

EXHIBIT 1. EXISTING THORNTOWN'S ZONING ORDINANCE

CHAPTER 152: PLANNING AND DEVELOPMENT; ZONING

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Cross-reference:

Board of Zoning Appeals, see § 31.53

Statutory reference:

Platting and vacation of real property, see I.C. 36-7-3-1 et seq.

Subdivision control, see I.C. 36-7-4-700 et seq.

GENERAL PROVISIONS

§ 152.01 DEFINITIONS.

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

ACCESSORY BUILDINGS. A subordinate building or structure located on the same lot as a principal building which does not alter or change the character of communications, electric, gas, water, and sewer lines, their supports and incidental equipment, and public telephone booths shall be considered accessory uses even though no principal building exists on the premises.

ALLEY. A right-of-way, other than a street, road, crosswalk, or easement, designed to provide a secondary means of access for the special accommodation of the property it reaches.

BLOCK. An area that abuts a street and lies between two intersecting streets or barriers such as railroad rights-of-way or watercourses.

BUILDING LINE. The line that establishes the minimum permitted distance on a lot between the front line of a building and the street right-of-way.

COMPREHENSIVE PLAN. The complete plan, or any of its parts, for the development of the county prepared by the Area Plan Commission of the county and adopted in accordance with I.C. 36-7-4-500.

CUL-DE-SAC. A short street having one end open to traffic and being permanently terminated by a vehicular turnaround.

DEVELOPER. Any person engaged in developing a lot or group of lots or structures thereon for use or occupancy.

EASEMENT. A grant by the property owner of the use of a strip of land by the public, a corporation or persons for specified purposes.

LOT. Any parcel, tract, or area of land abutting upon a street for at least 60% of the lot width. In the case of an irregularly shaped lot, the front lot line width (at the street right-of-way line) must be equal to 60% of the lot width at the building setback line. The **LOT** may be a single parcel separately described in a deed or plat which is recorded in the office of the County Recorder, or it may include parts of, or a combination of a group of parcels that are adjacent to each other that are to be used as one. In determining lot area and boundary lines, no part thereof shall be included that is within the limits of a street.

OFFICIAL THOROUGHFARE PLAN. The part of the comprehensive plan, now or hereafter adopted, which includes a major street and highway plan and sets forth the location, alignment, dimensions, identification, and classification of existing and proposed streets, highways, and other thoroughfares.

PERSON. Any individual, corporation, firm, partnership, association, organization, or any other group that acts as a unit.

PLAT. A map or chart indicating the subdivision or resubdivision of land, intended to be filed for record.

PRIVATE STREET. A right-of-way which has the characteristics of a street except that it is not dedicated to the public use. A driveway which is located on a lot and which serves only the use on that lot is not considered as a **PRIVATE STREET**.

PUBLIC FACILITIES PLAN. The part of the comprehensive plan, now or hereafter adopted, which shows the location of proposed fire and police station sites, existing and proposed schools, parks, or recreation facilities.

RURAL AREAS. The unincorporated areas of the county.

STREET. A right-of-way other than an alley, dedicated or otherwise legally established to the public use, usually affording the principal means of access to abutting properties. A **STREET** may be designated as a highway, thoroughfare, parkway, boulevard, road, avenue, lane, drive, or other appropriate name.

STREET (OR ALLEY) IMPROVEMENT. The construction of a street or alley to its full thickness, commencing at the subgrade to the specifications hereinafter established. The placing of a new surface over an existing paved or closed surface street or alley shall not be considered as an improvement, but as maintenance.

SUBDIVIDER. Any person engaged in developing or improving a tract of land which complies with the definition of a subdivision.

SUBDIVISION. The division of any parcel of land shown as a unit on the last preceding transfer of ownership thereof, into two or more parcels, sites, or lots; provided, however, that the sale or exchange of parcels between adjoining lot owners, where such sale or exchange does not create additional building sites, shall not be considered a **SUBDIVISION**.

THOROUGHFARE. The same as **STREET**.

THOROUGHFARE, INTERSTATE. High speed connector routes between major cities throughout the United States, with access limited to roads having traffic desiring long range rather than local travel. **INTERSTATE THOROUGHFARES** in urban areas are termed **EXPRESSWAYS**.

THOROUGHFARE, PRIMARY. Large volume routes between cities and towns within the county and state, with access partially limited where safety conditions warrant. **PRIMARY THOROUGHFARES** in urban areas are termed **MAJOR ARTERIALS**.

THOROUGHFARE, SECONDARY. Streets and roads providing local access as well as secondary access to primary connections, with no access limitations. **SECONDARY THOROUGHFARES** in urban areas are termed **LOCAL STREETS**.

ZONING ORDINANCE. The part of the comprehensive plan, now or hereafter adopted, which includes an ordinance and zone maps which divide the jurisdictional area into districts, with regulation, requirements, and procedures for the establishment of land use controls.

(1995 Code, § 15-1)

§ 152.02 NEW SINGLE-FAMILY RESIDENTIAL UNITS.

(A) *Minimum ground floor area.* All new one-story, single-family residential units shall have a minimum square footage of living space on the ground floor of 1,200 square feet. All new multi-story, single-family residential units shall have a minimum

square footage of living space on the ground floor of 900 square feet.

(B) *Minimum width.* All new single-family residential units shall have a minimum width of 18 feet.

(C) *Nonconforming residential units.* Where a lawful single-family residential structure exists at the effective date of adoption or amendment of this section that could not now be built under the terms of this section by reason of restrictions on the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions.

(1) No such nonconforming structure may be enlarged or altered in any way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

(2) Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to the extent of more than 50% of the area of the structure immediately prior to the damage, it shall not be restructured except in conformity with the provisions of this section.

(3) Should such nonconforming structure be removed, it shall not be replaced except in conformity with the provisions of this section.

(4) Should such structure be moved for any reason, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(Ord. 98-2, passed 3-16-1998) Penalty, see § 152.99

§ 152.03 ADDRESS NUMBERS.

(A) All houses and buildings fronting on public streets in the Town of Thorntown, Indiana, shall be numbered in accordance with this section.

(B) Address numbers shall be a minimum of four inches in height and shall be located either near a building's main entrance, above the garage door, or on a surface that is easily visible from the street of address. Additional displays of assigned numbers may be displayed at the property owner's discretion. Assigned numbers shall be displayed with Arabic numerals in a color that contrasts with the color of the subject house or building. Address displays in script are prohibited. Houses or buildings that are setback more than 100 feet from a street's curb are required to display address numbers within 50 feet of the street curb, on a surface that is easily visible from the street of address.

(C) Any contractor or builder in charge of the greater part of the work of erecting any house or building in the Town of Thorntown shall report the location thereof to the Town Council and shall cause said number to be placed on said house or building.

(D) The responsibility for the displaying of the assigned number for each existing house and building in the town, as of the effective date of this section, shall rest with the property owner, trustee, lessee, agent or occupant of each house or building.

(E) Any person who shall fail to comply with any of the provisions of this section, or who shall number or attempt to number any house or building other than in conformity with this section, and fail to correctly display the address number within 30 days after being notified in writing to do so by the Town Marshal, shall be deemed guilty of an ordinance violation and subjected to a fine of not less than \$25 and not more than \$100.

(Ord. 2017-7, passed 6-19-2017)

ADMINISTRATION

§ 152.15 REVIEW.

A decision of the Council in the enforcement of this chapter may be reviewed by certiorari procedure in a court of proper jurisdiction in the same manner as that provided for the appeal of a decision of the Board of Zoning Appeals.

(1995 Code, § 15-26)

Statutory reference:

Similar provisions, see I.C. 36-7-4-1016

§ 152.16 APPLICATION FEES.

Application fees for preliminary and final plats shall be as set from time to time by the Council.

(1995 Code, § 15-28)

OFFICIAL THOROUGHFARE PLAN

§ 152.30 THOROUGHFARE MAPS AND DRAWINGS.

(A) The official thoroughfare plan is incorporated in a map of the town as designated by the legend found thereon. The official thoroughfare plan consists of these maps plus a drawing entitled "Boone County Thoroughfare Cross-Section", dated 1976, which shows recommended design plans for the proposed thoroughfares.

(B) The official thoroughfare plan map is hereby declared to be a part of this subchapter, and notations, reference, indications, and other details shown thereon are as much a part of this subchapter as if they were fully described in the text of this subchapter.

(1995 Code, § 15-51)

§ 152.31 DESIGNATION OF THOROUGHFARES.

The major streets and highways comprising the official thoroughfare plan are hereby classified on the basis of width and type, in accordance with their proposed function as primary, secondary, and feeder thoroughfares.

(1995 Code, § 15-52)

§ 152.32 OPENING OR WIDENING OF STREETS.

Whenever a street classified in the official thoroughfare plan is to be platted as a part of a subdivision, the required right-of-way width for such thoroughfare shall be as specified in the official thoroughfare plan, provided, that where a thoroughfare borders a tract of land to be subdivided, the owner of such land shall be required to plat only one-half of the right-of-way designated for such thoroughfare, measured at 90 degrees to the centerline thereof.

(1995 Code, § 15-53)

§ 152.33 LOCATION OF THOROUGHFARES.

(A) Wherever the location of a thoroughfare is indicated in the official thoroughfare plan as following an existing road or street, or a section or other established property line, the location of the thoroughfare shall conform to such location and the right-of-way for such thoroughfare shall be equally divided by the section or half section line, if any, or by the centerline of any existing road or street, or by the existing property line, however, a thoroughfare lying wholly within a subdivision and not designated as following an existing road or established property line, may be varied in its alignment when such a variance promotes the plan of a neighborhood development unit in accordance with good site planning principles, and if such alignment provides for the continuity of traffic movement.

(B) In the absence of any street designated in each section of land, within the jurisdictional area, on or approximately on the north-south and east-west section lines of such sections, it is the intent of the official thoroughfare plan and this subchapter that feeder thoroughfares be established on such section line.

(C) In the absence of any street designated in each section of land, within the jurisdictional area, on or approximately on the north-south and east-west half-section lines of such section, it is the intent of the official thoroughfare plan and this subchapter that feeder thoroughfares be established on such half-section lines where feasible.

(D) Wherever the location of a thoroughfare is indicated in the official thoroughfare plan as following an irregular alignment, or a revised alignment, or is not referenced to an established line, it shall follow the alignment shown in the official thoroughfare plan. Such alignment shall be subject to a detailed survey which shall be subject to the approval of the Council prior to dedication of the thoroughfare.

(1995 Code, § 15-54)

§ 152.34 CONSIDERATION BY COUNCIL.

(A) The Council shall be guided by and give consideration to the general policy and pattern of street development set out in the official thoroughfare plan in the authorization, construction, widening, alteration, relocation, or abandonment of the public streets, highways, and related structures.

(B) No thoroughfare shall be abandoned or vacated until the Council shall have held public hearings on vacation or abandonment of such thoroughfare. Legal notice of such public hearing shall be provided by the person requesting the vacation or abandonment.

(1995 Code, § 15-55)

§ 152.35 ISSUANCE OF PERMITS.

Any permits authorized by the Council, the Building Inspector or his or her agent permitting the erection, alteration, or relocation of structures and other improvements within the jurisdictional area shall be issued only if, in addition to satisfying other provisions, the proposed thoroughfare right-of-way as set forth by this chapter will be protected from encroachment. In this instance, the proposed thoroughfare right-of-way lines will be considered as the front line of lots and tracts bordering such thoroughfares for the purpose of establishing building lines.

(1995 Code, § 15-56)

§ 152.36 CONTINUING AUTHORITY OF COUNCIL.

The Council may determine lines for new, extended, widened, or narrowed thoroughfares in any portion of the area within the town under the same procedure as established for the certification and approval of the official thoroughfare plan.

(1995 Code, § 15-57)

SUBDIVISION CONTROL

§ 152.50 GENERALLY.

(A) *Establishment of control.* No plat or replat of a subdivision of land located within the jurisdiction of this subchapter shall be recorded until all approvals required by this subchapter are obtained and such approvals shall have been entered in writing on the plat.

(1995 Code, § 15-81)

(B) *Platting of small residential tracts; minor plats.*

(1) The division of a tract of land into five residential parcels or less, fronting upon an existing street, may be approved as follows: the minor plat shall be subject to the same basic procedures as any other subdivision; provided, that the Director may determine in advance of the filing of an application thereof which requirements set forth in this subchapter shall apply.

(2) The intent of this section is to eliminate redundant requirements for minor plats which obviously do not necessitate all of the detail of larger plats, however, the intent of this section is not to circumvent good subdivision practices, therefore, use of this procedure shall be limited to the creation of five new parcels from any tract of land under single ownership.

(1995 Code, § 15-82) Penalty, see § 152.99

§ 152.51 PURPOSE; OBJECTIVES.

(A) *Purpose.*

(1) This section is enacted for the purpose of adopting subdivision regulations for the town. The regulation of land subdivision has become widely recognized as a method of ensuring sound community growth and the safeguarding of the interests of the homeowner, the subdivider, and the local government. The citizens of the county need the assurance that residential subdivisions will provide permanent assets to their community or neighborhood. This section should be viewed, not as an end in itself, but as one tool or technique for the shaping of urban-oriented land use according to a comprehensive plan for the development of the county as a whole.

(2) The planning of a subdivision is the joint responsibility of the subdivider and the Council, the former having the prime responsibility for the creation of desirable, stable neighborhoods that become an integral part of the entire county. Subdivision design and utility can enhance or depreciate the character and potentialities of the surrounding areas and stabilize or endanger the individual's investment in a home.

(3) The Area Plan Commission has the responsibility of helping the subdivider achieve a high standard of excellence in the planning of his or her subdivision, and of informing all subdividers of the minimum standards and requirements for subdivision development in the county.

(1995 Code, § 15-96)

(B) *Objectives.* With the adoption of this section regulating the subdivision of land, the following objectives will be achieved:

- (1) Better living conditions will be created within new subdivisions;
- (2) Only those areas which can be economically serviced and maintained will develop;
- (3) Land descriptions will be simplified and made less susceptible to more than one interpretation;
- (4) Necessary streets, utilities, and public areas may be extended without expensive land purchases;
- (5) Property values will be enhanced and secured in the subdivision and adjacent lands;
- (6) Purchasers will be protected from unexpected assessments; and
- (7) Future development in the county will improve the health, safety, welfare, and convenience of all its citizens.

(1995 Code, § 15-97)

§ 152.52 PROCEDURES.

(A) *Pre-application.* From the standpoint of economy of time and money, it is recommended that the subdivider consult early and informally with the Building Inspector for advice and assistance. This will enable the subdivider to become familiar with these and other regulations as they affect the area and will prevent unnecessary and costly revisions. The subdivider should present a sketch in inexpensive and tentative form showing in a general way the proposed development, the existing conditions within the area proposed for subdivision and of surrounding lands, but this procedure is not mandatory. This shall not require formal application, fee, or filing of a preliminary plat, nor shall it be deemed a preliminary plat.

(1995 Code, § 15-111)

(B) *Application and fees.*

- (1) (a) A subdivider desiring approval of a plat of a subdivision of any land lying within the town shall submit a written

application for a certificate of approval and six copies of a preliminary plat and development plans in accordance with division (C) below to the Building Inspector at least 30 days before the meeting at which the Council is expected to consider such application.

(b) Of the copies submitted, the Building Inspector shall forward one copy to each of the following:

1. County Drainage Board;
2. Town Clerk/Treasurer;
3. Any applicable utility company; and
4. County Soil and Water Conservation District.

(c) The above listed agencies or persons shall forward any comments or recommendations concerning such plat to the Building Inspector prior to the date of the meeting at which the Council is expected to consider such application for preliminary plat approval.

(2) The application shall show the manner in which the proposed subdivision is coordinated with the comprehensive plan and its provisions, specifically, with relation to the requirements of the official thoroughfare plan, school and recreation sites, shopping centers, community facilities, sanitation, water supply and drainage, and other developments existing and proposed in the vicinity.

(3) No land shall be subdivided for residential use unless adequate access to the land over approved streets or thoroughfares exists or will be provided by the subdivider, or if such land is considered by the Council to be unsuitable for such use by reason of flooding or improper drainage, objectionable earth and rock formations, topography, or any other feature harmful to the health and safety of potential residents and the community as a whole.

(4) No land shall be subdivided unless the intended use of the individual lot is in conformance with the zoning ordinance, now or hereafter adopted.

(5) At the time of filing an application for approval of the preliminary plat, the application shall be accompanied by an application fee as set from time to time by the Council. The Building Inspector shall surrender the application fee to the Clerk/Treasurer. The application fee shall be nonrefundable.

(6) If the Building Inspector is satisfied that the standards of this section have been met, the Building Inspector shall set a date for a hearing before the Council, giving written notice to the applicant of such hearing.

(a) Not less than 15 days prior to the date set for the hearing, the applicant shall notify, by certified mail, all owners of property lying wholly or partially within 660 feet of the boundaries of the land proposed for subdivision, not to exceed three adjacent properties from such boundaries in any direction. Legal notice shall also be published in a daily newspaper of general circulation not less than 15 days prior to said hearing.

(b) Notices shall state the following:

1. The general location of the proposed subdivision and a legal description of the land contained therein;
2. The preliminary plat of the proposed subdivision is on file and may be examined at the office of the Council; and
3. A public hearing will be held, giving the date, place, and hour of such hearing.

(c) Proof of publication and receipts of mailing of required notices shall be submitted to the Council on or before the date of hearing. The cost of publication shall be borne by the applicant.

(1995 Code, § 15-112)

(C) *Preliminary plat, generally.*

(1) The preliminary plat shall be prepared in accordance with this section.

(2) The plat shall be drawn at a scale of 50 feet to one inch, except that when the drawing at the scale requires more than one sheet, the plat may be drawn at a scale of 100 feet to one inch. Sheets shall not exceed 24 inches by 36 inches in size.

(3) The plat shall include a location map showing the following:

- (a) Location of proposed subdivision;
- (b) Existing subdivisions and parcels of land adjacent to the proposed subdivision;
- (c) Existing schools, parks, playgrounds, or other similar facilities that will serve the proposed subdivision;

(d) All public thoroughfares up to and including primary thoroughfares established by this chapter, that will serve the proposed subdivision; and

(e) The location of any streets and alleys in the proposed subdivision showing the relationship of the streets to any existing or proposed streets in contiguous subdivisions or undeveloped property to produce the most advantageous development of the entire neighborhood.

- (4) A preliminary subdivision plat shall be submitted showing the following:
- (a) The proposed name of the subdivision;
 - (b) Names and addresses of the owner, subdivider, and consulting engineer, land surveyor, or planning firm who prepared the plan;
 - (c) Legend and notes including the scale, north point, and date;
 - (d) Tract boundary lines showing dimensions, bearings, angles, and references to section, township, and range lines or corners;
 - (e) Existing zoning of the tract and all contiguous tracts surrounding the proposed subdivision;
 - (f) All section and municipal corporate boundaries lying within or contiguous to the tract;
 - (g) Topographic contours at vertical intervals of one foot if the general slope of the tract is less than 5%, or intervals of two feet if the slope is in excess of 5%. Such contours shall be references to mean sea level elevations;
 - (h) Layout of lots, showing dimensions and numbers;
 - (i) Building lines showing dimensions throughout the subdivision;
 - (j) Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes;
 - (k) Streets and rights-of-way on and adjoining the site of the proposed subdivision, showing the names, roadway widths, approximate gradients, types and widths of pavements, curbs, and sidewalks;
 - (l) Existing and proposed easements including the location, width, and purpose of such easements;
 - (m) Location, size, and capacity of any public sewer and/or water facilities, if such facilities are available;
 - (n) Ground water levels stated in inches below ground surface and given at points of lowest ground elevation on the tract;
 - (o) A description of the surface drainage system to an approved outlet, including data showing that such outlet is adequate to accommodate the drainage requirements of the finished subdivision. Arrows designating the general drainage of all streets and lots shall be included; and
 - (p) If the preliminary plat is to be divided into sections or phases of development, the boundaries and numbers of such sections shall be shown.

(1995 Code, § 15-113)

(D) *Approval.*

(1) Within 60 days of the public hearing concerning an application for a certificate of approval of a subdivision plat, the Council shall notify the applicant in writing stating whether the preliminary plat is approved or disapproved.

(2) Approval of a preliminary plat shall be subject to the following:

(a) Such approval is strictly tentative, involving merely the general acceptability of the layout submitted;

(b) The Council may introduce such changes or revisions as are deemed necessary to the best interest and general welfare of the community; and

(c) Approval shall be effective for a maximum period of two years unless, upon application of the applicant, the Council grants an extension. The Council may extend approval of a preliminary plat for a maximum of four years without further notice, public hearing, or fees.

(3) Disapproval of a preliminary plat shall be subject to the following:

(a) If the Council disapproves a preliminary plat application, the Council shall notify the applicant in writing, stating the specific reasons for disapproval;

(b) The original applicant may submit a new application for preliminary approval within two years without responsibility for additional application fees; and

(c) If no reapplication is submitted within two years of the date of disapproval, any subsequent application shall be submitted as an original application.

(1995 Code, § 15-114)

(E) *Final plat, generally.*

(1) (a) After approval of the preliminary plat by the Council and fulfillment of the requirements of this section, blackline or blue-line reproductions of the final plat of the subdivision shall be submitted to the Council along with one reproducible

transparency. All plats shall be drawn at the same scale as the preliminary plat and shall be drawn on a sheet 24 inches by 36 inches in size. If the Council approves, it shall place a certification thereof on the reproduced copies.

(b) Upon the final approval of the plat, one copy of the certified plat shall be forwarded to the following persons:

1. County Drainage Board;
2. County Auditor;
3. Any utility company that may be affected;
4. Subdivider or applicant; and
5. File of Council.

(2) The final plat may include all or only a part of the preliminary plat which has received approval.

(3) The following information shall be shown on the final plat:

(a) Accurate boundary lines, with dimensions and angles, which provide a survey of the tract, closing with an error of not more than one foot in 5,000 feet;

(b) Accurate distances and directions to the nearest official monument. Reference corners shall be accurately described on the plan;

(c) Accurate locations of all existing and recorded streets intersecting the boundaries of the tract;

(d) Accurate metes and bounds description of the tract boundary;

(e) Source of title of the applicant to the land as shown by the last entry in the books of the County Recorder;

(f) Street names;

(g) Complete curve notes for all curves included in the plat;

(h) Street lines with accurate dimensions in feet and hundredths of feet with angles to street, alley, and lot lines;

(i) Lot numbers and dimensions;

(j) Accurate locations of easements for utilities and notations of the purpose of easements;

(k) Accurate dimensions for any property to be dedicated or reserved for public, semi-public, or community use;

(l) Building lines and dimensions throughout the subdivision;

(m) Location, type, material, and size of all monuments;

(n) Plans and specifications for the improvements required in this section;

(o) Restrictions of all types which will run with the land and become covenants in the deeds for lots;

(p) Name of subdivision;

(q) Name and address of the owner and subdivider;

(r) North point, scale, and date;

(s) Certification of dedication of streets and other public property;

(t) Certification by a registered land surveyor; and

(u) Certificate of approval by the Council.

(1995 Code, § 15-115)

(F) *Approval.*

(1) Prior to the certification of a plat by the Council, the subdivider shall provide a bond which shall:

(a) Run to the Council;

(b) Be in an amount determined by the Council to be sufficient to complete the improvements and installations in compliance with this section. The subdivider's engineer shall supply an estimate of the cost of improvements and installations on the project to aid the Council in its determination of the amount of the bond. The engineer's estimate, however, shall not be binding upon the Council;

(c) Be with surety satisfactory to the Council; and

(d) Specify the time for the completion of the improvements and installations.

(2) Upon the completion of the improvements and installations required of a subdivider for the approval of a final plat, and prior to the acceptance thereof for public maintenance by the governmental unit having responsibility for such

maintenance, the subdivider shall provide a three-year maintenance bond which shall:

- (a) Run to the Council;
- (b) Be in an amount equal to 20% of the cost of such improvements and installations as estimated by the Council under division (F)(1)(b) above;
- (c) Provide surety satisfactory to the Council;
- (d) Warrant the workmanship and all materials used in the construction, installation, and completion of said improvements and installations to be of good quality and have been constructed and completed in a workmanlike manner in accordance with the standards, specifications, and requirements of this section and the satisfactory plans and specifications for the subdivision as approved by the Council; and
- (e) Provide that for a period of three years after such installations and improvements have been completed or are accepted for public maintenance, by any appropriate governmental unit or agency thereof, which may be necessary by reason of improper workmanship or materials, with such maintenance, however, not to include any damages to such improvements and installation resulting from forces or circumstances beyond the control of the subdivider.

(3) Within 60 days after application for approval of the final plat, if the Council approves the plat, it shall affix its seal upon the plat, together with the signatures of the Council members and attested by the Town Clerk/Treasurer. If the Council disapproves, the Town Clerk/Treasurer shall set forth the reasons for such disapproval in the town records and provide the applicant with written notification setting forth the reasons for disapproval.

(4) No improvement location permit or building permit shall be issued for any structures on any subdivision lots prior to the recording of such subdivision by the County Recorder.

(5) (a) No structure shall be occupied on any subdivision lots prior to the installation and completion of all facilities, including grading, as shown on the development plans and approved by the Council; except that, in the case of an asphalt road surface, the installation of the final surface cost may be postponed until the end of the maintenance period.

(b) The final cost of asphalt shall be installed prior to acceptance of the road for public maintenance.

(1995 Code, § 15-116) Penalty, see § 152.99

§ 152.53 SOIL SURVEY; DRAINAGE; EROSION AND SEDIMENT CONTROL.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CUT. An excavation, the difference between a point on the original ground and a designated point of lower elevation on the final grade. Also, the material removed in excavation.

EROSION. The removal of surface materials by the action of natural elements.

EXCAVATION. Any act by which earth, sand, gravel, rock, or other similar material is dug into, cut, quarried, uncovered, removed, displaced, relocated or bulldozed and shall include the conditions resulting therefrom.

FILL. Any act by which earth, sand, gravel, rock, or any other similar material is placed, pushed, dumped, pulled, transported, or moved to a new location above and natural surface of the ground or on top of the stripped surface and shall include the conditions resulting therefrom. The difference in elevation between a point on the original ground and a designated point in higher elevation on the final grade. The material used to make a **FILL**.

FLOODWAY. The area designated as a "commission floodway" by the Indiana Natural Resources Commission.

FLOODWAY FRINGE. Those portions of a flood hazard area lying outside the floodway district.

QUALIFYING TRACT. Any tract where 20 or more cubic yards of earth are moved.

RUNOFF. The surface water discharge or rate of discharge of a given watershed after a fall of rain or snow that does not enter the soil but runs off the surface of the land.

RUNOFF FROM A FULLY DEVELOPED AREA UPSTREAM. The surface water runoff that can be reasonably anticipated upon maximum development of that area of the watershed located upstream from the subject tract, as permitted by prevailing zoning or the comprehensive land use plan.

SEDIMENTATION. The process by which mineral or organic matter is accumulated or deposited by moving wind, water or gravity.

SLOPE. The face of an embankment or cut section; any ground whose surface makes an angle with the plane of the horizon. **SLOPES** are usually expressed in a percentage based upon vertical difference in feet per 100 feet of horizontal distance.

SOIL STABILIZATION. Chemical or structural treatment of a mass of soil to increase or maintain its stability or otherwise improve its engineering properties.

SWALE. A low lying stretch of land which gathers or carries surface water runoff.

TOPSOIL. Surface soils and subsurface soils which presumably are fertile soils and soil materials, ordinarily rich in organic matter or humus debris. **TOPSOIL** is usually found in the uppermost soil layer called the "A horizon".

WATERCOURSE. A permanent stream, intermittent stream, river, brook, creek, channel, or ditch for water, whether natural or human-made.

(1995 Code, § 15-126)

(B) *Basic requirements.*

(1) (a) Before granting approval of a subdivision, the Building Inspector shall be satisfied that the proposed subdivision meets the applicable criteria set forth in this section for the tract of land concerning types of soils involved, and the conditions which are requisite to assure proper execution of erosion and sediment control and proper drainage.

(b) The Building Inspector shall be guided by the information set forth in the findings of the national cooperative soil survey prepared by the USDA Soil Conservation Service in cooperation with the Purdue Experiment Station, and the county soil and water conservation district, and the specifications set forth herein.

(2) The Building Inspector shall also be guided by the advice from the USDA Soil Conservation Service, County Soil and Water Conservation District, County Drainage Board, State Department of Natural Resources - Division of Water, and other agencies or officials offering technical assistance on the subject to soils, drainage, erosion, and sediment control. The application shall provide the information, report, or plan for his or her application, and any additional expense necessary to ensure adequate information, and any additional expense necessary to ensure adequate information report or plans shall be met by the applicant.

(1995 Code, § 15-127)

(C) *Restrictions on developments.*

(1) No changes shall be made in the contour of the land, or grading, excavating, removal, or destruction of the topsoil, trees, or other vegetative cover of the land shall be commenced until such time that a plan for minimizing erosion and sedimentation has been reviewed by the Building Inspector or there has been a determination by the Building Inspector that such plans are not necessary.

(2) No development plan shall be approved unless:

(a) There has been a plan approved by the Building Inspector that provides for drainage and minimizing and sedimentation consistent with this section, and that the cost of the installation and completion of necessary improvements for this purpose are included in the bond required under § 152.52(F); or

(b) There has been a determination by the Building Inspector that a plan for drainage and minimizing erosion and sedimentation is not necessary.

(3) Measures used to control erosion and reduce sedimentation and to provide drainage shall as a minimum meet the standards and specifications of the County Soil and Water Conservation District. The Building Inspector shall ensure compliance with all appropriate specifications; including the requirements for drainage under Ord. 1-1975 of the county, adopted March 19, 1975, where applicable; copies of which are available from the County Board of Health.

(1995 Code, § 15-128)

(D) *Performance principals.* The following measures are effective in minimizing erosion and sedimentation and shall be included where applicable in the overall development plan:

(1) Stripping of vegetation, regrading, or other development shall be done in such a way that will minimize erosion;

(2) Development plans shall preserve prominent natural features, keep cut fill operations to a minimum, and ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and velocity or surface water runoff;

(3) Whenever feasible, natural vegetation shall be retained, protected, and supplemented;

(4) The disturbed area and the duration of exposure shall be kept at a practical minimum;

(5) Disturbed soils shall be stabilized as quickly as possible;

(6) Temporary vegetation and mulching shall be used to protect exposed critical areas during development;

(7) The permanent final vegetation and structural erosion control and drainage measures shall be installed as soon as practical in the development;

(8) Provision shall be made to effectively accommodate the increased runoff caused by changed soil and surface conditions during and after development. Where necessary, the rate of surface water runoff will be structurally retarded; and

(9) Sediment in the runoff water shall be trapped until the disturbed area is stabilized by the use of debris basins, sediment basins, silt traps, or similar measures.

(1995 Code, § 15-129)

(E) *Grading for drainage.* In order to provide more suitable sites for building and other uses, improve surface drainage and control erosion, the following requirements shall be met.

(1) The locations, grading, and placement or subgrade (base) material of all street, public driveway, and public parking areas shall be accomplished as the first work done on a development plan.

(2) All lots, tracts, or parcels shall be graded to provide proper drainage away from the buildings and dispose of it without ponding, and all land within the development shall be graded to drain and dispose of surface water without ponding, except where approved by the Building Inspector.

(3) All drainage provisions shall be of such design to adequately handle the surface runoff and carry it to the nearest suitable outlet such as a curbed street, storm drain, or natural watercourse. Where drainage swales are used to divert surface waters away from buildings, they shall be sodded or planted as required and shall be of such slope, shape, and size as to conform with the requirements of the Council.

(4) Concentration of surface water runoff shall only be permitted in swales or watercourses.

(5) Excavation and fills.

(a) Cut and fill slopes shall not be steeper than three to one unless stabilized by a retaining wall or cribbing as approved by the Building Inspector when handled under special conditions.

(b) Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surfaces of fills, by installation of temporary or permanent drainage across or above this area.

(c) Cuts and fills shall not endanger adjoining property.

(d) Fill shall be placed and compacted so as to minimize sliding or erosion of the soil.

(e) Fills shall not encroach on natural watercourses or constructed channels.

(f) Fills placed adjacent to natural watercourses or constructed channels shall have suitable protection against erosion during this period of construction.

(g) Grading will not be done in such a way so as to divert water onto the property of another land owner without the expressed consent of the Building Inspector.

(h) During grading operations, necessary measures for dust control will be exercised.

(i) Grading equipment will not be allowed to cross live streams. Provision will be made for the installation of temporary or permanent culverts or bridges.

(1995 Code, § 15-130)

(F) *Responsibility.*

(1) Whenever sedimentation is caused by stripping, vegetation, regrading, or other development activities, it shall be the responsibility of the applicant or person causing such sedimentation to remove it from all adjoining surfaces, drainage systems, and watercourses and to repair it from all adjoining surfaces, drainage systems, and watercourses and to repair any damage at his or her expense as quickly as possible.

(2) Maintenance of all driveways, parking areas, drainage facilities, and watercourses within any development plan area is the responsibility of the applicant or developer; provided, that such facilities have not been dedicated to the public and accepted by the appropriate authority for public maintenance.

(3) It is the responsibility of the applicant and any person doing any act on or across a communal stream, watercourse, or swale or upon the floodplain, floodway, or floodway fringe area of any watercourse during the period of development to return these areas to their original or equal conditions upon completion of such activities.

(4) No applicant or other person shall block, impede the flow of, alter, construct any structure, or deposit any material or thing, or commit any act which will affect normal or flood flow in any communal stream or watercourse without having obtained prior approval from the county drainage board and or the State Department of Natural Resources, Division of Water, whichever is applicable.

(5) Where a development plan area is traversed by a watercourse, the total development of the watercourse shall be considered. There shall be provided a drainage easement or right-of-way conforming to the requirements of the State Drainage Code, Ch. 305, Acts 1965, State General Assembly and approved by the county surveyor.

(6) Each applicant who makes any surface changes shall be required to:

(a) Collect on-site surface runoff and dispose of it to the point of discharge into an adequate outlet approved by the Building Inspector;

(b) Handle existing and potential off-site runoff through the development by designing to adequately handle storm runoff from a fully developed area upstream;

(c) Pay his or her proportionate share of the total cost of off-site improvements to the common natural watercourse, based on a fully developed drainage area; and

(d) Provide and install at his or her expense, in accordance with the requirements of the Building Inspector, all drainage and erosion control improvements (temporary and permanent) as required by the Building Inspector.

(7) It is the responsibility of the applicant or owner to keep all major watercourses, not under the jurisdiction of any public agency, open and free flowing.

(8) The applicant or owner will assume the responsibility for maintaining an open and free flowing condition in all minor streams, watercourses, and drainage systems, constructed or otherwise improved in accordance with this section, which are necessary for proper drainage.

(1995 Code, § 15-131)

(G) *Compliance with regulations and procedures.*

(1) The design, installation, and maintenance of the required drainage facilities and erosion and sediment control measures shall be in accordance with the standards and specifications of the County Soil and Water Conservation District.

(2) Where such authority exists under the State Drainage Code, Ch. 305, Acts 1965 of the State General Assembly, approval of the County Drainage Board must be obtained for the proposed development prior to approval by the Council.

(3) The approval of plans and specifications for the control of erosion and sedimentation shall be concurrent with the approval of the development, and shall become a part thereof.

(4) Permission for clearing and grading prior to the approval of the development plan may be obtained under temporary easements or other conditions satisfactory to the Building Inspector.

(5) In the event the applicant or developer proceeds to clear and grade prior to the approval of the subdivision or development plan, without satisfying conditions specified under division (F) above, the jurisdictional agency having authority over the approval of such subdivision or development plans may revoke the approval of all plans.

(1995 Code, § 15-132) Penalty, see § 152.99

§ 152.54 PRINCIPLES AND STANDARDS OF DESIGN.

(A) *Generally.*

(1) In determining whether an application for approval of a preliminary plat or a final plat of a subdivision shall be granted, the Council shall determine that the plat is in accordance with the principles and standards required in this section which shall be deemed as minimal; and whenever the applicable requirements of other ordinances adopted by the county are higher or more restrictive, those requirements shall control any application for plat approval.

(2) 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.

(3) 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.

(4) The subdivision layout shall be of such a character that it protects the health, safety, and general welfare of the residents in the jurisdiction of the Council.

(1995 Code, § 15-146)

(B) *Street standards.*

(1) The street and alley layout shall provide adequate vehicular and pedestrian access to all lots and parcels of land within the subdivision and where streets cross other streets, jogs shall not be created.

(2) Streets shall conform to the following principles and standards.

(a) Proposed streets shall be adjusted to the contour of the land so as to produce usable lots and streets of reasonable gradient.

(b) Residential street systems shall be designed to minimize through traffic movement, but certain proposed streets, where appropriate, shall be extended to the boundary line of the tract to be subdivided so as to provide for normal circulation of traffic within the vicinity.

(c) Wherever there exists a dedicated or platted portion of a street or alley adjacent to the proposed subdivision, the remainder of the street or alley to the prescribed width shall be platted within the proposed subdivision.

(d) Residential street patterns shall provide reasonably direct access to the primary circulation system.

(e) Local circulation systems and land development patterns shall not conflict with the efficiency of bordering thoroughfares.

(f) Widths of thoroughfares shall conform to the widths set forth in the thoroughfare plan.

(g) The minimum right-of-way of residential streets or cul-de-sacs shall be 50 feet. All cul-de-sacs shall terminate in a circular right-of-way with a minimum diameter of 100 feet and minimum roadway diameter of 95 feet. Cul-de-sac streets

shall be not longer than 600 feet, such distance to be measured from the center of the turning circle to the intersection of the centerline of the cul-de-sac street and the centerline of a through street, provided, however that if the residential street within the subdivision has only one intersection with a through street, the entire subdivision shall be measured from the point of intersection of the subdivision street and the through street.

(h) Alleys shall be discouraged in residential districts but should be included in commercial and industrial areas where needed for loading and unloading or access purposes, and where platted shall be at least 20 feet in width.

(i) The centerlines of streets should intersect as nearly at right angles as possible.

(j) At intersections of streets or alleys, property line corners shall be rounded by arcs of at least 20 feet radii or by chords of such arcs.

(k) If the smaller angle of intersection of two streets is less than 60 degrees, the radius of the arc at the intersection of the property lines shall be increased as deemed advisable by the Council.

(l) Intersections of more than two streets at one point shall be avoided.

(m) Street jogs with centerline off-sets of less than 125 feet shall not be permitted.

(n) Where parkways or special types of streets are involved, the Council may apply special standards to be followed in their design.

(o) Whenever the proposed subdivision contains or is adjacent to a railroad right-of-way, a primary or a secondary street, provision shall be made for a marginal access street, or a parallel street adjacent to such railroad right-of-way or primary or secondary street. As a general principle, intersections of such marginal access streets or parallel one-quarter mile intervals with primary streets, or at less than one-eighth mile intervals with secondary streets.

(p) 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 Council 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 such tract.

(q) 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 turn-around shall be provided for any such temporary dead-end street which extends 200 feet or more in length. Such easement shall be automatically vacated to abutting property owners when such dead-ended street is legally extended.

(r) 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 such streets or 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.

(s) Horizontal visibility on curved streets and vertical visibility on all streets must be maintained along the centerline as follows.

Feeder and residential streets	200 feet
Primary thoroughfares	500 feet
Secondary thoroughfares	300 feet

(t) Curvature measure along the centerline shall have a minimum radius as follows.

Feeder and residential streets	200 feet
Primary thoroughfares	500 feet
Residential streets	200 feet
Secondary thoroughfares	300 feet

(u) Between reversed curves on primary and secondary thoroughfares there shall be a tangent of not less than 100 feet and on feeder and residential streets such tangent shall be not less than 40 feet.

(v) Maximum grades for streets shall be as follows:

1. Primary and secondary thoroughfares, not greater than 6%; and
2. Feeder and residential streets and alleys, not greater than 8%.

(w) The minimum grade of any street gutter shall not be less than 0.3%.

(x) No street names may be used which will duplicate, or be confused with, the names of any existing streets unless such proposed streets are the logical extension or continuation of, or obviously in alignment with an existing platted street, in

which case the proposed street shall bear the names of such existing streets.

(y) The following paragraph shall be required as a provision of the restrictive covenants of all final plats to which they apply: "No fence, wall, hedge, tree, or shrub planting which obstructs sight lines and elevations between three and 12 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 extended".

(z) At the intersection of any proposed residential street and secondary or primary thoroughfare, acceleration and deceleration lanes shall be provided in accordance with the specifications of the State Highway Commission.

(1995 Code, § 15-147)

(C) *Block standards.*

(1) Block length and width or acreage within bounding streets shall be such as to accommodate the size of lot required by the zoning ordinance in the district in which the subdivision is to be located, and to provide convenient access, circulation control, and safety of street traffic. Blocks that are unreasonably large or small will not be approved.

(2) Blocks should not exceed 1,200 feet in length. In the design of blocks longer than 800 feet, the Council may specify the provision of pedestrian crosswalks near the center of the block, or wherever would be most useful to facilitate pedestrian circulation to a school, park, recreation area, shopping center, or other significant neighborhood destination.

(3) Residential blocks shall be of sufficient depth to accommodate two tiers of lots of minimum depth, except where an interior street parallels a primary or secondary thoroughfare, railroad right-of-way, floodplain, or similar boundary obstruction.

(1995 Code, § 15-158)

(D) *Lot standards.*

(1) Subdivision lots shall be adequate for the type of development and land use proposed and shall have at least 6,000 square feet of usable lot area excluding street rights-of-way.

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

(3) All lots shall abut on a street.

(4) Side lines of lots shall be at approximately right angles to straight streets and on radial lines on curved streets. Some variation from this requirement is permissible, but pointed or very irregular lots should be avoided.

(5) Double frontage lots should not be platted, except that where desired along interstates or primary and secondary thoroughfares, lots may face on an interior street and back on such thoroughfares. In that event a planting strip for a screen, at least 20 feet in width shall be provided along the back of each lot.

(6) The minimum width of any lot shall conform to §150.088.

(7) Building lines shall conform to § 150.085.

(8) Corner lots shall be sufficiently larger than interior lots to allow maintenance of building lines on both streets.

(9) Whenever possible, unit shopping centers, based upon sound development standards, should be designed in contrast to the platting of lots for individual commercial use.

(10) Lots abutting a watercourse, drainageway, channel, stream, or floodplain 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.

(11) The following paragraph shall be required as a provision of the restrictive covenants of all final plats to which they apply: "No driveway on any corner lot shall enter the adjoining street at a point closer than 75 feet to the intersection of the street right-of-way lines, or in the case of a rounded property corner, from the intersection of the street right-of-way lines extended".

(1995 Code, § 15-149)

(E) *Easements.* Where alleys are not provided, easements for utilities shall be provided. Such easements shall have minimum widths of 15 feet, and where located along lot lines, one-half the width shall be taken from each lot. In the case of lot extending to the boundary of the lands platted and not adjoining another plat, the full width of the easements shall be provided on such peripheral lots. Before determining the location of easements, the plan shall be discussed with the local public utility companies to assure their proper placing for the installation of such services.

(1995 Code, § 15-150)

(F) *Soil limitations and natural features.*

(1) Land which exhibits severe limitations to urban development due to flooding, inadequate drainage, poor soils, or other features likely to be harmful to the safety, welfare, and general health of future residents, shall not be subdivided, unless adequate remedies to overcome such limitations are formulated by the subdivider and approved by the Council and

other appropriate public agencies.

(2) Land which exhibits very severe limitations to urban development such as floodplains and very poorly drained organic (muck) soils, characterized by seasonal high water tables at or near the surface, ponding, or frequent to occasional flooding, shall not be platted for urban development or used for nonagricultural structures.

(1995 Code, § 15-151)

(G) *Commercial and industrial subdivisions.*

(1) It is recognized that the subdivider in creating commercial or industrial subdivisions, often faces unique problems of lot design not normally encountered in residential subdivisions. For this reason, the initial emphasis of the Council 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.

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

(1995 Code, § 15-152) Penalty, see § 152.99

§ 152.55 STANDARDS FOR IMPROVEMENTS AND INSTALLATIONS.

(A) *Monuments and markers.*

(1) Monuments and markers shall be placed so that the center of the pipe or marked point shall coincide exactly with the intersection of lines to be marked, and shall be set so that the top of the monument or marker is level with the finished grade; and

(2) Monuments shall be set:

(a) At the intersection of lines forming angles in the boundary of the subdivision; provided, that not more than eight such monuments shall be required;

(b) At the intersection of the centerlines of all streets and also at the center points of all cul-de-sac turnarounds;

(3) Markers shall be set:

(a) At the beginning and ending of all curves along street property lines;

(b) At all points where lot lines intersect curves, either front or rear;

(c) At all angles in property lines of lots; and

(d) At all lot corners not established by monuments.

(4) Monuments shall be of stone, precast concrete, or concrete poured in place with minimum dimensions of four inches by 30 inches set vertically in place. They shall be marked on top with iron or copper dowel set flush with the top of the monument, or deeply scored on top with a cross. Markers shall consist of iron pipes or steel bars at least 30 inches long, and not less than five-eighths inches in diameter.

(1995 Code, § 15-166)

(B) *Street improvements.*

(1) Streets (and alleys where provided) shall be completed to grades shown on plans, profiles, and cross-sections, provided by the subdivider, and prepared by a registered professional engineer and approved by the Council.

(2) The streets shall be graded, surfaced, and improved to the dimensions required by such plans, profiles and cross-sections and the work shall be performed in the manner prescribed in *Standard Specifications for Road and Bridge Construction and Maintenance*, current issue, of the State Department of Transportation. References in the following provisions refer to the S.H.C. of I. *Standard Specifications*.

(3) (a) The street pavement shall be of a portland cement concrete or a flexible pavement of a width as shown by the illustration "Boone County Thoroughfare Cross-Sections", dated 1976, and shall be constructed in accordance with design characteristics at least equal to those given below; except as modified by division (B)(4) below.

Design Characteristics of Street and Alley Pavements			
Kind of Pavement and Thickness	Primary	Secondary	Feeder and Residential

Design Characteristics of Street and Alley Pavements			
Kind of Pavement and Thickness	Primary	Secondary	Feeder and Residential
Base-compacted aggregate or water bound macadam	10 inches	6 inches	4 inches
Binder-asphaltic concrete or bituminous coated blended aggregate	2 inches	2 inches	2 inches
Portland cement concrete uniform thickness flexible	8 inches	7 inches	6 inches
Subbase type	6 inches	6 inches	4 inches
Surface-asphaltic concrete type "B"	1-1/2 inches	1-1/2 inches	1 inch
Total thickness	19-1/2 inches	15-1/2 inches	11 inches

(b) Material types as set out in State Department of Transportation's *Specifications*, secondarily street design to be used on feeder streets serving industrial or commercial development.

(4) Where primary and secondary streets are located within the subdivision as specified in the official thoroughfare plan as established by this chapter, the subdivider will construct such street pavement in accordance with the requirements for feeder streets set forth in division (B)(3) above. For the purpose of constructing primary and secondary street pavements according to the design characteristics set forth in division (B)(3) above, the Council may use funds available for such purposes to participate with the subdivider in the cost of such construction; provided, however, that such participation shall be limited to that cost which is additional to the cost of constructing the required feeder street improvements.

(5) Prior to placing the street and alley surfaces, adequate drainage for the street shall be provided by the subdivider. Culvert drainage pipe, when required, shall be coated corrugated metal pipe or a similar type not less than 12 inches in diameter approved by the Council. Upon the completion of the street and alley improvements, plans and profiles as built shall be filed with the Council. Longitudinal subgrade drainage shall be provided below the depth of the subgrade.

(1995 Code, § 15-167)

(C) *Sewers.*

(1) The subdivider shall provide the subdivision with a complete sanitary sewer system which shall connect with an existing approved sanitary sewer outlet.

(2) The plans for the installation of a sanitary sewer system shall be provided by the subdivider and shall be certified by a registered professional engineer. The plans shall be approved by the Council. Upon completion of the sanitary sewer installation, the plans for such system as built shall be filed with the Utility Board.

(3) In this section and division (D) below, the phrase **THE SUBDIVIDER SHALL PROVIDE** shall be interpreted to mean that the subdivider shall install the facility referred to, or whenever a private sewage disposal system or an individual water supply is to be provided, that such facilities referred to in these sections shall be installed by the developer of the lots in accordance with these regulations.

(1995 Code, § 15-168)

(D) *Water.*

(1) The subdivider shall provide the subdivision with a complete water supply system which shall connect with an existing approved water supply system outlet.

(2) The plans for the installation of a water supply system shall be provided by the subdivider and shall be certified by a registered professional engineer. The plans shall be approved by the Council. Upon completion of the water supply system, the plans for such system as built shall be filed with the Utility Board.

(1995 Code, § 15-169)

(E) *Storm drainage.*

(1) (a) The subdivider shall provide the subdivision with an adequate stormwater sewer system whenever curb and gutter is installed and whenever the evidence available to the Council indicated that natural surface drainage is inadequate. When the surface drainage is adequate, easements for such surface drainage shall be provided. Curbs and gutters along streets are required, however, if the Council finds it necessary to waive this requirement, a shallow swale with its low point at least three inches below the elevation of the subgrade of the pavement shall be installed.

(b) In this case, one of the following types of improvements shall be furnished at driveway crossings:

1. A corrugated metal pipe, at least 12 inches in diameter and 14 feet in length to be placed where required for each driveway; or

2. A properly dipped or swaled concrete pavement, 24 feet in length, six feet in width and six inches thick, designed so as not to create hazard to the under parts of automobiles, at the entrance of each driveway.

(2) The plans for the installation of a storm drainage system shall be provided by the subdivider and shall be certified by a registered professional engineer. The plans shall be approved by the Council. Upon completion of the storm drainage system, the plans for such system as built shall be filed with the Utility Board.

(1995 Code, § 15-170)

(F) *Curb and gutter.*

(1) The Council shall require curb and gutter to be installed on each side of the street surface.

(2) The curb and gutter shall be constructed according to the following specifications.

(a) The base for the curb and gutter shall be well-compacted on the existing base or grade.

(b) All gutters and curbs shall be constructed in accordance with the *Standard Specifications* of the State Department of Transportation.

(1995 Code, § 15-171)

(G) *Sidewalks.*

(1) The Council shall require sidewalks to be installed on each side of the street.

(2) When sidewalks are required, they shall be constructed of Portland cement concrete, at least four inches thick, and four feet wide and placed as shown by the illustration in division (B)(3)(a) above.

(1995 Code, § 15-172)

(H) *Street signs.* The subdivider shall provide the subdivision with standard county, city, or town street signs at the intersection of all streets.

(1995 Code, § 15-173) Penalty, see § 152.99

§ 152.56 VARIANCE.

(A) *May be authorized.* Where the subdivider can show that a provision of this subchapter would cause unnecessary hardship if strictly adhered to and where, in the opinion of the Council, because of topographical or other conditions peculiar to the site, a departure may be made without destroying the intent of such provisions, the Council may grant a variance. Any variance granted by the Council shall be entered in writing in the minutes of the Council and the reasoning on which the departure was justified shall be set forth.

(1995 Code, § 15-186)

(B) *Improvement credit procedure.* Improvements set forth in §152.53 and required to be installed by the subdivider, which are of a public utility nature, may provide benefits to other properties in the vicinity of the land to be subdivided. Upon the installation of such improvements which cross or adjoin other properties and be used by such properties, the subdivider and the legal public authority having jurisdiction over such improvements may, by contract, agree that upon the connection or use. The new user or users shall pay to the authority with proper jurisdiction a fee in an amount agreed upon by the subdivider, and such public authority, the amount of such fees to be credited and paid to the subdivider.

(1995 Code, § 15-187)

§ 152.57 ADMINISTRATION.

(A) *Road inspection.* It shall be the duty of the developer to notify the Council before any construction commences on the curbs, gutters, public walks, or roads, in order that the Building Inspector may run any and all tests required during the construction period.

(1995 Code, § 15-201)

(B) *Sewer and water inspection.* It shall be the duty of the developer to notify the Council before any construction commences on the sewage disposal and water supply facilities in order that the Council may run any and all tests required during the construction period.

(1995 Code, § 15-202)

(C) *Drainage inspection.* It shall be the duty of the developer to notify the Building Inspector before commencing construction so that any and all tests may be run on the drainage structures and the grading of the subdivision during the entire construction period.

(1995 Code, § 15-203)

§ 152.99 PENALTY.

Action on the violation of any provision of this chapter and the right of injunction against such violation shall be as provided

by I.C. 36-7-4-1013 et seq.
(1995 Code, § 15-27)