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ARTICLE ONE
BASIC PROVISIONS

- 101 TITLE: These regulations shall hereafter be known and cited as the Subdivision Control Ordinance of Cass County, Indiana.
- 102 POLICY: It is hereby declared to be the policy of Cass County to consider the subdivision of land and the subsequent development of the subdivided plat as subject to the official comprehensive plan and related policies, including the Cass County Comprehensive Plan, the Cass County Thoroughfare Plan and the Cass County Zoning Ordinance for the orderly and efficient development of the County.
- 103 AUTHORITY: This Ordinance was enacted pursuant to Indiana home rule and planning enabling legislation, IC 36-1-3-4 and IC 36-7-4-700 series, as amended, which authorizes the Cass County Plan Commission to review and approve or disapprove plats for subdivision within its jurisdiction which show lots, blocks, or sites with or without new streets or highways. This authority extends to the development or replatting of portions of already recorded plats.
- 104 COMPLIANCE: No building permit, improvement location permit, or certificate of occupancy shall be issued for, nor any improvements be commenced upon, any parcel of land which was created by subdivision after the effective date of and not in conformity with the provisions of this Ordinance. No owner or agent may sell or lease any land within a subdivision before such plat has been approved and recorded in the manner prescribed in this Ordinance. A subdivider may place a sign, in accordance with Section 505 of the Zoning Ordinance, announcing the development after receipt of primary approval. No road shall be laid out or constructed unless it is consistent with the Cass County Comprehensive Plan or Thoroughfare Plan and/or has been approved by the Commission as part of a subdivision.
- 105 JURISDICTION: This Ordinance shall apply to all unincorporated land within Cass County except for those land areas under the jurisdiction of a city or town plan commission as defined by description or maps in the Cass County Recorder's Office in accordance with IC 36-7-4-205, provided there is a subdivision control ordinance for those land areas in effect and enforced by said city or town plan commission.
- 106 PURPOSE: This Ordinance is adopted for the following purposes:
- 106.01 to protect and provide for the public health, safety, and general welfare of the County;
 - 106.02 to guide the future development of the County in accordance with the Cass County Comprehensive Plan and any related policies;
 - 106.03 to provide for the safety, comfort, and soundness of the built environment and related open spaces;

106.04 to protect the compatibility, character, economic stability and orderliness of all development through reasonable design standards;

106.05 to supply proper land boundary records;

A. to provide for the survey, documentation, and permanent monumentation of land boundaries of property;

B. to provide for identification of property;

C. to provide public access to land boundary records;

106.06 to establish a procedure for the vacation of platted areas, public ways and platted easements;

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

- 107 INTERPRETATION: In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the protection of the health, safety, comfort, morals, convenience and general welfare of the people.
- 108 CONFLICT: It is not intended by this Ordinance to interfere with, abrogate, or amend any existing easements, covenants, or other agreements between parties; nor is it intended by this Ordinance to repeal, abrogate, annul or in any way interfere with any existing provisions of laws or ordinances, or any rules, regulations, or permits previously adopted or issued pursuant to law relating to the use of buildings or premises provided; however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises than is imposed or required by such existing provisions of law or by such rules, regulations, agreements, covenants, or permits, the provisions of this Ordinance shall control; but where private covenants, permits, agreements, rules or regulations impose a greater restriction than is imposed by this Ordinance, the greater restriction shall control.
- 109 SAVING PROVISION: These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the County under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the County except as shall be expressly provided for in these regulations.

- 110 SEPARABILITY: If any provision of this Ordinance or the application of any provision to particular circumstances is held invalid, the remainder of the Ordinance or the application of such provision to other circumstances shall not be affected.
- 111 REPEALER: This Ordinance repeals the 1979 Cass County Major Streets and Highways Plan and Subdivision Control Ordinance and all other Ordinances in conflict herewith.
- 112 AMENDMENTS: For the purpose of providing for the public health, safety, and general welfare, the County, on recommendation of the Commission, may from time to time amend the provisions imposed by these subdivision regulations. Public hearings on all proposed amendments shall be held by the Commission and/or the County in the manner prescribed by law.
- 113 CONDITIONS: Regulations of the subdivision of land and the attachment of reasonable conditions to land subdivision is an exercise of valid police power delegated by the state to this county. The subdivider has the duty of compliance with reasonable conditions laid down by the Commission for design, dedication, improvements, and restrictive use of the land in order to conform to the physical and economical development of the County and to the safety and general welfare of the future lot owners in the subdivision and of the County at large.
- 114 ZONING ORDINANCE CONFORMITY: All land subdivided or platted under the terms of this Ordinance shall comply with the minimum standards prescribed in the Cass County Zoning Ordinance. The Commission shall not have the authority to approve any subdivision which does not comply with said Zoning Ordinance. For subdivisions of land within the zoning jurisdiction of another unit of government, the Zoning Ordinance of the unit having such jurisdiction shall apply. It is the intent of these regulations that subdivision review may be carried out simultaneously with the review of development plans and planned unit developments as permitted by the Zoning Ordinance. The plans required for development plans and planned unit developments may be submitted in a form to satisfy the requirements of the subdivision regulations.
- 115 METES AND BOUNDS DESCRIPTIONS NOT EXEMPT: The division of any lot or any parcel of land into a subdivision, as defined in this Ordinance, by the use of metes and bounds description for the purpose of sale, or transfer, or lease shall not be permitted. All such described divisions shall be subject to all of the appropriate requirements of this Ordinance.
- 116 RECORDATION PROHIBITION: Pursuant to IC 36-7-4-710, a plat of a subdivision may not be filed with the County Auditor, and the County Recorder may not record it, unless it has been granted secondary approval and signed and certified by the Administrator. The filing and recording of the plat is without legal effect unless approved by the Commission or Plat Committee. The County Auditor shall not accept a deed for property to be entered for taxation unless the property complies with the requirements of this Ordinance.

117 SUBDIVISIONS CROSSING MUNICIPAL OR COUNTY BOUDARIES: Lots which straddle municipal or county boundaries should be avoided wherever practical. If a subdivision is located in more than one jurisdiction, approvals from all plan commissions in affected jurisdictions shall be required. If access to a subdivision is required across land in another jurisdiction, the subdivider shall provide evidence that such access is legally established, and such access shall be permitted only if the County Engineer finds that the access road is adequately improved or a performance guarantee has been duly executed to assure the construction of the access road.

118 CONDOMINIUMS EXEMPTION: Pursuant to IC 36-7-4-702, condominiums which are regulated by IC 32-1-6, or as amended, are exempt from the provisions of this Ordinance.

119 RESUBDIVISION (REPLATTTING) OF LAND:

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

119.02 Where future resubdivision is indicated by a lot, or lots with areas sufficient to resubdivide additional lots of conforming size, or by other indications that such lots will be eventually resubdivided into smaller building sites, the Commission may require that such parcel of land allow for future opening of streets and the ultimate extension of adjacent streets. Easements providing for the future opening and extension of such streets may be made a requirement of the plan.

ARTICLE TWO
DEFINITIONS

201 GENERAL: Certain words used in this Ordinance are defined below. For the purpose of these regulations, certain numbers, abbreviations, terms, and words used herein shall be used, interpreted, and defined as set forth in this Article. Unless the context clearly indicates to the contrary, words used in the present tense shall include the future, words used in the singular shall include the plural, and the plural the singular. The word shall is mandatory and is not permissive. The word herein means “in these regulations” and the word regulations means “these regulations”. Any term not defined below which is included in the present Zoning Ordinance shall have the meaning set forth in the Zoning Ordinance. Words not defined below or in the Zoning Ordinance are construed to have their customary meanings. A person includes a corporation, a partnership, and an incorporated association of persons such as a club. The word used or occupied as applied to any land or building shall be construed to include the words “intended, arranged, or designed to be used or occupied”.

Access Easement: A private way which provides access to lots, tracts, or parcels of land and which meets the minimum standards set forth in this Ordinance.

Administrator: The officer appointed by and/or delegated the responsibility for the administration of these regulations by the Plan Commission. This term shall be construed to include those planning staff members working under the direction of the Administrator in the exercise of his responsibilities in regard to the enforcement of this Ordinance.

Advisory Plan Commission: A plan commission serving a single local government jurisdiction established as defined under the Indiana Code, 36-7-1-2 (1981) as amended. Cass County Plan Commission is the advisory plan commission for the jurisdiction of Cass County, Indiana.

Agricultural purpose: Land which is not used for construction of a new residence and:

- A. contains at least 75% Class I or Class II soils as shown in and defined by the Soil Survey of Cass County; or
- B. contains at least 75% of land which is planted with fruit or nut-bearing trees, vines, bushes, or crops which have a non-bearing period of less than five years; or
- C. contains at least 75% of the land which is planted with ornamental plants or trees for sale for use in landscaping; or
- D. contains at least 75% of the land which is planted with trees of the species Pinus, Picea, or Abies, (pine, spruce, or fir) grown for the purpose of sale as Christmas trees;

E. has been used in three of the last five years for the cultivation and harvesting of crops, grazing by livestock, production of dairy products, the raising of poultry and production of eggs, or the raising of livestock. Land, which has been taken out of production through government sponsored conservation, reserve or similar programs, shall be considered under cultivation for the purposes of this Ordinance.

Board of Cass County Commissioners: Referred to herein as the County, County Commissioners or Commissioners so as not to be confused with the Plan Commission, referred to herein as the Commission.

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

Bylaws and Rules of Procedure: The Bylaws and Rules of Procedure of the Cass County Plan Commission as adopted by the Commission.

Commission: The Cass County Plan Commission, not the Board of County Commissioners, nor any other commission unless so specified.

Commission Attorney: The licensed attorney designated by the Cass County Plan Commission to furnish legal assistance for the administration of this Ordinance or as provided by statute.

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

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

Construction Plans: Any maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed for the subdivision in accordance with the requirements of this Ordinance as a condition of the approval of the plat.

County Auditor: The Cass County Auditor.

County Drainage Board: The Cass County Drainage Board.

County Engineer: The Cass County Highway Engineer, or in the absence of an engineer, the person designated by the County to perform the duties specified in this Ordinance.

County Government: The governmental body of the County empowered to adopt planning and public policy ordinances; the Cass County Board of Commissioners, herein referred to as the County or Commissioners.

County Health Department: The Cass County Health Department.

County Recorder: The Cass County Recorder empowered to record and file land description plats.

Cul-de-sac: A dead-end street or portion of a street with only one vehicular traffic outlet, which has an appropriate terminal for the safe and convenient reversal of traffic movement including public safety vehicles.

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.

Dedication: The setting apart of land or interest in land for use by the public by advance resolution or entry in the official minutes as by the recording of a plat.

Department: The staff and offices of the Cass County Planning Department.

Developer: The owner of land proposed to be subdivided or his or her representative. Also referred to as subdivider, as defined. Consent for making applications for development approval shall be required from the legal owner of the premises.

DNR: The Department of Natural Resources of the State of Indiana. This includes any division within the department.

Drainage Plan: Plans and calculations that demonstrate how surface and/or subsurface water will be handled in compliance with pertinent regulations in a form sufficient for review by those entities with approval responsibilities.

Drainage Swale: A natural or constructed waterway, usually broad and shallow, covered with erosion-resistant grasses, used to conduct surface water from a field, diversion or other site feature.

Drainage System: Any combination of surface and/or subsurface drainage components fulfilling the drainage requirements of this Ordinance.

Drive, Private: Driveways and access easements, paved or unpaved, which are wholly within private property, not maintained by the public, providing vehicular access to no more than four lots or parcels.

Easement: A grant by a property owner for the use by another of any designated part of his or her property for a clearly specified purpose.

Erosion: The removal of surface materials by the action of natural elements.

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

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.

Exempt Division: See definition of Subdivision, Exempt.

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

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

Grading: Any stripping, cutting, filling, stockpiling, or any combination thereof and shall include the land in its cut or filled condition.

Highway Access and Road Cut Ordinance: An ordinance of Cass County that requires applicants to meet established standards and obtain permits for access to County Highways.

Improvements: Any Lot Improvement or Public Improvement.

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

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

Interested Parties: Parties who are to be notified by mail of a public hearing on proposed subdivision of land. For purposes of this Ordinance, interested parties shall be those parties so defined in the Bylaws and Rules of Procedure.

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

Legal Access: A platted access easement or the minimum required frontage on a street.

Legal Description: A written portrayal that locates a parcel or parcels of land and defines the boundary of the land using distances in feet and hundredths of feet and bearings using degrees, minutes, and seconds that must have closure of at least one part in 5000.

Legal Drain: Any drainage system consisting of an open ditch, an enclosed (tiled) drain, or any combination of the two, that is under the jurisdiction of the County Drainage Board as provided by IC 36-9-27, or as amended.

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

Location Map: A map showing the location of the property proposed to be subdivided. Such map shall show the closest cross streets in all directions.

Lot: A portion of a subdivision; or any parcel, site, tract or interest of land intended as a unit for the purpose, whether immediate or future, of offer, sale, lease, transfer of ownership or of building development. A lot may be a single parcel of land separately described in deed or plat which is recorded in the Office of the Cass County Recorder or a combination of such parcels when adjoining one another and under single ownership and used as one. Such lots shall have frontage and access on an improved public street or an approved private street.

Lot, Corner: A lot located at the intersection of two or more street right-of-ways.

Lot, Depth of: A mean horizontal distance between front and rear lot lines.

Lot, Minimum Area of: The horizontally projected area of a lot computed exclusive of the portion of a right-of-way of any public street.

Lot(s), Pipestem: One or two lots deriving access from a single or shared access easement and not having frontage on a public street.

Lot, Width of: The horizontal distance between the side lot lines as measured on the building line.

Marker or Monument: A pipe, rod, nail, or any other object which is intended to be a permanent survey point for record purposes.

Non-residential Subdivision: See definition of Subdivision, Non-residential.

Off-site: Any premises not located within the area of the property to be subdivided, whether or not such premises are in the same ownership as the property to be subdivided.

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

Oversized Improvements: Improvements required by the Commission which are in excess of those needed for the subdivision under review. These include but are not limited to, increased pavement width, oversized culverts or drainage swales, sewer and water lines, and oversized retention ponds. When such improvements are required, the County or utility shall pay the difference between the cost of improvements necessary for the subdivision and the cost of the actual required improvement.

Owner: Any person, firm, corporation, or other legal entity listed in the records of the County Auditor having title to land sought to be subdivided under these regulations. For purposes of this Ordinance, any land, which is involved in a contract purchase, may be subdivided only if both the contract seller and the contract purchaser sign the application for such subdivision.

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

Parent Tract: The parcel of land from which a new lot or tract of land is being taken from, as identified by the tax parcel number as shown in the Auditor's Office at the time of adoption of this amendment, May 5, 2003. All transfers of property from the parent tract after May 5, 2003 must comply with this Ordinance.

Performance Guarantee: A financial guarantee to ensure that all improvements, facilities, or work required by this Ordinance will be completed in compliance with the primary approval.

Person: Includes a corporation, firm, partnership, association, organization or any other group that acts as a unit or legal entity.

Plat: The map, drawing, or plan described in this Ordinance of a subdivision and any accompanying material submitted to the Plan Commission or Plat Committee for approval, and which, if signed by the designated official(s) may be submitted to the County Recorder for recording.

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

Plat, Secondary: A plat submitted to the Administrator for secondary approval, and which, if signed by the Administrator, may be submitted to the County Recorder for recording.

Plat Committee: The permanent committee of the Commission, which reviews and approves subdivisions according to the Bylaws and Rules of Procedure.

Positional Tolerance: The maximum distance that any point/monument of the survey may be mislocated with respect to any other point/monument as opposed to its theoretical location, by state-of-the art equipment, given the location of any one point/monument and the determination of the meridian used for the survey. It represents the radius in feet from the theoretically correct point.

Primary Approval: An approval, or approval with conditions, granted to a subdivision by the Plat Committee or Plan Commission indicating that it has determined after a public hearing that the subdivision complies with the standards prescribed in this Ordinance.

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

Public Way: Any highway, street, avenue, boulevard, road, land or alley as defined in IC 36-7-1-17 or as amended.

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

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

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

Resubdivision or Replat: A change in a map of a plat having secondary approval or a recorded subdivision plat. Any resubdivision that does not meet the minor subdivision definition must be approved by the Commission according to major subdivision procedure.

Right-of way: A strip of land, other than an easement, occupied or intended to be occupied by a street, pedestrian way, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, special landscaping, drainage swale, or for another special use. The boundaries of such right-of-ways are considered to be the lot lines of adjoining property from which setback distances are measured.

Road: See street.

Rule 5: State Regulation 327 IAC 15-5 and successor legislation requiring a plan for control of erosion and sediment associated with construction activity, under jurisdiction of the Indiana Department of Environmental Management with local contact through the Natural Resource Conservation Service.

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 Developed and Undeveloped Areas 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 the Zoning Ordinance.

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

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

Secondary approval: An approval by the Administrator indicating that all conditions of primary approval have been met.

Section Corner: A corner established as part of the United States Public Land Survey System used for horizontal control in describing land.

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

Sewage Disposal Regulations: ISDH Rule 410 IAC 6-8.1 or subsequent regulations.

Sewage Disposal System: A Central Sewerage System or an Individual Sewage Disposal System.

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

B. An Individual Sewage Disposal System is a septic tank, seepage tile sewage disposal system, or any other approved sewage treatment device approved by the Cass County Health Department.

Sketch Plan: An informal, informational drawing, as described in this Ordinance, preparatory to the drawing of the preliminary plat to enable the subdivider to save time and expense in reaching a general agreement with the Administrator as to the form of the plat and conformance to the objectives of this Ordinance.

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.

Street: A right-of-way dedicated or otherwise legally established which affords the principal means of access to abutting property. A street may be designated as a highway, thoroughfare, parkway, boulevard, road, avenue, lane, drive or other appropriate name. A street may be public or private.

Street Classification: All roads must be classified according to their function for the purpose of providing for their development, future improvement, reconstruction, realignment, and necessary widening, including provision for curbs, gutters, and sidewalks. The classification of each street, is based upon its location in the respective zoning district and its present and estimated future traffic volume and relative importance and function as specified in the Comprehensive Plan and/or its Thoroughfare Plan component. Roads not elsewhere classified shall be classified by the Plan Commission. The classifications are as follows:

A. Principal and Minor Arterial: A street intended to move through-traffic to and from such major attractors as larger communities, major shopping areas, military installations, major industrial areas, and similar traffic generators.

B. Major and Minor Collector: A street intended to collect and distribute traffic in a manner similar to arterials, except that these streets service minor traffic-generating areas such as smaller established towns, airports, educational facilities, hospitals and recreational facilities, and/or are designed to carry traffic from local and subdivision roads to arterials.

C. Local Street: A street intended to move traffic from local subdivision streets to collectors. A local street serves the needs of a smaller geographical area such as

township or neighborhood. Most existing county roads and city streets are local streets.

D. Subdivision Street: A street intended to provide primary access from within a subdivision and other individual properties to other higher classified streets.

E. Place: A short residential street, cul-de-sac or court with a maximum of 10 residential units.

Street, Dead-end: A street or a portion of a street with only one vehicular-traffic outlet.

Street, existing public: An existing street that is maintained by the public and adjacent to or contained within in a subdivision under consideration for approval by the Commission.

Street, newly platted: Streets that are proposed in a subdivision plat to provide access to lots within a subdivision that is under consideration for approval by the Commission.

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

Street, Private: A right-of-way or easement which serves the same function as a local street but which are not dedicated to nor maintained by any unit of government. Any such street constructed after the effective date of this amendment shall be required to be constructed in accordance with the standards prescribed in this Ordinance. See definition for (Drive, Private) for private access serving no more than four lots.

Street Right-of-Way Width: The distance between property lines measured at right angles to the centerline of the street.

Subdivider: Any person who:

A. has a proprietary interest in land, causes it, directly or indirectly, to be divided into a subdivision;

B. directly or indirectly sells, leases, or develops, or offers to sell, lease, or develop, or advertises for sale, lease, or development, any interest, lot, parcel site, unit or plat in a subdivision;

C. engages directly, or through an agent, in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision of any interest, lot, parcel site, unit ,or plat in a subdivision;

D. is directly or indirectly controlled by or under direct, or indirect common control with any of the foregoing.

Subdivision: The division or partial division of a parent tract (as defined) or any parcel of land into one or more lots, parcels, sites, units, plats, or interests for the purpose of offer, sale, lease, transfer of ownership, or development. It also includes resubdivision and the grant of an easement, which is needed to provide legal access to any property under the terms of this Ordinance. Divisions of parent tracts, which meet the definition of an exempt division, shall not be counted in determining whether or not a further division qualifies as an exempt subdivision. However, an exemption allowing land being divided which results in no more than one lot, parcel, etc.(See Subdivision, Exempt, definition letter G.) may be applied only once to a parent tract.

Subdivision, Exempt: Any subdivision of land that includes the following.

- A. Any land that is being divided for agricultural purposes (as defined) and not for the purpose, whether immediate or future, of use, building development, or other improvement for residential, commercial, industrial, recreational, or other non-residential purpose; or any land being divided as a farm (as defined by the Cass County Zoning Ordinance) that is at least 20 acres in size.
- B. Any land being divided for sale or exchange between adjoining land-owners or for the combining with an existing adjacent parcel, provided no additional building sites are created and that all involved parcels comply with the Cass County Zoning Ordinance.
- C. Any land being divided which had an existing residence or business structure located on the parcel on the effective date of this Ordinance, May 6, 1988, and which meets the Cass County Zoning Ordinance standards and regulations.
- D. Any land being divided pursuant to court decree.
- E. Any land being divided or acquired by a public agency or utility for a street or utility right-of-way or easement, other than those required for a subdivision as defined in this Ordinance.
- F. Any land being divided into cemetery plots.
- G. Any land being divided from the parent tract, as defined, which results in no more than one lot, parcel, site, unit, plat, or interest for the purpose of offer, sale, lease, transfer of ownership or development.
- H. Any land being divided for the paramount purpose of establishing a site for a radio or television tower, telecommunications antenna or facility provided such use has zoning approval.
- I. Any other land being divided that is not a major or minor subdivision (as defined).

Subdivision, Major: Any subdivision of land that includes the following.

- A. Any land being divided which involves the construction or extension of public streets, private streets, or access easements, other than one or two pipestem lots using an access easement.
- B. Any land being divided that under the terms set forth in this Ordinance involves the substantial improvement or realignment of an existing street or road or the provisions of any public facility or utility.
- C. Any land being divided into more than four lots, or the combined and cumulative total of more than four lots from an original parent tract.
- D. Any resubdivision or changes on a recorded secondary plat approved pursuant to this Ordinance which is not a minor subdivision (as defined).
- E. Any subdivision which requires a modification to the terms of this Ordinance.
- F. Any subdivision which has common open space or land to be maintained by a covenant agreement or property owners association.

Subdivision, Minor: Any subdivision of land that includes the following.

- A. Any land being divided into four or fewer lots or the combined and cumulative total of four or fewer lots from an original parent tract which does not involve the construction or extension of public streets or private streets or access easements, except for two pipestem lots sharing a common access easement.
- B. Any land being divided into four or fewer lots or the combined and cumulative total of four or fewer lots from an original parent tract that under the terms set forth in this Ordinance does not involve the substantial improvement or realignment of any street or road.
- C. Any resubdivision of a recorded secondary plat approved pursuant to this Ordinance which involves only the changing of the notations written on the plat or correction of errors thereon, which involves only the removal or relocation of easements on the property, or which involves only the removal of interior lot or parcel lines provided the outside perimeter of the property remains unchanged and that fewer parcels result than were contained in the original plat.
- D. Any division of land into one or two pipestem lots using an access easement.

Subdivision, Non-residential: Any subdivision of land involving land which is zoned or intended to be used for commercial or industrial purposes as defined in the Cass County Zoning Ordinance.

Subdivision Benchmark: A permanent monument of known elevation, tied to the USGS Benchmark System, installed at ground level.

Subsurface Drainage: A system of pipes, conduit, or tubing installed beneath the ground surface used to collect ground water from individual parcels, lots or building footings.

Surface Drainage: A system by which the storm water run-off is conducted to an outlet. This would include the proper grading of parking lots, streets, driveways, yards, etc. so that storm water runoff is removed without ponding and flows to a drainage swale, open ditch or a storm sewer.

Swale: A low-lying stretch of land that gathers or carries surface water runoff.

Technical Review Committee: Governmental and other public agencies and utilities which are specified by Bylaws and Rules of Procedure to review and comment on a proposed subdivision.

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

Thoroughfare Plan: The part of the Comprehensive Plan as permitted by IC 36-7-4-506 now or hereafter adopted, which sets forth the location, alignment, dimensions, identification and classification of any new, extended, widened or narrowed public ways in any part of the jurisdiction.

Top Soil: Surface soils and subsurface soils which presumably are fertile soils and soil materials, ordinarily rich in organic matter of 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 man-made.

Witness Monument: A marker or monument that is set as a reference to the actual corner when it is not possible or practical to set the actual corner.

Zoning Ordinance: The Cass County Zoning Ordinance.

ARTICLE THREE
PROCEDURES

- 301 GENERAL: A subdivider shall follow the procedure contained in this Article for the type of subdivision for which approval is sought.
- 302 PREDESIGN CONFERENCE: Prior to submitting any of the materials required by this Ordinance, the applicant or his representative should discuss with the Administrator the nature of the land division being proposed, so that the applicant may be instructed concerning the classification of his subdivision and what regulatory procedures apply to it and must be followed under this Ordinance in order to secure primary and secondary approval. The Administrator may be able to determine that the proposed division of land is an exempt division, if sufficient information is presented, and advise accordingly. Where applicable, requirements concerning the general layout of streets and for reservations of land, street improvements, drainage, sewerage, fire protection, and similar matters, as well as the availability of existing services should be discussed. The Administrator shall also advise the applicant, where appropriate, to discuss the proposed land division with those other officials who must eventually approve those aspects of the proposed subdivision plat.
- 303 ADVISORY MEETING: Prior to submitting an application and associated materials required by this Ordinance, the subdivider should further discuss with the Administrator the details of the proposed subdivision, and present a sketch plan as described below. The subdivider may request, or the Administrator may require, that the advisory meeting be held before the Commission or Plat Committee, if there are matters which the Commission should address early in the review period. The classification as a major or minor subdivision as defined herein shall be made by the Administrator when the sketch plan is reviewed at the advisory meeting. If a proposed division is found to be an exempt division that was not determined as such at the predesign conference it will be so designated at the advisory meeting. Failure to have an advisory meeting may result in delays during formal consideration of the subdivision.
- 304 SKETCH PLAN: The subdivider should present at the advisory meeting a sketch plan showing in a general way the proposed development, including such items as the proposed use, existing land characteristics, existing and proposed utilities, and existing and proposed streets and other public facilities. This plan may be drawn as a freehand pencil sketch and does not require precise dimensions or any special sheet size. This sketch plan may be used to show the Administrator the location, proposed street and lot layout and any other significant features of the proposed subdivision. The Administrator will determine a subdivision classification and advise the Subdivider regarding the appropriate submission requirements and approval process. This sketch plan shall not be deemed a primary plat.
- 305 SUBDIVISION CLASSIFICATION: Based upon the information provided at the advisory meeting, the Administrator shall classify all subdivisions into one of three

categories, or combinations of categories, in accordance with this Ordinance and shall advise the subdivider of the applicable review procedure. These categories are as follows:

305.01 Exempt Division (as defined)

305.02 Minor Subdivision (as defined)

305.03 Major Subdivision (as defined)

306 EXEMPT DIVISION: Exempt Divisions are not subject to the requirements of this Ordinance beyond the determination by the Administrator that they are Exempt Divisions as defined and as set forth in Section 305 of this Ordinance.

306.01 However, before any permit shall be granted for an Exempt Division, the subdivider shall certify to the satisfaction of the Administrator that the following requirements for exemption have been met.

- A. The property involved meets the definition of exempt division.
- B. The property involved meets all applicable zoning standards of the Cass County Zoning Ordinance.
- C. The property involved will be divided by metes and bounds descriptions.
- D. The property has either access to public sewers or complies with the Cass County Health Department sewage disposal regulations.
- E. The property has proper access and a driveway which meets Section 510 of this Ordinance and complies with the Highway Access and Road Cut Ordinance.

307 MINOR SUBDIVISION: Subdivisions and resubdivisions (replats) classified as Minor Subdivisions may be considered under the provisions of this section. Minor subdivisions require primary approval by the Plat Committee and secondary approval by the Administrator. The Administrator and/or Plat Committee may require approval for a Minor Subdivision to be heard by the Commission or according to the major subdivision procedure specified in Section 308 of the Ordinance if deemed necessary for proper review.

307.01 Minor subdivision primary approval procedure shall be as follows.

- A. A subdivider desiring primary approval of a minor subdivision plat by the Plat Committee shall submit the materials listed in Section 402, or 404 if applicable, to the Administrator.
- B. Complete applications, as determined by the Administrator, will be docketed before the Plat Committee. The Administrator shall announce the date of the

hearing and within 30 days of receipt of a complete application and notify the subdivider of the time and place of the hearing.

C. Prior to the hearing, the Administrator shall review the application for compliance with this Ordinance for report to the committee. The subdivider will forward copies of the plat to all Technical Review Committee members as established by the Commission for comment prior to the hearing.

D. The Plat Committee or Technical Review Committee may visit the site any time during the review process and may hold committee meetings to discuss the proposal prior to the hearing.

E. The Plat Committee may hold a public hearing on minor subdivisions unless it determines to defer to the Commission. Notification to interested parties is specified in the Bylaws and Rules of Procedure and notice of the hearing must be advertised according to IC 5-3-1.

F. After review, the Plat Committee shall make a decision regarding the application. The Plat Committee shall make findings of fact as to the compliance of the subdivision with the terms of this ordinance. The Plat Committee may approve, approve with conditions, or deny the request. If the Plat Committee denies the request it shall make written findings that set forth its reasons.

G. The Plat Committee is not authorized to grant modifications to the terms of this Ordinance as established by Section 604 of this Ordinance.

H. If the Plat Committee grants primary approval, the members present at the hearing shall sign the primary approval certificate.

I. The Administrator shall provide the subdivider a written notice of the action of the Plat Committee.

J. Pursuant to IC 36-7-4-701, the Administrator shall provide notice to interested parties as defined in the Bylaws and Rules of Procedure of their right to appeal the Plat Committee's decision to the Commission.

K. The subdivider or interested party may appeal the decision of the Plat Committee to the Commission within 10 days after the written notice is mailed. Notice shall be given and a hearing held by the Commission in the same manner as in the case of the Plat Committee hearing. The Commission has the same power as the Committee to approve, approve with conditions, or deny the request.

L. Primary approval shall be valid for 120 days unless an extension is granted by the Plat Committee or unless the Plat Committee allows the plat to be filed in phases for secondary approval. In this case, the Plat Committee shall specify reasonable expiration dates for each phase, generally not to exceed two years. If

secondary approval is not granted before the specified expiration or expirations for any phase, primary approval shall be null and void for any or all remaining phases of the primary plat which has not received secondary approval to that time. The Plat Committee may reasonably extend the expiration date(s) upon request by the subdivider.

307.02 Minor subdivision secondary approval procedure shall be as follows.

- A. After all conditions of primary approval have been met, the subdivider may request secondary approval from the Administrator for all of, or a phase of, the primary plat.
- B. All requests for secondary approval shall be accompanied by the materials listed in Section 405.
- C. After the Administrator has determined that the minor subdivision complies with the criteria for such subdivision and all conditions of primary approval have been satisfied, the Administrator shall sign the plat.
- D. There is no minimum time limit between which primary and secondary approval may be granted to a minor plat as long as all requirements are met and the appeal time period specified in Section 307.01 L has expired.
- E. Secondary approval shall be valid for a period of one year from the date of such approval. If the subdivision is not recorded before the expiration of one year, it shall become null and void. The Commission or Plat Committee may reasonably extend the expiration date upon request of the subdivider.

308 MAJOR SUBDIVISION: Major subdivisions require primary approval by the Commission and secondary approval by the Administrator. Resubdivisions (replats) which require the extension of streets or utilities shall be considered under the terms of this section.

308.01 Major subdivision primary approval shall be as follows.

- A. A subdivider desiring primary approval shall submit the materials specified by Sections 402 and 403 to the Administrator in a manner specified herein.
- B. Upon determination by the Administrator that an application is complete, it shall be docketed for public hearing before the Commission on the first regularly scheduled meeting to occur but no later than 30 days after the date a complete application is filed.
- C. At least 10 days before the hearing, notice of the hearing shall be published in accordance with IC 5-3-1 and the subdivider shall provide notice to interested parties as defined by the Bylaws and Rules of Procedure.

D. Copies of the subdivision plat shall be submitted to the Technical Review Committee by the subdivider for comment prior to the hearing.

E. The Commission or Technical Review Committee may visit the site anytime during the review process.

F. The public hearing shall be conducted according to the Bylaws and Rules of Procedure. The hearing may, at the discretion of the Commission, be continued to another date. Additional notice is not required if a continuance is made on the record at a public hearing in which proper notice was made, but may be requested and required by the Commission.

G. After public hearing, the Commission shall make a decision regarding the application. The Commission shall make findings of fact as to the compliance of the subdivision request with the terms of this Ordinance. The Commission may approve, approve with conditions, or deny the request. If the Commission does not approve the subdivision, it shall make written findings that set forth its reasons.

H. If the Commission grants primary approval, the Commission President and Secretary shall sign the primary approval certificate.

I. Primary approval shall be valid for 1 year from the date of approval by the Commission, unless an extension is granted by the Commission. The Commission may establish time limits of less than 1 year on any or all conditions of primary approval. The Commission may also allow the plat to be filed for secondary approval in phases. In this case, the Commission shall specify reasonable expiration dates for each phase, generally not to exceed two years. If secondary approval is not granted before the specified expirations for any phase, primary approval shall be null and void for any or all remaining phases of the primary plat which has not received secondary approval to that time. The Commission may reasonably extend the expiration date(s) upon request of the subdivider.

308.02 Following primary approval but prior to submission for secondary approval, the subdivider, if he wishes to proceed with the subdivision, shall file with the Administrator detailed construction plans for approval. The construction plans must be filed prior to the start of any work and shall meet the standards of Section 407 of this Ordinance.

Construction plans may be submitted in phases to coincide with approved subdivision phases. The subdivider shall provide a sufficient number of sets of plans to supply the Technical Review Committee.

A. The Administrator shall expeditiously refer these plans to the appropriate Technical Review Committee members for comment. Once these review agencies indicate their approval of the construction plans or 14 working days have elapsed since their distribution without a written response, the Administrator shall stamp

the plans approved and return one set to the subdivider. In no event shall secondary approval be given prior to approval of the construction plans.

B. The installation of improvements shall be inspected by the appropriate agency as specified by Section 310 of this Ordinance. Such inspections are required in all instances regardless of whether the work is performed before or after secondary approval. Failure to request inspection of work performed after the date of this Ordinance and before secondary approval may be cause for denial of secondary approval.

308.03 Major subdivision secondary approval procedure shall be as follows.

A. After all conditions of primary approval have been met and construction plans have been approved, the subdivider may request secondary approval for all or one phase of the primary plat from the Administrator.

B. Requests for secondary approval shall be accompanied by all materials listed in Section 406 and shall be filed in a manner specified herein.

C. Prior to secondary approval all streets and other required improvements must be constructed or completed as required according to approved construction plans. Such improvements shall not be considered complete until they are certified as complete by the certifying professional engineer or land surveyor or County Engineer responsible for inspecting public improvements to be dedicated to the County. As an alternative, a performance guarantee may be filed with the secondary plat application in a manner specified by Section 309.

D. There is no minimum time limit between which primary and secondary approval may be granted provided time limits for appeal, as per Section 603 herein have expired and all other standards of this Ordinance are met.

E. After the Administrator has determined that the plat complies with the conditions of approval and the Commission has accepted any guarantees of performance and the County Commissioners have accepted any public dedications and improvements, secondary approval shall be given by the Administrator.

F. Secondary approval shall be valid for one year from the date of secondary approval. If the plat is not recorded before the expiration date, it will be null and void.

G. The subdivider is responsible for having the secondary plat recorded in the office of the Cass County Recorder within 14 days after the plat receives secondary approval.

309 PERFORMANCE GUARANTEES: Before any secondary plat is approved, the subdivider shall construct all streets and other required improvements in accordance with the approved construction plans, or the subdivider shall provide a guarantee of performance as specified in this section. The performance guarantee shall include an amount to guarantee completion of all public facilities and all other requirements contained in this Ordinance including, but not limited to, soil preservation, final grading, lot drainage, lawn-grass seeding, removal of debris and waste, fencing, and all other lot improvements required by the Commission.

309.01 All performance guarantees must be acceptable to and be approved by the Commission and shall be in such form, sufficiency and manner of execution satisfactory to the County Attorney.

309.02 If the subdivision is in phases, the Commission may require that the performance guarantee be in such amount as is necessary for each phase filed for secondary approval and may defer guarantees for the remaining phases of the plat until they are offered for approval. However, in the establishment of performance guarantees, overall subdivision improvements must be considered and any improvements which are necessary for more than one phase must be constructed or guaranteed at the time of approval of the first applicable phase.

309.03 In order to obtain secondary approval it is permissible for the subdivider to construct part of the improvements and performance guarantee the remaining part of the improvements, if approved by the Commission..

309.04 Performance guarantees may consist of any of the following.

A. The subdivider may post a performance bond payable to the County in an amount equivalent to 125 percent of the estimated cost of completion of all required improvements. Such estimate shall be provided by the subdivider and reviewed by the County Engineer who shall recommend the amount of guarantee to the Commission. Such performance bond shall comply with all statutory requirements and the Commission or the County Commissioners may request information on the bonding company and may deny a performance bond, if necessary.

B. The subdivider may submit a certificate of deposit or certified check made out to the County and/or to the subdivider, to be held by the County Auditor, in an amount equivalent to 125 percent of the estimated cost of the required improvements. Such estimate shall be provided by the subdivider and reviewed by the County Engineer who shall recommend the amount of guarantee to the Commission. If the subdivider is named singly or jointly on such certificate or check, then the subdivider shall endorse it before submitting it to the County so that the County may secure the funds. The subdivider shall receive any interest accrued on funds provided under the terms of this section.

C. The subdivider may submit a certificate of deposit or irrevocable letters of credit in behalf of the subdivider and securable by the County in an amount equivalent to 125 percent of the estimated cost of completion of the uncompleted portion of required improvements. In the event an irrevocable letter of credit is utilized, it shall be written for a maximum length of two years. Two months prior to the expiration of the letter of credit the Administrator shall determine if the public improvements have been accepted for maintenance by the County, and if they have not been accepted shall so notify the subdivider of intent to secure the funds and then commence procedures to secure the funds pledged by such letter of credit.

D. The Commission may, at its discretion, accept another financial guarantee which it deems appropriate to accomplish the objectives of this Ordinance.

309.05 Any performance guarantee submitted under this section shall be for a period not to exceed two years. The Commission may grant any extension of up to one year for the completion of improvements, upon evidence that such extension is justified. Before granting an extension, the Commission shall secure a new estimate of the cost of the remaining improvements from the County Engineer, and if the estimate has increased, the Commission shall require an increase in the amount of the guarantee.

309.06 The performance guarantee shall be released or allowed to expire by the Commission only upon certification that all required improvements have been installed satisfactorily by the certifying professional engineer, land surveyor or County Engineer and improvements accepted. The Commission may, at its discretion, approve a partial release of the financial guarantee upon certification that a portion of the improvements have been completed satisfactorily. The County Engineer shall provide an estimate of the cost of the remaining improvements, and a guarantee sufficient to cover such cost shall be retained by the County.

309.07 Primary approval shall be deemed null and void for non-performance relating to installation of improvements:

For subdivisions for which no performance guarantee has been posted, if the required improvements are not completed within the period of validity of primary approval.

In those cases where a performance guarantee has been posted and the improvements have not been installed prior to the expiration of the guarantee, the County shall declare the guarantee to be in default and cause all improvements to be installed according to the approved plans, regardless of the extent of building development at the time the guarantee is declared to be in default. If a financial institution guaranteeing performance removes itself from its obligation, for whatever reason, it is incumbent upon the subdivider to replace the performance guarantee or install the improvements within 60 days

309.08 The subdivider shall build and pay for all costs of any temporary public improvements required by the Commission and shall maintain same for the period specified by the Commission. Prior to construction of any temporary public facility of improvement, the subdivider shall file with the Commission a separate suitable bond for temporary facilities, which bond shall insure that the temporary facilities will be properly constructed, maintained, and removed.

309.09 All required improvements shall be made by the subdivider at his expense without reimbursement by the participating jurisdiction or any public improvement district therein, unless sharing of expenses is agreed upon by the County.

310 INSPECTION: All installations and improvements required under the terms of this Ordinance shall be inspected by appropriate county officials during and after the construction. In no case shall work be commenced without specific approval to do so from the County Engineer. The County shall not be obligated to accept any work which has not been inspected as required by this section, nor shall it accept any work not completed in conformance with the approved plans and specifications.

310.01 At least 48 hours before commencing any improvements or installations shown on the approved plans of a subdivision, the subdivider shall notify the County Engineer. The County Engineer shall inspect all work during and after construction. If the construction ceases at any time for more than one week, such 48-hour notice shall again be required before resumption of construction.

310.02 The County Engineer shall have authority over methods of construction, materials, workmanship and such other aspects of the project as necessary to ensure compliance with the approved plans and specifications. This authority includes the right to order work to be suspended for due cause. Due cause includes but is not limited to questionable materials, questionable methods of construction, noncompliance with the approved plans and specifications, and adverse weather conditions.

310.03 In the event that work is commenced without the required inspection and approval, the County Engineer, the Administrator, or any other person designated by the County Commissioners may require that work be suspended until such inspection has been made and approval given.

310.04 Any remedial work determined by the County Engineer to be necessary before the improvements are accepted by the County Commissioners shall be done by the subdivider at his expense.

311 MAINTENANCE GUARANTEES: As a condition of acceptance of the public improvements or release of the performance guarantee, the Commission shall require the subdivider to post a maintenance bond or other financial guarantee as specified in Section 309 in an amount equal to 15 percent of the cost of all public improvements. The maintenance bond is provided to assure the satisfactory condition of the required public improvements.

311.01 The subdivider, property owners association, or as specified in the maintenance agreement shall be required to maintain all public improvements in the individual subdivided lots and provide for snow removal on streets until acceptance of said public improvements by the County.

311.02 The maintenance guarantee shall be for a period of three years.

312 AS-BUILT PLANS: After completion of all public improvements and prior to their acceptance by the County Commissioners, the subdivider shall provide the Administrator one copy of drawings showing the actual locations and specifications of all improvements installed in the subdivision. The as-built drawings shall be certified by a land surveyor or engineer licensed in Indiana.

313 ACCEPTANCE OF IMPROVEMENTS AND DEDICATIONS: Upon completion of construction whether before or after secondary approval, the subdivider may file a written request to the County Commissioners for acceptance of all public improvements and other land dedications.

313.01 A request for acceptance of public improvements and dedications shall contain the certification required by Section 309.06 and the as-built plans required by Section 312.

313.02 The County Commissioners shall refer a request for acceptance of public improvements and dedications to the Administrator who shall make a recommendation to the County Commissioners based upon the County Engineer's report.

313.03 After receiving the recommendation of the Administrator, the County Commissioners shall decide whether to accept the improvements and dedications. Any refusal to accept the improvements and dedications shall be accompanied by findings as to the reasons. The County Commissioners shall not accept the improvements until it has received the maintenance bond required in Section 311.

314 NON-RESIDENTIAL SUBDIVISIONS: It is recognized that the subdivider, in creating a non-residential subdivision, faces problems of lot design not normally encountered in residential subdivisions. For this reason, the initial emphasis of the Commission shall be upon street layout and block arrangement.

314.01 The procedural requirements for primary and secondary approval are as provided in this Ordinance. Non-residential subdivisions may be either major or minor plats, as defined. However, in any case, the subdivider need only show the proposed street and block layout and not lot locations on the primary plat. Subsequently, as prospective buyers or users express interest in lots sized to their required specifications, the subdivider may then submit a secondary plat or plats in phases to the Administrator which include lot lines. Streets or other public facilities may not be changed from the

approved primary plat unless approved by the Commission or Plat Committee, where applicable.

314.02 Site plan approval, as required by the Zoning Ordinance, and non-residential plat approval may proceed simultaneously provided all standards of both ordinances are met.

314.03 The following standards apply to non-residential subdivisions:

- A. Non-residential subdivisions must be appropriately zoned for business or industry prior to submitting application for a subdivision.
- B. All non-residential subdivisions shall be served by approved water facilities, by individual well, on-site sewage disposal facilities, or some combination thereof as specified by this Ordinance.
- C. A stormwater system capable of handling drainage for the non-residential subdivision in a 100% developed state, based on a reasonable estimate of development, must be provided for the development.
- D. All applicable standards of the Zoning Ordinance including off-street loading, fire lanes and buffer areas shall be met.

315 VACATION OF A PLATTED AREA: The owner or owners of land in a plat may file with the Commission a petition to vacate all or part of the plat pertaining to the land owned by the petitioner as specified in IC 36-7-3 and this section. The petition must declare the plat or part of the plat to be vacated in a written instrument, and that instrument must be executed, acknowledged, and recorded in the same manner as a deed to land.

315.01 Before offering the instrument for recording under this section, an owner or owners must file a copy of the instrument with the County Auditor and must submit the instrument vacating the plat for the approval of the Commission having subdivision control jurisdiction. It must be accompanied by a petition which:

- A. states the reasons for and circumstances prompting the request;
- B. specifically describes the property in the plat proposed to be vacated;
- C. gives the name and address of each owner of land in the plat.

The petition may include a request to vacate any recorded covenants or commitments filed as part of the plat. The covenants or commitments are then also subject to vacation.

315.02 Within 30 days after receipt of a petition for vacation of a plat, the Administrator shall announce the date for a hearing before the Commission.

A. Hearing procedure shall be as established in the Bylaws and Rules of Procedure pursuant to IC 36-7-3-11.

B. Each owner of land within the plat area may comment on the petition and may object to the vacation as provided in Section 317 of this Ordinance.

C. The petitioner shall pay the expense of providing notice of the hearing.

315.03 After the hearing, the Commission shall approve or deny the petition for vacation. The Commission shall approve the petition for vacation of all or part of a plat only upon a determination that:

A. conditions in the platted area have changed so as to defeat the original purpose of the plat;

B. it is in the public interest to vacate all or part of the plat;

C. the value of that part of the land in the plat not owned by the petitioner will not be diminished by vacation.

315.04 If, after the hearing, the Commission determines that the plat or part of the plat should be vacated, it shall make written findings supporting a decision approving the petition. The Commission may impose reasonable conditions as part of its approval. The decision must be signed by the Administrator. The Commission shall furnish a copy of its decision to the County Recorder for recording.

315.05 If, after the hearing, the Commission disapproves the petition for vacation, it shall make written findings that set forth its reasons in a decision denying the petition for vacation and shall provide the petitioner with a copy. The decision must be signed by the Administrator.

315.06 The approval, disapproval, or imposition of a condition on the approval of the vacation of all or part of a plat is a final decision of the Commission. The petitioner or an aggrieved party may seek review of the decision of the Commission as provided by IC 36-7-4-1016.

315.07 The County Recorder may record the instrument only if a certificate showing the approval of the vacation by the Commission is attached to it. If the instrument is not executed and approved as required by this section, it is void.

315.08 An instrument recorded under this section terminates the effect of the plat or part of the plat declared to be vacated, and it also terminates all public rights in the public ways and public places described in the plat or part of the plat. However, a public way that has been improved, or that is part of an improved plat, may be vacated only in accordance with Section 317.

315.09 If any platted land is vacated, the descriptions of the lots and parcels of that land shall be preserved as set forth in the plat, with the proportionate parts of vacated streets and alleys added as provided by law, unless all the owners of land in the vacated area consent in writing to the description of the area by:

- A. the method used before the plat was made;
- B. metes and bounds;
- C. other appropriate description.

However, a vacated tract of 5 acres or more that is owned by one person, or jointly by two or more persons, need not be described by lot number and may be described by metes and bounds or some other method.

316 ALTERNATE VACATION OF PLATTED AREA PROCEDURE: The owners of land in a plat that is located outside the corporate boundaries of any municipality may vacate all of the plat without the approval of the Commission, if no lots have been sold and no roads constructed in the plat, and all of the owners of land in the plat declare the plat to be vacated in a written instrument. The instrument must be executed, acknowledged, and recorded in the same manner as a deed to land.

317 VACATION OF PUBLIC WAYS AND PLATTED EASEMENTS: Vacation of public ways and platted easements should comply with IC 36-7-3 and this section.

317.01 Persons who own or are interested in any lots or parts of lots; and want to vacate all or part of a public way, public place, or platted easements in or contiguous to those lots or parts of lots, may file a petition for vacation with the County Commissioners if all or any part of the public way, public place, or platted easement to be vacated is located within Cass County, including the Fringe Area.

317.02 The petition must:

- A. state the circumstances of the case;
- B. specifically describe the property proposed to be vacated;
- C. give the names and addresses of all owners of land that abuts the property proposed to be vacated.

317.03 The County Commissioners shall hold a hearing on the petition within 30 days after it is received. The Cass County Auditor shall give notice of the petition and of the time and place of the hearing:

- A. in the manner prescribed in IC 5-3-1;

B. by certified mail to each owner of land that abuts the property proposed to be vacated. The petitioner shall pay the expense of providing this notice.

317.04 The hearing on the petition is subject to IC 5-14-1.5. At the hearing, any person aggrieved by the proposed vacation may object to it as provided by Section 318 of this Ordinance.

317.05 After the hearing on the petition, the County Commissioners may, by ordinance, vacate the public way, public place or platted easements. The County Auditor shall retain a copy and shall furnish a copy of each vacation ordinance to the County Recorder for recording.

317.06 Within 30 days after the adoption of a vacation ordinance, any aggrieved person may appeal the ordinance to the Circuit Court of the county. The court shall try the matter and may award damages.

317.07 Notwithstanding this section, vacation proceedings do not deprive a public utility of the use of all or part of a public way or public place to be vacated, if, at the time the proceedings are instituted, the utility is occupying and using all or part of that public way or public place for the location and operation of its facilities. However, the utility may waive its rights under this subsection by filing its written consent in the vacation proceedings.

318 **FILING OF REMONSTRANCES AND OBJECTIONS:** A remonstrance or objection permitted by Section 316 or 317 of this Ordinance may be filed or raised by any person aggrieved by the proposed vacation, but only on one or more of the following grounds.

318.01 The vacation would hinder the growth or orderly development of the unit or neighborhood in which it is located or to which it is contiguous.

318.02 The vacation would make access to the lands of the aggrieved person by means of public way difficult or inconvenient.

318.03 The vacation would hinder the public's access to a church, school, or other public building or place.

318.04 The vacation would hinder the use of a public way by the neighborhood in which it is located or to which it is contiguous.

319 **TERMINATION OF VACATION PROCEEDINGS:** After termination of a vacation proceeding under this Ordinance, a subsequent vacation proceeding affecting the same property and asking for the same relief may not be initiated for two years.

ARTICLE FOUR
APPLICATION REQUIREMENTS

401 GENERAL: This Article lists the required application materials for minor and major subdivisions.

401.01 Proposals for residential subdivisions must be for lands located in appropriate zoning districts or have appropriate zoning approvals prior to being considered for approval by the Commission.

A. The territory for which a plat is intended must be zoned RR, Rural Residential, or R1, Suburban Residential, or be a resubdivision of a previously platted residential subdivision.

B. If the territory for which a residential subdivision is intended is zoned AG, Agricultural, it must first have special exception approval of the Cass County Board of Zoning Appeals to establish a residential subdivision in the Agricultural district, or be rezoned to an appropriate zoning district, before submitting an application for subdivision.

C. In zoning districts that do not permit residential housing, a use variance or rezone would be required prior to submitting application for a residential subdivision.

401.02 All plats and other documentation required by this Article shall be prepared by or under the direct supervision of a registered land surveyor who shall be responsible for the monumentation thereof. All improvements shall be constructed in accordance with plans and specifications prepared by or under the direct supervision of a licensed engineer or land surveyor as required by state law, and approved by the governmental unit having jurisdiction over the acceptance and/or maintenance of such improvements. The licensed person who prepared or directed the preparation of the improvement drawings shall be responsible for the stake-out, inspection, and completion in accordance with such approved drawings, unless approved by the Administrator.

402 PRIMARY APPROVAL – MINOR SUBDIVISIONS: The following materials must be submitted for primary approval of a minor subdivision plat. The Administrator shall specify at the advisory meeting how many copies of the application materials are needed based upon Bylaws and Rules of Procedures.

402.01 An application on a form provided by the Administrator.

402.02 A filing fee as established by the adopted fee schedule.

402.03 A primary plat including supporting plans drawn according to generally accepted professional drafting standards, consisting of the following items.

A. Legal description of the subdivision.

B. Proposed name of the subdivision followed by the words “Primary Plat”.

C. A location sketch showing the general location of the subdivision in relation to the surrounding area shall be placed on the primary plat, generally in the upper right or left

hand corner. It shall be drawn at a scale sufficient enough to show the relationship of the tract to be subdivided to existing roads, schools, parks, and similar facilities as well as to adjacent properties and confined feeding operations, as defined by IC 13-1-5.7 (d), and subsequent amendments, within one-half mile of the subdivision.

D. Names and addresses of the owner, subdivider, and consulting engineer, land surveyor, or planning firm who prepared the plan.

E. Legend and notes, including the scale, north point, and date.

F. Source of the owner's title to the land as shown by the last entry in the records of the County Recorder.

G. County parcel tax identification number(s).

H. Tract boundary lines showing dimensions, bearings, angles, and references to section, township, and range lines or corners.

I. Existing zoning of the tract and all contiguous tracts surrounding the proposed subdivision.

J. All section and municipal corporate boundaries lying within or contiguous to the tract.

K. Topographic contours at typical intervals of ten feet or as appropriate to design a drainage plan. Said contours shall be referenced to mean sea level elevations. Contours should be on a separate page with drainage plan (see Q. below).

L. Layout of lots showing dimensions and numbers and square footage of each lot excluding area within rights-of-way.

M. Building lines showing setback dimensions throughout the subdivision.

N. Existing 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.

O. Existing and proposed easements, including the location, width, and purpose of such easements.

P. Location of natural streams, lakes, regulated drains, pipelines, power lines, utility structures and all other natural or man-made features.

Q. A drainage plan describing the surface and subsurface drainage system to an approved outlet, including data showing that said 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. The description of the drainage system shall be sufficient to verify compliance with IC-36-9-27-69.5 and subsequent amendments (see Section 519.01 of this Ordinance for details). The drainage plan should be on a separate sheet with topographic contours and accompanied by a Certificate of Sufficiency as per Appendix A-12.

R. The location, size, and capacity of any existing public sewer and/or water facilities, if such facilities are available or evidence that an on-site septic system permit can be obtained from the County Health Department for each lot. This information may be on a separate sheet.

S. Boundary lines of floodway and floodway fringe areas on each lot as scaled from the flood plain district maps and regulations of the Zoning Ordinance.

T. If there is a parent tract remainder or other parcel, which qualifies as an exempt division under the terms of this Ordinance, such land shall be shown on the drawing. Such exempt division may be shown based upon an existing deed description but shall not be assigned a lot number.

U. If the primary plat is to be divided into sections or phases of development, the boundaries and numbers of such sections, or phases, shall be shown.

V. The certificates listed below and all other applicable certificates and notations as shown in Appendix A.

1. A-3, Owner's Certificate
2. A-4, Additions to Owner's Certificate
3. A-5, Notarized Signature Required
4. A-6, Primary Approval Certificate

402.04 Protective covenants, which are properly prepared and legally sound, shall be incorporated in the plat, subject to the approval of the Plat Committee or Commission.

402.05 Maintenance agreements for continued maintenance of any common private facilities such as access easements, streets, drainage facilities or common areas shall be submitted along with the plat. Maintenance agreements may be incorporated with protective covenants, if appropriate.

402.06 An erosion and sediment control plan or letter of intent to comply with State Regulation 327 IAC 15-5, more commonly known as Rule 5, is required if applicable, in a form as specified by the Indiana Department of Natural Resources. The Cass County Soil and Water Conservation District is the local agency providing assistance to subdividers in preparation of an erosion and sediment control plan.

403 PRIMARY APPROVAL – MAJOR SUBDIVISIONS: In addition to the required materials in Section 402 for primary approval for a minor subdivision, the following materials must also be submitted for primary approval of major subdivisions.

403.01 The names and addresses of all interested parties as defined by the Bylaws and Rules of Procedure.

403.02 The location and boundaries of any lots in a previously approved minor subdivision which had the same parent tract as the major subdivision. While said minor subdivision lots shall be considered in the determination of major subdivision classification, said lots do not need to be assigned major subdivision lot numbers nor be considered part of the major subdivision plat,

unless said minor subdivision lots contain easements and/or facilities which service the major subdivision lots.

403.03 The proposed public or private streets and access easements are to be shown on the primary plat.

403.04 Parcels of land proposed to be dedicated or reserved for schools, parks, or other public or semi-public purposes, other than public streets or ways to be shown on the primary plat.

403.05 Topographic contours at typical intervals of two feet if the general slope of the tract is less than ten percent or intervals of five feet if the slope is in excess of ten percent. Said contours shall be referenced to mean sea level elevations and shall be shown on the primary plat in lieu of the requirements of Section 402.03 K.

403.06 In lieu of 402.03 R, a sewage disposal plan that shows sewage disposal plans in detail according to design standards of Section 506. For any improvements or systems which are to be owned and/or maintained by the property owners in the subdivision, a plan for establishing such ownership and for providing and financing such maintenance shall be provided. Documents and/or plans submitted under this section are subject to determination by the Commission that they are adequate to ensure that the County will not be held responsible in the future for such maintenance.

403.07 An erosion control plan, which identifies applicable areas of concern and problems, addressed in Section 520. The plan shall indicate the control strategies for these problem areas. The plan shall indicate the proposed individual practices to be used to accomplish the objectives of this Ordinance. Methods selected to control erosion shall be consistent with this Ordinance. This requirement may be satisfied by an erosion and sediment control plan in accordance with 327 IAC 15-5, more commonly known as Rule 5.

403.08 A drainage plan which studies the existing and proposed drainage conditions and the practices to be used to accomplish the objectives of Section 519 of this Ordinance and Section 313 of the Zoning Ordinance shall be submitted. The plan shall evaluate the ability of the proposed watercourse, channels, drainage tiles, farm tiles, storm sewers, culverts and other improvements to handle the run-off.

Existing and expected drainage patterns shall be shown for each lot. The plan shall also describe the existing and proposed minor and major drainage systems. The minor system will usually consist of but not be limited to storm sewers, drainage ditches, drainage swales, storm inlets or infiltration structures. The minor system will usually consist of but not be limited to roadways, culverts, bridges or overflow drainage ways. The major system shall be designed to handle a fifty-year storm.

403.09 Documentation sufficient to show that all applicable design and construction standards of Article Five is met.

403.10 Documentation sufficient to show the nature and format of a homeowners' association if one is to be established.

404 PRIMARY/SECONDARY APPROVAL – CERTAIN MINOR SUBDIVISIONS: For certain minor subdivisions described below, only the following information is necessary for both primary and secondary approval and may be in lieu of all other information specified in this Ordinance.

404.01 For resubdivision of a recorded secondary plat approved pursuant to this Ordinance the following materials shall be submitted.

- A. An explanation of the changes and why they are necessary.
- B. A revised plat showing changes.
- C. For resubdivisions involving relocated and/or removal of easements, written approval of affected utilities and interested parties must also be submitted.

404.02 For two pipestem lots and/or for minor subdivisions which will not have more than two lots at a time, a survey on sheets no less than 8 ½ by 14 inches may be submitted in lieu of a complete plat, provided all applicable information required by Sections 402 and 405 is adequately shown including the Primary and Secondary Plat Certificate(s). An application and filing fee must also be filed. This procedure may be used no more than two times by any applicant from any parent tract.

405 SECONDARY APPROVAL – MINOR SUBDIVISIONS: The following materials must be submitted for secondary approval of a minor subdivision plat.

405.01 A secondary plat consisting of the following items:

- A. Name of subdivision followed by the words “Secondary Plat”.
- B. Name and address of the owner and subdivider.
- C. North point, scale, and date.
- D. Certification by a registered land surveyor or engineer.
- E. Accurate boundary lines, with dimension and angles, which provide a legal survey of the tract, closing with an error of not more than 1 foot in 5000 feet.
- F. Accurate distances and directions to the nearest official monument. Reference corners shall be accurately described on the plat.
- G. Accurate locations of all existing and recorded streets intersecting the boundaries of the tract.
- H. Accurate metes and bounds description of the tract boundary.
- I. Source of title of the applicant to the land as shown by the last entry in the books of the County Recorder.
- J. Existing street location and all street names. Private streets shall be labeled “Private Street not to be dedicated to the public.”
- K. Complete curve notes for all curves included in the plat.
- L. Lot numbers and dimensions, including the square footage of each lot.

M. Accurate locations of easements for utilities and any limitations on such semi-public or community use.

N. Building lines and setback dimensions throughout the subdivision.

O. Location, type, material, and size of all monuments and markers.

P. The certificates listed below and all other applicable certificates and notations as shown in Appendix A.

1. A-2, Surveyor's Certificate

2. A-3, Owner's Certificate

3. A-4, Additions to Owner's Certificate

4. A-5, Notarized Signature Required

5. A-7, Secondary Approval Certificate

6. A-9, Board of County Commissioners Certificate or A-10, Subdivisions Containing No Dedication Certificate

7. A-11 Recording Certificate

Q. All secondary plats having within their boundaries areas whose elevation is below that of the regulatory flood shall show and label the regulatory flood boundary and elevation, as of the date the secondary plat is drawn.

405.02 Plans and specifications for the improvements required in this Ordinance.

405.03 Protective covenants and maintenance agreements as approved with the primary plat.

406 SECONDARY APPROVAL – MAJOR SUBDIVISIONS: In addition to the required materials in Section 405 for secondary approval for minor subdivisions, the following materials must also be submitted for secondary approval of major subdivisions.

406.01 Accurate dimensions for any property to be dedicated or reserved for public, semi-public, or community use other than public streets or ways to be shown on the secondary plat.

406.02 Street lines with accurate dimensions in feet and hundredths of feet with angles to street, alley, and lot lines for all new public streets and ways which shall be shown on the secondary plat.

406.03 Certification of dedication of public streets and ways and other public property.

407 CONSTRUCTION PLANS: It shall be the responsibility of the subdivider of every proposed subdivision to have prepared and certified by a land surveyor and/or professional engineer registered in the State of Indiana, a complete set of constructed plans, including profiles, cross-

sections, specifications, and other supporting data for all required public streets, utilities, and other facilities.

407.01 The final construction plans shall be based on the drainage plan, erosion plan and other information, which have been approved with the primary plat, and shall be prepared and submitted prior to the secondary plat.

407.02 Construction plans shall be prepared for all required improvements. Plans shall be drawn on standard 24 x 36 inch sheets at a scale of no more than 1 inch equals 50 feet, and map sheets shall be of the same size as the primary plat.

407.03 Construction plans shall consist of the following.

A. Topographic contours at intervals of 1 foot if the general slope of the tract is less than 5 percent. Contours shall be referenced to mean sea level elevations.

B. Profiles showing existing and proposed elevations along centerlines of all streets. Where a proposed street intersects an existing street or streets, the elevation along the center line of the existing street or streets within 100 feet of the intersection. Approximate radii of all curves, lengths of tangents, and central angles on all streets.

C. The Commission may require, where steep slopes exist, that cross-sections of all proposed streets at 100 foot stations shall be shown at 5 points as follows: On a line at right angles to the center line of the street, and said elevation points shall be at the center line of the street, each property line, and points 25 feet inside each property line.

D. Plans and profiles showing the location and typical cross-section of streets including curbs and gutters, sidewalks, rights-of-way, drainage facilities, manholes, and catch basins; the locations, size, and invert elevations of existing and proposed sanitary sewers, storm water drains, and fire hydrants, showing connections to any existing or proposed utility systems; the location of street trees, street lighting standards, and street signs; and exact location and size of all water, gas, or other underground utilities or structures.

E. Location, size, elevation, and other appropriate description of any other existing physical and natural features or facilities including trees with a diameter of 8 inches or more (measured 4 feet above ground level), the points of connection to proposed facilities and utilities and the approximate high and low water elevations of all ponds, lakes and streams. All elevations shall be referred to the U.S.G.S. datum plane.

ARTICLE FIVE
PRINCIPLES AND STANDARDS OF DESIGN

501 GENERAL: All subdivisions shall be designed and constructed according to the standards of this Article. These standards apply to minor and major subdivisions except where noted.

501.01 Whenever the County or any utility company has adopted standards pursuant to statute in existence or has them subsequently adopted, which are stricter than the standards of this Ordinance, they shall apply in lieu of similar standards that may be contained within this Ordinance.

501.02 The Commission may require stricter standards when, in the opinion of the Commission, those stricter standards are needed to fulfill the interest and purpose of this Ordinance.

501.03 If the subdivider places restrictions on any of the land contained in the subdivision greater than those required by the Zoning Ordinance or by this Ordinance, such restrictions or reference thereto may be required to be indicated on the subdivision plat, and the Commission may require that restrictive covenants be recorded with the County Recorder.

501.04 In certain instances it is to the benefit of the general welfare that certain improvements within subdivision be increased in size. The additional cost for such oversized improvements is not the responsibility of the subdivider if no special benefit to the future residents of such subdivision but is of benefit to the general public. In such events, special contractual arrangements for cost sharing of the oversized improvements may be entered into between the subdivider and the County or utility company.

501.05 In reviewing an application for approval of subdivision, the Commission shall consider the adequacy of existing streets and roads and other facilities to serve the proposed subdivision and may require the subdivider to make and pay for improvements deemed necessary. In no case shall the County be obligated to make improvements for the purpose of making private land suitable for development.

501.06 Before approving any subdivision, the Commission shall ensure that there are adequate methods to maintain all improvements required by this article. Such improvements include, but are not limited to, recreation facilities, common open space, private streets and pedestrian ways, private sewer and water systems, and drainage facilities.

502 CHARACTER OF THE LAND: Land which the Plat Committee or Commission finds to be unsuitable for subdivision because of flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, soils with severe limitations for development, utility easements, designated wetlands or other features which will reasonably be harmful to the safety, health, and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas, shall not be divided unless

adequate methods are formulated by the subdivider and approved by the Plat Committee or Commission to solve the problems created by the unsuitable land conditions.

502.01 Land in designated wetlands, natural drains, regulated drains and areas designated Zone A on Flood Insurance Rate Maps (FIRM) shall not be credited toward the reduction of lot sizes when calculating a density transfer option as permitted by the Zoning Ordinance.

503 PRESERVATION OF NATURAL FEATURES AND AMENITIES: Existing features which would add value to the development or to the community as a whole, such as trees, watercourses and falls, historic spots, and similar irreplaceable assets, shall be preserved in the design of the subdivision. No trees shall be removed from any subdivision nor any change of grade of the land affected until primary approval has been granted. All trees on the plat that are required to be retained shall be preserved, and all trees, where required, shall be welled and protected against change of grade. This section does not apply to minor subdivisions.

504 SUBDIVISION NAME: The proposed name of the subdivision shall not duplicate, or too closely approximate phonetically, the name of any other subdivision in Cass County. The Plat Committee or Commission shall have final authority to approve the name of the subdivision, which shall be determined at the time of primary approval. In the event the subdivider intends to develop the subdivision in phases, the name of the subdivision shall incorporate by number and as necessary the respective phase, section and part in that order.

505 MONUMENTS AND MARKERS: Monuments and markers shall be designed and constructed according to the following standards.

505.01 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.

505.02 Monuments shall be set after final grading:

A. at the intersection of lines forming angles in the boundary of the subdivision, provided that not more than 8 such monuments shall be required.

B. at the intersection of the center lines of all streets and also at the center points of all cul-de-sac turnarounds.

505.03 Markers shall be set prior to issuance of improvement location permits:

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;

D. at all lot corners not established by monuments.

505.04 Monuments shall be of stone, pre-cast concrete, or concrete poured in place with minimum dimensions of 4 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 5/8 inches in diameter.

506 UTILITIES: Utilities shall be provided as follows:

506.01 The subdivider shall provide the subdivision with a sanitary sewer system by one of the following methods.

A. A municipal or other public utility system is subject to the design standards and approval from that utility company. The subdivider must provide evidence that such system has the capacity and capability to serve the development and guarantees of a sufficient number of connections to serve all lots in the subdivision.

B. A private sanitary sewer system to convey the sewage to a treatment plant, to be provided by the subdivider in accordance with the minimum requirements of the Cass County Board of Health, the Indiana State Board of Health, and/or the Indiana Stream Pollution Control Board. The subdivider must show that there are arrangements to ensure continued operation and maintenance of the system, that the system has or will have sufficient capacity to serve the development, and guarantees of a sufficient capacity to serve the development, and guarantees of a sufficient number of connections to serve all lots in the subdivision.

C. A private sewage disposal system on individual lots consisting of a septic tank and tile absorption field or other approved sewage disposal system, when laid out in accordance with the minimum standards of the Cass County Board of Health. Evidence must be provided that a private system can be installed on each lot.

506.02 The subdivider shall provide the subdivision with a complete water supply system by one of the following methods.

A. A municipal or other public utility system subject to the design standards and approval from that utility company.

B. A private community water supply system to be provided in accordance with the minimum requirements of the Indiana State Board of Health.

C. An individual water supply on each lot in the subdivision in accordance with the minimum requirements of the Cass County Board of Health.

506.03 Fire hydrants shall be required for all subdivisions except those having lots served by individual wells. Generally, fire hydrants shall be located no more than 1,000 feet apart for non residential subdivisions and no more than 500 feet for any residential subdivision. All fire hydrants shall be constructed according to the State Fire Marshall Code and the standards of the applicable fire department and utility company.

506.04 All utility facilities, including but not limited to gas, electric power, telephone, and cable television, shall be located underground throughout the subdivision, except where not permitted by the utility company. All utility facilities existing and proposed throughout the subdivision shall be shown on the primary plat and shall be reviewed by the applicable utility company. Underground service connections to the property line of each platted lot shall be installed at the subdividers' expense. This section does not apply to minor subdivisions.

507 PUBLIC USE/OPEN SPACE AREAS: Public use and open space areas shall be provided as follows. This section does not apply to minor subdivisions.

507.01 Where sites for parks, schools, playgrounds or other public uses are located within the subdivision area as shown on the Comprehensive Plan, the Park and Recreation Plans or any other adopted plans, the Commission may request their dedication for such purposes, or their reservation for a period of two years, following the date of the final approval of the plan.

507.02 In a subdivision proposed to contain an average of more than 1 ½ lots per gross acre, and containing fifty or more lots as shown on the primary plat (including all phases), at least one acre of open space per each fifty lots shall be platted and permanently dedicated for public park or playground use. Such area may be permanently dedicated to the Park Board if agreed to by the Park Board, or to a property owners association if suitably protected by covenants. If the open space is not accepted by the Park Board or if there is not a property owners association for the subdivision, the Commission may waive the requirements of this provision, if there is no other way to permanently maintain the open space. Playgrounds or public school sites within the boundaries of the proposed subdivision shall be deemed to meet the open space requirements of this section. The least dimension of any such required open space shall be 150 feet. A public crosswalk or easement not less than 115 feet in width shall be provided for access to the required open space.

508 BLOCKS: Blocks shall be designed according to the following standards. This section shall not apply to minor subdivisions.

508.01 Blocks shall have sufficient width to provide for two tiers of lots of appropriate depths. Exceptions to this prescribed block width shall be permitted in blocks adjacent to major streets, railroads, and waterways.

508.02 The lengths, widths, and shapes of blocks shall be such as are appropriate for the locality and the type of development permitted. Block lengths in residential areas shall

not exceed 1,400 feet nor less than 400 feet in length. Wherever practical, blocks along arterial and collector streets shall not be less than 1000 feet in length. Irregularly shaped blocks may be approved if such a pattern is appropriate to the land to be subdivided and is properly designed.

508.03 Pedestrian ways or cross walks not less than 10 feet in width may be required through the center of blocks more than 800 feet long or at other appropriate locations and at the ends of cul-de-sacs where the Commission deems such ways desirable to provide for circulation or access to neighboring uses. In determining whether pedestrian ways are required, the Commission shall consider methods of maintaining such ways and their usefulness in providing access to any common open space, water areas, recreation areas, schools, churches, and other surrounding uses. Pedestrian ways shall be a perpetual, unobstructed easement.

509 LOT DESIGN: Subdivision lots shall be designed according to the following standards.

509.01 The lot arrangement shall be such that all lots shall have satisfactory building sites, properly related to topography and surrounding land and uses. Each lot shall comply with the minimum requirements of the Zoning Ordinance and with all applicable health regulations. Each lot shall be capable of providing safe, usable driveway access.

509.02 Lot dimensions shall not exceed a multiple of 2 times depth versus width unless dictated by topography or shape of the parent tract. A desire to avoid provision of access to potential rear lots is not in itself sufficient cause.

509.03 Where lots are more than double the minimum required area for the zoning districts, the Plat Committee or the Commission may require that such lots be arranged so as to allow further subdivision and the opening of future streets where they would be necessary to serve potential lots, all in compliance with the Zoning Ordinance and this Ordinance.

509.04 Irregular-shaped lots shall be avoided except where the Plan Committee or the Commission deems such a pattern to be more appropriate to the site conditions than regular shapes. Financial advantage for the subdivider and/or the ability to create a larger number of lots is not in itself sufficient reason for allowing irregular shapes.

509.05 In general, side lot lines shall be at right angles to street lines and radial to curving street lines unless a variation from this rule will provide a better layout.

509.06 To the fullest extent practical, residential lots shall front on residential subdivision streets in such a manner as to provide neighborhood cohesiveness.

509.07 Lots abutting a watercourse, drainage way, 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 by the Zoning Ordinance for front, rear, side yards. A 75-foot building setback, as measured from the top of the bank or from the centerline of an enclosed (tiled) drain, is required for regulated drains.

509.08 Access easements and lands in designated wetlands, natural drains, regulated drains and areas designated Zone A on Flood Insurance Rate Maps (FIRM) shall not be used for computing the area requirement for any lot.

509.09 If a tract being subdivided contains a body of water body, lot lines shall either be so drawn as to distribute the entire ownership of the water body among the fees of adjacent lots, or the Plat Committee or the Commission may approve an alternative allocation of interests whereby the ownership of and responsibility for safe maintenance of the water body is so placed that it will not become a County responsibility. No part of the minimum area of a lot required under the Zoning Ordinance may be satisfied by land which is under water including a temporary detention storage facility, or portion thereof.

509.10 Double frontage and reversed frontage lots shall be avoided in residential subdivisions except where necessary to provide separation of residential development from streets or to overcome specific disadvantages of topography and orientation.

509.11 Except where otherwise provided in Section 510, each lot shall have at least 40 feet frontage on either a public road or a private road.

509.12 Lots shall be platted exclusive of right(s)-of-way (as defined).

510 LOT ACCESS: Access for subdivision lots shall meet the standards of this section and be approved by the County Engineer and meet the Highway Access and Road Cut Ordinance for Cass County.

510.01 In the Agricultural Zoning District lots in subdivisions consisting of more than one lot shall derive access from either access easements or newly platted private or public streets. However, two lots may derive individual access from existing public streets provided the lot width is at least twice the minimum lot width required in the Zoning Ordinance or three lots provided lot width is three times the required minimum. No more than three lots in any subdivision in the Agricultural Zoning District shall derive access from existing public streets.

510.02 In residential zoning districts, lots in subdivisions containing more than four lots shall derive individual access from either access easements or newly platted private or public streets.

510.03 For newly platted streets and permitted access on existing public streets, generally one driveway access shall be permitted per lot except for corner lots where one driveway per road is permitted, except for circular driveways where up to two driveway accesses are permitted and except where common easements of access may be required as provided below.

510.04 To achieve more creative planning and preservation of natural property features, pipestem lots are permitted provided each has exclusive unobstructed private access

easement of at least 20 feet width to a public road. Two pipestem lots with no more than one dwelling on each lot may share a common access easement of at least 24 feet width.

510.05 The Commission may permit or require common driveways to be shared by 2 adjoining non-pipestem lots if they deem it appropriate for the purpose of highway access safety or design. Generally, no more than one shared drive shall be allowed per subdivision.

510.06 Access easements providing legal access to more than 2 pipestem lots or more than one regular lot shall be at least 50 feet in width and shall have the capability of providing suitable locations for future public streets meeting the standards set forth in this Ordinance. Generally, up to 4 lots may receive access from a private access easement per subdivision. The subdivision plat shall be properly noted that the access easement is private and a plan for maintenance shall be filed with the plat. The Commission shall approve a plan for maintenance of the proposed access easement road improvements.

510.07 An access easement serving more than 4 lots shall be considered a street and must be constructed according to the street standards in Section 511, even if the street remains private. In this case the subdivider must submit a plan for maintenance for approval by the Commission.

510.08 Except as provided in Section 510.01 and 510.02, lots in residential subdivisions shall not in general have access directly from existing public streets. Where subdivision borders on or contains an existing public street the Commission may require that access to such streets be limited by one or more of the following means.

- A. The subdivision shall be designed so that residential lots face a parallel newly platted street. No access shall be permitted to the existing public streets from any residential lots, and screening may be required in a planting strip inside the rear property line of such lots.
- B. A series of cul-de-sacs, U-shaped streets, or short loops entered from and designed generally at right angles to the existing public streets.
- C. An access easement serving up to two pipestem lots or up to four regular lots.
- D. A common driveway between two adjoining lots as provided by Section 510.05 of this Ordinance.

TABLE 1
PRIVATE DRIVEWAY AND ACCESS EASEMENTS
MINIMUM DESIGN STANDARDS

	ACCESS EASEMENT	2 PIPESTEM/ SHARED DR.	1 PIPESTEM LOT	SINGLE DRIVEWAY
ADT (Average Daily Traffic)	Up to 40	Up to 20	Up to 10	Up to 10
Minimum R-O-W width	50 feet	24 feet	20 feet	N/A
Improved Width	18 feet	16 feet	12 feet	12 feet
Minimum depth gravel/stone	6 inches	6 inches	6 inches	N/A

510.09 Private driveways and access easements shall be constructed according to Table 1 and the following standards.

- A. Where possible driveways and access easements shall be designed and arranged so as to prevent vehicles from having to back onto any road or driveway.
- B. No driveway or access easement shall interfere with drainage flow within any right-of-way.
- C. Appropriate State permits shall be obtained for access onto any State highway.
- D. Permits as required by the Highway Access and Road Cut Ordinance, shall be obtained prior to accessing county roads.
- E. Prior to laying stone the topsoil shall be removed.
- F. All other applicable standards of the Highway Access and Road Cut Ordinance shall be followed for driveway construction.

511 STREETS: All public streets and all private streets providing access to more than 4 lots shall be designed and constructed according to the standards of this section. This section does not apply to minor subdivisions.

511.01 All streets shall be laid out in relationship with existing and proposed streets and in compliance with the Comprehensive Plan and the Thoroughfare Plan.

511.02 All streets shall be properly related to specific traffic generators such as industries, business districts, schools, churches, and shopping centers; to population densities; and to the pattern of existing and proposed land uses.

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

511.04 The rigid rectangular gridiron street pattern need not necessarily be adhered to, and the use of curvilinear streets, cul-de-sacs, or U-shaped streets shall be encouraged where such use will result in a more desirable layout.

511.05 Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless in the opinion of the Commission such extension is not necessary or desirable for the coordination of the layout or the most advantageous future development of adjacent tracts.

511.06 The creation of reserve strips shall not be permitted adjacent to a proposed street in such a manner as to deny access from adjacent property to such street unless prevented by topography or other physical conditions or unless in the opinion of the Commission, the access from adjacent property to such street is not necessary or desirable for the coordination of the layout for the most advantageous future development of such adjacent tracts.

511.07 The arrangement of streets shall provide for the continuation of principal streets between adjacent properties when such continuation is necessary for convenient movement of traffic, effective fire protection, for efficient provision of utilities, and where such continuation is in accordance with the Comprehensive Plan.

511.08 If an adjacent property is undeveloped and a street must be a dead-end street temporarily, the right-of-way shall be extended to the property lines, unless prevented by topography or other physical conditions, or unless in the opinion of the Commission, such extension is not necessary or desirable for coordination of the layout or the most advantageous future development of adjacent tracts. A temporary cul-de-sac shall be provided on all temporary dead-end streets, with the notation on the subdivision plat that land outside the normal street right-of-way shall revert to abutters whenever the street is continued. Temporary dead-end streets shall also meet the following additional standards.

A. The minimum right-of-way diameter of a temporary turnaround shall be 80 feet, and the minimum travel surface diameter shall be 60 feet.

B. A temporary turnaround shall be constructed of at least 6 inches stone.

C. A temporary turnaround shall not exceed 1000 feet in length unless approved by the Commission.

511.09 Where a road does not extend to the boundary of the subdivision and its continuation is not required by the Commission for access to adjoining property, its right-

of-way terminus shall normally not be nearer to such boundary than 50 feet. However, the Commission may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic, or utilities.

511.10 A cul-de-sac turnaround shall be provided at the end of a permanent dead-end street in accordance with the construction standards and specifications of this Ordinance. For greater convenience to traffic and more effective police and fire protection, permanent dead-end or cul-de-sac streets shall, in general, be limited to 1,200 feet in length and shall not have more than 20 lots fronting on the street. The cul-de-sac shall have a minimum right-of-way diameter of 110 feet and a minimum pavement diameter of 80 feet. The length of the cul-de-sac is measured from the intersection with an existing public street and may be extended by a newly platted street that has an outlet. The Commission may allow the length to be measured from a platted street that has no outlet provided it has right-of-way extended to developable adjacent property.

511.11 Street systems in new subdivisions shall be laid out so as to eliminate or avoid new perimeter half-streets. Where an existing half-street is adjacent to a new subdivision, the other half of the street shall be improved and dedicated by the subdivider. The Commission may authorize a new perimeter street where the subdivider improves and dedicates the entire required street right-of-way width within his own subdivision boundaries.

511.12 Where a subdivision borders an existing, narrow, non-arterial road or where topography, design features or other conditions necessitate additional right-of-way, or when the Comprehensive Plan or the Thoroughfare Plan indicates plans for realignment or widening an adjacent road that would require use of some land in the subdivision, the subdivider shall be required to dedicate such right-of-way for widening or realignment of such roads. Where any lots within subdivision derive frontage from an existing, narrow, or gravel road, it shall be improved to $\frac{1}{2}$ of the full width of the facility as required by this Ordinance. If the site is transected by an existing arterial road, which the Comprehensive Plan or the Thoroughfare Plan indicates plans for realignment or widening, the subdivider shall be required to dedicate right-of-way for such arterial. Where any lots within subdivision derive frontage from any such arterial, it shall be improved to the full width of a collector facility as required by this Ordinance. Where an arterial proposed in the Comprehensive Plan or the Thoroughfare Plan borders or transects a proposed subdivision, the necessary right-of-way shall be reserved.

511.13 Alleys shall be discouraged in residential subdivisions. The Commission may permit alleys in commercial or industrial subdivisions if it finds that alleys are the best means of serving the subdivision. Such alleys shall have a minimum right-of-way width of 20 feet and a minimum pavement width of 16 feet.

511.14 If any subdivision or any lot therein abuts a state highway, evidence of compliance with all applicable regulations of the Indiana Department of Transportation shall be required.

511.15 All streets shall be designed according to the specifications of Table 2 and the other standards of this Ordinance. For purposes of Table 2, streets shall be classified according to the Comprehensive Plan, the Thoroughfare Plan and/or the average daily traffic that may be expected. The Commission shall classify streets in the absence of clear determination of any of the above. The Commission shall use the definitions of this Ordinance as guidelines for making street classifications.

**TABLE 2
CASS COUNTY STREETS
MINIMUM DESIGN STANDARDS**

	ARTERIAL	COLLECTOR	LOCAL	SUBDIVISION	PLACE
ADT (Average Daily Traffic)	1 000 or more	500 to 999	100 to 499	less than 100	80
Minimum R-O-W width	100 feet	70 feet	50 feet	50 feet	50 feet
Pavement Width	26 feet	24 feet	24 feet	22 feet	18 feet
Shoulder Width	8 feet	6 feet	4 feet	4 feet	4 feet
Maximum Grade	8%	10%	12%	12%	12%
Design Speed	50 mph	45 mph	40 mph	30 mph	20 mph
Sight Distance:					
for Stopping	350 feet	310 feet	275 feet	200 feet	200 feet
for Intersection	500 feet	450 feet	400 feet	300 feet	300 feet
Minimum Bridge Width (0 to 0)	32 feet	32 feet	30 feet	28 feet	28 feet
Pavement Markings	Center line w/no parking zone & edge lines	Center line	None	None	None

511.16 In addition to the design standards of Table 2, the following additional standards apply to all streets.

- A. The minimum grade of all streets shall be 0.5 percent.
- B. The minimum radius of curves shall be 100 feet.
- C. The minimum length of tangents between reverse curves shall be 100 feet.
- D. The pavement cross slope shall be between ¼ inch per foot and 3/8 inch per foot.
- E. The shoulder cross slope shall be between ½ inch per foot and one inch per foot.

F. For all streets, at least 3 feet of the shoulders shall be stone or paved. Stone shoulders must be a minimum depth of four inches at road edge and may taper to edge of shoulder at allowable slope.

G. The right-of-way shall be adequate for construction and maintenance of pavement, shoulders, ditches, curbs and gutters and sidewalks where required. The Commission may require such additional right-of-way as it deems necessary for these purposes. The Commission may also require additional right-of-way if, because of topography, additional width is necessary to provide adequate earth slopes. Such slopes shall not be in excess of a two to one (2-1) ratio.

H. The pavement widths shown on Table 2 are for streets and roads having a typical shoulder section. For each parking lane, an additional 8 feet of pavement (4 feet per side) shall be provided. At least one parking lane shall be provided on all roads with curb and gutter.

I. Residential subdivision streets shall be designed according to the traffic volumes shown on Table 2, assuming 10 trips per lot per day.

J. For non residential subdivisions the right-of-way shall generally be 60 feet and pavement width shall be 26 feet. There shall be 6-foot shoulders (except when curb and gutter is necessary). The minimum radius of curves shall be 200 feet and the minimum sight distance and the minimum length of tangents between reverse curves shall also be 200 feet. The minimum right-of-way diameter for a cul-de-sac shall be 160 feet and the minimum cul-de-sac pavement width shall be 140 feet.

K. For streets designed as a boulevard with a center median, the Commission shall establish design standards based upon the expected average daily traffic and the standards of this Ordinance.

511.17 All streets shall be graded, surfaced and improved according to the following standards.

A. On land with soils which have slight or moderate limitations for street construction according to the Cass County Soil Survey, the minimum thickness of sub-base, base course and pavement shall be as follows.

1. For collectors, local and subdivision streets and places:

a. an 8 inch cement concrete pavement on compacted sub-grade or an equivalent balanced section as recommended by the Portland Cement Association; or

b. one inch of hot mix asphalt (HMA) surface on a 3 inch (HMA) binder pavement on 6 inches of compacted aggregate base on a compacted sub-grade;

c. seven inches of deep-strength asphalt consisting of 4 and ½ inches (HMA) base, 2 and ½ inches (HMA) binder and 1 inch (HMA) surface on a compacted sub-grade.

2 For arterial streets, as required by the Indiana Department of Transportation.

B. On land with soils that have limitations for street construction according to the Cass County Soil Survey, the above construction standards shall be increased by 33 percent, or appropriate geosynthetics or pavement strengthening methods may be used subject to approval of the Cass County Engineer.

C. On land with soils that have very severe limitations for street construction according to the Cass County Soil Survey, a special engineering study will be required prior to road construction.

D. Contraction joints shall be placed at a spacing of 20 feet or less and placed at every catch basin and manhole in line of pavement and must extend throughout side strips and curbs to full width of pavement.

E. Higher standards than indicated in this section may be required by the Commission and the Cass County Engineer to provide adequately for unusual soil conditions, extraordinary traffic volumes, or other abnormal characteristics.

F. All work shall be performed in the manner prescribed in the most recent or successor edition of the Indiana Department of Transportation Standard Specifications of the Indiana State Highway Commission. All work shall be shown on the construction plans as required by Section 407 of this Ordinance.

511.18 All traffic control devices, including regulatory, warning, and guide signs, and pavement markings (if necessary) shall conform to the most recent edition of the Indiana Manual on Uniform Traffic Control Devices. Installation of signage is the responsibility of the subdivider and shall be installed or performance guaranteed prior to secondary approval.

511.19 Where deemed appropriate by the commission or the County Engineer, a guardrail shall be provided by the subdivider. All guardrails, where required, shall be “blocked out” from posts a minimum of 4 inches. All guardrail ends shall be terminated in buried ends type “OS” or “MS” end treatments. Breakaway cable terminals are not permitted. Guardrail design shall be in accordance with the INDOT Design Manual.

511.20 Railroad rights-of-way and limited access highways where so located as to affect the subdivision of adjoining lands shall be treated as follows.

A. In residential districts a buffer strip at least 25 feet in depth in addition to the normal depth of the lot required in the district shall be provided adjacent to the railroad right-of-way or limited access highway. This strip shall be part of the platted lots and shall be designed on the plat: "This strip is reserved for screening."

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

C. Streets parallel to the railroad when intersecting a street which crosses the railroad at grade shall, to the extent practical, be at a distance of at least 150 feet from the railroad right-of-way. Such distance shall be determined with due consideration of grades by means of appropriate approach gradients.

511.21 Intersections shall be designed according to the following standards.

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

B. Proposed new intersections along one side of an existing street shall, wherever practical, coincide with any existing intersections on the opposite side of such street. Street jogs with centerline offsets of less than 150 feet shall not be permitted, except where the intersected street has separated dual roadways without median breaks at either intersection. Where streets intersect arterials and collectors, their alignment shall be continuous. Intersections of arterials with collectors shall be at least 800 feet apart.

C. Minimum corner radius at the intersection of 2 local streets shall be at least 20 feet; minimum corner radius at an intersection involving a collector street shall be at least 25 feet, and minimum corner radius at an intersection with an arterial shall be at least 35 feet. Alley intersections and abrupt changes in alignment with a block shall have the corners cut off in accordance with standard engineering practices to permit safe vehicular movement.

D. Intersections shall be designed with a flat grade wherever practical. At the approach to an intersection, a leveling area shall be provided having not greater

than 3% rate at a distance of 60 feet, measured from the nearest right-of-way line of the intersecting street.

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

F. The cross-slopes on all streets, including intersections, shall be 3% or less.

G. When subdivision streets intersect with collector or arterial streets, the subdivider may be required to install deceleration and passing lanes or other improvements along the major street as specified by the Commission and/or County Engineer or INDOT, if a state highway.

511.22 No street names may be used which will duplicate, or be confused with, the names of any existing streets unless said proposed streets are the logical extension or continuation of, or obvious in alignment with an existing platted street in which case the proposed streets shall bear the names of such existing streets.

511.23 Privately-owned subdivision streets are allowed but they must meet the following conditions.

A. Private streets must be built according to all specifications in this Ordinance except as approved by the Commission.

B. A plan for maintenance must be submitted and approved by the Commission with the primary plat.

C. The primary and secondary plat must include a statement that the streets are privately owned and maintained.

D. Private streets shall be maintained by the subdivider or by the homeowners association, so that fire, police, health, school, and sanitation vehicles and public utility vehicles have adequate access. Adequate access includes an adequate turning area.

E. Applicable performance guarantees as required by this Ordinance shall be filed.

511.24 Installation and maintenance of mailboxes within county right-of-way is the responsibility of the property owner. Mailboxes shall not be constructed in such manner or of such materials that present a significant hazard to motorists.

512 SIDEWALKS: Sidewalks shall be designed and constructed as follows.

512.01 Sidewalks shall be provided on each side of the street for subdivisions that meet one of the following.

A. Sidewalks are required wherever a proposed subdivision lies adjacent to or between other subdivisions that have been provided with sidewalks.

B. Sidewalks are required whenever the proposed subdivision will average more than 3 ½ lots per gross acre included in the subdivision.

C. Sidewalks are required whenever a proposed subdivision is located in an area zoned for Planned Unit Development (PUD).

D. Sidewalks are required along any street which provides access for all or part of the distance from residential areas to existing or proposed school sites, shopping centers or other high pedestrian traffic generators.

512.02 When sidewalks are required, they shall be constructed of Portland Cement Concrete, at least 4 inches thick, and 4 feet wide and shall meet the following standards.

A. Sidewalks shall be included within the dedicated non-pavement right-of-way.

B. A median strip of grassed or landscaped areas at least 2 feet wide shall separate all sidewalks from adjacent curbs and gutters.

512.03 Ramps for access by handicapped persons shall be provided at all corners, and at such other locations as the Commission deems appropriate for adequate access.

512.04 The Commission may require the subdivider to provide a 4-foot wide bikeway along all arterials and collectors between the street pavement and the sidewalk.

513 CURB AND GUTTERS: Curbs and gutters shall be designed and constructed as follows.

513.01 Concrete curbs and gutters are required for all streets where sidewalks are required by this Ordinance.

513.02 The curbs and gutters shall be constructed according to the following specifications.

A. The base for the curbs and gutters shall be well-compacted on the existing base or grade.

B. All curbs and gutters shall be constructed in accordance with the standard specifications of the Indiana State Highway Commission.

514 STREET SIGNS: Street identification signs shall be provided by the subdivider and installed at all street intersections within the subdivision. Said signs and posts shall conform to the following standards or be of a design approved by the Commission after appropriate consideration of future maintenance.

514.01 Signs and sign posts shall be designed and constructed in accordance with the specifications of the Cass County Highway Department.

514.02 All signs shall be located within the street right-of-way but no closer than 6 feet from the edge of the traveled portion of the street.

515 CULVERTS: Culverts shall be approved as per procedures described in the Highway Access and Road Cut Ordinance for Cass County and be designed and constructed as follows.

515.01 Culverts, pipes or tiles shall be placed under roads at locations in accordance with the drainage plan and/or as necessary to provide outlets for side ditches and storm water to which they will be subjected.

515.02 All culverts shall be corrugated aluminum, galvanized corrugated steel, corrugated plastic, or concrete pipe.

515.03 All culverts installed under driveways or within street rights-of-way shall be installed prior to placing of the street surface. Pipe end sections shall be installed on all pipes 36 or fewer inches in diameter. All culverts under the roadway shall extend at least the full roadway width, including the shoulders.

516 DITCHES: Ditches and roadside swales in subdivisions without curbs and gutters shall be designed and constructed as follows.

516.01 Roadside ditches shall be constructed of proper width as specified in the drainage plan to provide positive drainage along the entire property frontage and to insure that the drainage pipe or culvert under the driveway will not become blocked or clogged with debris. Areas disturbed by driveway construction or swale grading shall be stabilized, fertilized, and properly seeded to prevent erosion. A suitable outlet shall be provided for all side ditches to a natural or established drain or ditch as specified in the drainage plan.

516.02 The minimum slope on all roadside ditches shall be 0.25%. the maximum side slope for ditches shall be 3:1 and the maximum back slope shall be 2:1.

516.03 The minimum depth of all roadside ditches shall be 18 inches below the edge of the pavement.

516.04 All roadside ditches with grades of less than 3 percent shall be seeded and mulched with straw or sodded. All ditches with grades of a least 3 percent but less than 5 percent shall be sodded, and all ditches with grades of 5 percent or more or subject to

severe washing or eroding as specified in the erosion control plan shall be paved or protected by rip-rap. Seeding and sodding shall be in conformance with the Indiana Department of Transportation Standards and Specifications. The seed mixture to be used shall be indicated on the plans.

516.05 No existing ditches shall be filled without written approval of the County Engineer.

517 STREET LIGHTS: Streetlights are required along all streets in subdivisions where sidewalks are necessary provided that the subdivision has a homeowners' association for permanent maintenance of the lights. Lights shall be installed at all intersections throughout the subdivision and such installations shall conform to the requirements of public utility providing such lighting. Streetlights shall also conform and be placed according to the Indiana Department of Transportation Standard Specifications unless otherwise approved by the County Engineer.

518 EASEMENTS: Easements shall be provided as follows.

518.01 Utility Easements: Adequate areas of suitable size and location shall be allocated for utility easements. Such easements shall provide reasonable continuity from block to block and shall be at least 15 feet in width and shall be platted outside of required rights-of-way. The Commission may require larger easements when it deems such additional width necessary for carrying out the purposes of this section.

518.02 Drainage Easements: Easements shall be provided where the Commission deems them necessary to provide proper drainage for the subdivision. Such easements shall be at least 15 feet in width and, except for roadside ditches, may be coextensive with utility easements. Where subdivision is traversed by a legal ditch, the right-of-way for the drain shall be in accordance with the Indiana Code requirements for legal drains. Off-site drainage easements are required where new subdivision tiles must outlet to private tiles on adjoining parcels or tracts. Permission to drain to a county legal drain or state drainage system is required as per Section 519.16.

518.03 Maintenance Easements: Where the Commission deems appropriate, easements for the maintenance of any off-site drainage facilities, on adjoining property may be required. Maintenance easements may be included within drainage easement agreements.

518.04 Farm Tile Easements: Where there are farm tiles which are to remain on property proposed for subdivision, an easement at least 20 feet in width shall be provided for protection and maintenance of such tiles. The Commission may require larger easements when it deems such additional width necessary for carrying out the purposes of this section.

518.05 Farm Access Easements: All parcels, including agricultural property shall have legal access meeting the minimum standards of this article. In addition to the legal access, access easements at least 25 feet in width for farm machinery and other agricultural

purposes may be provided. Such easements shall not be permitted unless the remaining property has legal access, frontage, and width.

518.06 Access Easement: Access easements shall be provided as required by Section 510 of this Ordinance.

518.07 Pedestrian Ways Easements: Easements for pedestrian ways shall be provided as required by Section 508.03 of this Ordinance.

519 STORM WATER DRAINAGE: Where the Commission deems appropriate the subdivider shall be required to design and construct an adequate storm water drainage system. This may be comprised of a natural drainage system, a storm sewer system or a combination natural drainage and storm sewer system. Storm water drainage systems shall meet Section 313 of the Zoning Ordinance and the following design standards and shall be shown on the drainage plans as required in Section 403.08 of this Ordinance. The requirements of this Ordinance and Section 313 of the Zoning Ordinance exceeds the requirements found in IC 36-9-27-69.5 and satisfies the intent and purpose of that statute that would otherwise require the Cass County Drainage Board to approve the drainage plan before the (subdivider) may proceed with the development of the subdivision. The Commission is empowered to approve drainage plans and to approve drainage plans that may change the locations where surface water enters the tracts and exits the tract as per IC 36-9-27-69.5 (c).

519.01 As per 36-9-27-69.5 the drainage plan must comply with the following standards.

A. The plan must maintain the amount of drainage through the tract that existed when the tract was created. If any tiles are cut, broken down, or rendered useless during the construction activity on the tract, the landowner will be responsible for the repair, replacement, or relocation of the tile.

B. The plan may not change the locations where surface water enters the tract and exits the tract from the locations that existed when the tract was created.

C. Water which sheds off of a new structure, especially when the new structure is elevated or near a property line, or both, must exit the tract in the same location where it did when the tract was created.

D. Where it deems appropriate the Commission may approve an alternate plan that does not comply with the standard set forth in IC 36-9-27-69.5 (519.01 B of this section).

519.02 Onsite drainage facilities shall be designed to accommodate:

A. the effect of water runoff from the parcel after development on downstream drainage areas;

B. the present water runoff from developed and undeveloped areas upstream;

C. that part of the water runoff attributable to future development in undeveloped areas upstream, which is not reasonably likely to be accommodated in such upstream areas.

519.03 All storm water drainage systems shall be separate and independent of any sanitary sewer system.

519.04 Natural drainage patterns and natural stream channels shall be maintained wherever possible.

519.05 Storm sewers, where required, shall be designed according to accepted engineering practice and the standards of this Ordinance.

519.06 Inlets shall be provided so that surface water is not carried across any intersection, nor for a distance in the gutter greater than that indicated by the design computations submitted with the construction plans. When calculations indicate that curb capacities are exceeded at a point, no further allowance shall be made for flow beyond that point. Surface water drainage patterns shall be shown for each and every lot and block.

519.07 All lots, tracts, or parcels shall be designed and 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 Administrator. Around each permanent building foundation there shall be a slope with a minimum vertical fall of six inches for the area measured from the foundation to a point ten feet from the building foundation or to the property line, whichever is closer.

519.08 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 water 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 Commission.

519.09 Concentration of surface water runoff shall only be permitted in swales or watercourses.

519.10 Land alteration shall be accomplished in such a way that the grades left at the time that the work is completed will be permanent and stable.

519.11 The Commission may require detention storage facilities to regulate the flow at the outfall. Such detention storage facilities shall be protected from erosion and shall be designed and constructed to enable adequate access for maintenance. Plans for maintenance shall also be specified.

519.12 Excavation and fills shall meet the following standards.

- A. Cut and fill slopes shall not be steeper than 3:1 unless stabilized by a retaining wall or cribbing as approved by the Administrator 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 or impede flows 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 landowner without the expressed consent of the Administrator and other landowner.
- 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.

519.13 No subdivider or person, corporation, or other entity 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 system or watercourse or drainage system without having obtained prior approval from the Cass County Drainage Board and/or DNR.

519.14 It is the responsibility of the subdivider and any person, corporation, or other entity doing any act on or across a communal stream, watercourse, or swale or upon the flood plain, 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 said activities.

519.15 Whenever sedimentation is caused by stripping, vegetation, regrading, or other development activities, it shall be the responsibility of the subdivider, person,

corporation, or other entity causing such sedimentation to remove it from all adjoining surfaces, drainage systems, and watercourses and to repair any damage at his expense as quickly as possible.

519.16 Connection to a state drainage system is allowed only with written approval from the Indiana Department of Transportation. Connection to a County legal drain is allowed only with written approval from the County Drainage Board. Connection to a county road ditch is allowed only with written approval from the County Engineer.

519.17 The Commission shall not approve any subdivision for which adequate provision for maintenance of drainage systems has not been made. Such provision may include but is not limited to acceptance of the system as a rural or urban legal drain by the County Drainage Board or establishment of a lot owners association with responsibility to set and collect fees for drainage system maintenance.

519.18 If designated as a legal drainage system, all storm sewers, structures, and designated surface drains within the subdivision shall become part of the legal drainage shed. Subdivision lots shall be assessed an annual drainage maintenance fee by the Office of the Cass County Treasurer.

520 EROSION CONTROL: Responsible measurers shall be taken in order to minimize erosion and sedimentation and shall be included, where applicable, in the erosion control plan as required by Section 403.07 of this Ordinance, Section 313 of the Zoning Ordinance and Rule 5 administered by the Indiana Department of Natural Resource.

520.01 The following measurers shall be included where applicable.

A. Stripping of vegetation, regrading, or other development shall be done in such a way that will minimize erosion.

B. 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 of surface water runoff.

C. Whenever feasible, natural vegetation shall be retained, protected, and supplemented.

D. The disturbed area and the duration of exposure shall be kept to a practical minimum.

E. Disturbed soils shall be stabilized as quickly as possible.

F. Temporary vegetation and mulching shall be used to protect exposed critical areas during development.

G. The permanent final vegetation and structural erosion control and drainage measures shall be installed as soon as practical in the development.

H. 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.

I. 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.

J. Design and construction of the drainage facility shall be such that it will be durable and easy to maintain.

520.02 The Administrator shall be guided by applicable erosion regulations of the following:

A. Soil and Water Conservation District

B. Cass County Drainage Board

C. Indiana Department of Natural Resources

D. Adopted Erosion Control Handbook

521 SITE PREPARATION STANDARDS: The following standards shall be met during construction of the subdivision.

521.01 All lots and other land included within subdivision shall be graded in accordance with the approved drainage control and erosion control plans. Except for land covered by buildings, included in streets, or where the grade has not been changed and natural vegetation not seriously disturbed, the land shall be covered with topsoil containing no particles more than two inches in diameter and having an average depth of at least six inches. Topsoil shall not be removed from residential lots or used as spoil but shall be redistributed so as to provide at least six inches of cover between sidewalks and curbs and between shoulders and right-of-way lines and shall be stabilized by seeding or planting.

521.02 No cut trees, timber, debris, rocks, stones, junk, rubbish, or other waste material shall be buried in any land, or left or deposited on any lot or street at the time of occupancy within a subdivision, nor shall any such material be left or deposited in any area of the subdivision at the time of expiration of the performance guarantee or dedication of public improvements.

521.03 The Administrator may require the subdivider to provide and install fences wherever the Administrator determines that a hazardous condition may exist.

521.04 No utility company shall cut, dig, trench, or otherwise interfere with the surface or subsurface of any Cass County road prior to notification of the County Highway Department. The Highway Department shall have the right to designate when the roadwork may be started in order to minimize congestion during peak traffic periods.

521.05 Areas within the right-of-way of a Cass County road that are disturbed by a utility company or its subcontractor during the installation of equipment shall be returned to their original condition. Vegetation that is removed shall be replaced by sodding the disturbed area or seeding, mulching, and fertilizing the area to prevent erosion.

521.06 Construction signs and barricades shall be adequate to protect the area under construction, workers, and the traveling public. The subdivider shall be responsible for maintaining the signs and barricades to the satisfaction of the Administrator.

522 FLOODPLAINS AND AREAS OF POOR DRAINAGE: Subdivisions which have land within floodplains or land subject to flooding shall meet the following design standards.

522.01 The following sources of floodplain information shall be used for the purposes of this Ordinance.

A. The Cass County Zoning Ordinance floodplain regulations.

B. The Federal Insurance Administration report entitled, "The Flood Insurance Study for the County of Cass, Indiana" dated February 3, 1981 with the accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway maps, along with subsequent revisions to the text or maps.

C. Detailed site studies completed for the drainage plan and erosion control plan as required by this Ordinance.

522.02 If a subdivision contains land in that part of the food plain designated as a floodway, the floodway shall be preserved and not diminished in capacity by filling or obstruction, except as approved by the DNR in writing. No residential building site may be located within the floodway.

522.03 If subdivision contains land in that part of the flood plain designated as a floodway fringe, the Commission may approve such subdivision provided that the following is provided.

A. All streets are elevated sufficiently to be above the regulatory flood.

B. All lots for residential usage have a flood protection grade two feet above the regulatory flood elevation.

C. Where provided, water and sanitary sewer facilities are constructed to eliminate contamination of or by floodwater.

D. Approval to fill the area from DNR has been obtained in writing.

522.04 Where subdivision is proposed within an area of the flood plain for which floodway and floodway fringe designations have not been made, the Commission shall not approve such subdivision unless the following is provided.

A. All streets are elevated sufficiently to be above the regulatory flood.

B. All lots for residential usage shall have sufficient elevation to provide for a flood protection grade of two feet above the regulatory flood elevation for the lowest finished floor.

C. Where provided, public water and sanitary sewer facilities are constructed to eliminate contamination of, or by, flood water.

D. Filling to achieve the above will not raise the level of the regulatory flood more than 1/10 of 1 foot for that reach of the stream. All filling in the flood plain must be approved in writing by the DNR.

522.05 Areas which are not in the flood plain but contain soils which are subject to flooding may be approved for subdivision by the Commission, provided that the subdivider fills the affected areas of said subdivision to an elevation sufficient to place building sites and streets two feet above ponding levels.

522.06 In areas characterized by soils having a high seasonal water table as determined by the Cass County Soil and Water Conservation District, lots shall be limited to slab type construction unless the Commission determines that appropriate engineering techniques will be applied to alleviate the subsurface problem.

ARTICLE SIX
ADMINISTRATION AND ENFORCEMENT

601 ADMINISTRATOR: The Administrator is hereby designated to be responsible for administration, interpretation, and enforcement of this Ordinance, except as specified in Section 604.03. The Administrator is authorized to do all things and to take all action necessary and prudent, under the circumstances, to enforce the provisions hereof.

601.01 The Administrator is designated as the official authorized to give secondary approval to subdivisions.

601.02 It shall be the duty of the Administrator to periodically research the County Auditor's records and perform other necessary investigation to detect any violations of these regulations.

602 PLAT COMMITTEE: The Plan Commission may appoint a Plat Committee to hold hearings on and approve plats and replats on behalf of the Commission. The Plat Committee may consist of three or five persons, with at least one of the members being a member of the Commission. Each appointment of a member of the Plat Committee is for a term of one year, but the Commission may remove a member from the Committee. The Commission must mail notice of the removal, along with written reasons, if any, for the removal, to the member at his residence address. A member who is removed may not appeal the removal to a court or otherwise. The Plat Committee may take action only by a majority vote.

603 APPEAL: Any final decision of the Administrator may be appealed to the Commission. The notice of final decision shall contain the date of mailing thereon. Said appeal may be initiated by the subdivider or any property owner affected by such final decision. The appeal shall be directed to the Commission and shall be filed with the Department. Such appeal must be made within ten days of the mailing of such final decision to the subdivider.

603.01 An appeal of a final decision of the Administrator shall be heard by the Commission within forty-five days after the filing of an appeal with the Planning Department, and the Commission shall render its written final decision within 15 days after such hearing. With the consent of the subdivider and Commission, said hearing date may be extended.

603.02 A final decision of the Commission may be appealed to the Circuit Court or Superior Court of Cass County, Indiana. Said appeal shall be through a petition for a Writ of Certiorari filed with the Clerk of the appropriate court within 30 days after the date of such final decision. Said petition shall, in all respects, conform to Indiana law.

604 MODIFICATIONS: The Commission may grant such modifications to the requirements and standards of this Ordinance as will not be contrary to the public interest, where owing to extraordinary conditions, fully demonstrated by the subdivider on the basis of facts

presented, strict compliance with the provisions of this Ordinance will result in practical difficulties or misuse of property.

604.01 In the exercise of its authority under this section, the Commission shall grant modifications only upon finding all of the following.

A. The modification will not be detrimental to the public health, safety, or general welfare.

B. The modification will not adversely affect adjacent property.

C. The modification is justified because of exceptional topographic or other physical conditions unique to the property involved and is not to correct mere inconvenience or financial disadvantage.

D. The modification is consistent with the intent of this and other applicable ordinances or the Comprehensive Plan.

E. The condition necessitating the modification was not created by the owner or applicant.

F. The modification will not conflict with the powers and duties of the Board of Zoning Appeals as defined by the Zoning Ordinance.

604.02 Any request for modifications from the standards of this Ordinance shall be submitted in writing as part of the application for approval of a subdivision. Such request shall make specific reference to the section of the Ordinance from which such modification is requested and shall state the reasons for the request, addressing the criteria in this section.

604.03 In approving or denying a modification request, the Commission shall make specific findings on each of the criteria in this section. If the Commission approves a modification request, it may impose such conditions as it deems necessary and proper to carry out the intent and purposes of this Ordinance.

605 VIOLATION, REMEDIES, AND ENFORCEMENT: Any land within the County, which is subdivided in violation of this Ordinance, is hereby declared to be a common nuisance. Failure, by any person, to abide by any provision of this Ordinance shall be deemed a violation of this Ordinance and shall be guilty of a Class C Infraction. Upon conviction, a violator shall be responsible for reasonable attorney fees and fines of not less than \$100.00 and not more than \$300.00 per violation, and for each day that the violation continues unabated, a separate offense shall be deemed to have been committed.

605.01 For and on behalf of the Commission, Department, or the County as their interests may appear, the Commission Attorney may institute, in a court of appropriate jurisdiction, causes of action against any person who violates any of the terms of this Ordinance. Said causes of action shall include, but not be limited to, the filing of a charge

of a Class C Infraction; filing suit for temporary or permanent restraining order; or, filing suit against the maintenance of a common nuisance. In addition, the Department may pursue any other action, or remedy, authorized by the laws of Indiana. All of the foregoing actions shall be cumulative.

605.02 The Commission may, as deemed prudent or necessary under the circumstances, enter into any compromise or settlement involving a violation of this Ordinance, providing such compromise or settlement is in the best interests of the enforcement of this Ordinance.

606 FEES: The Commission shall establish a uniform schedule of fees for filing applications. These fees shall be proportioned to the cost of checking and verifying proposed subdivisions and related documentation. The fee schedule shall be available for inspection at the Office of the Planning Department.

607 AMENDMENTS: For the purpose of protecting and promoting public health, safety, and general welfare, the Commission may from time to time amend the provisions imposed by these regulations in accordance with procedure established by Indiana Law.