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00-15-157-1.11 Title
These regulations shall officially be known, cited, and referred to as the Subdivision Control Ordinance of the Town of Cumberland (hereinafter “these regulations”).

00-15-157-1.2 Authority

A. This Ordinance is adopted pursuant to the authority contained in Indiana Code 36-7-4 et. seq. Whenever any provision of this Ordinance refers to or cites a section of the Indiana Code and that section is later amended or superseded, this Ordinance shall be deemed amended to refer to the amended section or the section that most closely corresponds to the superseded section.

B. The Advisory Plan Commission of the Town of Cumberland (hereinafter “Plan Commission”) is vested with the authority to review, approve, conditionally approve and disapprove applications for the subdivision of land, including sketch, primary, and secondary plats. The Plan Commission may grant waivers from these regulations pursuant to the provisions of Article 6.

C. All proposed public improvements shall conform to and be properly related to the proposals shown in the Comprehensive Plan, Official Zoning Map, and the capital budget and program of the Town, and it is intended that these regulations shall supplement and facilitate the enforcement of the provisions and standards contained in building and housing codes, zoning ordinances, the Comprehensive Plan, Official Zoning Map and Future Land Use Map, and the capital budget and program of the Town.

00-15-157-1.3 Purposes
The Town of Cumberland considers the subdivision of land, and the subsequent development of the subdivided plat, subject to the control of the Town pursuant to its official Comprehensive Plan. To provide for the orderly, planned, efficient, and economical development of the Town, all land proposed for subdivision shall be of such character that it can be used safely, without danger to the public health, safety, and general welfare or peril from fire, flood, or other menace. Land shall not be subdivided until adequate public facilities and improvements exist and proper...
provision has been made for drainage, water, sanitary sewer, and capital improvements such as schools, parks, recreational facilities, transportation facilities, and other necessary improvements.

Therefore, in adopting this Ordinance, the Town Council of the Town of Cumberland is acting for the purposes of:

1. Protecting and providing for the public health, safety, and general welfare of the Town;
2. Guiding the future growth and development of the Town in accordance with the Comprehensive Plan;
3. Providing for adequate light, air, and privacy, to secure safety from fire, flood, and other danger, and to prevent overcrowding of the land and undue congestion of population;
4. Protecting the character and the social and economic stability of the Town of Cumberland through appropriate growth management techniques, promotion of infill development in improved areas with adequate public facilities, assuring proper urban form and open space separation of urban areas, and protecting environmentally critical areas;
5. Conserving the value of land throughout the Town of Cumberland and the value of buildings and improvements upon the land, and to minimize the conflicts between the uses of land and buildings;
6. Guiding public and private policy and action in order to provide adequate and efficient transportation, water, sanitary sewer, schools, parks, playgrounds, recreation, and other public requirements and facilities;
7. Providing the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the Town of Cumberland, paying particular regard to the avoidance of congestion in the streets and highways and the pedestrian traffic movements appropriate to the various uses of land and buildings, and to provide for the proper location and width of streets and building lines;
8. Establishing reasonable standards of design and procedures for subdivisions and re-subdivisions in order to further the orderly layout and use of land, and to ensure proper legal descriptions and marking of subdivided land;
9. Ensuring that public facilities and services are available concurrent with development;
10. Preventing the pollution of air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard the water table; and to encourage the wise use and management of natural resources throughout the Town in order to preserve the integrity, stability, and beauty of the community and the value of the land;
11. Preserving the natural beauty and topography of the Town and to ensure appropriate development with regard to these natural features;
12. Providing for open spaces through the most efficient design and layout of the land;

00-15-157-1.4 Effective Date
This Ordinance was adopted and became effective on the ______ day of ______ 2002.

00-15-157-1.5 Jurisdiction
Upon the effective date of this Ordinance and the filing of a certified copy of this Ordinance with the Hancock County Recorder’s Office, the Advisory Plan Commission of the Town of Cumberland (hereinafter “Plan Commission”) shall have the exclusive control over the approval of plats, re-plats and the vacation of plats or parts of plats involving real property located within the corporate boundaries of the Town of Cumberland.

TOWN OF CUMBERLAND, IN

DRAFT 1.0 February 20, 2002
REVISED AUGUST 19,

May 6, 2011
00-15-157-1.6 Interpretation
In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the health, safety, and general welfare of the public. In the case of any conflict or inconsistency between two or more provisions of this Ordinance or any other ordinance of the Town of Cumberland, the provisions which impose the greater or higher or more restrictive standard of performance shall control.

00-15-157-1.7 Exclusion
Nothing in this Ordinance or in any rules, regulations, or orders issued pursuant to this Ordinance shall be deemed to restrict or regulate or to authorize any unit of government, legislative body, commission, or board now or hereafter established, to restrict or regulate the exercise of the power of eminent domain by the State of Indiana or by any agency of the State of Indiana, or the use of property owned or occupied by the State of Indiana or any agency of the State of Indiana.

00-15-157-1.8 Severability
It is the declared intention of the Town Council of the Town of Cumberland, Indiana, that the sections, subsections, paragraphs, clauses, words, or provisions of this Ordinance are severable.

1. If any court of competent jurisdiction shall adjudge any section, subsection, paragraph, clause, word, or provision of this Ordinance to be invalid, such judgment shall not affect any other section, subsection, paragraph, clause, word, or provision of this Ordinance not specifically included in said judgment.

2. If any court of competent jurisdiction shall adjudge invalid the application of any section, subsection, paragraph, clause, word, or provision of this Ordinance to a particular property, building or other structure, such judgment shall not affect the application of said section, subsection, paragraph, clause, word, or provision to any other property, building or structure not specifically included in said judgment.

00-15-157-1.9 Transition Rules
All applications for subdivision approval, including secondary plats, or the vacation of plats or parts of plats, which have been filed with the Town prior to the effective date of these regulations, and which are full and complete under the Cumberland Subdivision Control Ordinance adopted October 2, 1991, as amended, shall continue to be processed to completion pursuant to the terms and conditions of the Cumberland Subdivision Control Ordinance adopted October 2, 1991, as amended.

00-15-157-1.10 Private Provisions
These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction.

00-15-157-1.11 Saving Provision
Except as expressly provided otherwise in this Ordinance, the adoption of this Ordinance shall not:

1. Abate any action pending under, or by virtue of, any prior zoning ordinance;
2. Discontinue, abate, modify, or alter any penalty accruing or about to accrue under, or by virtue of, any prior zoning ordinance;
3. Affect the liability of any person, firm, or corporation under, or by virtue of, any prior zoning ordinance;
4. Waive any right of the Town of Cumberland under any Article, section, or provision of any prior zoning ordinance; or
5. Vacate or annul any rights obtained by any person, firm, or corporation by lawful action of the Town of Cumberland under, or by virtue of, any prior zoning ordinance.

00-15-157-1.12 Compliance
Regulation of the subdivision of land and the attachment of reasonable conditions to land subdivision is an exercise of valid police power delegated by the State of Indiana to the Town of Cumberland. Compliance with the terms of this Ordinance shall be a prerequisite for the use and development of real property within the Town of Cumberland. Failure to comply with the terms and provisions of this Ordinance shall be deemed to be a violation enforceable by the Plan Commission as provided for in I.C. 36-7-4 et. seq., and this Ordinance.

00-15-157-1.13 Recording Required for Improvement Location Permit
No Improvement Location Permit for any building, structure, or improvement shall be issued for any lot within a subdivision prior to a copy of the properly signed and recorded secondary plat of the subdivision being filed with the Town of Cumberland.

A. A temporary Improvement Location Permit or Certificate of Occupancy may be granted by the Zoning Administrator for the construction and use of a permitted Temporary Use within the real estate affected by a subdivision after all construction plans for the required improvements have been approved by the Town. If the Temporary Use is a model home, the model home shall not be converted to a residential use prior to the installation, inspection, and approval of all required improvements that directly or indirectly affect the model home.

00-15-157-1.14 Incorporation by Reference
Throughout the various Articles of this Ordinance, where reference is made to other regulations of the Town of Cumberland, each such regulation is hereby incorporated by this reference into this Ordinance.

00-15-157-1.15 Amendments
In the continuing administration of the purpose and intent of this Ordinance, the Town Council of the Town of Cumberland may find it reasonable and necessary to propose and adopt amendments to the text of this Ordinance. All such amendments shall be considered and adopted in compliance with I.C. 36-7-4-600 et. seq., the provisions of this Ordinance, and any applicable Rules of Procedure adopted by the Plan Commission or the Town Council of the Town of Cumberland.
00-15-157-1.16 Appeals
Pursuant to I.C. 36-7-4-1016, any person aggrieved by a final decision of the Cumberland Plan Commission relating to the Cumberland Subdivision Control Ordinance may present to the Hancock County Court a petition duly verified setting forth that such decision is illegal in whole or in part and specifying the grounds of the illegality. The petition shall be presented to the court within thirty (30) days after the entry of the decision of the Plan Commission.

00-15-157-1.17 Repeal of Prior Ordinance
After the effective date of this Ordinance, all provisions of the Subdivision Control Ordinance of Cumberland, Indiana, adopted October 2, 1991, as heretofore amended, are hereby expressly repealed.
ARTICLE 2 DEFINITIONS

00-15-157-2.1 Definitions Generally
00-15-157-2.2 Definitions

00-15-157-2.1 Definitions Generally
The terms and words defined in this Article shall have the meanings herein ascribed to them.

A. Undefined Terms
Any words not defined in this Article shall be construed as defined in normal dictionary usage.

B. Tense and Form
Words used or defined in one tense or form shall include other tenses and derivative forms.

C. Number
Words in the singular number shall include the plural number, and words in the plural number shall include the singular number.

D. Gender
The masculine gender shall include the feminine and neuter. The feminine gender shall include the masculine and neuter. The neuter gender shall include the masculine and feminine.

E. Time
The time within which any act required by this Ordinance is to be performed shall be computed by excluding the first day and including the last day, unless the last day is a Saturday or Sunday, or a holiday declared by the United States Congress, the Indiana General Assembly, or the Cumberland Town Council, in which event it shall also be excluded. The word “day” shall mean a calendar day, unless otherwise indicated.

F. Person
The word “person” includes individuals, firms, partnerships, joint ventures, trusts, trustees, estates, corporations, associations, and any other similar entities.

G. Captions, Illustrations, and Tables
In case of any difference of meaning or implication between the text of this ordinance and any caption, illustration, or table, the text shall control and no caption, illustration, or table shall be construed to limit the scope or intent of the text of this ordinance.
00-15-157-2.2 Definitions

AASHTO
American Association of State Highway and Transportation Officials.

Acceleration Lane
An added auxiliary roadway lane which permits integration and merging of slower moving accelerating vehicles into the main vehicular stream.

Access Road
A street designed to provide vehicular access to abutting property.

Adequate Public Facilities
Facilities determined to be capable of supporting and servicing the physical area and designated intensity of the proposed subdivision as determined by the Town Council based upon specific levels of service.

Alley
A public or private way, at the rear or side of property, permanently reserved as a means of secondary vehicular access to abutting property. Frontage on said alley shall not be construed as satisfying the requirements of this Ordinance related to frontage on a dedicated street.

Applicant
The owner of land proposed to be subdivided or its representative who shall have express written authority to act on behalf of the owner. Consent shall be required from the legal owner of the premises.

Block
That property abutting on one side of a street between two nearest intersecting streets, railroad rights of way, or natural barriers.

Bond
Any form of a surety bond in an amount and form satisfactory to the Town Council. All bonds shall be approved by the Town Council whenever a bond is required by this Ordinance.

Buffer
See External Buffer

Buildable Tract
A parcel of land which is eligible for an improvement location permit in its current form without further subdivision approval.

Building
A structure having a roof supported by columns or walls for shelter, support or enclosure of persons or animals. For structures separated by division walls from the ground up and without openings, each portion of said building shall be deemed as a separate building unit.
Building Code
The Town ordinance establishing and controlling the standard for constructing buildings, utilities, mechanical equipment and all forms of structures and permanent installations and related matters, within the Town. It is also referred to herein as the Building Code of the Town of Cumberland, Indiana, Ordinance No. 2002-9, and amendments thereto.

Building Permit
Written permission issued by the Building Commissioner for the construction, repair, alteration, or addition to a structure.

Capacity of a Storm Drainage Facility
The maximum flow that can be conveyed or stored by a storm drainage facility without causing damage to public or private property.

Capital Improvement
A public facility with a life expectancy of three or more years, to be owned and operated by or on behalf of the Town.

Catch Basin
An inlet designed to intercept and redirect surface waters.

Central Sewer System
A community sewer system including collection and treatment facilities established by the developer to serve a new subdivision in an outlying area.

Central Water System
A private water company formed by a developer to serve a new subdivision in an outlying area. It includes water treatment and distribution facilities.

Certificate of Occupancy
A document issued by the Zoning Administrator allowing the occupancy or use of a building and certifying that the structure or use has been constructed and will be used in compliance with all applicable Town codes and ordinances.

Channel
A natural or artificial watercourse which periodically or continuously contains moving water or which forms a connecting link between two (2) bodies of water. It has a defined bed and banks, which serve to confine the water.

Collector Roads
A road intended to move traffic from Local Neighborhood Streets to Arterials Roadways. A Collector Road serves a neighborhood or large subdivision and provides access to adjacent property. The width and other design criteria for Collector Roads allow for greater mobility than Local Streets.
Common 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 stockbroker, partner, or associate, or a member of his family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

Compensatory Storage
An artificial volume of storage within a floodplain used to balance the loss of natural flood storage capacity when artificial fill or structures are placed within the floodplain.

Comprehensive Plan
A plan, or any portion thereof, adopted by the Town Council, showing the general location and extent of present and proposed physical facilities including residential, industrial, and commercial uses, major streets, parks, schools, and other community facilities. This plan establishes the goals, objectives, and policies for the physical development of the Town.

Condominium
The division of a building and the related land into horizontal property interests meeting the requirements of and controlled by Indiana Code 32-1-6-1 et. seq., as amended.

Construction Plan
The maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the Plan Commission as a condition of the approval of the plat.

Contiguous
Lots are contiguous when at least one boundary line of one lot touches a boundary line or lines of another lot.

Cul-de-Sac
A local street with only one outlet that terminates in a vehicular turnaround and having an appropriate terminal for the safe and convenient reversal of traffic movement.

Culvert
A closed conduit used for the passage of surface drainage water under a roadway, railroad, canal or other impediment.

Curb
A concrete boundary usually marking the edge of the street for paved area. (Concrete rolled curb, combined concrete curb and gutter, and concrete barrier curb are examples of curb types permitted in the Town of Cumberland.)

Curb Corner Radius
Radius of curbed roadway edge.

Curb Cut
The opening along the curb line at which point vehicles may enter or leave the roadway.
Design Criteria Standards that set specific improvement requirements.

Design/Posted Speed Travel Speed recommended based on the design criteria of the roadway.

Detention Basin A facility constructed or modified to restrict the runoff of storm water to a prescribed maximum rate, and to detain for a specified period of time the excess waters that accumulate upstream from the outlet.

Detention Storage The temporary detaining or storage of storm water in storage basins, under predetermined and controlled conditions.

Developer The owner of land proposed to be subdivided, or its representative who is responsible for any undertaking that requires review and/or approval under this Ordinance. See Subdivider.

Drainage Surface water runoff and the removal of water from land by drains, grading or other means during and after construction or development.

Drainage and Utility Easement An easement specifically provided for the installation of required drainage improvements, sanitary sewer, water lines and other necessary utilities. Said easement shall provide access to the utility location easements.

Drainage Area The area from which water drains to a point of consideration.

Drop Manhole A manhole having a vertical drop pipe connecting the inlet pipe to the elevation of the outlet pipe. The vertical drop pipe shall normally be located immediately outside the manhole.

Dry Bottom Detention Basin A basin designed to be completely dewatered after having provided its planned detention of runoff during a storm event.

Easement Authorization by a property owner for another to use the owner's property for a specified purpose.

Elevation A vertical distance above or below a fixed reference level, or a flat scale drawing of the front, rear, or side of a building.

Erosion The detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity.
### TITLE 15 – CHAPTER 157

**CUMBERLAND SUBDIVISION CONTROL ORDINANCE**

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<td>Erosion and Sediment Control Measure</td>
<td>A practice or a combination of practices to control erosion and resulting off-site sedimentation.</td>
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<td>Erosion and Sediment Control Plan</td>
<td>A written description and drawings of pertinent information concerning erosion and sediment control measures designed to meet the requirements of this ordinance.</td>
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<tr>
<td>Excavation</td>
<td>Removal by any means whatsoever of soil, rock, minerals, mineral substances or organic substances other than vegetation, from water or land on or beneath the land surface thereof, whether exposed or submerged.</td>
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<tr>
<td>Existing Grade or Elevation</td>
<td>The vertical location of the ground surface prior to excavating or filling.</td>
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<td>External Buffer</td>
<td>A naturally vegetated area along the exterior boundaries of an entire development, processed in accordance with a multiphase or phased subdivision application, which is landscaped and maintained as open space in order to eliminate or minimize conflicts between such development and adjacent land uses.</td>
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<tr>
<td>Flood Elevation</td>
<td>The maximum level of high waters for a flood of given return period and rainfall duration.</td>
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<td>Flood Hazard Area</td>
<td>Any floodplain, floodway, floodway fringe, or any combination thereof, which is subject to inundation by the regulatory flood, or any floodplain as delineated by Zone A on the current Flood Hazard Boundary Map of the Federal Emergency Management Agency.</td>
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<tr>
<td>Flood or Floodwater</td>
<td>Water which overflows the banks of a lake or watercourse.</td>
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<td>Floodplain</td>
<td>The area adjoining the river or stream which has been or may be covered by floodwaters. It consists of both the floodway and floodway fringe.</td>
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<td>Flood Protection Grade</td>
<td>An elevation which is a specific distance above the regulatory flood elevation as established by agencies having jurisdiction.</td>
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<td>See Regulatory Floodway.</td>
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<tr>
<td>Floodway Fringe</td>
<td>That portion of the floodplain lying outside the floodway which is inundated by the regulatory flood.</td>
</tr>
<tr>
<td>Footing Drain</td>
<td>A drain pipe installed around the exterior of a basement wall or foundation or located in a crawl space to prevent water from entering a basement or crawl space.</td>
</tr>
</tbody>
</table>
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Frontage All the property fronting on one side of a street between the two nearest intersecting streets, measured along the line of the street, or if dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.

Frontage Street Any street constructed adjacent to a Thoroughfare Road for the purpose of providing a high degree of access to adjacent property.

Grade The average level of the finished surface of the ground adjacent to the exterior walls of the building or structure. (May also refer to the slope of a roadway along the centerline.)

Gradient The inclination or slope of a channel, conduit or natural ground surface expressed as a ratio of the vertical rise or fall to the corresponding horizontal distance.

Highway, Limited Access A freeway or expressway providing a corridor for through traffic, in respect to which owners or occupants of abutting property on 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 the trafficway.

Homeowners Association An association or organization, whether or not incorporated, which operates under and pursuant to recorded covenants or deed restrictions, through which each owner of a portion of a subdivision – be it a lot, parcel site, unit plot, condominium, or any other interest – is automatically a member as a condition of ownership and each such member is subject to a charge or assessment for a pro-rated share of expense of the association which may become a lien against the lot, parcel, unit, condominium, or other interest of the member.

IDEM Indiana Department of Environmental Management.

IDNR Indiana Department of Natural Resources.

Impact Areas Areas defined by the Commission which are unlikely to be easily drained because of one or more factors including, but not limited to, any of the following: soil type; topography; land where there is not an adequate outlet; a floodway or floodplain; land within seventy-five (75) feet of each bank of a legal drain or within seventy-five (75) feet from the centerline of any legal tile drain; or within recorded drainage easements of a legal drain.

Impervious A material through which water cannot pass or through which water passes with difficulty.
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**Improvement Location Permit**
A permit stating that the proposed erection, construction, enlargement, alteration or moving of a building or structure, or the establishment or change in use of any building, structure or land, referred to therein, complies with the provisions of the Zoning Ordinance.

**Improvements**
See *Lot Improvement or Public Improvement*.

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

**INDOT**
Indiana Department of Transportation.

**Infill Development**
Development designed to occupy scattered or vacant parcels of land which remain after the majority of development has occurred in an area.

**Inlet**
An opening into a storm sewer system for the entrance of surface storm water runoff, more completely described as a storm sewer inlet.

**Intersections**
The confluence of two or more public streets or roads.

**Intersections Sight Distance**
Distance required for a motorist to recognize an on-coming vehicle and safely pull into the roadway without requiring an on-coming vehicle to slow down significantly. (See INDOT Design Manuel or AASHTO Green Book for specific design and measurement criteria.)

**Junction Chamber**
Structure used to facilitate the flow from one or more conduits into a main conduit.

**Land Disturbing Activity or Non-agricultural Land Disturbing Activity**
Any manmade change of the land surface including removing vegetative cover, excavating, filling, transporting, and grading. It includes any activity requiring a Town of Cumberland Improvement Location Permit, but does not include agricultural land uses.

**Landscaping**
Acting with the purpose of meeting specific criteria regarding uses of outside space, including ground cover, buffers, and shade trees.
Legal Drain

Any drain that has been accepted and is maintained by the Hancock County Drainage Board in accordance with the 1965 Drainage Act and its amendments.

Local Government

The Town Council of the Town of Cumberland.

Local Road

A road whose sole function is to provide access to abutting properties and to other roads from individual properties and to provide right-of-way beneath it for sewer, water, and storm drainage pipes.

Lot

A legally divided area or portion of land five (5) acres or less in size under single ownership or control that is intended to be occupied by one use, group of uses, one main building, or structure. Within all districts, all lots shall be lots of record when less than five (5) acres in size as required by and in conformance with the Town Subdivision Control Ordinance.

Lot, Corner

A lot located at the intersection of two streets or a lot bounded on two sides by a curbing street and any two chords of which form an angle of one hundred twenty (120) degrees or less measured on the lot side.

Lot Improvement

Any building, structure, place, work of art, or other object situated on a lot.

Maintenance Guarantee

Any security which may be required and accepted by the Town Council to assure that necessary improvements will function as required for a specific period of time.

Major Subdivision

All subdivisions not classified as minor subdivisions, including but not limited to, subdivisions of four (4) or more lots, or any size subdivision requiring any new street or extension of Town facilities or the creation of any public improvements.

Manhole

A storm or sanitary sewer structure, through which a person may enter to gain access to a storm or sanitary sewer or enclosed structure. A manhole may also be an inlet for the storm sewer system (also commonly known as a storm sewer "catch basin").

Minor Subdivision

Any subdivision containing not more than three (3) lots fronting on an existing street, not involving any new street or road, or the extension of Town facilities or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the Comprehensive Plan, Official Zoning Map, Zoning Ordinance, or this Ordinance.
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Model Home
A dwelling unit used initially for display purposes which typifies
the type of units that will be constructed in the subdivision and
which will not be permanently occupied during its use as a
model.

Monument
A permanent marker conforming to the requirements of this
Ordinance used to identify the location of a property corner or
other survey point.

Municipality
See Local Government.

Nonresidential Subdivision
A subdivision whose intended use is other than residential, such
as commercial or industrial.

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

Off-Site
Any premises not located within the area of the property to be
subdivided, whether or not in the common ownership of the
applicant for subdivision approval.

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

Outfall
The point or location where storm water runoff discharges from
a sewer, channel or detention facility.

Owner
The record owners of fee, or a vendee in possession, including
any person, group of persons, firm or firms, corporation or
corporations, or any other legal entity having legal title to, or
sufficient proprietary interest in, the land sought to be subdivided
under the definition of “Same Ownership”.

Parking Area
An area designated for stopped, unoccupied motor vehicles.

Pavement
That part of a street having an improved surface of brick, paving
stone, concrete, or asphalt placed on the surface of the land.

Pavement Markings
Painted, thermoplastic, or other Town approved method of
providing regulatory striping, including turn lane arrows and
“Only” designations, onto the street or road surface.
Peak Flow
The maximum rate of flow of water at a given point in a channel or conduit resulting from a specified storm or flood of a given return period or duration.

Perimeter Drain
A tile drain located around an absorption field in compliance with appropriate governmental regulations.

Perimeter Street
Any existing street to which the parcel of land to be subdivided abuts on only one (1) side.

Person
Any individual or group of individuals, or any corporation, general or limited partnership, joint venture, unincorporated association, or governmental or quasi-governmental entity.

Phased Subdivision Application
An application for subdivision approval submitted pursuant to a Primary Plat, or at the option of the subdivider, pursuant to a specific plan in which the applicant proposes to immediately subdivide the property but will develop in one or more individual phase(s) over a period of time. A phased subdivision application may include an application for approval of, or conversion to, horizontal or vertical condominiums, nonresidential development projects, planned unit developments, mixed-use projects, and residential developments.

Plan Commission
The Town of Cumberland's Plan Commission as established in accordance with law.

Planned Unit Development (PUD)
A development occurring on a parcel under single ownership or unified control which is developed as a unit and is mapped as a zoning district in and of itself. A planned unit development may include two or more principal buildings or uses, and is processed under the Zoning Ordinance.

Primary Arterial
A road intended to move through traffic to and from major attractors such as business districts, regional shopping centers, colleges and/or universities, military installations, major industrial areas, and similar traffic generators within the governmental unit; and/or as a route for traffic between communities or large areas and/or which carries high volumes of traffic. (Access to adjacent property should be limited for Primary Arterials)

Primary Plat
The primary drawing or drawings, described in this Ordinance, indicating the proposed manner or layout of the subdivision to be submitted to the Plan Commission for approval.
**Public Hearing**
A proceeding held by the Plan Commission preceded by published notice and actual notice to certain persons and at which certain persons, including the applicant, may call witnesses and introduce evidence for the purpose of demonstrating that plat approval should or should not be granted. The rules of civil procedure binding on the courts shall not, however, bind the Plan Commission.

**Public Improvement**
Any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement, or other facility for which the Town may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which Town responsibility is established.

**Public Meeting**
A meeting of the Plan Commission or Town Council preceded by notice, open to the public and at which the public may, at the discretion of the body holding the public meeting, be heard.

**Public Utility**
Any entity providing essential services whether Town owned, municipally owned, investor owned or subscriber owned under the jurisdiction of the Indiana Utility Regulatory Commission.

**Rainfall Intensity**
The rate of rainfall expressed as the amount of rain occurring within a given duration, normally expressed in inches per hour.

**Reach**
A specified length of a river, channel, or conduit.

**Registered Engineer**
An engineer properly licensed and registered in the State of Indiana.

**Registered Land Surveyor**
A land surveyor properly licensed and registered in the State of Indiana.

**Regulated Area**
All of the land under the jurisdiction of the Town of Cumberland Plan Commission.

**Regulatory Flood**
A flood with a peak having a probability of occurrence of one (1) percent in any given year, which is commonly referred to as a one hundred (100) year flood as calculated by a method and procedure which is acceptable to the Plan Commission.

**Regulatory Floodway**
The channel of a river or stream and those portions of the floodplain adjoining the channel which are reasonably required to carry and discharge the peak flow of the regulatory flood of any river or stream.
Regulatory Signs
Signs established by Ordinance and posted within the public road right-of-way to control motorist behavior. (Stop signs, no parking signs, etc.).

Release Rate
The amount of water released from a storm water control facility per unit of time.

Restrictive Covenant
A private agreement restricting the use and occupancy of real estate which is a part of the conveyance and is binding on all subsequent purchasers.

Return Period
The average interval of time within which a given rainfall event will be equaled or exceeded once. A flood having a return period of one hundred (100) years has a one (1) percent probability of being equaled or exceeded in any one (1) year.

Re-Plat
Any change in a map of an approved or recorded subdivision plat that affects any street layout on the map or area reserved thereon for public use or any lot line, or that affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

Right-of-Way
A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for any other special use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a secondary plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, shade trees, or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

Road, Classification
For the purpose of providing for the development of the streets, highways, roads and rights-of-way in the governmental unit, and for their future improvement, reconstruction, realignment, and necessary widening, including provision for curbs and sidewalks, each existing street, highway, road, and right-of-way, and those located on approved and filed plats, have been designated on the Official Thoroughfare Plan of the Town and classified therein. The classification of each street, highway, road, and right-of-way is based upon its location in the respective zoning districts of the Town and its present and estimated future traffic volume and its relative importance and function as specified in the Comprehensive Plan of the Town. The required improvements shall be measured as set forth for each street classification on the Official Thoroughfare Plan.
<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
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<tbody>
<tr>
<td>Road Centerline Radius</td>
<td>Horizontal alignment of the center of the paved roadway surface.</td>
</tr>
<tr>
<td>Road, Dead-End</td>
<td>A road or a portion of a road with only one (1) vehicular-traffic outlet (not including cul-de-sacs).</td>
</tr>
<tr>
<td>Road Right-of-Way Width</td>
<td>The distance between property lines measured at right angles to the center line of the street.</td>
</tr>
<tr>
<td>Road Tangent Section</td>
<td>Portion of a road or street that has a straight horizontal alignment.</td>
</tr>
<tr>
<td>Road Vertical Curve</td>
<td>Vertical alignment of road centerline.</td>
</tr>
<tr>
<td>Runoff</td>
<td>The portion of precipitation from such sources as rainfall, snow melt, or irrigation water that flows over or under the ground surface and arrives at the point of consideration as surface water.</td>
</tr>
<tr>
<td>Runoff Coefficient</td>
<td>A factor in the rational formula which relates the ratio of peak runoff to rainfall and considers such factors as ground cover, soil types, and watershed configuration.</td>
</tr>
<tr>
<td>Secondary Arterial</td>
<td>A road intended to collect and distribute traffic in a manner similar to primary arterials, except that these roads service minor traffic-generating areas such as community commercial areas, primary and secondary educational facilities, hospitals, major recreational areas, churches, and offices and are designed to carry traffic from collector streets to the system of primary arterials. (Access to adjacent property should be limited from Secondary Arterials)</td>
</tr>
<tr>
<td>Secondary Subdivision Plat</td>
<td>The map of a subdivision to be recorded after approval by the Plan Commission and any accompanying material as described in this Ordinance.</td>
</tr>
<tr>
<td>Sediment</td>
<td>Material of soil and rock origin transported, carried or deposited by water.</td>
</tr>
<tr>
<td>Setback</td>
<td>The distance between a building and the street line nearest to the building, or between the building and any lot line.</td>
</tr>
<tr>
<td>Sidewalk</td>
<td>A paved, surfaced or leveled area, usually parallel to and separate from the street, used as a pedestrian walkway.</td>
</tr>
</tbody>
</table>
Siphon
A closed conduit, a portion of which lies above the hydraulic grade line resulting in a pressure less than atmospheric and requiring a vacuum within the conduit to start flow. An inverted siphon is used to carry flow under an obstruction.

Sketch Plan
A sketch preparatory to the primary plat to enable the subdivider to save time and expense in reaching general agreement with the Plan Commission as to the form of the plat and the objectives of this Ordinance.

Specification
A detailed instruction which designates the quality and quantity of materials and workmanship expected in the construction of a structure.

Spillway
A waterway in or about a hydraulic structure for the escape of excess water.

Stilling Basin
A structure used to dissipate the energy and/or velocity of flowing water.

Stopping Sight Distance
Distance required to safely stop after a motorist recognizes an obstruction in the street or road. (See INDOT Design Manual or AASHTO Green Book for specific design and measurement criteria.)

Storage Duration
The length of time that water may be stored in any storm water control facility.

Storm Sewer
A closed conduit for conveying collected storm water.

Storm Water Drainage System
All means, natural or manmade, used for conducting storm water to, through or from a drainage area.

Street, Private
Any street other than a public street.

Street, Public
All property dedicated or intended for public highway, freeway, or roadway purposes or subject to public easements.

Structure
Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground.

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

**Subdivision**
The division of a parcel of land into two (2) or more lots, parcels, sites, units, plats, or interests for the purpose of sale, lease, or development.

**Subdivision Agent**
Any person who represents, or acts for or on behalf of, a subdivider or developer, in selling, leasing, or developing, or offering to sell, lease, or develop any interest, lot, parcel, unit, site, or plat in a subdivision, except an attorney-at-law whose representation of another person consists solely of rendering legal services.

**Subdivision Improvement Agreement**
A contract entered into by the applicant and the Plan Commission on behalf of the Town by which the applicant promises to complete the required public improvements within the subdivision within a specified time period following secondary subdivision plat approval.

**Subdivision Plat**
The final map or drawing, described in this Ordinance, on which the subdivider's plan of subdivision is presented to the Plan Commission for approval and which, if approved, may be submitted to the County Engineer’s Office and the County Recorder’s Office for recording.

**Subsurface Drain**
A tile drain installed for the purpose of lowering the ground water table.

**Temporary Cul-de-Sac**
A turnaround located at the end of a stub street intended to be replaced when the adjoining area is developed and a through street connection is made.

**Temporary Improvement**
Improvements built and maintained by a subdivider during construction of the subdivision and prior to release of the performance bond.

**Thoroughfare Map**
A legally adopted map that indicates the location of existing or proposed thoroughfares, including their street classification, alignment, and rights-of-way.
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Thoroughfare Road  A Primary Arterial, Secondary Arterial, or Collector Road, as defined on the Thoroughfare Map.

Tile Drain  A perforated drain required parallel to a swale or ditch.

Town Consulting Engineer  The certified professional engineer or firm appointed by the Town to furnish engineering assistance in the administration of this Ordinance.

Town Manager  The Town Manager for the Town of Cumberland

Director of Streets & Parks  That Town official, appointed by the Town Council, responsible for planning, directing, and managing Highway Department operations, bridge crews, and activities of the Town garage.

Tract  A lot. The term "tract" is used interchangeably with the term "lot," particularly in the context or subdivision, where a "tract" is subdivided into several lots, parcels, sites, units, plots, condominiums, tracts, or interests.

Travel Lane  Roadway lane designated for through travel movements.

Unimproved Land  Land in its natural state before development.

Vested Rights  Right to initiate or continue the establishment of a use which will be contrary to a restriction or regulation coming into effect when the project associated with the use is completed.

Vicinity Map  A drawing which sets forth by dimensions or other means, the relationship of the proposed subdivision or use to other nearby developments or landmarks, and community facilities and services within the Town, in order to better locate and orient the area in question.

Waiver  A variance of the provisions of this Ordinance granted under the terms of this Ordinance by the Plan Commission.

Watercourse  Any natural or manmade drainage way having a defined channel and banks and into which storm water runoff or floodwaters flow either regularly or intermittently.

Watershed  See Drainage Area.

Wet Bottom Detention Basin/Retention Basin  A basin designed to retain a permanent pool of water plus capacity to detain and release excess runoff.
Wetlands

Those areas which have hydric soils and that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that, under normal circumstances, do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.
ARTICLE 3  SUBDIVISION APPLICATION PROCEDURE AND APPROVAL PROCESS

00-15-157-3.1  General Procedure
Before any land is subdivided, the owner, or his authorized agent, shall apply for and secure approval of the proposed subdivision in accordance with the following procedures.

00-15-157-3.2  Exempt Divisions
A. The following divisions of existing parcels are exempt from this Ordinance. However, in order for a land division to be considered exempt under this Ordinance, a property owner must first submit an exempt division application and plat to the Zoning Administrator so that it can be determined if such a division qualifies for exemption under this Section. Within five (5) days, the Zoning Administrator shall determine if the proposed division meets the requirements of this Section and if so, issue a Statement of Compliance. Land divisions determined not to meet the requirements of this Section shall be required to apply for and secure approval of the proposed division in accordance with this Article.

1. A division of land into two (2) or more tracts all of which are at least twenty (20) acres in size.

2. A division of land for the transfer of a tract or tracts to correct errors in an existing legal description, or the sale or exchange of tracts between adjoining landowners, provided that no additional principal use building sites are created by the division.

3. A division of land by the federal, state or local government for the acquisition of right-of-way or an easement.

4. A division of land into cemetery plots for the purpose of burial of corpses.
5. A division of land for agricultural uses not involving any new streets or easements of access, provided that the sale or exchange does not create additional building sites.

B. When the exempt parcel is conveyed, transferred, sold, or exchanged, a copy of the instrument of such conveyance shall be recorded in the Office of the Hancock County Recorder bearing a stamp of approval signed by the Zoning Administrator indicating such division has obtained a Statement of Compliance.

00-15-157-3.3 Preliminary Consultation
Prior to submitting any material required herein, the applicant shall schedule a preliminary consultation with the Zoning Administrator to discuss the procedure for approval and the requirements as to the general layout of streets, reservations of land, street improvements, drainage and sanitary sewer improvements, fire protection, and the availability of existing services. At the time of this consultation, the applicant shall submit a sketch plan of the proposed subdivision. The sketch plan shall, at a minimum, include the material set forth in Article 6, Section 00-15-157-6.1. In addition to the sketch plan, the applicant shall be responsible for a preliminary consultation review fee.

00-15-157-3.4 Application for Primary Approval
A. Upon completion of the required preliminary consultation, the applicant shall submit to the Zoning Administrator, on written forms provided by the Town, a formal application for primary approval. The application shall, at a minimum, include the information and data set forth in Article 6. In addition, the application shall include all contiguous holdings of the owner with an indication of the portion proposed to be subdivided, accompanied by a properly executed affidavit of ownership. The affidavit shall include the dates the respective holdings were acquired, together with the book and page where each conveyance to the present owner is recorded in the Office of the Hancock County Recorder.

B. Applications that are incomplete shall not be processed by the Zoning Administrator and shall be returned to the applicant at the applicant’s expense. Within thirty (30) days after receipt of complete application, the Zoning Administrator shall schedule a public hearing before the Plan Commission. The Plan Commission shall, by rule, prescribe procedures for setting hearing dates and for the conduct of hearings.

00-15-157-3.5 Fees
At the time of filing for preliminary approval, every application shall be subject to the specified fee, as established by the Town Council in Title 15, Chapter 155 Fees, as amended, of the Cumberland Code of Ordinances. The application fee shall be nonrefundable.

00-15-157-3.6 Review by the Zoning Administrator
In order to assist the Plan Commission in evaluating an application for Primary Approval, the Zoning Administrator shall review each application and plat. Upon completion of his review, the Zoning Administrator shall forward to the Plan Commission a written recommendation regarding the proposed subdivision. In making his recommendations, the Zoning Administrator shall consider, but not necessarily be limited to, compliance with this Ordinance, the Zoning
Ordinance, the Comprehensive Plan, the Thoroughfare Plan, and all other relevant Town ordinances.

00-15-157-3.7 Notice of Public Hearing

A. After the public hearing has been set, the Zoning Administrator shall:

1. notify the applicant in writing;
2. give notice of the hearing by publication in two (2) newspapers of general circulation to be published at least ten (10) days prior to the public hearing in accordance with Indiana Code 5-3-1 et. seq.;
3. provide for due notice to interested parties by the applicant at least ten (10) days before the date set for the hearing; and
4. furnish one (1) poster to the applicant for posting on the proposed subdivision property in a visible location at least ten (10) days prior to the public hearing.

B. The Zoning Administrator shall maintain on file copies of the plat and construction plans when appropriate for public review prior to the hearing. At the time of the public hearing, the applicant shall submit an affidavit stating that the applicant has placed one (1) poster provided to him by the Zoning Administrator on the property in a visible location on the proposed subdivision property.

C. For the purpose of Section A-3 above, the Plan Commission has determined that interested parties are all persons with a legal interest in the property and all owners of real property within a distance of six hundred sixty (660) feet or a depth of two (2) ownerships, whichever is less; and, the president, or designated officer/representative, of the Homeowners Associations in all existing subdivisions that adjoin the property proposed to be subdivided. Such interested parties shall receive written notice by certified mail, at the applicant’s expense, at least ten (10) days before the date of the hearing. Proof of such notice by Affidavit shall be required.

00-15-157-3.8 Action after Hearing

At the close of the Public Hearing, unless continued, the Plan Commission shall make one of the following decisions.

A. If after the public hearing, the Plan Commission determines that the application and plat comply with the standards of this Ordinance, and the standards of the Zoning Ordinance, the Comprehensive Plan, the Thoroughfare Plan, and all other relevant Town ordinances, included herein by reference, it shall grant, with written findings, primary approval to the plat. In making its determination, the Plan Commission shall consider whether:

1. definite provisions have been made for a water supply system that is sufficient in terms of quantity, dependability, and quality to provide an appropriate supply of water for the type of subdivision proposed;
2. adequate provisions have been made for a public sewer system and, if other methods of sewage disposal are proposed, that such systems will comply with federal, state, and local laws and regulations;
3. all areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified by the subdivider and that the proposed uses of these areas are compatible with such conditions;

4. the subdivider has the financial ability to complete the proposed subdivision in accordance with all applicable federal, state, and local laws and regulations;

5. the proposed subdivision will not result in the scattered subdivision of land that leaves undeveloped parcels of land lacking urban services between developed parcels; and

6. the subdivider has taken every effort to mitigate the impact of the proposed subdivision on public health, safety, and welfare.

The President and Secretary of the Plan Commission shall sign the decision and preliminary plat.

B. If after the public hearing, the Plan Commission disapproves the application and plat, it shall make written findings setting forth its reasons for its decision. The applicant shall be provided with a copy of the decision and written findings within ten (10) days. The President and Secretary of the Plan Commission shall sign the decision.

C. In making its decision to grant approval to the primary plat, the Plan Commission may impose conditions to its approval relating to:

   (a) the manner in which public ways shall be laid out, graded, and improved;
   (b) a provision for water supply, sanitary sewer facilities, and other utility services;
   (c) a provision for lot size, number, and location;
   (d) a provision for drainage design; and
   (e) a provision for other services as specified in this Ordinance.

00-15-157-3.9 Effect of Primary Approval

Primary approval shall be effective for a period of two (2) years from the date of the Plan Commission decision, at the end of which time secondary approval of the subdivision or any section thereof must receive approval. Failure to receive such secondary approval in the prescribed time set forth herein shall render the primary approval void. Once primary approval has expired, no action shall be taken until a new application for primary approval is submitted in conformance with this Ordinance. An applicant can request an extension of time from the Plan Commission. The Plan Commission may extend the primary approval for up to two (2) years without further notice or hearing. The Zoning Administrator must receive requests for extensions of time from an applicant no less than ninety (90) days prior to the expiration of the primary approval.
00-15-157-3.10 Grading of Site Prior to Secondary Approval

Subsequent to preliminary approval the developer may apply for a topsoil and excavation permit from the Zoning Administrator or such other agency or person as the Town Council shall direct, and upon receipt of the permit may commence construction to the grades and elevations required by the approved primary plat. A bond, in an amount to be determined by the Town Consulting Engineer, shall be required as a condition precedent for obtaining a topsoil and excavation permit.

00-15-157-3.11 Amendments to Primary Plat

At any time after primary plat approval but before submission of a secondary plat, the applicant may request that an amendment be made in the primary plat. The Plan Commission shall hold a public hearing on the proposed amendment in accordance with the same requirements for primary plat approval. The public hearing on a proposed amendment shall be limited to the merits of the proposed amendment. The Commission shall approve or disapprove any proposed amendment in the manner set forth in Section 3.8 of this Article. An applicant may withdraw the proposed amendment any time prior to the Plan Commission’s decision.

00-15-157-3.12 Public Improvements

A. The Plan Commission shall have the right to require that all public improvements be installed and dedicated prior to the approval and signing of the secondary subdivision plat by the President and Secretary of the Plan Commission. However, the Plan Commission may approve a secondary plat in which all improvements and installations have not been completed and dedicated as required by this Ordinance. Where such approval is granted, the applicant shall adhere to the requirements of Article 4 relating to the execution of surety for such improvements.

B. The applicant shall indicate on the plat all roads and public improvements to be dedicated, all special districts for water, fire, and utility improvements which shall be required to be established or extended, and any other special requirements deemed necessary by the Plan Commission in order to conform to this Ordinance.

C. The Town shall inspect the installation of all improvements. Such inspections are required in all instances regardless of whether the work is performed before or after Secondary Approval. Prior to inspection, the Town shall receive an affidavit from the project engineer attesting to the installation of the improvements conforming to the requirements of this Ordinance and the approved plans. Failure to request inspection or to procure inspection of work performed may be cause for denial of Secondary Approval or the revocation of prior approvals.


At least thirty (30) days, but not more than two (2) years, after the approval of the preliminary plat, the applicant, if he wishes to proceed with the subdivision, shall file with the Zoning Administrator a formal application for Secondary Approval. The application shall, at a minimum, contain the information and data required by Article 6, and shall be in a form approved for recording by the Hancock County Recorder.
A. After Primary Approval, the applicant shall submit seven (7) copies of the construction plans and specifications to the Zoning Administrator for review and approval. The construction plans and specifications shall be signed by an engineer, licensed in the State of Indiana, and shall consist of all cross sections, profiles, and other engineering data necessary for the proper design and construction required by this Ordinance, including but not limited to the following:

1. **Streets.** Profiles, typical cross sections of roadbeds and curbs showing material, including cross sections of sidewalks, where required.

2. **Public or Private Sanitary Sewer Disposal System.** Drawings of the proposed system on a topographic base map, sanitary sewer profiles, manhole details and other associated appurtenances.

3. **Storm Sewers.** Drawings of the proposed system on a topographic base map, profiles, details of manholes, and other structures.

4. **Water Mains.** Drawings of the proposed water distribution system including details of hydrants and other appurtenances.

5. **Design Summary.** A summary for the basis of design selection of water and sewer mains. This should include anticipated water demands, sanitary waste flow, and storm drainage. Consideration must be given to handle demands from adjacent land.

B. When existing water and sanitary sewer mains are extended to serve the new subdivision, the subdivider shall provide, as a minimum, equal facilities, unless otherwise approved by the Town. Should the Town desire larger sanitary sewer mains, additional costs will be negotiated and shared by the Town.

C. The Zoning Administrator shall immediately refer these construction plans to the appropriate agencies for review. Once these agencies indicate their approval of the construction plans, or fifteen (15) working days have elapsed since their distribution without a written comment, the Zoning Administrator shall stamp the plans approved and return one (1) set to the applicant. Approval of the construction plans and specifications is a condition precedent to the filing of an application for Secondary Approval.

D. It is the responsibility of the subdivider to submit all necessary documents, plans, and specifications to State and County regulatory agencies for consideration of approval as prescribed by their laws and regulations. Such agencies include, but are not limited to, the State Board of Health, the Administrative Building Council, the County Health Department, the County Surveyor, and the County Highway Department. The Plan Commission reserves the right to deny final acceptance of a subdivision until the receipt of these agencies’ approvals, where applicable, has occurred.
Administrator a formal application for Secondary Approval. The application shall, at a minimum, contain the information and data required by Article 6, and shall be in a form approved for recording by the Hancock County Recorder.

A. Scheduling the Public Meeting

1. Upon receipt of formal application and all required accompanying material, the Zoning Administrator shall check the application for completeness and technical conformity to the primary plat and any conditions of approval attached thereto. Applications that are incomplete shall not be processed by the Zoning Administrator and shall be returned to the applicant at the applicant’s expense.

2. Within thirty (30) days after receipt of a complete application, the Zoning Administrator shall schedule the application and plat to be heard by the Plan Commission at its next regularly scheduled meeting. No notice, except as required for the regularly scheduled meeting of the Plan Commission shall be required. The Zoning Administrator shall maintain on file copies of the plat and construction plans for public review prior to the meeting.

B. Fees

At the time of filing for Secondary Approval, every application shall be subject to the specified fee, as established by the Town Council in Title 15, Chapter 155 Fees, as amended, of the Cumberland Code of Ordinances. The application fee shall be nonrefundable.

C. Action on Secondary Plat Approval

At the close of the deliberations on the secondary application and plat, unless continued, the Plan Commission shall make one of the following decisions.

1. If after the public meeting, the Plan Commission determines that the application and plat are in substantial conformity with the primary plat and any conditions of approval attached thereto, it shall grant secondary approval to the plat. The President and Secretary of the Plan Commission shall sign the decision and preliminary plat.

2. If after the public meeting, the Plan Commission determines that the application and plat are not in substantial conformity with the primary plat, it shall deny, with written findings, the secondary approval to the plat. The applicant shall be provided with a copy of the decision and written findings within ten (10) days. The President and Secretary of the Plan Commission shall sign the decision.

1. Secondary approval may be granted to a plat only after the following requirements have been satisfied:

   1. Expiration of the thirty (30) days under Section 3.13 and in accordance with Indiana Code 36-7-4-708;
   2. Full compliance with the conditions and requirements set forth by the Commission for primary approval; and
   3. All other provisions of this ordinance.

   4. After review of all pertinent information, the Plan Commission Staff may grant, deny or continue secondary approval at a meeting not more than sixty-one (61) days following the proper submittal of a complete application.
D. Signing of Plat

1. Where the Plan Commission has approved a secondary plat for which all improvements and installations have not been completed, the President and Secretary of the Plan Commission shall endorse the secondary plat provided, however, that surety for all improvements and installations, in accordance with Article 4, has been provided by the applicant and approved by the Plan Commission.

2. When the Plan Commission has required the installation of improvements prior to approval of the secondary plat, the President and Secretary of the Plan Commission shall endorse the secondary plat after all conditions of the approval have been satisfied and all improvements satisfactorily completed. Written evidence shall be required for all required public improvements and installations indicating that said improvements and installations have been installed in a manner satisfactory to the Town, and that the necessary dedication of public lands and improvements has been accomplished.

DE. Recordation of Plat

1. It shall be the responsibility of the Applicant to file the approved secondary plat with the Office of the Hancock County Recorder within thirty (30) days of the date of signature. Simultaneously with the filing of the secondary plat, the Applicant shall record the agreement of dedication together with such legal documents as may be required. The filing and recording of a plat shall be without legal effect unless approved by the Plan Commission and signed by the President and Secretary of the Plan Commission. Approval of the secondary plat shall be effective for a maximum of thirty (30) days from the date of signature unless recorded. The Plan Commission may approve an extension of time for recording.

2. Once recorded, the Applicant shall provide the Zoning Administrator with the recorded and stamped secondary plat. Except as otherwise provided herein, no Improvement Location Permit shall be issued by the Zoning Administrator for any structures on any subdivision lots prior to the recording of the subdivision plat by the Hancock County Recorder.

E. Vested Rights

Except as otherwise provided herein, no vested rights shall accrue to the owner or developer of any subdivision by reason of primary or secondary plat approval until the actual signing of the secondary plat by the President and Secretary of the Plan Commission.

F. Endorsement of Health Authorities

The secondary subdivision plat shall be properly endorsed by the Health Department or Health Officer, or the Indiana Department of Environmental Management, with respect to all sewer and water facilities and that same comply with all rules, regulations, and requirements of Town, regional, state, and federal authorities.
Sectionalizing Subdivision Plats

Prior to granting final approval of a subdivision plat, the Plan Commission may permit the plat to be divided into two (2) or more sections and may impose such conditions upon the filing of the sections as it may deem necessary to assure the orderly development of the plat.

A. In so doing, the Plan Commission may require that the surety be in such amount commensurate with the section or sections of the plat to be filed and may defer the remaining amount of the surety until the remaining sections of the plat are offered for filing.

B. The developer may also be required to file an irrevocable offer to dedicate streets and public improvements in the sections offered to be filed and defer filing offers of dedication for the remaining sections until those sections shall be granted final approval.

C. If sectionalizing is approved, the entire approved subdivision plat, including all sections, shall be filed within ninety (90) days after the date of final approval and such sections as have been authorized by the Plan Commission shall be filed with the Hancock County Recorder’s Office.

D. Such sections must contain at least ten percent (10%) of the total number of lots contained in the approved plat.

F. The approval of all remaining sections not filed with the Office of the Hancock County Recorder in the time set forth above shall expire automatically.

Alternative Procedure for Minor Subdivisions

A minor subdivision by definition is intended to allow the subdivision of a buildable tract of land with a reduction of approval time and filing procedure. It is not the intent of the minor subdivision procedure to circumvent uniform development plans for a total parcel of land. Therefore, this procedure may only be used for a total of three (3) new parcels of ground provided that there are no improved public rights-of-way required and that the minor subdivision meets all the applicable requirements of the Subdivision Control and Zoning Ordinances. Further subdivision of a minor plat must proceed through the full subdivision procedure. If the staff feels this procedure is being abused the applicant must obtain approval from the Plan Commission prior to using this procedure.

The approval procedure for a minor subdivision as described in this section shall be the same as other subdivisions as described in Sections 3.1 thru 3.15 of this Article with the exception that primary and secondary approval shall be combined by the Plan Commisission into one (1) hearing.

This alternative process is intended to allow the subdivision of a buildable tract of land with a reduction of approval time. It is not intended to allow an applicant to circumvent uniform development plans for a total parcel of land.
A. The alternative process may only be used for a total of three (3) new building sites provided there are no improved public rights-of-way required. Furthermore, the subdivision must meet all the applicable requirements of this Ordinance and the standards of the Zoning Ordinance, the Thoroughfare Plan, and the Storm Drainage, Erosion and Sediment Control Ordinance.

B. The Zoning Administrator shall determine whether an application is suitable for the alternative procedure at the preliminary consultation meeting pursuant to Section 3.2 of this Article.

C. Primary approval under the alternative procedure shall adhere to the requirements of primary approval set forth in this Article.

D. Secondary approval shall be delegated to the Zoning Administrator and shall adhere to the approval requirements of Section 3.13(3) of this Article.

E. Applications under the alternative procedure shall be exempt from the requirements of Article 4.

F. Appeals of the Zoning Administrator’s decision shall be filed with the Plan Commission within thirty (30) days of the date of decision.

00-15-157-3.17 Appeals

Every decision by the Plan Commission shall be subject to review by certiorari. Any person aggrieved by a decision of the Plan Commission may present to the Hancock County Court, a petition duly verified setting forth that such decision is illegal in whole or in part and specifying the grounds of the illegality. The petition shall be presented to the court within thirty (30) days after the entry of the decision of the Plan Commission.
ARTICLE 4 ASSURANCE FOR COMPLETION AND MAINTENANCE OF IMPROVEMENTS

00-15-157-4.1 Improvements and Subdivision Improvement Agreement

1. Completion of Improvements
   Except as provided below, a secondary plat shall not be signed by the President and Secretary of the Plan Commission until all the street, sanitary and other public improvements, including lot improvements on the individual lots of the subdivision are completed, as required in this Ordinance and specified in the approved secondary plat. Said improvements shall be completed to the satisfaction of the Town Consulting Engineer. All public improvements shall be dedicated to the Town, free and clear of all liens and encumbrances on the dedicated property and public improvements. In addition, the applicant shall guarantee all said improvements to be free from defects for a period of three (3) years following acceptance by the Town of the last completed improvement.

2. Subdivision Improvement Agreement and Guarantee

   A. Agreement
      Pursuant to Indiana Code 36-7-4-709, as amended, the Plan Commission may approve a secondary plat in which all improvements and installations have not been completed and dedicated as required by this Ordinance. Where such approval is granted, the applicant shall enter into a subdivision improvement agreement by which the subdivider covenants to complete all required public improvements no later than two (2) years following the date on which the President and Secretary of the Plan Commission sign the secondary plat. The applicant shall also covenant to maintain each required public improvement for a period of two (2) years following the acceptance by the Town of the dedication. The subdivision improvement agreement shall contain such other terms and conditions agreed to by the applicant and the Plan Commission.

   B. Covenants to Run with the Land
      The subdivision improvement agreement covenants shall run with the land and be binding on all successors, heirs, and assignees of the subdivider. The subdivision improvement agreement shall be recorded in the Recorder's Office of Hancock County.
C. Surety

As part of the subdivision improvement agreement, an applicant shall be required to provide a letter of credit or bond as surety for the promises contained in the subdivision improvement agreement. Either type of surety shall be in an amount equal to one hundred twenty percent (120%) of the estimated cost of completion of the required public improvements, including lot improvements. The Plan Commission shall approve the issuer of the letter of credit or the bond agent.

(a) Letter of Credit

If the applicant posts a letter of credit it shall: (1) be irrevocable; (2) be for a term sufficient to cover the completion, maintenance and warranty periods required by this Ordinance; and (3) require only that the Town present the credit with a sight draft and an affidavit signed by the Town Attorney attesting to the municipality's right to draw funds under the credit.

(b) Bond

If the applicant posts a bond as surety, the bond terms shall provide that: (1) the subdivider shall have no right to a return of any of the funds except as provided in this Ordinance; and (2) that the bond agent shall have a legal duty to deliver the funds to the Town whenever the Town Attorney presents an affidavit to the agent attesting to the Town’s right to receive the funds.

(c) Use of Funds

Upon acceptance of the last completed required public improvement, the Town shall execute a release of its right to receive all but twenty-five percent (25%) of the funds represented by the letter of credit or bond if the applicant is not in breach of the subdivision improvement agreement. The residual funds shall be surety for the subdivider's covenant to maintain the required public improvements and its warranty that the improvements are free from defect.

3. Temporary Improvement

The applicant shall build, and pay for all costs of, temporary improvements required by the Plan Commission and shall maintain those temporary improvements for the period specified by the Plan Commission. Prior to the construction of such temporary facility or improvement, the applicant shall file with the Town a separate letter of credit or bond in an appropriate amount for the temporary facility. The letter of credit or bond shall ensure that the temporary facilities will be properly constructed, maintained, and removed.

4. Costs of Improvements

The applicant shall make all required improvements, at his own expense and without reimbursement by the Town or any special improvement district formed or caused to be formed by the developer to construct and finance the construction of required public improvements, excluding lot improvements on individual lots. If the applicant does form or cause to be formed a special district for the purposes identified in this section, the...
5. Failure to Complete Improvement

A. Where a subdivision improvement agreement has been executed and surety has been posted and the required public improvements have not been installed within the terms of the agreement, the Town may then:

(a) declare the agreement to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the agreement is declared to be in default;
(b) suspend secondary subdivision plat approval until the improvements are completed and a document to that effect has been recorded for the purpose of public notice;
(c) obtain funds under the surety and complete improvements itself or through a third party;
(d) assign its right to receive funds under the surety to any third party, including a subsequent owner of the subdivision for which improvements were not constructed, in whole or in part, in exchange for that subsequent owner's promise to complete improvements in the subdivision; and
(e) exercise any other rights available under the law.

B. Where no subdivision improvement agreement has been executed and no surety has been posted, and the improvements are not completed within the time period specified by the Plan Commission in its approval of the secondary plat, failure to complete such improvements shall be a violation of this Ordinance and subject to the provisions of Article 10 (Enforcement) and all other remedies available at law.

6. Acceptance of Dedication Offers

Acceptance of formal offers of dedication of streets, public areas, easements, and parks shall be by ordinance of the Town Council. The approval of a subdivision plat by the Plan Commission shall not be deemed to constitute or imply the acceptance by the Town of any street, easement, or park shown on the plat. The Plan Commission may require a subdivision plat to be endorsed with appropriate notes to this effect.

00-15-157-4.2 Inspection of Improvements

1. General Procedure and Fees

The Plan Commission shall provide for inspection of required improvements during construction and ensure their satisfactory completion. The applicant shall pay an inspection fee, which shall be based on the estimated cost of inspection. These fees shall be due and payable upon demand of the Town and until all fees are paid, the secondary plat shall not be signed by the Officers of the Plan Commission and no improvement location permit, building permits or certificates of occupancy shall be issued. If the
Town Consulting Engineer finds, upon inspection, that any one or more of the required improvements have not been constructed in accordance with the municipality's construction standards and specifications, the applicant shall be responsible for properly completing the improvements.

2. Release or Reduction of Surety

A. Certificate of Satisfactory Completion

The Town Council will not accept dedication of required improvements, nor release or reduce the amount of any surety posted by the applicant until the Town Consulting Engineer has submitted a certificate stating that all required improvements have been satisfactorily completed and:

(a) the applicant's engineer or surveyor has certified to the Town Consulting Engineer, through submission of a detailed "as-built" survey plat of the subdivision, indicating location, dimensions, materials, and other information required by the Plan Commission or Town Consulting Engineer, that the layout of the line and grade of all public improvements is in accordance with construction plans for the subdivision; and

(b) a title insurance policy has been furnished to and approved by the Town Attorney indicating that the improvements have been completed, are ready for dedication to the Town, and are free and clear of any and all liens and encumbrances.

Upon such approval and recommendation by the Plan Commission, the Town Consulting Engineer, the Town Attorney, and Town Staff, the Town Council shall thereafter accept the improvements for dedication in accordance with the established procedure.

B. Reduction of Escrowed Funds and Surety

(a) If the surety posted was a bond, the amount of the bond shall be reduced upon actual acceptance of the dedication of public improvements, but then only to the ratio that the cost of the specific public improvement bears to the total cost of public improvements for the subdivision. In no event shall a bond be reduced below twenty-five per cent (25%) of the principal amount. Funds held in the bond account shall not be released to the applicant, in whole or in part, except upon express written instructions of the Town Attorney. At the end of the maintenance and warranty periods, all funds, if any, shall be released to the applicant.

(b) If the surety provided was a letter of credit, the Town Attorney shall execute a release of the municipality's right to draw funds under the credit upon the actual acceptance of the dedication of public improvements. However, such a release shall only be to the ratio that the cost of the specific public improvement bears to the total cost of public improvements for the subdivision. In no event shall waivers be executed that would reduce the surety below twenty-five percent (25%) of its original amount.
00-15-157-4.3  Surety Deposits for Lot Improvements

1. Acceptance of Surety Funds

Whenever, by reason of the time of year, any lot improvements required by this Ordinance cannot be performed, the Zoning Administrator may issue a temporary certificate of occupancy, provided there is no danger to health, safety, or general welfare and upon acceptance of a bond in an amount to be determined by the Town Consulting Engineer for the cost of the lot improvements. The subdivision improvement agreement and surety covering the lot improvements shall remain in full force and effect.

2. Procedures on Surety Funds

All required lot improvements for which the Zoning Administrator has accepted surety monies shall be installed by the applicant within a period of nine (9) months from the date of deposit and issuance of the certificate of occupancy. If the improvements have not been properly installed at the end of the time period, the Zoning Administrator shall give written notice to the applicant requiring him to install the improvements. If after notice the improvements are not then installed properly, the Zoning Administrator may proceed with the installation of the necessary improvements in a sum not to exceed the amount of the surety deposit.

00-15-157-4.4  Maintenance of Improvements

The developer shall be required to maintain all required public improvements on the individual subdivided lots and provide for snow removal on streets and sidewalks, if required by the Plan Commission, until acceptance of the improvements by the Town Council. If there are any certificates of occupancy on a street not dedicated to the Town, the Town may on twelve (12) hours notice plow the street or effect emergency repairs and charge those costs to the developer. Following the acceptance of the dedication of any public improvement by the Town, the Town may, in its sole discretion require the subdivider to maintain the improvement for a period of one (1) year from the date of acceptance.

00-15-157-4.5  Deferral or Waiver of Required Improvements

1. The Plan Commission may defer or waive, at the time of secondary approval and subject to any appropriate conditions, the provision for any or all, public improvements that in its judgment are:

   A. not required in the interests of the public health, safety, and general welfare,
   
   B. inappropriate because of incompatible grades, future planning, inadequate or nonexistent connecting facilities, or
   
   C. inappropriate for other reasons presented to and agreed on by the Plan Commission.

2. Any determination to defer or waive the provision of any public improvement must be made in accordance with Article 8 of this Ordinance, and the reasons for the deferral or waiver shall be expressly made part of the record.
3. Where improvement or installations are deferred as herein provided, the applicant shall post a separate bond or letter of credit in an amount determined by the Plan Commission guaranteeing completion of the deferred improvements upon demand of the Town.

00-15-157-4.6 Issuance of Building Permits and Certificates of Occupancy

1. When a subdivision improvement agreement and surety have been required for a subdivision, no certificate of occupancy for any building in the subdivision shall be issued prior to the completion of the required public improvements and the acceptance of the dedication of those improvements by the Town.

2. The extent of street improvements shall be adequate for vehicular access by the prospective occupant(s) and by police and fire equipment prior to the issuance of an occupancy permit. The developer shall, at the time of the offer of dedication, submit a bond to the Town, in a sum determined by the Town Consulting Engineer, for the necessary final improvement of the street.

3. No improvement location permit or building permit shall be issued for the final ten percent (10%) of the lots in a subdivision, or if ten percent (10%) represents less than two (2) lots, for the final two (2) lots of a subdivision, until all public improvements required by this Ordinance and the Plan Commission have been fully completed and accepted by the Town.

00-15-157-4.7 Limitation on Use of Credit or Bond Funds

Any funds received from bonds or letters of credit for improvements and installations or maintenance of such improvements or installations required by this Ordinance shall be used only for the purpose of making improvements, installations, or repair for which said bonds were provided in accordance with the standards, specifications and requirements of this Ordinance.
ARTICLE 5  GENERAL REQUIREMENTS FOR LOTS AND IMPROVEMENTS

00-15-157-5.1  Conformance to Applicable Rules and Regulations

In addition to the requirements established in this Ordinance, all subdivision plats shall comply with the following laws, rules, and regulations:

A. All applicable statutory provisions;

B. The Cumberland Zoning Ordinance and Map, building and fire codes, and all other applicable laws of the appropriate jurisdictions;

C. The Official Comprehensive and Thoroughfare Plan, Public Utilities Plan, and Capital Improvements Program of the Town, including all streets, drainage systems, and parks shown on the Official Zoning Map or Comprehensive Plan as adopted;

D. The special requirements of this Ordinance and any rules of the Hancock County Health Department and/or appropriate state or sub state agencies;

E. The rules of the Indiana Department of Transportation (INDOT) if the subdivision or any lot contained therein abuts a state highway or connecting street;

F. The standards and regulations adopted by the Town Engineer and all boards, commissions, agencies, and officials of the Town;

G. All pertinent standards contained within the planning guides published by the applicable regional planning agencies;

H. Plat approval may be withheld if a subdivision is not in conformity with the above laws, regulations, guidelines, and policies as well as the purposes of this Ordinance established in Section 1-3 of this Ordinance.
00-15-157-5.2 Adequate Public Facilities

No primary plat shall be approved unless the Plan Commission determines that public facilities will be adequate to support and service the area of the proposed subdivision. The applicant shall, at the request of the Plan Commission, submit sufficient information and data on the proposed subdivision to demonstrate the expected impact on and use of public facilities by the subdivision. Public facilities and services to be examined for adequacy will include roads and public transportation facilities, sewerage, water service, schools, police and fire facilities.

A. Periodically the Town Council will establish by resolution, after public hearing, guidelines for the determination of the adequacy of public facilities and services. To provide the basis for the guidelines, the Plan Commission must prepare an analysis of current growth and the amount of additional growth that can be accommodated by future public facilities and services. The Plan Commission must also recommend any changes in primary plat approval criteria it finds appropriate in the light of its experience in administering this Ordinance.

00-15-157-5.3 Comprehensive and Thoroughfare Plan Consistency Required

Proposed public improvements shall conform to and be properly related to the Town's Comprehensive and Thoroughfare plan and all applicable capital improvements plans.

00-15-157-5.4 Water, Wastewater and Storm Water Management

A. All habitable buildings and buildable lots shall be connected to a public water system capable of providing water for health and emergency purposes, including adequate fire protection.

B. All habitable buildings and buildable lots shall be served by an approved means of wastewater collection and treatment.

C. Drainage improvements shall accommodate potential runoff from the entire upstream drainage area and shall be designed to prevent increases in downstream flooding. The Town may require the use of control methods such as retention or detention, and/or the construction of offsite drainage improvements to mitigate the impacts of the proposed developments.

00-15-157-5.5 Roads

Proposed roads shall provide a safe, convenient, and functional system for vehicular, pedestrian, and bicycle circulation; shall be properly related to the Comprehensive and Thoroughfare Plan; and shall be appropriate for the particular traffic characteristics of each proposed development.

00-15-157-5.6 Extension Policies

All public improvements and required easements shall be extended through the parcel on which new development is proposed. Streets, water lines, wastewater systems, drainage facilities, electric lines, and telecommunications lines shall be constructed through new development to promote the logical extension of public infrastructure. The Town may request that the applicant of a subdivision to extend offsite improvements or to oversize required public facilities to serve anticipated future development.
00-15-157-5.7  Self-imposed Restrictions

If an owner of property places restrictions on any land contained in a subdivision greater than those required by the Zoning Ordinance or this Ordinance, such restrictions shall be indicated on the subdivision plat. The Plan Commission may also require that all restrictive covenants be recorded with the Hancock County Recorder in a form approved by the Town Attorney.

00-15-157-5.8  Plats Straddling Municipal Boundaries

Whenever access to the subdivision is required across land in another local government, the Plan Commission may request assurance by affidavit from the applicant that access is legally established. The Plan Commission may also request from the Town Engineer assurance that the access road is adequately improved, or that a guarantee has been duly executed and is sufficient in amount to assure the construction of the access road. In general, lot lines should be laid out so as not to cross municipal boundary lines.

00-15-157-5.9  Monuments

The applicant shall place permanent reference monuments in the subdivision as required in this Ordinance and as approved by a Registered Land Surveyor.

A. Monuments shall be of stone, pre-cast concrete or concrete poured in place with a minimum dimension of not less than thirty (30) inches in length, not less than four (4) inches square, or five (5) inches in diameter. They shall be marked on top with a brass or copper dowel set flush with the top the monument and deeply scored on top with a cross. Markers shall consist of galvanized iron pipes or steel bars at least thirty (30) inches long and two (2) inches in diameter.

B. Monuments and markers shall be placed so that the center of the bar, 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.

C. Monuments shall be set at the intersection of street property lines forming angles in the boundary of the subdivision and the intersection of street property lines.

D. Markers shall be set at the beginning and ending of all curves along street property lines, at all points where a lot line intersects curves, either front or rear, at all angles in property lines of lots, and at all other lot corners not established by a monument.

00-15-157-5.10  Character of the Land

Land that is prone to flooding, improper drainage, steep slopes, rock formations, adverse earth formations, severe topography, excessive utility easements, or other features that will reasonably be harmful to the health, safety, and general welfare of the present or future inhabitants of the subdivision or its neighboring areas, shall not be subdivided unless adequate methods are formulated to solve such problems by the developer. The Plan Commission shall have the sole authority to approve such adequate methods.
00-15-157-5.11 Subdivision Name
The proposed name of a subdivision shall not duplicate, or too closely approximate phonetically, the name of any other subdivision in the Town and covered by this Ordinance. The Plan Commission shall have final authority to designate the name of the subdivision, which shall be determined at sketch plat approval.

00-15-157-5.12 Lot Improvements
A. Lot Arrangement
1. The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing improvement location permits to build on all lots in compliance with the Zoning Ordinance, Building Code or other local, state, or federal regulations.

2. Every lot shall have sufficient and adequate access to a street constructed, or to be constructed, in accordance with this Ordinance.

B. Lot Dimensions
1. Lot dimensions shall comply with the minimum standards of the Zoning Ordinance. Where lots are more than double the minimum required area for the zoning district, the Plan Commission may require that those lots be arranged so as to allow further subdivision and the opening of future streets where they would be necessary to serve potential lots.

2. In general, side lot lines shall be at right angles to street lines (or radial to curving street lines) unless a variation from this rule will give a better street or lot plan. Dimensions of corner lots shall be large enough to allow for erection of buildings, observing the minimum front-yard setback from both streets.

3. Depth and width of properties reserved or laid out for business, commercial, or industrial purposes shall be adequate to provide off-street parking and loading facilities required for the type of use and development contemplated, as established in the Zoning Ordinance.

4. Land reserved for any proposed Street, drainage pond (retention or detention), lake, river, stream or wetlands shall not be counted in satisfying the minimum lot area requirements of the Cumberland Zoning Ordinance.

C. Lot Orientation
The lot line common to the street right-of-way shall be the front line. All lots shall face the front line and a similar line across the street. Wherever feasible, lots shall be arranged so that the rear lot line does not abut the side lot line of an adjacent lot.
D. Double Frontage Lots and Access to Lots

1. Double Frontage Lots

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

2. Access from Major and Secondary Arterials

Lots shall not, in general, derive access exclusively from a major or secondary street. Where driveway access from a major or secondary street may be necessary for several adjoining lots, the Plan Commission may require that such lots be served by a combined access drive in order to limit possible traffic hazards on the street. Where possible, driveways should be designed and arranged so as to avoid requiring vehicles to back into traffic on major and secondary arterials.

E. Soil Preservation, Grading, and Seeding

1. Soil Preservation and Final Grading

No certificate of occupancy shall be issued until final grading and seeding or sodding has been completed for the entire lot in accordance with the approved secondary subdivision plat, including the area between the street curb and the sidewalk but excluding areas covered by buildings, parking, and access drives, or where the grade has not been changed and natural vegetation has not been damaged.

2. Lot Drainage

Lots shall be laid out so as to provide positive drainage away from all buildings, and individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Drainage shall be designed so as to avoid concentration of storm drainage water from each lot to adjacent lots.

3. Lawn-Grass Seed and Sod

Lawn areas not provided with automatic irrigation systems shall be seeded or sodded between March 15 and September 30 of each year. A temporary certificate of occupancy may be issued between October 1 and March 15, provided the developer shall submit a written agreement signed by the property owner, that seeding or sodded will be done during the immediate following years planting season. In addition, a bond for performance in an amount determined by the Zoning Administrator shall be required.

F. Debris and Waste

No cut trees, timber, debris, earth, rocks, stones, soil, junk, rubbish, or other waste materials of any kind shall be buried in any land, or left or deposited on any lot or street at the time of the issuance of a certificate of occupancy, and removal of those items and materials shall be required prior to issuance of any certificate of occupancy on a
subdivision. No items and materials as described in the preceding sentence shall be left
or deposited in any area of the subdivision at the time of expiration of any subdivision
improvement agreement or dedication of public improvements, whichever is sooner.

G. Water Bodies and Watercourses

1. If a tract being subdivided contains a water body, or portion thereof, such water body
shall not be included in satisfying the lot area requirements of the Zoning Ordinance.
Responsibility and ownership or such water body, or portion thereof shall be
distributed among the adjacent lots. The Plan Commission shall require proof of the
ownership and maintenance agreement for the water body. The Town of Cumberland
shall not assume responsibility for the maintenance and safety of the water body.

2. Where a watercourse separates the buildable area of a lot from the street by which it
has access, provisions shall be made for installation of a culvert or other structure, of
design approved by the Town Engineer.

H. Subdivision Improvement Agreement and Surety to Include Lot Improvement

The applicant shall enter into a separate subdivision improvement agreement secured by a
letter of credit or bond to guarantee completion of all lot improvement requirements
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 Plan Commission. Whether or not a certificate of occupancy has been issued, the
Town may enforce the provisions of the subdivision improvement agreement where the
provisions of this section or any other applicable law, ordinance, or regulation have not
been met.

00-15-157-5.13 Non-Residential Subdivisions

A. General

If a proposed subdivision includes land that is zoned for commercial or industrial
purposes, the layout of the subdivision with respect to the land shall make provision as
the Plan Commission may require. A nonresidential subdivision shall also be subject to
all the requirements of the Cumberland Zoning Ordinance. Development plan approval
and nonresidential subdivision plat approval may proceed simultaneously at the
discretion of the Plan Commission. A nonresidential subdivision shall be subject to all
the requirements of this Ordinance, as well as such additional standards required by the
Plan Commission, and shall conform to the proposed land use and standards established
in the Comprehensive Plan, Thoroughfare Plan, Official Zoning Map, and Zoning
Ordinance.

B. Standards

In addition to meeting the principles and standards set forth in this Ordinance, the
applicant shall be required to demonstrate to the satisfaction of the Plan Commission that
the subdivision proposed is specifically adapted to the uses anticipated and takes into
account other uses in the vicinity. The following principles and standards shall be
observed:
1. Proposed industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated.

2. Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon.

3. Special requirements may be imposed by the Town with respect to street, curb, gutter, and sidewalk design and construction.

4. Special requirements may be imposed by the Town with respect to the installation of public utilities, including water, sewer, and storm water drainage.

5. Every effort shall be made to protect adjacent residential areas from potential nuisance from a proposed commercial or industrial subdivision, including the provision of extra depth in parcels backing up on existing or potential residential development and provisions for a permanently landscaped buffer strip when necessary.

6. Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential areas.
ARTICLE 6 SPECIFICATIONS FOR DOCUMENTS TO BE SUBMITTED

00-15-157-6.1 Sketch Plan
Sketch plats submitted to the Zoning Administrator, prepared in pen or pencil, shall be drawn to a convenient scale of not more than one hundred (100) feet to an inch and shall show the following information. The Zoning Administrator, upon request, shall have the authority to determine whether all the following information is necessary in light of the application and may not require full compliance with this section.

A. Name
Name of subdivision if property is within an existing subdivision. The proposed name if the property is not within a previously platted subdivision. The proposed name shall not duplicate the name of any plat previously recorded. Name of property if no subdivision name has been chosen.

B. Ownership
1. The name and address, including telephone number, of legal owner or agent of property, and citation of last instrument conveying title to each parcel of property involved in the proposed subdivision, giving grantor, grantee, date, and land records reference.
2. The name and address, including telephone number, of the professional person(s) responsible for subdivision design, for the design of public improvements, and for surveys.

C. Description
1. The location of the property by section, township, range and county, graphic scale, north arrow, and date.
2. The location of all property lines, existing easements and legal rights-of-ways, burial grounds, watercourses, and existing wooded areas or trees eight (8) inches or more in diameter, measured four (4) feet above ground level.
3. The location, width, and names of all existing or platted streets or other public ways within or immediately adjacent to the tract; names of adjoining property owners from the latest assessment rolls within five hundred (500) feet of any perimeter boundary of the subdivision.
4. Approximate topography, at the same scale as the sketch plat.
5. The approximate location and widths of proposed streets.
6. Proposals for connection with existing water supply and sanitary sewage systems. A written Letter from the appropriate utility stating that utility service can be provided to the project on the date of expected service commencement.

7. The approximate location, dimensions, and areas of all proposed or existing lots.

8. The approximate location, dimensions, and area of all parcels of land proposed to be set aside for park or playground use or other public use, or for the use of property owners in the proposed subdivision.

9. Whenever the sketch plat covers only a part of an applicant’s contiguous holdings, the applicant shall submit, at the scale of no more than two hundred (200) feet to the inch, a sketch in pen or pencil of the proposed subdivision area, together with its proposed street system, and an indication of the probable future street system, and an indication of the probable future street and drainage system of the remaining portion of the tract.

10. A vicinity map showing streets and other general development of the surrounding area. The sketch plat shall show all school and improvement district lines with the zones properly designated.

00-15-157-6.2 Primary Subdivision Plat.

The primary plat shall be prepared by a licensed land surveyor at a convenient scale not more than one (1) inch equals one hundred (100) feet, may be prepared in pen or pencil, and the sheets shall be numbered in sequence if more than one (1) sheet is used and shall be of such size as is acceptable for filing in the office of the Hancock County Recorder, but shall not be thirty-four by forty-four (34 x 44) inches or larger. The map prepared for the primary plat may also be used for the secondary subdivision plat and, therefore, should be drawn on tracing cloth or reproducible mylar.

A. The primary plat shall show the following:

1. The location of property with respect to surrounding property and streets, the names of all adjoining property owners of record, or the names of adjoining developments; the names of adjoining streets.

2. The location and dimensions of all boundary lines of the property to be expressed in feet and decimals of a foot.

3. The location of existing streets, easements, water bodies, streams, and other pertinent features such as swamps, railroads, buildings, parks, cemeteries, drainage ditches, and bridges, as determined by the Plan Commission.

4. The location and width of all existing and proposed streets and easements, alleys, and other public ways, and easement and proposed street rights-of-way and building setback lines.

5. The locations, dimensions, and areas of all proposed or existing lots.
6. The location and dimensions of all property proposed to be set aside for park or playground use, or other public or private reservation, with designation of the purpose of those set asides, and conditions, if any, of the dedication or reservation.

7. The name and address of the owner or owners of land to be subdivided, the name and address of the subdivider if other than the owner, and the name of the land surveyor.

8. The location, sizes, elevations, and slopes of existing sewers, water mains, culverts, and other underground structures within the tract and immediately adjacent thereto; existing permanent building and utility poles on or immediately adjacent to the site and utility rights-of-way.

9. Primary connection with existing water supply and sanitary sewage systems, or alternative means of providing water supply and sanitary waste treatment and disposal; primary provisions for collecting and discharging surface water drainage. A written Letter of Intent from the appropriate utility stating that utility service will be provided to the project with the date of expected service commencement.

10. The date of the map, approximate true north point, scale, and title of the subdivision.

11. Sufficient data acceptable to the Town Engineer to determine readily the location, bearing, and length of all lines, and to reproduce such lines upon the ground; the location of all proposed monuments.

12. Names of the subdivision and all new streets as approved by the Plan Commission.

13. Indication of the use of any lot (single-family, two-family, multifamily, townhouse) and all uses other than residential proposed by the subdivider.

14. Blocks shall be consecutively numbered or lettered in alphabetical order. The blocks in numbered additions to subdivisions bearing the same name shall be numbered or lettered consecutively throughout the several additions.

15. All lots in each block shall be consecutively numbered. Outlots shall be lettered in alphabetical order. If blocks are numbered or lettered, outlots shall be lettered in alphabetical order within each block.

16. All information required on sketch plat should also be shown on the primary plat, and the following notation shall also be shown:

   (a) Explanation of drainage easements, if any.

   (b) Explanation of site easements, if any.

   (c) Explanation of reservations, if any.

   (d) Endorsement of owner, as follows:

   ______________________________________________

   Owner      Date
17. Form for endorsements by Commission President as follows:

Approved by Resolution of the Plan Commission.

____________________________
President Date

18. The lack of information under any item specified herein, or improper information supplied by the applicant, shall be cause for disapproval of a primary plat.

19. A signage plan for all temporary and permanent signage in conformance with the Zoning Ordinance.

00-15-157-6.3 Construction Plans

Construction plans shall be prepared for all required improvements. Plans shall be drawn at a scale of no more than one (1) inch equals fifty (50) feet, and map sheets shall be of the same size as the primary plat. The following shall be shown:

A. Profiles showing existing and proposed elevations along center lines of all roads. Where a proposed road intersects an existing road or roads, the elevation along the center-line of the existing road or roads within one hundred (100) feet of the intersection, shall be shown. Approximate radii of all curves, lengths of tangents, and central angles on all streets shall be shown.

B. The Plan Commission may require, where steep slopes exist, that cross-sections of all proposed streets at one-hundred-foot (100-foot) stations be shown at five (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 twenty-five (25) feet inside each property line.

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

D. Location, size, elevation, and other appropriate descriptions of any existing facilities or utilities, including, but not limited to, existing streets, sewers, drains, water mains, easements, water bodies, streams, and other pertinent features such as swamps, railroads, buildings, features noted on the Official Zoning Map or Comprehensive Plan, at the point of connection to proposed facilities and utilities within the subdivision, and each tree with a diameter of eight (8) inches or more, measured twelve (12) inches above ground level. The water elevations of adjoining lakes or streams at the date of the survey, and the approximate high- and low-water elevations of such lakes or streams. All elevations shall be referred to the U.S. Geological Survey datum plane. If the subdivision borders a lake,
river, or stream, the distances and bearings of a meander line established not less than twenty (20) feet back from the ordinary high-water mark of such waterways.

E. Topography at the same scale as the sketch plat with a contour interval of two (2) feet, referred to sea-level datum. The datum provided shall be latest applicable U.S. Coast and Geodetic Survey datum and should be so noted on the plat.

F. Boundary lines of the plat and acreage based upon an accurate survey performed in accordance with the Indiana Administrative Code, Title 865, Article II, Chapter 12 and all amendments establishing minimum standards for the practice of land surveying.

G. All specifications and references required by the Town's construction standards and specifications, including a site-grading plan for the entire subdivision.

H. Notation of approval as follows:

<table>
<thead>
<tr>
<th>Name</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owner</td>
<td></td>
</tr>
<tr>
<td>Plan Commission President</td>
<td></td>
</tr>
</tbody>
</table>

I. Title, name, address, and signature of professional engineer and surveyor, and date revision dates.

J. Construction plans must be provided to the Town Engineer and submitted on computer diskette.

00-15-157-6.4 Secondary Subdivision Plat

A. General

The secondary subdivision plat shall be presented in india ink on tracing cloth or reproducible mylar at the same scale and contain the same information, except for any changes or additions required by resolution of the Plan Commission, as shown on the primary plat. The primary plat may be used as the secondary subdivision plat if it meets these requirements and is revised in accordance with the Plan Commission's resolution. All revision dates must be shown as well as the following:

1. Notation of any self-imposed restrictions, and locations of any building lines proposed to be established in this manner, if required by the Plan Commission in accordance with this Ordinance.

2. Endorsement of the Hancock County Health Department.

3. Endorsement on the plat by every person having a security interest in the subdivision property that they are subordinating their liens to all covenants, servitudes, and easements imposed on the property.

4. Lots numbered as approved by the building Commissioner.
5. All monuments erected, comers, and other points established in the field in their proper places. The material of which the monuments, comers, or other points are made shall be noted at the representation thereof or by legend, except that lot comers need not be shown. The legend for metal monuments shall indicate the kind of metal, the diameter, length, and weight per lineal foot of the monuments.

6. A bound drainage report documenting the drainage calculations as prepared by a civil engineer which includes a drainage narrative determination of predeveloped and developed storm water runoff, basin maps, pipe sizing calculations, inlet capacity checks and gutter spread checks.

7. An Erosion Control Plan in conformance with the storm drainage and erosion specifications of this Ordinance.

B. Preparation

The secondary subdivision plat shall be prepared by a land surveyor licensed by the state.
ARTICLE 7  REQUIREMENTS FOR ROAD IMPROVEMENTS AND DESIGN

00-15-157-7.1  Frontage on Improved Roads
No subdivision shall be approved unless the area to be subdivided shall have frontage on and access from an existing street on the Official Zoning Map, or if there is no Official Zoning Map, unless such street is:

A. An existing state, county, or township highway; or

B. A street shown upon a plat approved by the Plan Commission and recorded in the Hancock County Recorder’s office. Such street or highway must be suitably improved as required by the highway rules, regulations, specifications, or orders, or be secured by a performance bond required under this Ordinance, with the width and right-of-way required by this Ordinance or the Official Zoning Map or Cumberland Thoroughfare Plan. Wherever the area to be subdivided is to utilize existing road frontage, the road shall be suitably improved as provided above.

00-15-157-7.2  Level of Service
A. No development shall be approved if such development, at full occupancy:

1. Will result in or increase traffic on an arterial, collector or its nearby intersection so that the street does not function at a level of service of D or better.; or

2. Will have an adverse affect on public safety.

B. The applicant may propose and construct approved traffic mitigation measures to provide adequate roadway capacity for the proposed development.

C. A traffic impact analysis shall be provided if the proposed development meets or exceeds the threshold values of the predictor variables for different land use as set by the INDOT or as modified by the Town Engineer.
00-15-157-7.3 Grading and Improvement Plan
Roads shall be graded, improved, and conform to the Town construction standards and specifications and shall be approved as to design and specifications by the Town Engineer, in accordance with the construction plans required to be submitted prior to secondary plat approval.

00-15-157-7.4 Classification
All roads shall be functionally classified per the Town Engineer and the Cumberland Thoroughfare Plan. In classifying roads, the Town shall consider projected traffic demands after ten (10) years of development.

00-15-157-7.5 Topography and Arrangement
A. All streets shall be arranged so as to obtain as many building sites as possible at, or above the grades of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided. Specific standards are contained in the Roadway Development Standards of Table 7.1.

B. All streets shall be properly integrated with the existing and proposed system of thoroughfares and dedicated rights-of-way as established by the Official Zoning Map or Cumberland Thoroughfare Plan. All thoroughfares shall be properly related to special traffic generators such as industries, business districts, schools, churches, and shopping centers; to population densities; and to the pattern of existing and proposed land uses.

C. Minor or local streets shall be laid out to conform as much as possible to the topography and shall be curved wherever possible to avoid conformity of lot appearance and to discourage use by through traffic. Such streets shall also be laid out to permit efficient drainage and utility systems, and to require the minimum number of streets necessary to provide convenient and safe access to property.

D. 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.

E. Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless in the opinion of the Plan Commission such extension is not feasible due to topography or other physical conditions, or not necessary or desirable for the coordination of the subdivision with the future development of adjacent tracks.

F. In business and industrial developments, the streets and other access ways shall be planned in connection with the grouping of buildings, location of rail facilities, and the provision of alleys, truck loading and maneuvering areas, and walks and parking areas so as to minimize conflict of movement between the various types of traffic, including pedestrian.

00-15-157-7.6 Blocks
A. Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depths. Exceptions to this prescribed block width shall be permitted in blocks adjacent to major streets, railroads, or waterways.
B. The lengths, widths, and shapes of blocks shall be such as are appropriate for the Town and the type of development contemplated. Block lengths in residential areas shall meet the requirement set forth in the Roadway Development Standards of Table 7.1.

C. In long blocks, the Plan Commission may require the reservation of an easement through the block to accommodate utilities, drainage facilities, or pedestrian traffic. In addition, the Plan Commission may require pedestrian ways or cross walks through the center of blocks where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation, or other community facilities. Blocks designed for industrial uses shall be of such length and width as may be determined suitable by the Plan Commission for prospective use.

00-15-157-7.7  Access to Primary Arterials

Where a subdivision borders on or contains an existing or proposed primary arterial, the Plan Commission may require that access to such streets be limited by one of the following means:

A. The subdivision of lots so as to back onto the primary arterial and front onto a parallel local street; no access shall be provided from the primary arterial, and screening shall be provided in a strip of land along 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 such a parallel street, with the rear lines of their terminal lots backing onto the primary arterial.

C. A marginal access or service road. (Such access or road shall be separated from the primary arterial by a planning or grass strip and having access at suitable points.)

00-15-157-7.8  Road Names

Proposed street names shall be submitted with and indicated on the preliminary plat. The Plan Commission shall approve the street names at the time of preliminary approval. The Plan Commission shall consult the local postmaster prior to rendering its decision. Names shall be sufficiently different in sound and spelling from other road names in the Town so as not to cause confusion. A road which is (or is planned as) a continuation of an existing road shall bear the same name.

00-15-157-7.9  Road Regulatory Signs

The applicant shall be responsible for the installation of all road signs required by the Town Engineer. The applicant shall install all road signs before issuance of any certificates of occupancy permits for any residence with the subdivision. Street name signs are to be placed at all intersections within or abutting the subdivision as approved by the Town Engineer. Each installed sign shall comply with the urban standards established in the Manual on Uniform Traffic Control Devices (MUTCD). In addition, all road signs required by the Town shall be the following requirements.
Stop Signs

1. 30” x 30” engineer grade stop sign
   In instances where subdivision empties on to a Main Road, Stop Sign shall be a 30” x 30” high intensity stop sign.
2. One (1) square sign post 1 ¾” x 1 ¾” x Variable Height* x 14 ga
3. One (1) square anchor 2” x 2” x 3’ x 12 ga.
4. Three (3) Drive Rivets
5. One (1)-Corner Bolt
6. One (1)-Rain Cap
7. One (1)-Jam Nut – Optional

Street Signs

1. 2 Single Sided blades per street. Green background no border, white 4 in. letters
2. One (1) square sign post 1 ¾” x 1 ¾” x 10’ x 14 ga.
3. One (1) square anchor 2” x 2” x 3’ x 12 ga.
4. Five (5) Drive Rivets
5. One (1)-Corner Bolt
6. One (1)-Rain Cap
7. One (1)-Jam Nut – Optional

00-15-157-7.10 Street Lights

Installation of streetlights shall be required by the developer at his own expense and shall, at a minimum, be required at all intersections of a subdivision and a Town arterial or thoroughfare. Such streetlights shall be in accordance with design and specification standards approved by the Town, and relative to public safety concerns, in conformance with recommendations of the Town Consulting Engineer and Town Staff.

00-15-157-7.11 Reserve Strips

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 the street.

00-15-157-7.12 Construction of Roads and Dead-end Roads

A. Construction of Roads

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

   1. If the adjacent property is undeveloped and the street must temporarily be a dead-end street, the right-of-way shall be extended to the property line. A temporary cul-de-sac, T- or L-shaped turn-around 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 the adjoining landowners when the street is continued. The developer shall provide barriers and
signage for any such temporary dead-in street. The Plan Commission may limit the length of temporary dead-end streets in accordance with Roadway Development Standards of Table 7.1.

2. Dead-end Roads (Permanent)

Where a road does not extend beyond the boundary of the subdivision and its continuation is not required by the Plan Commission for access to adjoining property, its terminus shall not be nearer to such boundary than fifty (50) feet. However, the Plan Commission may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic, or utilities. A cul-de-sac turn-around shall be provided at the end of a permanent dead-end street in accordance with the Roadway Development Standards set forth herein. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall, in general, be limited in length in accordance with the Roadway Development Standards of Table 7.1.

00-15-157-7.13 Design Standards

A. Purpose

The requirements set forth herein are designed to provided for roads that:

1. are suitable in location, width, and improvement so that they may accommodate prospective traffic;

2. afford satisfactory access to police, fire fighting, snow removal, sanitation, and road-maintenance equipment, and

3. compose a convenient traffic system and avoid undue hardships to adjoining properties.

B. Street Design Standards

The arrangement, character, extent, width, grade, and location of all streets shall conform to the Roadway Development Standards of Table 7.1.

1. All streets shall be planned to conform to the Cumberland Comprehensive Plan and the Cumberland Thoroughfare Plan.

2. Whenever a subdivision abuts or contains an existing or proposed major street (inclusive of minor arterials, major and minor collectors), the Commission may require:

a. frontage roads,

b. double frontage lots with screening,

c. a non-access easement along the property lines, deep lots, or

d. such other treatment as may be deemed necessary for the adequate protection of residential properties and to afford separation of through and local traffic.
In those instances where a non-access easement is proposed along a state or federal highway, this easement shall be granted specifically to the benefit of INDOT.

3. The coordination of streets from one subdivision to another is essential to the Town of Cumberland in order to provide a continuation of not only vehicular access, but also for transportation and distribution lines for most utilities, such as water, sewer, gas, electricity and telephone systems. Therefore, the Plan Commission may require a developer to construct access streets to adjoining vacant undeveloped properties. The Commission shall determine the need and location of these access streets at the preliminary plat hearing.

4. A proposed street shall provide for the continuation of existing, planned or platted streets on adjacent property.

5. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way the Plan Commission may require a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the intervening land. Such distances shall also be determined with due regard for the requirements of the approach grade of any future grade separation structure.

6. An easement providing access to a street shall be prohibited except where the Plan Commission has approved its use, control and maintenance.

7. The street right-of-way width shall be in accordance with the Roadway Development Standards of Table 7.1.

8. The paved width of all streets shall be in accordance with the Roadway Development Standards of Table 7.1. Where a proposed street is an extension of an existing paved street which exceeds the minimum dimension set forth herein, the Plan Commission may require the developer to match the width of the existing paved street.

9. All proposed streets shall be adjusted to the contour of the land so as to provide usable lots and a street of reasonable gradient. The grade of all streets shall not exceed the requirements of the Roadway Development Standards of Table 7.1, except where an unusual topographic condition justifies, in the opinion of the Plan Commission, a waiver of the requirements of this Ordinance.

10. The horizontal visibility of a curved street and the vertical visibility on all streets shall be as set forth in the Roadway Development Standards of Table 7.1.

11. A reverse curve on a major street shall have a straight tangent between elements of said reverse curve in accordance with the Roadway Development Standards of Table 7.1.

12. Horizontal curvature measured along the road center-line shall have a minimum radius as set forth in the Roadway Development Standards of Table 7.1.

13. A half street shall be prohibited.
14. In a subdivision that adjoins or includes an existing street that does not conform to the minimum right-of-way dimension as established by the Roadway Development Standards of Table 7.1, the applicant shall dedicate additional right-of-way width as required to meet this Ordinance.

15. The requirements set forth in the Roadway Development Standards of Table 7.1 deal with minimum requirements. Individual projects, particularly commercial and industrial subdivisions, may warrant additional requirements dictated by sound engineering design. Where such additional requirements are deemed necessary they shall be a condition of approval for the preliminary plat and recorded thereon.

D. Access Roads

1. Access roads from a proposed development onto an existing or proposed Town street may be restricted or denied where such a road presents a potential hazard to the public safety. Where such potential hazard to the public safety is determined to be present, the Plan Commission may require the applicant to make improvements to an existing or proposed Town street as a condition of allowing access. Prior to making its decision, the Plan Commission may require the applicant to submit a traffic impact study.

2. The number of access roads required for a proposed subdivision shall be based upon the number of lots, sound engineering design and continuity of the Town of Cumberland street system. If the Plan Commission determines that an additional access road is necessary, they will advise the applicant at the time of preliminary plat approval.

3. An applicant may be required to provide traffic signalization, deceleration lanes, acceleration lanes, passing blisters or other improvements to the street system based on the following criteria.

   a. Number of lots.
   b. Proposed use.
   c. Street classification.
   d. Traffic generation.
   e. Existing or proposed conditions.
   f. Sound engineering design.

4. If the Commission determines that improvements to the street system are necessary they shall make such improvements as condition of approval of the preliminary plat.

E. Road Surfacing and Improvements

Once sewer and water utilities have been installed, the developer shall construct curbs and gutters and shall surface all roadways to the widths prescribed in this Ordinance. All surfacing shall be of a character suitable for the expected traffic and in harmony with similar improvements in the surrounding areas. Types of pavement shall be as determined by the Town Engineer. Adequate provision shall be made for culverts, drains, and bridges. All road pavement, shoulders, drainage improvements and structures, curbs,
turnarounds, and sidewalks shall conform to all construction standards and specifications of the Town of Cumberland and shall be incorporated into the construction plans required of the developer for plat approval. (See the Cumberland Detail Sheets set forth in Appendix A.)

F. Excess Right-of-Way

Right-of-way widths in excess of the standards designated in this Ordinance shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. Such slopes shall not be in excess of three-to-one (3:1).

E. Railroads and Limited Access Highways

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

1. 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 designated on the plat:

   "This strip is reserved for screening. The placement of structure on this land is prohibited."

2. In districts zoned for commercial or industrial uses the nearest street extending parallel or approximately parallel to the railroad right-of-way shall, wherever practicable, be at a sufficient distance from the railroad right-of-way to ensure suitable depth for commercial or industrial sites.

3. When streets parallel to the railroad right-of-way intersect a street, which crosses the railroad right-of-way at grade, they shall, to the extent practicable, be at a distance of at least 150 feet from the railroad right-of-way. Such distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of appropriate approach gradients.

G. Intersections

1. Streets shall be laid out so as to intersect as nearly as possible at right angles. Proposed new intersections along one side of an existing street shall, wherever practicable, coincide with any existing intersections on the opposite side of such street All intersection shall adhere to the development standards of the Roadway Development Standards of Table 7.1.

2. Minimum curb radius at the intersection shall be controlled by the Roadway Development Standards of Table 7.1.

3. Intersections shall be designed with a flat grade wherever practical. In hilly or rolling areas, a leveling area shall be provided at the intersection approach having no greater than a two percent (2%) rate slope at a distance of sixty (60) feet, measured from the nearest right-of-way line of the intersecting street.
4. No intersection shall create a traffic hazard by limiting visibility. The visibility and sight distances at intersections shall be controlled by the Roadway Development Standards of Table 7.1.

5. The cross-slopes on all streets shall adhere to the Roadway Development Standards of Table 7.1.

6. In order to insure the safe movement of both vehicular and pedestrian traffic, the following paragraphs shall be required as a provision of the restrictive covenants for all final plats and shall be included in all deeds written relative to said plats. The proposed owner shall sign and such signed copy of this covenant shall be filed with the Town.

   a. No fence, wall, hedge, tree or shrub planting which obstructs sight lines with elevations between two and one half (2 1/2) feet and eight (8) feet above the street surface elevation shall be placed or permitted on any corner lot within the triangular area formed by the street right-of-way lines and a line connecting points forty (40) feet from the intersection of said street right-of-way lines for neighborhood and local streets, and seventy-five (75) feet for arterial streets, or in the case of a rounded property corner, from the street right-of-way lines extended.

   b. The same line limitations shall apply to any lot within ten (10) feet of the intersection of a street right-of-way line with the edge of a driveway pavement or alley line. No driveway shall be located within seventy (70) feet of the intersection of two (2) street right-of-way lines.

   c. No drainage structures shall be located within driveway limits. No sump pump drains or other drains shall outlet onto the street.

00-15-157-7.14 Bridges
Bridges of primary benefit to the applicant, as determined by the Plan Commission, shall be constructed at the full expense of the applicant without reimbursement from the Town. The sharing expense for the construction of bridges not of primary benefit to the applicant as determined by the Plan Commission, shall be determined by the Cumberland Town Council.

00-15-157-7.15 Road Dedications and Reservations

A. New Perimeter Streets
Street systems in new subdivisions shall be laid out so as not to provide 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 Plan Commission may authorize a new perimeter street where the subdivider improves and dedicates the entire required street right-of-way width within its own subdivision boundaries.
B. Widening and Realignment of Existing Roads

1. Where a subdivision borders an existing narrow road or when the Cumberland Comprehensive Plan, Cumberland Thoroughfare Plan, the Official Zoning Map, or other policy documents of the Town of Cumberland indicate plans for the realignment or widening of a road that would require use of some of the land in the subdivision, the applicant shall be required to improve and dedicate at its expense those areas so designated for widening or realignment.

2. Frontage roads and streets shall be improved and dedicated by the applicant at its own expense to the full width as required by this Ordinance when the applicant's development activities contribute to the need for the road expansion. Land reserved for any road purposes may not be counted in satisfying yard or area requirements of the Cumberland Zoning Ordinance whether the land is to be dedicated to the municipality in fee simple or an easement is granted to the Town.
### Table 7-1: Roadway Development Standards

<table>
<thead>
<tr>
<th>Development Standards</th>
<th>Sub-group Notes</th>
<th>Urban Local Streets</th>
<th>Urban Thoroughfares</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Neighborhood St. w/ Tree Lawn</td>
<td>Neighborhood Collector w/ Tree Lawn</td>
</tr>
<tr>
<td>Design/Posted Speed (mph)</td>
<td></td>
<td>25</td>
<td>25</td>
</tr>
<tr>
<td>R/W Width (ft.)</td>
<td></td>
<td>60</td>
<td>60</td>
</tr>
<tr>
<td>Number of lanes feasible in both directions</td>
<td>Through Lanes</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>Turn Lanes</td>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td>Max Pavement width (ft.)</td>
<td>Not including curb and gutter</td>
<td>24</td>
<td>26</td>
</tr>
<tr>
<td>Travel Lane width (ft.)</td>
<td></td>
<td>12</td>
<td>13</td>
</tr>
<tr>
<td>Parking Permitted (Y/N)</td>
<td>One Side/both sides</td>
<td>One side</td>
<td>No</td>
</tr>
<tr>
<td>Sidewalk required (Y/N)</td>
<td>Both Sides</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Sidewalk width (ft.)</td>
<td>Minimum</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Curb Corner Radius</td>
<td>Minimum</td>
<td>25</td>
<td>30</td>
</tr>
<tr>
<td>Road Centerline Radius (feet)</td>
<td>Maximum</td>
<td>90</td>
<td>150</td>
</tr>
<tr>
<td>Road Centerline Grades (%)</td>
<td>Minimum</td>
<td>0.5</td>
<td>0.5</td>
</tr>
<tr>
<td></td>
<td>Maximum</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Tangent Section between curve or traffic calming device (feet)</td>
<td>Minimum</td>
<td>50</td>
<td>100</td>
</tr>
<tr>
<td></td>
<td>Maximum</td>
<td>300</td>
<td>500</td>
</tr>
<tr>
<td>Distance between intersections (ft.)</td>
<td>Maximum</td>
<td>600</td>
<td>600</td>
</tr>
<tr>
<td>Cul-de-sac roadway length (ft.)</td>
<td>Minimum</td>
<td>300</td>
<td>300</td>
</tr>
<tr>
<td></td>
<td>Maximum</td>
<td>600</td>
<td>600</td>
</tr>
<tr>
<td>Cul-de-sac R/W radius (ft.)</td>
<td>Minimum</td>
<td>50</td>
<td>50</td>
</tr>
<tr>
<td></td>
<td>Maximum</td>
<td>60</td>
<td>60</td>
</tr>
<tr>
<td>Cul-de-sac pavement radius (ft.)</td>
<td>Minimum</td>
<td>60</td>
<td>60</td>
</tr>
<tr>
<td></td>
<td>Maximum</td>
<td>70</td>
<td>70</td>
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### Roadway Development Standards continued

<table>
<thead>
<tr>
<th>Development Standards</th>
<th>Sub-group Notes</th>
<th>Urban Local Streets</th>
<th>Urban Thoroughfares</th>
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<tr>
<td></td>
<td></td>
<td>Per Zoning and SCO</td>
<td>Per Zoning and SCO</td>
</tr>
<tr>
<td><strong>Distance between intersections (ft.)</strong></td>
<td>Minimum</td>
<td>800</td>
<td>1,000</td>
</tr>
<tr>
<td></td>
<td>Maximum</td>
<td>1,000</td>
<td>1,000</td>
</tr>
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<td><strong>Cul-de-sac roadways length (ft.)</strong></td>
<td>Minimum</td>
<td>50</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>Maximum</td>
<td>60</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Cul-de-sac pavement radius (ft.)</strong></td>
<td>Minimum</td>
<td>40</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>Maximum</td>
<td>50</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Cul-de-sac R/W radius (ft.)</strong></td>
<td>Minimum</td>
<td>60</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>Maximum</td>
<td>70</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Road Vertical curve length (ft.)</strong></td>
<td>Crest min.</td>
<td>K=10</td>
<td>K=10</td>
</tr>
<tr>
<td></td>
<td>Sag min.</td>
<td>K=20</td>
<td>K=30</td>
</tr>
<tr>
<td><strong>Stopping Sight Distance (SSD)</strong></td>
<td>Minimum (feet)</td>
<td>130</td>
<td>200</td>
</tr>
<tr>
<td></td>
<td>Intersection sight distance (IDS)</td>
<td>200</td>
<td>300</td>
</tr>
<tr>
<td></td>
<td>Pavement markings required</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td></td>
<td>Regulatory signs required (Y/N)</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td><strong>Intersections</strong></td>
<td>Min Angle</td>
<td>80 deg</td>
<td>80 deg</td>
</tr>
<tr>
<td></td>
<td>Desired</td>
<td>90 deg</td>
<td>90 deg</td>
</tr>
</tbody>
</table>

**Notes:**
- INDOT = INDOT standards.
- Road vertical curve formula: \( L = KA \) (length of curve, \( A \) = algebraic difference in grades).
Drawing 7-01  Neighborhood Side Street with Tree Lawn

Town of Cumberland, Indiana

NEIGHBORHOOD STREET
PARKING ALLOWED ONE SIDE ONLY

NEIGHBORHOOD SIDE STREET
WITH TREES LAWN
FIGURE 1a

JUNE 28, 2002
Drawing 7-02  Neighborhood Collector Street with Tree Lawn

NEIGHBORHOOD COLLECTOR

PARKING ALLOWED ONE SIDE ONLY

Town of Cumberland, Indiana

NEIGHBORHOOD COLLECTOR WITH TREE LAWN

FIGURE 2a

JUNE 28, 2002
Drawing 7-03  Local Boulevard with Tree Lawn

URBAN LOCAL

* ALL DIMENSIONS ARE BACK OF CURB TO BACK OF CURB

Town of Cumberland, Indiana
LOCAL BOULEVARD WITH TREE LAWN
FIGURE 3a
JUNE 29, 2002
Title 15 – Chapter 157
Cumberland Subdivision Control Ordinance

Drawing 7-04 Secondary Arterial and Collector Street

Urban Thoroughfares

120' Right of Way

5'
28'
2'
52'
48'
(4 Through Lanes)

Reserved for future 12' turn lanes with curb + 16' utility strip (typ.)

Urban Secondary Arterial

100' Right of Way

5'
22'
2'
44'
40'
(2 Through Lanes with 16' Center Turn lane)

Reserved for future 12' turn lane with curb + 10' utility strip (typ.)

Urban Collector

Note: 1. 5' between sidewalk and r/w
2. All curbs to be circumferential curbs

Town of Cumberland, Indiana

Secondary Arterial and Collector Street Sections

Figure 4a

June 28, 2002
Town of Cumberland, Indiana

PRIMARY ARTERIAL STREET SECTION

FIGURE 5a

JUNE 29, 2002

NOTES:
1. 10' BETWEEN SIDEWALK AND R/W.
2. ALL CURB TO BE CHARRIOT CURB

RESERVED FOR FUTURE 12' TURN LANES WITH CURB + 18' UTILITY STRIP (TYP.)

DRAWING 7-05  PRIMARY ARTERIAL STREET

TOWN OF CUMBERLAND, IN

2002 May 6, 2011

DRAFT 1.0 February 20, 2002
REVISED AUGUST 19,

73
ARTICLE 8 FACILITIES MANAGEMENT

00-15-157-8.1 Drainage and Storm Sewers
00-15-157-8.2 Water Facilities
00-15-157-8.3 Sanitary Sewer Facilities
00-15-157-8.4 Sidewalks
00-15-157-8.5 Utilities
00-15-157-8.6 Public Site Reservation
00-15-157-8.7 Residential Open Space Requirements
00-15-157-8.8 Preservation of Natural Features and Amenities
00-15-157-8.9 Environmental Standards

00-15-157-8.1 Drainage and Storm Sewers

A. Roadside Drainage Swale Requirements

1. No new subdivision streets shall have roadside drainage swales.

2. Roadside drainage swales shall be placed along existing roads, as follows:

   a. A minimum twenty four (24) foot long corrugated, galvanized steel pipe (non-
      spiraled or plastic pipe) shall be placed at all driveways, sized according to the
      calculated amount of storm water flow, but never less than twelve (12) inches in
      diameter. All culvert installations shall include galvanized steel flared end
      sections unless otherwise approved by the Town. Minimum cover over any
      culvert shall not be less than twelve (12) inches.

   b. Culverts are to be placed or extended under the roadway where necessary. The
      size of the culvert is to be according to the calculated amount of storm water
      flow, but not less than twelve (12) inches in diameter. All culverts shall extend
      from right-of-way to right-of-way unless otherwise approved by the Town. All
      culvert pipe that is banded together shall receive a minimum of a twelve (12)
      inch band with eight (8) inch long bolts. All culverts shall have applicable end
      sections unless waived by the Plan Commission.

   c. Roadside drainage swales shall be constructed with a minimum side slope of
      three (3) feet horizontal to one (1) foot vertical. Swales having a bottom slope
      greater than two percent (2%) but less than five percent (5%) shall be sodded
      at the flow line with the sod extending a minimum of two (2) feet up the side
      slopes of the swale. Swales that have a bottom slope of five percent (5%) or
      more shall have the flow line paved with concrete with the concrete extending
      up the side slopes a minimum of two (2) feet.

B. Drainage Disposal Requirements, Restrictions and Enforcement

1. In order to insure the maintenance of a properly designed and installed drainage
   system, the following paragraphs shall be required as a provision of the restrictive
   covenants for all final plats and shall be included in all deeds written relative to
   said plats. The proposed owner shall sign and such signed copy of this covenant
   shall be filed with the Town and the Hancock County Surveyor.
a. Drainage swales (ditches) along dedicated roadways and within the right-of-way, or on dedicated drainage easements, are not to be altered, dug out, filled in, tiled or otherwise changed without the written approval of the Cumberland Storm Water Drainage Utility Board. Property owners must maintain these swales as sodded grassways, or other non-eroding surfaces. Water from roofs, parking areas, or other impervious surfaces must be contained on the property long enough so that said drainage swales or ditches will not be damaged by such water. Driveways may be constructed over these swales or ditches only when appropriately sized culverts are installed in accordance with this Article.

b. A property owner altering, changing, or damaging these drainage swales or ditches will be held responsible for such action and will be given ten (10) days notice by certified mail to repair said damage, after which time, if no action is taken, the Town of Cumberland will cause said repairs to be accomplished, and the costs for such repairs will be billed to the affected property owner for immediate payment.

2. A drainage system shall be designed and constructed by the subdivider to provide for the proper drainage of the surface water of the subdivision and the drainage area of which it is a part. The system shall be constructed and installed in accordance with plans and specifications reviewed and verified by the Town Consulting Engineer and approved by the Plan Commission, and in accordance with this Ordinance.

3. In designing a drainage system, the subdivider shall be guided by the following standards, in addition to any other standards or requirements contained in this Ordinance.

   a. All streets shall be provided with an adequate storm drainage system consisting of curbs, gutters and storm sewers, or roadside drainage swales or ditches and culverts, as determined by the Town Consulting Engineer and the Plan Commission.

   b. Street drainage shall serve as the primary drainage system and it shall be designed to carry at least the street, adjacent land and storm water drainage from roofs, parking areas and other impervious surfaces.

   c. Whenever the evidence available to the Plan Commission indicates that the natural surface is inadequate for a proper and effective surface drainage system, the subdivider shall provide the subdivision with an adequate subsurface storm water sewer system and appropriate easements, reviewed and verified by the Town Consulting Engineer and approved by the Plan Commission. When the surface drainage is adequate, easements for such surface drainage shall be provided.

   d. When vegetation has been removed from the surface of a lot on a slope where erosion will cause a displacement of loose materials, the subdivider shall be required to seed or provide other means to prevent such erosion from damaging adjacent property or accumulating on street surfaces.
CUMBERLAND SUBDIVISION CONTROL ORDINANCE

C. Storm Water Run-Off Associated With Construction Activity

1. The purpose of this section is to reduce pollutants, principally sediment as a result of soil erosion, in storm water discharges into surface waters of the state from sites disturbed by construction activity.

2. The requirements under this section apply to all persons who:
   a. do not obtain an individual NPDES permit under 327 IAC 15-2-6;
   b. meet the general permit rule applicability requirements under 327 IAC 15-2-3; and
   c. are involved in construction activity which includes clearing, grading, excavation, or other land disturbing activities.

3. All facilities within the town boundaries of the Town of Cumberland, Indiana affected by this provision are regulated by this section.

4. The following definitions apply specifically throughout this section:
   a. Agricultural land use. The use of land for the production of animal or plant life, including forestry, pasturing or yarding of livestock, and the planting, growing, cultivating and harvesting of crops for human or animal consumption.
   b. Erosion. The detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity.
   c. Erosion control measure. A practice, or a combination of practices, to control erosion and resulting sedimentation, and/or off site damages.
   d. Erosion control plan. A written description and site plan of pertinent information concerning erosion control measures.
   e. Land disturbing activity. Any man made change of the land surface, including removing vegetative cover, excavating, filling, transporting and grading. In the context of this section, agricultural land disturbing activities are excluded.
   f. Non-agricultural land use. Commercial use of land for the manufacturing and wholesale, or retail sale, of goods or services, residential or institutional use of land intended primarily to shelter people, highway use of land including lanes, alleys and streets, and any other land uses not included in agricultural land use.
   g. NOI. Notice of Intent.
h. **Operator.** The person required to submit the “notice of intent” (NOI) letter under this section, and to comply with the requirements of this section.

i. **Site.** The entire area included in the legal description of the land on which land disturbing activity is to be performed.

5. In addition to the NOI letter requirement under 327 IAC 15-5, the following information must be submitted with the NOI letter by the operator.

   a. A brief description of the construction project, including but not limited to, a statement of the total acreage of the site.

   b. An estimated timetable for the land disturbing activities and installation of erosion control measures.

   c. A statement of the number of acres to be involved in the land disturbing activities.

   d. A written certification by the operator that:

      (1) the erosion control measures included in the erosion control plan comply with the requirements under Articles 7 and 9 of this section, and that the plan complies with applicable state, county and local erosion control regulations;

      (2) the erosion control measures will be implemented in accordance with the erosion control plan;

      (3) verification that the appropriate state, county or local erosion control authority, and the County Soil and Water Conservation District office, has been sent a copy of the erosion control plan for review; and

      (4) verification that implementation of the erosion control plan will be conducted by personnel trained in erosion control practices.

   e. Proof of publication in a newspaper of general circulation in the affected area that notified the public that a construction activity under this section is to commence.

6. All information required under 327 IAC 15-3, and Article 5 of this section, shall be submitted to the Cumberland Plan Commission prior to the initiation of any land disturbing activities.

7. a. The operator shall develop an erosion control plan in accordance with the requirements of and under this section.

   b. The following requirements shall be met on all sites during the period when active land disturbing activities occur:
(1) Sediment laden water which otherwise would flow from the site shall be
detained by erosion control practices appropriate to minimize sedimentation in
the receiving stream. No storm water shall be discharged from the site in a
manner causing erosion in the receiving channel at the point of discharge.

(2) Appropriate measures shall be taken by the operator to minimize or
eliminate wastes or unused building materials, including but not limited to,
garbage, trash, scraps and debris from leaving the site by way of storm water
runoff. Proper disposal or management of all wastes and unused building
materials, appropriate to the nature of the waste or materials, is required.

(3) Sediment being tracked from the site onto public or private roadways
shall be minimized. This can be accomplished initially by a temporary gravel
construction entrance, in addition to a well planned layout of roads, access
drives and parking areas of sufficient width and length, or other appropriate
measures.

(4) Public or private roadways shall be kept cleared of accumulated sediment.
Bulk clearing of accumulated sediment shall not include flushing the area with
water. Cleared sediment shall be returned to the point of likely origin or other
suitable location.

(5) All on site storm drain inlets shall be protected against sedimentation with
straw bales, filter fabric, or equivalent barriers meeting accepted design criteria,
standards and specifications for that purpose.

(6) During the entire time that the construction activity is taking place, storm
water drainage from adjacent areas that naturally pass through the site shall be
controlled by diverting the flow around the disturbed areas. Alternatively, the
existing channel shall be protected and/or improved to prevent erosion or
sedimentation from occurring.

(7) Also, during the entire time that the construction activity is taking place,
runoff from the disturbed areas shall be controlled by appropriate vegetative
practices or erosion control measures, including but not limited to, sediment
detention basins or sediment control practices such as filter strips, diversions,
straw bales, filter fences, inlet protection measures, slope minimization, phased
construction, maximizing tree coverage, mulching and sodding.

(8) Except as prevented by inclement weather conditions or other
circumstances beyond the control of the operator, appropriate vegetative
practices shall be initiated within seven (7) days after the last land disturbing
activity at the site.

(9) All measures involving erosion control practices shall be designed and
installed under the guidance of a qualified professional experienced in erosion
control and following the specifications and criteria under this subsection. All
other non-engineered erosion control measures involving vegetation should be
installed according to accepted specifications and criteria under this subsection.
8. During the period of construction activity at the site, all erosion control measures necessary to meet the requirements of this section shall be maintained by the operator.

9. All erosion control measures required to comply with this section shall meet the design criteria, standards and specifications for erosion control measures established by the Indiana Department of Environmental Management, in guidance documents similar to, or as effective as, those outlined in the Indiana Handbook for Erosion Control in Developing Areas from the Division of Soil Conservation, Indiana Department of Natural Resources and the Field Office Technical Guide from the County Soil and Water Conservation District. The erosion control plan shall include, but is not limited to, the following:

   a. A map of the site in adequate detail to show the site and adjacent areas, including the following:

      (1) Site boundaries and adjacent lands which accurately portray the site location.

      (2) Lakes, streams, channels, ditches, wetlands, and other water courses on and adjacent to the site.

      (3) One Hundred (100) year floodplains, floodway fringes and floodways.

      (4) Location of the predominant soil types, which may be determined by the U.S. Department of Agriculture, the SCS County Soil Survey, or an equivalent publication, or as determined by a certified professional soil scientist.

      (5) Location and delineation of vegetative cover such as grass, weeds, brush and trees.

      (6) Location and approximately dimensions of storm water drainage systems and natural drainage patterns on and immediately adjacent to the site.

      (7) Locations and approximate dimensions of utilities, structures, roads, highways and paving.

      (8) Site topography, both existing and planned, at a contour interval appropriate to indicate drainage patterns.

      (9) Potential areas where point source discharges of storm water may enter ground water, if any.

   b. A plan of final site conditions, on the same scale as the existing site, showing the site changes.

   c. A site construction plan shall include, but not be limited to, the following:
(1) Locations and approximate dimensions of all proposed land disturbing activities.

(2) Potential locations of soil stockpiles.

(3) Locations and approximate dimensions of all erosion control measures necessary to meet the requirements of this section.

(4) A schedule of the anticipated initiation and completion dates of each land disturbing activity, including the installation of erosion control measures necessary to meet the requirements of this section.

(5) Provisions, including a schedule for maintenance of the erosion control measures during construction.

(6) Where feasible, preserve vegetation that existed on the site prior to the initiation of the land disturbing activities.

10. a. The operator shall plan an orderly and timely termination of the land disturbing activities, which shall include the following:

(1) Allowing the installation of utility lines on the site, whenever practical, prior to final grading, seeding and mulching of the site.

(2) Implementing erosion control measures which are to remain on the site.

b. The Plan Commission or Director of Building and Planning Services may, subsequent to termination of a project, inspect the site to evaluate the adequacy of the remaining erosion control measures.

c. Maintenance of the remaining erosion control measures shall be the responsibility of the occupier of the property after the operator has terminated the land disturbing activities.

11. The standard conditions for NPDES general permit rules under 327 IAC 15-4 shall apply to this section.

12. a. The Plan Commission, the Director of Building and Planning Services, the Town Consulting Engineer, or other Town representative may inspect, at reasonable times, any site involved in land disturbing activities regulated by this section. The erosion control plan for the site must be readily accessible for review at the time of the inspection.

b. Any person violating any of the provisions of this section shall be subject to enforcement and penalty under any and all Indiana Rules, and in accordance with this Subdivision Control Ordinance.
c. If maintenance of the remaining erosion control measures on the site are not properly maintained by the person occupying the property, the Plan Commission or the Director of Building and Planning Services for the Town of Cumberland may pursue enforcement actions against that person for correction of the deficiencies.

13. The operator shall notify the Plan Commission and the Director of Building and Planning Services, in writing, upon completion of the land disturbing activity.

14. The Notice of Letter of Intent shall include the following:
   a. Name, mailing address, and location of the facility for which notification is submitted.
   b. Standard industrial classification (SIC) codes, as defined in 327 IAC 5, up to four (4) digits, that best represents the principal products or activities provided by the facility.
   c. The person’s name, address, telephone number, ownership status, and status as to federal, state, private, public, or other entity.

D. Storm Drainage Master Plan

Where applicable, all storm drainage designs and plans should conform to guidelines set forth in the Town’s Storm Drainage Master Plan (July 1993).

E. Storm Water Phase II Requirements

Site and lot drainage, as well as storm sewers, shall adhere to the requirements of the Cumberland (Storm Water Phase II - Storm Drainage, Erosion and Sediment Control) Ordinance.

00-15-157-8.2 Water Facilities

A. General Requirements

Requirements for water facilities in the Town shall include, but are not limited to, the following:

1. When a public water supply is available within three hundred (300) feet of any boundary of a proposed subdivision, the subdivider shall construct and install a system of water mains (including fire hydrants) to be connected to the public water supply. Each lot shall be provided with a connection to the water delivery system. The water delivery system shall be designed and constructed in conformance with the standards and specifications of state or local authorities, and in compliance with the rules and regulations of the Indiana Department of Environmental Management (IDEM).

2. No planned water Mains (pipes) within the water distribution system shall be less than eight (8) inches in diameter, except as follows:
a. Fire hydrant leads (pipes) shall be a minimum of six (6) inches in diameter.
b. Cul-de-sac dead end mains (pipes) shall be a minimum of four (4) inches in diameter.

3. The local fire authority having jurisdiction over the proposed subdivision shall approve fire hydrants, including their setting, number, and size of outlets. It is recommended that one (1) hydrant shall be placed near each street intersection. Intermediate hydrants shall be placed where the distance between intersections exceeds five hundred (500) feet. Unless otherwise approved, the distance between hydrants shall not exceed five hundred (500) feet.

4. The location of all fire hydrants and all water supply improvements, (whether public or central water system) shall be shown on the Secondary Plat. The cost of installing same shall be borne by the subdivider and shall be included in any subdivision improvement agreement. The developer shall also be required to provide surety for installing such improvements.

B. Central Water Systems

1. When a public water supply is not available within three hundred (300) feet of any boundary of a proposed subdivision, the Plan Commission may allow the subdivider to construct and install a central water system (including fire hydrants). Each lot shall be provided with a connection to the central water delivery system. The central water delivery system shall be designed and constructed in conformance with the standards and specifications of state or local authorities, and in compliance with the rules and regulations of the Indiana Department of Environmental Management (IDEM).

2. Water samples shall be submitted to the County Health Department for its review. Results of the review shall be submitted to the Plan Commission prior to secondary subdivision plat approval.

3. The Plan Commission shall require that a connection to a public water main be eventually provided as a condition to approval of a central water system. The applicant shall be required to make arrangements prior to receiving secondary plat approval for future water service. Performance or cash bonds may be required to ensure compliance.

C. Abandonment of Private Wells

All existing homes, currently served by a private potable well water supply, that are to be connected to a new public water supply system shall adhere to the following:

1. The existing well and pumping unit shall be abandoned and the well properly plugged in accordance with the rules and regulations of the Indiana Department of Environmental Management (IDEM) and the Indiana Department of Natural Resources (IDNR).
2. If the homeowner chooses to keep their well in service, a physical disconnection (between the existing well supply plumbing and the new public water supply plumbing) must be completed by the homeowner and inspected by the Town or its designated representative. All disconnections of plumbing shall be completed by a plumbing contractor, licensed in the State of Indiana, and shall be made in accordance with the requirements of the American Backflow Prevention Association (ABPA).

00-15-157-8.3 Sanitary Sewer Facilities

A. General Requirements
   Requirements for sanitary sewer facilities shall include, but are not limited to, the following:

   1. The applicant shall install sanitary sewer facilities in a manner prescribed by the Town construction standards and specifications. All plans shall be designed and approved in accordance with the rules, regulations, and standards of the Town, the Indiana Department of Environmental Management, the County Health Department, and any other appropriate agency.

   2. Sanitary sewer facilities shall connect with the Town’s sanitary sewer collection system. Sewers shall be installed to serve each lot and to grades and sizes required by approving officials and agencies. No individual disposal system or treatment plants (private or group disposal systems) shall be permitted. Sanitary sewer facilities (including the installation of laterals in the right-of-way) shall be subject to the specifications, rules, regulations, and guidelines of the Town, the Indiana Department of Environmental Management, the County Health Department, and any other appropriate agency. All property owners shall be required to connect to the provided sanitary sewer system for the purpose of disposing of waste.

B. Design Criteria for Sanitary Sewers

1. General Guidelines
   These design criteria are not intended to cover extraordinary situations. Deviations will be allowed and may be required in those instances when considered justified by the Town.

2. Design Standards and Specifications for Sanitary Sewers

   A. A sanitary sewer system shall be designed and constructed by the subdivider to provide adequate sanitary sewer service for all of the lots in the proposed subdivision. The subdivision plat shall not be considered for final approval by the Plan Commission until review of the plans for the proposed sanitary sewer system, by the Town’s Consulting Engineer, is completed.

   B. The proposed sanitary sewer system shall include all pipes, manholes and facilities necessary to be connected to an existing or new public or private wastewater disposal system, as approved by the Town.
C. The design of the proposed sanitary sewer system shall be in accordance with the latest edition of “Recommended Standards for Wastewater Facilities” (also referred to as Ten-State Standards) as published by the Great Lakes – Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers. Additionally, the proposed sanitary sewer system shall meet all applicable requirements of the Indiana Department of Environmental Management (IDEM) and the Indiana State Department of Health (ISDH).

D. The following is a checklist of design items to be addressed by the subdivider with respect to the proposed sanitary sewer system:

1. Easements
2. Permits
3. Sewer Materials
4. Water / Wastewater Facility Separation
5. Design Flow Rates and Slopes
6. Force Mains (Note: All Force Mains shall be of ductile-iron pipe or AWWA C-900 PVC materials.)
7. Manholes
8. Deflection, Leakage and Pressure Testing Procedures / Reporting
9. Lift Station Design, including pumps, piping, electrical, ventilation, dry wells, wet wells, and future maintenance requirements.

3. Maximum Size
The diameter of sewers proposed shall not exceed the diameter of the existing or proposed outlet, whichever is applicable, unless otherwise approved by the Town.

4. Minimum Size
No public sewer shall be less than eight (8) inches in diameter.

5. Minimum Slope
All sewers shall be designed to give mean velocities when flowing full of not less than 2.0 feet per second. All velocity and flow calculations shall be based on the Manning Formula using an N value of 0.013. Refer to Recommended Standards for Wastewater Facilities (Ten-State Standards) for minimum slope requirements of the various sewer pipe sizes.

7. Alignment
All sewers shall be laid with straight alignment between manholes, unless otherwise directed or approved by the Town Engineer.

8. Manhole Location
Manholes shall be installed at the end of each line; at all changes in grade, size, or alignment; at all intersections; and at distances not greater than 400 feet for sewers 15 inches and smaller, and 500 feet for sewers 18 inches in diameter and larger.
9. Manholes

The difference in elevation between any incoming sewer and the manhole invert shall not exceed 12 inches except where required to match crowns. The use of drop manholes will require approval by the Town’s Consulting Engineer. The minimum inside diameter of the manholes shall conform to those specified by the Town. Inside drop manholes will require special considerations; however, in no case shall the minimum clear distance be less than that indicated above. When a smaller sewer joins a larger one, the crown of the smaller sewer shall not be lower than that of the larger one. The minimum drop through manholes shall be 0.2 feet.

10. Sanitary Sewer Locations

Sanitary sewers shall be located within street or alley rights-of-way unless topography dictates otherwise. When located in easements on private property, access shall be to all manholes. A manhole shall be provided at each street or alley crossing. End lines shall be extended to provide access from street or alley right-of-way when possible.

11. Water Supply Interconnections

There shall be no physical connection between a public or private potable water supply system and a sewer, which will permit the passage of any sewage or polluted water into the potable supply. Sewers shall be kept removed from water supply wells or other water supply sources and structures.

12. Relation of Sewers to Water Mains

A minimum horizontal distance of ten (10) feet shall be maintained between parallel water and sewer lines. At points where sewers cross water mains, the sewer shall be constructed of cast iron pipe or encased in concrete for a distance of ten (10) feet in each direction from the crossing, measured perpendicular to the water line. This will not be required when the water main is at least two (2) feet above the sewer.

00-15-157-8.4 Sidewalks

A. Required Improvements

1. Sidewalks shall be included within the dedicated non-pavement right-of-way of all roads as required by the Roadway Development Standards set forth in Article 7, Table 7-1.

2. A two (2) foot, concrete curb and gutter are required for all roads when sidewalks are required by this Ordinance or when required at the discretion of the Plan Commission.
3. Sidewalks shall be concrete and improved to the Town’s construction standards. A median strip of grassed or landscaped areas at least six (6) feet wide shall separate all sidewalks from adjacent curbs.

   a. Asphalt paths may be allowed by the Plan Commission along Primary and Secondary Arterials, and Collectors when a part of a Town trail system. All asphalt paths must be at least eight (8) feet wide and meet the Town sidewalk standards for thickness and base requirements.

4. The surface of any sidewalk shall, when completed, have a sufficient slope to drain away from the lot and to the center of the street. The subgrade of a sidewalk shall be constructed to a depth below the finished surface and shall be thoroughly compacted to a firm, smooth surface.

5. All concrete placed in connection with a sidewalk shall consist of the industry standard of six (6) bags of concrete per cubic yard of mix, with the consistency and slump as professional grade. All concrete used shall be natural color unless otherwise approved by the Plan Commission.

6. Forms used in the construction of sidewalks shall be of a material commonly used and accepted in the concrete industry, straight and free from warp and of sufficient strength to resist springing during the pouring of the concrete. The forms shall be of the full depth of the walk and shall be securely staked and braced firmly to line and grade.

B. Pedestrian Accesses

In order to facilitate pedestrian access and connectivity, the Plan Commission may require perpetual unobstructed easements, at least twenty (20) feet in width, from the proposed development to other neighborhoods, schools, parks, playgrounds, churches, government buildings, facilities or other community amenities, or any other points of social, environmental, economical or historical interest. Every such easement shall be indicated on the subdivision plat. Where future developments include land that has been identified by the Cumberland Trails Master Plan as a location for Town trails, the Plan Commission may require the developer to construct the trails within their development, whether or not such trails connect to existing trails outside of the development at the time of construction. All trails shall be constructed in accordance with American Association of State Highway and Transportation Officials (AASHTO) standards.

00-15-157-8.5 Utilities

A. Location

1. All utility facilities, including but not limited to gas, electric power, telephone, and CATV cables, shall be located underground throughout the subdivision. Where existing utility facilities are located above ground in the area to be subdivided, except when existing on public roads and rights-of-way, they shall be removed and placed underground.
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2. All utility facilities existing and proposed throughout the subdivision shall be shown on the primary plat. Underground service connections to the street property line of each platted lot shall be installed at the subdivider's expense. The Plan Commission may waive the requirement for service connections to each lot in cases of adjoining lots, retained in single ownership, where the lots are to be developed for single use.

B. Easements

1. Easements (private and municipal) shall be a minimum of fifteen (15) feet in width and shall be located, whenever possible, at the rear lots lines. One-half (1/2) the width of an easement shall be taken from each lot.

2. A subdivider shall be responsible for proper coordination of utility easements from block to block and from his particular subdivision to that of other adjoining properties.

3. When topographical or other conditions are such as to make impractical the inclusion of utilities within the rear lot lines, perpetual unobstructed easements at least fifteen (15) feet in width shall be provided along side lot lines with satisfactory access to the road or rear lot lines. One-half (1/2) the width of an easement shall be taken from each lot.

4. All easements shall be indicated on the primary and secondary plats.

00-15-157-8.6 Public Sites Reservation

A. Proposed residential subdivisions shall allocate adequate areas for public parks, schools, or other public recreational purpose when necessary to conform with the requirements of the Comprehensive Plan. Each reservation shall be of suitable size, dimension, topography, and general character and shall have adequate road access for the particular purposes envisioned. The reserved area shall be shown and marked on the plat, "Reserved for Park, School, or Recreational Purposes." The Plan Commission may refer such proposed reservations to appropriate Town officials or departments for recommendations. The Plan Commission shall approve the number of acres to be reserved and the Town shall approve any dedication before acceptance. Said areas shall be made by one of the following methods:

1. Dedication to Public use; or

2. Reservation for acquisition for the benefit of the Town or other agency thereof.

B. The acquisition of land reserved for a public agency on the secondary plat shall be initiated by the public agency within two (2) years of approval. Failure on the part of the public agency to initiate acquisition within the prescribed time shall result in the removal of the "reserved" designation from the property involved and the freeing of the property for development in accordance with this Ordinance.
00-15-157-8.7 Residential Open Space Reservations

A. General Requirements

Exclusive of Planned Unit Developments, all residential subdivisions of fifteen (15) acres or more shall dedicate land within the subdivision in conformance with the following Tables.

<table>
<thead>
<tr>
<th>Table 8.7-1 Single Family and Two Family Projects</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average Lot Size (Square Feet)</td>
</tr>
<tr>
<td>--------------------------------</td>
</tr>
<tr>
<td>Over 43,560</td>
</tr>
<tr>
<td>35,001 - 43,560</td>
</tr>
<tr>
<td>25,001 - 35,000</td>
</tr>
<tr>
<td>15,001 - 25,000</td>
</tr>
<tr>
<td>12,501 - 15,000</td>
</tr>
<tr>
<td>Under 12,500</td>
</tr>
</tbody>
</table>

Table 8.7-2 Multifamily Projects

<table>
<thead>
<tr>
<th>Number of Dwelling Units</th>
<th>Number of Acres</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 30</td>
<td>1.5</td>
</tr>
<tr>
<td>31-60</td>
<td>2.0</td>
</tr>
<tr>
<td>61-91</td>
<td>2.25</td>
</tr>
<tr>
<td>91-120</td>
<td>3.0</td>
</tr>
<tr>
<td>121-140</td>
<td>3.25</td>
</tr>
<tr>
<td>Over 140</td>
<td>3.5</td>
</tr>
</tbody>
</table>

B. Project Open Space Requirements

1. Open space reserved under this Ordinance shall, when at all possible:

   a. be preserved in its natural state;
   
   b. be developed only to the extent required to provide for the passive recreational activities; or
   
   c. be developed into active recreational activity space.

2. All open space reserved under this Ordinance shall be accessible to the residents of the subdivision and guests by the way of sidewalks, footpaths, trails, or combined bikeways and walkways.
3. No more than twenty five percent (25%) of the open space reserved under this Ordinance shall be allocated to active recreational activity space.

4. Land reserved for active recreational purposes shall be of a character and location suitable for use as a playground, play field, or for other active recreational purposes, and shall be relatively level and dry.

5. All active recreational sites shall have a total frontage on one (1) or more streets of at least two hundred (200) feet, and no other dimension of the site shall be less than two hundred (200) feet.

C. Active Recreational Sites

An active recreational site, dedicated to the Town upon approval and acceptance pursuant to Section 8.6, shall be deemed to meet the requirements of this Section 8.7

D. Open Space Plan

An open space plan shall be submitted along with an application for primary plat approval. Such plan shall depict the subdivision in full compliance with this Ordinance and all other applicable health, flood control, zoning ordinances and regulations of the Town. All open space shall be labeled according to its class. If a subdivision is to be developed in sections, the open space plan shall show each section and each section shall be in compliance with the requirements of this Section 8.7.

E. Review of the Open Space Plan

The Plan Commission shall review the Open Space Plan in conjunction with the application for primary plat approval. The Open Space Plan shall become part of the primary plat and shall be recorded along with the secondary plat upon the secondary plat’s approval. Approval of an Open Space Plan shall be condition precedent to the approval of a secondary plat. In review of the Open Space Plan, the Plan Commission shall be guided by the following criteria:

1. the protection of unique topographical features on the site, including, but not limited to, slopes, streams, and natural water features;

2. the protection and preservation of wooded areas, individual trees of significant size [For the purpose of review and consideration by the Plan Commission, "significant size" should be interpreted as (a) healthy trees that are a minimum of ten (10) inches in diameter measured across the trunk at least four (4) feet above the base of the tree, or, (b) healthy trees of certain species (such as fruit-bearing and blossoming trees) that, at maturity, do not normally achieve a trunk size that is ten (10) inches in diameter or larger but are desirable to preserve,], wetlands or other environmentally sensitive areas.

3. the accessibility of the open space areas;

4. the adaptability of the open space to the future development of greenways within the Town;
5. the relationship of the open space to neighboring properties;

6. the minimization of disturbance to important natural site features through the design of lots and streets; and

7. the diversity and originality of the design for the open space.

00-15-157-8.8 Preservation of Natural Features and Amenities

A. General

Existing features that would add value to residential development or to the Town as a whole, such as trees, watercourses and falls, beaches, historic sites, and similar irreplaceable assets, shall be encouraged to be preserved in the design of the subdivision. All such existing features on the plat being retained shall be preserved, and all trees where required shall be welled and protected against change of grade. The preliminary plat shall show all such existing features, including the number and location of existing trees being retained and the location of all proposed trees required by this Ordinance.

B.A. Shade Trees Planted by Developer

1. As a requirement of subdivision approval the applicant of a residential subdivision shall plant shade trees on the property in conformance with the Cumberland Zoning Ordinance. Credit may be granted for existing trees along the right-of-way or on the abutting lot which, in the opinion of the Plan Commission, comply with this Ordinance.

2. New trees to be provided pursuant to this Ordinance shall be approved by the Town and shall be planted in accordance with the regulations of the Town. Only Oak, Honey Locust, Hard Maples, Ginkgo, or other long-lived shade trees, acceptable to the Town and to the Plan Commission, shall be planted.

C.B. Shade Tree Easement and Dedication

The primary plat and secondary plat shall reserve an easement within five (5) feet of the required right-of-way for the planting of parkway trees in accordance with Section 16.8 of the Cumberland Zoning Ordinance. No street shall be accepted for dedication to the Town until the Town Consulting Engineer and/or Town Staff has inspected the street and provided written verification to the Plan Commission that compliance has been made with this Ordinance.

00-15-157-8.9 Environmental Standards

The following measures shall be implemented to minimize erosion and sedimentation.

A. Stripping of vegetation, re-grading, or other improvements shall be done in such a way as to minimize erosion.

B. Cut and fill operations shall be kept to a minimum to ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and velocity of surface water runoff.
C. Natural vegetation shall be retained, protected, and supplemented. Temporary vegetation and mulching shall be used to protect environmentally sensitive areas during development.

D. The exposure of disturbed areas shall be kept to a practical minimum. The permanent vegetation and structural erosion control and drainage measures shall be installed as soon as practical.

E. Provisions shall be undertaken to effectively accommodate the increased runoff caused by changed soil and surface conditions during and after build out. Where necessary, the rate of surface water runoff shall be structurally retarded. 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.
ARTICLE 9 WAIVERS BY THE PLAN COMMISSION

00-15-157-9.1 Authority
The Plan Commission shall have the sole authority to grant waivers to the requirements, standards, and specifications of this Ordinance.

00-15-157-9.2 General Application
The Plan Commission may approve waivers to the requirements, standards, and specifications set forth in this Ordinance where it finds that:

1. Practical difficulties or extraordinary hardships may result from the strict application of this Ordinance, or
2. The purposes and intent of this Ordinance may be better served by an alternative proposal.

The granting of such waivers shall not have the effect of nullifying the intent and purpose of this Ordinance, but shall be granted so that substantial justice may be done and the public interest secured.

00-15-157-9.3 Written Findings
The Plan Commission shall not approve waivers unless it shall make findings based upon the evidence presented to it in each specific case that:

1. The granting of the waiver, exception, or waiver of conditions will not be detrimental to the public safety, health, or welfare or injurious to other property;
2. The conditions upon which the request is based are unique to the property for which the relief is sought and are not applicable generally to other property;
3. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out;
4. The relief sought will not contravene the provisions of the Zoning Ordinance or the Comprehensive Plan; and
5. Where the waiver impacts on the design, construction, or maintenance obligations of public facilities, that the appropriate public agency has reviewed and approved the proposed development in writing to the Plan Commission.

00-15-157-9.4 Conditions on Waivers

The Plan Commission may, in approving waivers, require such conditions as will, in its judgment, secure substantially the purposes described in Article 1, Section 1.3. Such conditions shall be expressly set forth in the order granting the waiver. Violation of any such condition shall be a violation of this Ordinance and subject to the provisions of Article 8.

00-15-157-9.5 Procedures

A petition for a waiver, exception, or waiver of conditions shall be submitted in writing by the subdivider at the time when the primary plat is filed for the consideration of the Plan Commission. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.
ARTICLE 10 RE-PLATS AND VACATIONS

00-15-157-10.1 Re-plat of Land
Whenever an owner of land desires to re-plat an already approved secondary plat, the owner shall obtain approval for the re-plat by the same procedures prescribed for the subdivision of land set forth in Article 6 of this Ordinance. The Plan Commission shall not approve a re-plat if the petitioner does not own the lots in the area proposed to be re-platted. For the purposes of this Ordinance, a re-plat shall include:

1. any change in any street layout or any other public improvement;
2. any change in any lot line;
3. any change in the amount of land reserved for public use or the common use of lot owners; and
4. any change in any easements shown on the approved plat.

00-15-157-10.2 Plat Vacation
Pursuant to Indiana Code 36-7-4-711, as amended, the Plan Commission has exclusive control over the vacation of plats or parts of plats.

1. Plat Vacation
Pursuant to Indiana Code 36-7-3-11, as amended, the owner or owners of land in any approved subdivision plat may petition the Plan Commission to vacate all or part of the plat under their ownership. Prior to filing its petition with the Plan Commission, the owner or owners shall first adhere to the requirements of Indiana Code 36-7-3-10.

A. Petition to Vacate
A petition to vacate a plat shall be filed with the Zoning Administrator in triplicate on forms provided by the Plan Commission, and must at a minimum:

(a) state the reasons for and circumstances prompting the request for the vacation;
(b) specifically describe, including legal descriptions, the property in the plat proposed to be vacated; and
(c) give the name and addresses of each owner of land in the plat.

B. Scheduling the Public Hearing
Within thirty (30) days of receipt of a properly completed petition for vacation, the Zoning Administrator shall set a date for a public hearing before the Plan Commission.
C. Notice

After a date for the public hearing before the Plan Commission has be set, the Zoning Administrator shall:

(a) notify the petitioner in writing;

(b) provide, at the petitioner’s expense, publication of notice in conformance with Indiana Code 5-3-1 et. seq., and the rules of the Plan Commission; and

(c) require the petitioner to provide due notice to interested parties at least ten (10) days before the date set for the hearing. Such interested parties shall receive written notice by certified mail, at the applicant’s expense. Proof of such notice by Affidavit shall be required.

Interested parties are the owners of all parcels of land joining or adjacent to the subject property to a depth of two (2) ownerships or six hundred sixty (660) feet, which ever is less.

D. Public Hearing

The Plan Commission shall hold the public hearing according to its rules. Notwithstanding the Plan Commission rules, each owner of land in the approved plat shall be given the opportunity to comment on the petition.

E. Decision

(a) At the close of the public hearing the Plan Commission shall approve or deny the petition. The Plan Commission may only approve the petition upon the determination that:

   (1) conditions on the platted area have changed so as to defeat the original purpose of the plat;

   (2) it is in the public interest to vacate the requested area in the plat; and

   (3) the value of that part of the plat not owned by the petitioner will not be diminished by the vacation.

(b) If the Plan Commission approves the vacation it shall make written findings stating, at a minimum, that the aforementioned criteria have been met. The President of the Plan Commission shall sign the decision approving the vacation and the revised plat. The Plan Commission may impose reasonable conditions as part of its approval. The decision of the Plan Commission, along with a revised plat showing those lands vacated, shall be recorded in the Office of the Hancock County Recorder.

(c) If the Plan Commission denies the vacation it shall make written findings stating, at a minimum, that the aforementioned criteria have not been met. The Plan Commission shall provide a copy of its decision to the petitioner.
F. Review by Certiorari

Every decision by the Plan Commission shall be subject to review by certiorari. Any person aggrieved by a decision of the Plan Commission may present to the Hancock County Court, a petition duly verified setting forth that such decision is illegal in whole or in part and specifying the grounds of the illegality. The petition shall be presented to the court within thirty (30) days after the entry of the decision of the Plan Commission.

2. Limitations on Subsequent Proceedings Affecting Same Property

After the termination of a vacation proceeding under this Article, a subsequent vacation proceeding affecting the same property and asking for the same relief may not be initiated for two (2) years.

00-15-157-10.3 Vacation of Public Ways and Places

Pursuant to Indiana Code 36-7-3-12, as amended, the Town Council shall have exclusive control over the vacation of public ways and places. Vacation of public ways and places shall adhere to the requirements of Indiana Code 36-7-3-12.

1. Vacation of Easements

Pursuant to Indiana Code 36-7-3-16, as amended, platted easements may be vacated in the same manner as public ways and public places, as set forth in this Section 10.3.
ARTICLE 11 ENFORCEMENT

00-15-157-11.1 Authority
The Plan Commission or its authorized designee is hereby designated to enforce the terms and provisions of this Ordinance. For the purposes of this Ordinance, the term Plan Commission as used herein and throughout this Ordinance shall be inclusive of its authorized designee.

00-15-157-11.2 Persons Liable
The owner, tenant, or occupant of any building or land, or part thereof, and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this Ordinance may be held responsible for the violation, suffer the penalties, and be subject to the remedies provided herein and at law.

00-15-157-11.3 General Enforcement
A. No owner or agent of the owner of any parcel of the land located in a proposed subdivision shall transfer, sell, or convey any part of the parcel before a secondary plat of the subdivision has been approved by the Cumberland Plan Commission in accordance with the provisions of the regulations and filed with the County Engineer’s Office and the Recorder of Hancock County.
B. The subdivision of any lot or any parcel of land by the use of metes and bounds description for the purpose of sale, transfer, lease, or development is prohibited.
C. No Improvement Location Permit, Building Permit, or Certificate of Occupancy shall be issued for any building, structure, or improvement unless the location of the building, structure, or improvement conforms to this Ordinance and the Cumberland Zoning Ordinance.

00-15-157-11.4 Fines
Any person who violates a provision of these regulations shall be guilty of an ordinance violation and, upon conviction, shall be fined not less than ninety-five dollars ($95.00) and not more than two thousand five hundred dollars ($2,500). Each day a civil violation remains uncorrected shall be a distinct and separate violation subject to an additional fine. Should the Town of Cumberland be required to bring a cause of action for the enforcement of this Ordinance, or the collection of a fine thereunder, a respondent shall also be responsible for the Town’s reasonable attorney fees and all costs related to the enforcement or collection.
00-15-157-11.5 Common Nuisance
After the effective date of this Ordinance, any land within the Town of Cumberland subdivided in violation of the terms of this Ordinance is hereby declared to be a common nuisance, which may be restrained, enjoined or abated in any appropriate action or proceeding at law.

00-15-157-11.6 Other Remedies Reserved
The seeking of a civil penalty under this Article does not preclude the Plan Commission from seeking alternative and additional relief from a court of competent jurisdiction in the same action or from seeking any other relief provided by law in a separate action for the enforcement of this Ordinance.