

# South Whitley

## SUBDIVISION ORDINANCE

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## GENERAL PROVISIONS

### 153.01 DEFINITIONS

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

"ALLEY." A public thoroughfare, which affords only secondary means of vehicular access to abutting property. An "ALLEY" shall be not less than 20 feet or more than 30 feet in width.

"BLOCK." Property abutting on one side of a street and lying between the two nearest intersecting or intercepting streets, or nearest intersecting or intercepting street and railroad right-of-way or waterway.

"BUILDING SETBACK LINE." The line nearest the front and across a lot establishing the minimum open space to be provided between the front of buildings and structures and the front lot line.

"COMMISSION." The Plan Commission.

"COUNTY." Whitley County, Indiana.

"LOT." A portion of a subdivision or other parcel of land intended as a unit for transfer of ownership or for development.

"MASTER PLAN." The complete plan, or any of its parts, for the development of the town prepared by the Plan Commission and legally adopted.

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

"STREET." A public thoroughfare, whether designated as a street, highway, parkway, road, avenue, lane, boulevard, or however otherwise designated, 50 feet or more in width between property lines, which affords the principal means of vehicular access to abutting property.

"SUBDIVISION." A division of a lot, tract, or parcel of land into two or more lots or other divisions of land for the purpose, whether immediate or future, of transfer of ownership or development, including all changes in street or lot lines. Divisions of land for agricultural purposes in parcels of five or more acres not involving any new street or easement of access shall not be interpreted as a "SUBDIVISION." The term includes resubdivision; and when appropriate to the context shall relate to the process of subdividing or to the land subdivided.

"TERRITORIAL JURISDICTION." The unincorporated portions within the planning jurisdictional area of the town.

"THOROUGHFARE PLAN." The part of the master plan which sets forth the location, alignment, and dimensions of existing and proposed public streets, highways, and other thoroughfares.

"TOWN." The town of South Whitley, Indiana. (Ord. 1-PC-1956, passed 1-28-57)

## PROCEDURE FOR SUBDIVISION APPROVAL

### 153.10 PLAT APPROVAL REQUIRED PRIOR TO RECORDING.

No plat or replat of a subdivision of land located within the territorial jurisdiction of the Plan Commission shall be filed with the Auditor or recorded by the County Recorder until it shall have been approved by the Plan Commission. This approval shall be entered in writing on the plat by the President and Secretary of the Plan Commission. (Ord. 1-PC-1956, passed 1-28-57) Penalty, see 155.99.

### 153.11 APPLICATION.

(A) Whenever any subdivision of land is proposed to be made, the subdivider or his agent shall submit a written application for a certificate of approval and two copies of a preliminary plat of the subdivision with the Commission, and file the application with the Plan Commission at least ten days before the meeting at which the Commission is expected to consider the application and plat.

(B) The application shall specify the intent of the subdivider with respect to the land use, drainage, sewage disposal, water supply, and street improvements proposed for the subdivision; shall include satisfactory evidence that the proposed water supply and sewage disposal systems meet the minimum requirements for these systems established by the State Board of Health; of any deed restrictions which are to be placed upon the property to be subdivided and the expected date of its development.

(C) At the time of filing an application for approval of a plat, the application shall be accompanied by a certified check or money order payable to the Clerk-Treasurer in the amount of \$25 to cover the cost of checking and verifying the proposed plat. Upon the acceptance of the application by the Commission, the Secretary of the Commission shall surrender the check or money order to the Clerk-Treasurer for deposit in the general fund of the town. (Ord. 1-PC-1956, passed 1-28-57)

### 153.12 PRELIMINARY PLAT.

(A) The preliminary plat shall be prepared in accordance with 153.20 through 153.27 and shall be presented as follows:

1. The plat shall be drawn at a scale of 100 feet to 1 inch on a sheet not less than 17 by 21 inches or more than 30 by 36 inches in size, except that when the drawing at that scale requires more than a sheet 30 by 36 inches in size the plat may be drawn at a scale of 200 feet to 1 inch.
2. The plat shall include a vicinity key map at an appropriate scale showing the layout of the proposed subdivision and all existing subdivision, street and tract lines of acreage parcels of land immediately adjoining the proposed subdivision and between it and the nearest existing thoroughfares. It shall also show how

streets and alleys in the proposed subdivision may connect with existing and proposed streets and alleys in the neighboring subdivisions or undeveloped property to produce the most advantageous development of the entire neighboring area.

3. The plat shall contain the following information;

(a) Description

1. Proposed name of the subdivision.
2. Location, with complete legal description.
3. Name and address of the subdivider.
4. Name, address, and seal of the registered professional engineer or land surveyor preparing the plat.
5. Scale of plat, including graphic scale, north point, and date.

(b) Existing conditions.

1. Boundary line of the proposed subdivision indicated by solid heavy line.
2. Location, width, and names of all existing or prior platted streets or other public ways, railroad and utility right-of-way, parks and other public open spaces, permanent buildings or structures and section and municipal corporation lines, within or adjacent to the tract.
3. In case of replat, all descriptive lines of the original plat being vacate shall be shown by dotted lines in their proper position in relation to the new arrangement of the plat. The new plat shall be clearly shown in solid lines so as to avoid ambiguity or confusion.
4. Existing drainage ditches, sewers, water mains, culverts, or other underground facilities within the tract, indicating pipe sizes, grades, and exact location, as obtained from public records.
5. Boundary lines of adjacent unsubdivided and subdivided land, showing owners' names.
6. Existing zoning of the proposed subdivision and adjacent tracts.

7. Contours based on a fixed and easily recognized datum, at not more than five-feet nor less than one-foot vertical intervals as required by the Commission.

8. Location and results of soil percolation tests if individual sewage disposal systems are proposed.

(c) Proposed conditions.

1. Layout of streets, their names and widths and also widths of alleys, crosswalks, and easements. The names of the streets shall conform as far as practicable to the names of corresponding streets existing in the vicinity of the subdivision.

2. Layout, dimensions, and numbers of lots.

3. Parcels of land to be dedicated or reserved for public use or set aside for use of property owners in the subdivision.

4. Building setback lines, showing dimensions.

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

1. The approval of a preliminary plat by the Commission is strictly tentative, involving merely the general acceptability of the layout as submitted.

2. The Commission may introduce those changes or revisions as are deemed necessary to the interests and needs of the community.

3. Tentative approval shall be effective for a maximum period of six months unless, upon application of the subdivider, the Commission grants an extension. If the final plat has not been recorded within this time limit, the preliminary plat must again be submitted to the Commission for approval.

4. Any person feeling himself aggrieved at any action of the Commission upon any proposed plat or replat may apply in writing to the Commission, prior to its next regular meeting, for modification of the action complained of, and the

application shall be considered by the Commission at such time and in such manner as it may determine, but within 40 days following the regular meeting. (Ord. 1-PC-1056, passed 1-28-57)

### 153.13 FINAL PLAT.

(A) After approval of the preliminary plat by the Commission, and the fulfillment of the requirements of these regulations, one tracing of the final plat of the subdivision, drawn with India ink on the best grade of tracing cloth, and one reproduction of the tracing on tracing cloth shall be submitted to the Commission. Upon the final approval of the plat, the reproduction shall become the property of the Commission. The final plat may be submitted for approval immediately after hearing, and upon approval of the preliminary plat by the Commission. In case the final plat is not ready, the date for the hearing on the final plat shall be set within 40 days from the date requested by the subdivider. The final plat, if desired by the subdivider, may constitute only that portion of the approved preliminary plat which he proposes to record and develop at that time; however, that portion shall conform to all requirements of these regulations. The final plat shall be prepared at the same scale as the preliminary plat and shall show:

1. Name of subdivision.
2. Location by section, township, and range or by other legal description.
3. The name and certification of the registered professional engineer or land surveyor.
4. Scale shown graphically, date, and north point.
5. Boundary of plat, based upon an accurate traverse with angular and lineal dimensions.
6. Exact location, width, and name of all streets within and adjoining that plat, and the exact location and widths of all alleys and crosswalks.
7. True courses and distances to the nearest established street lines or official monuments which shall accurately describe the location of the plat.
8. City, township, county, or section line accurately tied to the lines of the subdivision by distances and courses.
9. Radii, internal angles, central angles, points of curvature and tangency, lengths of tangents, and lengths of all arcs.
10. All easements for right-of-way provided for public services of utilities.

11. All lot and block numbers and lines, with accurate dimensions in feet and hundredths. Blocks in numbered additions to subdivisions bearing the same name may be numbered consecutively through the several additions.
12. Lines of all streets with accurate dimensions in feet and hundredths, showing angles to street, alley, and lot lines.
13. Accurate location of all monuments.
14. Accurate outlines and legal description of any areas to be dedicated or reserved for public use, with the purposes indicated thereon and in the dedication; and of any area to be reserved by deed covenant for common uses of all property owners.
15. Building setback lines accurately shown with dimensions.
16. A description of the property platted which shall be the same as that recorded in the preceding transfer of the property or that portion of the transfer covered by plat.
17. Restrictive covenants of all types which run with the land.
18. Property numbers based on the official property numbering system of the town.
19. Certificate for approval by the Commission.

(B) The final plat submitted to the Commission shall be accompanied by a notice from the Board of Trustees stating that there has been filed with and approved by that Board one of the following:

1. A certificate that all improvements and installations to the subdivision required for its approval have been made or installed in accordance with specifications, or
2. A bond which shall:
  - (a) Run to the Board of Trustees;
  - (b) Be in an amount determined by the Plan Commission to be sufficient to complete the improvements and installations in compliance with this chapter;
  - (c) Be with security satisfactory to the Plan Commission; and

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

Any funds received from these bonds shall be used by the Board of Trustees only for the completion of the improvements and installations for which they were provided. The Board of Trustees is authorized to complete the improvements and installations on the failure of applicant to do so.

(C) After the final hearing and within a reasonable time after application for approval of the final plat, the Commission shall approve or disapprove it. If the Commission approves the plat, it shall affix the Commission's seal upon the plat together with the certifying signature of its President and its Secretary. If the Commission disapproves the plat, it shall set forth its reason in its own records and provide the applicant with a copy.

(D) The following forms shall be used in final plats.

CERTIFICATES

1. UNDER AUTHORITY PROVIDED BY CHAPTER 174--ACTS OF 1947 ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF INDIANA AND ORDINANCE ADOPTED BY THE TOWN BOARD OF TRUSTEES, SOUTH WHITLEY, INDIANA, THIS PLAT WAS GIVEN APPROVAL AS FOLLOWS:

Approved by the South Whitley Plan Commission at a meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_, President

\_\_\_\_\_, Secretary

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

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

\_\_\_\_\_, Signature SEAL

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

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

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

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

There are strips of ground \_\_\_\_\_ (number) \_\_\_\_\_ feet in width as shown on this plat and marked "Easement", reserved for the use of public utilities for the installation of water and sewer mains, poles, ducts, lines and wires, subject at all times to the proper authorities and to the easement herein reserved. No permanent or other structures are to be erected or maintained upon said strips of land, but owners of lots in this subdivision shall take their titles subject to the rights of the public utilities,

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

The foregoing covenants, (or restrictions), are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 19\_\_\_\_, (a fifteen (15) to twenty-five (25) year period is suggested), at which time said covenants, (or restrictions), shall be automatically extended for successive periods of ten (10) years unless by vote of a majority of the then owners of the building sites covered by these covenants, (or restrictions), in whole or in part. Invalidation of any one of the foregoing covenants, (or restrictions), by judgment or court order shall in no way effect any of the other covenants (or restrictions), which shall remain in full force and effect.

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

Witness our Hands and Seals this \_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

State of Indiana

SS

County of Whitley

Before me the undersigned Notary Public, in and for the County and State, personally appeared \_\_\_\_\_(name)\_\_\_\_\_, \_\_\_\_\_(name)\_\_\_\_\_, \_\_\_\_\_(name)\_\_\_\_\_, and each separately and severally acknowledged the execution of the foregoing instrument as his or her voluntary act and deed, for the purposes therein expressed.

Witness my Hand and Notary Seal this \_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

\_\_\_\_\_, Notary Public

(E) In cases involving a subdivision of five lots or less, the Plan commission may by majority vote of its membership waive the requirement in division (A) of public hearing for final plat approval. The requirements of this chapter, insofar as design, standards, specifications, required data on plats, and other procedural requirements, may not be waived. (Ord. 1-PC-1956, passed 1-28-57)

153.14 CERTIORARI PROCEDURE.

In any decision by the Plan Commission under this chapter, any person aggrieved may petition the County Circuit Court by writ of certiorari as provided by law. (Ord. 1-PC-1956, passed 1-28-57)

**GENERAL SUBDIVISION REQUIREMENTS**

153.20 SUITABILITY OF LAND.

No land shall be subdivided for residential use if the land is considered by the Commission to be unsuitable for this use by reason of flooding or improper drainage, objectionable earth and rock formation, topography, or any other feature harmful to the health and safety of possible residents and the community as a whole. (Ord. 1-PC-1956, passed 1-28-57) Penalty, see 153.99.

153.21 CONFORMANCE TO THOROUGHFARE PLAN.

All proposed subdivisions shall conform to the thoroughfare plan. Whenever a tract to be subdivided embraces any part of a major street, boulevard, or parkway so designated on the thoroughfare plan, that part of the proposed public way shall be platted by the subdivider in the locations and of the width indicated on the thoroughfare plan. Due consideration shall also be given by the subdivider and owners of adjoining property for the provision of school sites, park sites, rights-of-way for public utility lines, sites for business centers, industrial locations, and other features as indicated on the master plan. (Ord. 1-PC-1956, passed 1-28-57) Penalty, see 153.99

153.22 STREETS AND ALLEYS.

(A) Location and arrangement.

1. The street and alley layout shall conform to the neighborhood plan of the Commission for the development of the neighborhood in which the proposed subdivision is located.
2. Proposed streets shall be adjusted to the contour of the land so as to produce usable lots and streets of reasonable gradient.
3. Wherever there exists a dedicated or platted portion of a street or alley adjacent to the tract to be subdivided, the other portion of the street or alley to the prescribed width shall be platted.

(B) Minimum street and alley widths.

1. Major streets shall have widths not less than indicated on the thoroughfare plan.
2. Streets in business districts designated by the zoning code shall have widths of not less than 80 feet.
3. Other streets shall have widths of not less than 50 feet.
4. Alleys shall have widths of not less than 20 feet or more than 30 feet.
5. Dead-end streets shall have widths of not less than 50 feet. All dead-end streets shall not exceed 600 feet in length and shall terminate in a circular right-of-way within a minimum diameter of 80 feet, unless the Commission approves an equally safe and convenient form of space instead of the required turning circle.

(C) Minimum radii of curvature on the centerlines. Where a deflection angle of more than ten degrees in the alignment of a street occurs, a curve shall be introduced providing for:

1. Major streets, a minimum radius of 300 feet, but should be greater wherever possible.
2. Other streets, a minimum radius of 100 feet, but should be much greater wherever possible.

(D) Tangents. Between reversed curves there shall be not less than a minimum tangent for:

1. Major streets, of 200 feet.
2. Other streets, of 50 feet.

(E) Intersections.

1. At street intersections, property line corners shall be rounded by an arc at least 20 feet in radius.
2. All streets intersecting a major street shall do so at right angles or as nearly so as is possible. Where the intersection angle is less than 60 degrees, the foregoing radii shall be increased not less than 40%.
3. The subdivider shall provide the subdivision with standard street signs at the intersection of all streets.

(F) Streets shall be completed to grades and to specifications as shown on plans, profiles, and cross-sections prepared by the subdivider and approved by the Board of Trustees. The streets shall be graded and surfaced and improved to the dimensions required by the Board of Trustees.

(G) Alleys, curbs, gutters, and sidewalks, if required or built, shall be completed according to standards and grades required and approved by the Board of Trustees.

(H) Upon the completion of the street, alley, curb, gutter, and sidewalk improvements, plans and profiles, as built, shall be filed with the Board of Trustees.

(I) Where the subdivider can show that a provision of division (C), (D), or (E) of this section would cause unnecessary hardship if strictly adhered to and where, in the opinion of the Commission, because of topographical or other conditions peculiar to the site, a departure may be made without destroying the intent of the provision, the

Commission may authorize a variance. Any variance thus authorized is required to be entered in writing in the minutes of the Commission and the reasoning on which the departure was justified set forth. (Ord. 1-PC-1956, passed 1-28-57) Penalty, see 153.99.

#### 153.23 LOTS.

(A) In any agriculture or residence district with minimum width and area for lots shall conform to the requirements of the zoning code, but in no case shall the width be less than 60 feet at the setback line, or the area contain less than 6,000 square feet if a public water supply and sanitary sewers are provided; 7,200 square feet if a public water supply but no sanitary sewers are provided; or 10,000 square feet if neither public water supply or sanitary sewers are provided. Where property is located in a business or manufacturing district, the minimum permissible lot size and frontage shall be at the discretion of the Commission.

(B) The depth-to-depth ratio of the usable area of a lot shall be not greater than three to one.

(C) Building setback lines shall not be less than those required by the zoning code.

(D) Whenever possible, side lines of lots shall be at right angles or radial to street lines.

(E) Every lot shall abut on a street.

(F) Through lots having frontage on two parallel or approximately parallel streets will be permitted only at the discretion of the Commission.

(G) Except where alleys are provided for the purpose, each lot shall have an easement for utilities along the rear lot line and along the side lot line where necessary. No easement shall be less than ten feet wide on each lot, making an overall easement width of 20 feet.

(H) When the terrain so requires, easements for sanitary sewers along lot lines other than the rear lot lines shall be provided. (Ord. 1-PC-1956, passed 1-28-57) Penalty, see 153.99

#### 153.24 BLOCKS.

(A) The width of blocks shall be sufficient to allow two tiers of lots as described in 153.23 (A) and (B).

(B) Blocks shall not exceed 1,320 feet in length.

(C) In blocks over 750 feet in length, the Commission may require, at or near the middle of the block, a public walk connecting adjacent streets or other public areas. The

walkway shall be at least ten feet in width and shall be intended for the use of pedestrians only. (Ord. 1-PC-1956, passed 1-38-57) Penalty, see 153.99.

#### 153.25 PUBLIC SPACES.

Whenever a park, recreation area, school site, or other open space shown on the mast plan is located in whole or in part in the proposed subdivision, the Commission may require the dedication of those spaces or their reservation for a period of not less than three years. (Ord. 1-PC-1956, passed 1-28-57)

#### 153.26 MONUMENTS AND MARKERS.

(A) Monuments shall be of concrete with a diameter of not less than six inches and 36 inches long, cast in place, with a copper dowel 3/8-inch in diameter, at least 2-1/2 inches in length imbedded so that the top of the dowel shall be not more than 1/4-inch above the surface and at the center of the monument.

(B) Monuments shall be set so that the top is level with the established grade adjoining it and placed so that the marked point on the metal center shall coincide exactly with the intersection of street property lines, the intersection of all angles in the boundary line and at the beginning and ending of all curves along streets on the inside street lines.

(C) Lot corners not marked by concrete monuments as required in division (A) above, shall be marked by galvanized or wrought iron pipe, or iron or steel bars at least three feet in length and not less the 5/8-inch in diameter, the top of the pipe or bar to be set level with the established grade of the ground adjoining it.

(Ord. 1-PC-1956, passed 1-28-57) Penalty, see 153.99.

#### 153.27 WATER AND SEWER.

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

"THE SUBDIVIDER SHALL PROVIDE." The subdivider shall install the facility referred to, or the subdivider shall require, as a condition of the sale of each lot or parcel in the subdivision, that the facilities referred to shall be installed by the developer of the lot in accordance with these regulations.

(B) The subdivider shall provide the subdivision with a complete water main supply system which shall be connected with the town water supply system, if available, meeting the standards as set forth by the Board of Trustees, or, a private water supply for each lot to be installed in accordance with the minimum requirements of the State Board of Health.

(C) The subdivider shall provide the subdivision with a complete public sewer system which shall connect with a sanitary sewer outlet, if available, meeting the standards as set

forth by the Board of Trustees, or, for the disposal of sanitary sewage by means of septic tanks with absorption systems or seepage pits, all constructed according to the minimum requirements of the State Board of Health. Upon the completion of the installation of a public sewer system, the plans for the system as built shall be filed with the Board of Trustees.

(D) The subdivider shall provide the subdivision with an adequate storm water sewer system whenever the evidence available to the Commission indicates the natural surface drainage is inadequate. When the surface drainage is adequate, easement for surface drainage shall be provided. (Ord. 1-PC-1956, passed 1-28-57) Penalty, see 153.99.

#### 153.28 MODIFICATION OF REQUIREMENTS.

The requirements and principles of land subdivision contained in this subchapter may be modified by the Commission in the case of a subdivision large enough to be developed as a community center or neighborhood unit in accordance with a plan prepared by the subdivider and adopted as a part of the master plan. (Ord. 1-PC-1956, passed 1-28-57)

### **ENFORCEMENT**

#### 153.98 ENFORCEMENT; VIOLATIONS.

The Plan Commission may institute a suit for injunction to restrain individuals or governmental units from violating the provisions of this chapter as enacted pursuant to Chapter 174 of the Acts of the Indiana General Assembly. However, nothing contained in this chapter shall be construed as to limit the rights of the town to otherwise enforce this chapter by invoking any legal, equitable, or special remedy provided by law. (Ord. 1-PC-1956, passed 1-28-57)

#### 153.99 PENALTY.

Any person who violates any provision of this chapter shall be guilty of a punishable violation and shall be fined not more than \$2,500. For violations continued or renewed after one offense, each day's violation shall constitute a separate offense. (Ord. 1-PC-1956, passed 1-28-57)