final plat is not ready, the date for the hearing on such final plat shall be set within 40 days from the date requested by the subdivider. The final plat, if desired by the subdivider, may constitute only that portion of the approved preliminary plat which he proposes to record and develop at the time, provided that such portion conforms to all requirements of this code.

The final plat shall be prepared at the same scale as the preliminary plat and shall show:

- (A)** Name of subdivision.
- (B)** Location by section, township, and range, or by other legal description.
- (C)** The name and certification of the registered professional engineer or land surveyor.
- (D)** Scale shown graphically, date, and north point.
- (E)** Boundary of plat, based on an accurate traverse with angular and lineal dimensions.
- (F)** Exact location, width, and name of all streets within and adjoining the plat, and the exact location and widths of all alleys and crosswalks.
- (G)** True courses and distances to the nearest established street lines or official monuments which shall accurately describe the location of the plat.
- (H)** City, township, county, or section line accurately tied to the lines of the subdivision by distances and courses.
- (I)** Radii, internal angles, central angles, points of curvature and tangency, lengths of tangents, and lengths of all arcs.
- (J)** All easements for right-of-way provided for public services of utilities.
- (K)** All lot and block numbers and lines, with accurate dimensions in feet and hundredths. Blocks in numbered additions to subdivisions bearing the same name may be numbered consecutively through the several additions.

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- (L) Lines of all streets with accurate dimensions in feet and hundredths, showing angles to street, alley, and lot lines.
- (M) Accurate location of all monuments.
- (N) Accurate outlines and legal description of any areas to be dedicated or reserved for public use, with the purposes indicated thereon and in the dedication; and of any area to be reserved by deed covenant for common uses of all property owners.
- (O) Building setback lines accurately shown with dimensions.
- (P) A description of the property platted which shall be the same as that recorded in the preceding transfer of the property or that portion of said transfer covered by the plat.
- (Q) Restrictive covenants of all types which run with the land.
- (R) Property numbers based on the official property numbering system of the city.
- (S) Certificate for approval by the Commission.

§ 151.34 PLAT APPROVAL

- (A) In submitting the final plat to the Commission, it shall be accompanied by a notice from the Board of Public Works stating that there has been filed with and approved by that Board one of the following:
 - (1) A certificate that all improvements and installations to the subdivision required for its approval have been made or installed in accordance with specifications; or
 - (2) A bond which shall:
 - (a) Run to the Common Council,
 - (b) Be in an amount determined by the Plan Commission to be sufficient in amount to complete the improvements and installations in compliance with this code.
 - (c) Be with security satisfactory to the Plan Commission, and
 - (d) Specify the time for the completion of the improvements and installations.
- (B) Any funds received from these bonds shall be used by the Common Council only for the completion of the improvements and installations for which they were provided; and Council is authorized to complete such improvements and installations on the failure of applicant to do so.
- (C) After hearing and within a reasonable time after application for approval of the plat, the Commission shall approve or disapprove it. If the Commission approves, it shall affix the Commission's seal on the plat, together with the certifying signature of its President and

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Secretary. If it disapproves the plat, it shall set forth its reason in its own records and provide the applicant with a copy.

§ 151.35 PLAT CERTIFICATIONS

The following forms shall be used in final plats:

(A) UNDER AUTHORITY PROVIDED BY CHAPTER 174, ACTS OF 1947, ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF INDIANA AND ORDINANCE ADOPTED BY THE COMMON COUNCIL, CITY OF BUTLER, INDIANA, THIS PLAT WAS GIVEN APPROVAL AS FOLLOWS:

_____ day of _____, 20_____.

President

Secretary

(B) Each final plat submitted to the Commission for approval shall carry a certificate signed by a Registered Professional Engineer or Land Surveyor in substantially the following form:

"I, (name), hereby certify that I am a Professional Engineer (or a Land Surveyor), licensed in compliance with the laws of the State of Indiana; that this plat correctly represents a survey completed by me on (date); that all the monuments shown thereon actually exist; and that their location, size, type and material are accurately shown."

(SEAL) (Signature)

(C) Each final plat submitted to the Commission for approval shall carry a deed of dedication in substantially the following form:

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

This subdivision shall be known and designated as (name), an addition to (name). All streets and alleys shown and not heretofore dedicated, are hereby dedicated, to the public.

Front and side yard building setback lines are hereby established as shown on this plat, between which lines and the property lines of the street, there shall be erected or maintained no building or structure.

There are strips of ground (number) feet in width as shown on this plat and marked "EASEMENT", reserved for the use of public utilities for the installation of water and sewer mains, poles, ducts, lines and wires, subject at all times to the proper authorities and to the

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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,

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

The foregoing covenants, (or restrictions), are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 20____, (a fifteen (15) to twenty-five (25) year period is suggested), at which time said covenants (or restrictions) shall be automatically extended for successive periods of ten (10) years unless, by vote of a majority of the then owners of the building sites covered by these covenants (or restrictions), it is agreed to change such covenants (or restrictions), in whole or in part. Invalidation of any one of the foregoing covenants (or restrictions) by judgment or court order shall in no way affect any of the other covenants (or restrictions) which shall remain in full force and effect.

The right to enforce these provisions by injunction, together with the right to cause the removal, by due process of law, of any structure or part thereof erected or maintained in violation hereof, is hereby dedicated to the public, and reserved to the several owners of the several lots in this subdivision and to their heirs and assigns."

Witness our Hands and Seals this ____ day of _____, 20____.

State of Indiana

County of DeKalb

Before me the undersigned Notary Public, in and for the County and State, personally appeared (name)_____,

(name)_____, (name)_____, and each

separately and severally acknowledged the execution of the foregoing instrument as his or her voluntary act and deed, for the purpose therein expressed.

Witness our Hands and Seals this ____ day of _____, 20____.

Notary Public



MISCELLANEOUS

§ 151.40 EXCEPTION

- (A)** In cases involving a subdivision of five lots or less, the Plan Commission may, by majority vote of its membership, waive the requirements of a public hearing for final plat approval.
- (B)** The requirements of this code, in design, standards, specifications required, data on plat, and other procedural requirements, may not be waived.

§ 151.41 VARIANCES

- (A)** Where the subdivider can show that any provision of §151.08, §151.09, and §151.10 would cause unnecessary hardship if strictly adhered to, and where, in the opinion of the commission, because of topographical or other conditions peculiar to the site, a departure may be made without destroying the intent of such provision, the Commission may authorize a variance. Any variance thus authorized is required to be entered in writing in the minutes of the Commission and the reasoning on which the departure was justified set forth.
- (B)** The foregoing requirements and principles of land subdivision may be modified by the Commission in the case of a subdivision large enough to be developed as a community center or neighborhood unit in accordance with a plan prepared by the subdivider and adopted as a part of the Master Plan.

§ 151.42 CERTIORARI PROCEDURE

In any decision by the Plan Commission under this code any person aggrieved may petition the Circuit Court of DeKalb County, Indiana, by writ of certiorari as provided by law.

§ 151.99 PENALTY

- (A)** The Plan Commission may institute a suit for injunction to restrain individuals or governmental units from violating the provisions of this code as enacted pursuant to IC 18-7-4-101 et seq.; provided that nothing herein contained shall be construed as to limit the rights of the city to otherwise enforce this code by invoking any legal, equitable, or special remedy provided by law.
- (B)** Any person who violates any provision of this code shall be guilty of a misdemeanor, and, on conviction, shall be fined not less than \$10 and not more than \$300, and for violations continued or renewed after one conviction, each day's violation shall constitute a separate offense.