CHAPTER 10
ZONING AND SUBDIVISIONS

ARTICLE 1. DYER FLOOD HAZARD AREA ORDINANCE.

Division I. Statutory Authorization, Findings of Fact, Purpose and Objectives.

Sec. 10-1 Statutory Authorization.
Sec. 10-2 Findings of Fact.
Sec. 10-3 Statement of Purpose.
Sec. 10-4 Objectives.
Sec. 10-5 Definitions.

Division II. General Provisions.

Sec. 10-6 Lands to Which this Ordinance Applies.
Sec. 10-7 Basis for Establishing Regulatory Flood Data.
Sec. 10-8 Establishment of Floodplain Development Permit.
Sec. 10-9 Compliance.
Sec. 10-10 Abrogation and Greater Restrictions.
Sec. 10-11 Discrepancy Between Mapped Floodplain and Actual Ground Elevations.
Sec. 10-12 Interpretation.
Sec. 10-13 Warning and Disclaimer of Liability.
Sec. 10-14 Penalties for Violation.
Sec. 10-15 Increased Cost of Compliance (ICC).

Division III. Administration.

Sec. 10-16 Designation of Administrator.
Sec. 10-17 Permit Procedures.
Sec. 10-18 Duties and Responsibilities of the Floodplain Administrator.

Division IV. Provisions for Flood Hazard Reduction.

Sec. 10-19 General Standards.
Sec. 10-20 Specific Standards.
Sec. 10-21 Standards for Subdivision Proposals.
Sec. 10-22 Critical Facility.
Sec. 10-23 Standards for Identified Floodways.
Sec. 10-24 Standards for Identified Fringe.
Sec. 10-25 Standards for SFHAs Without Established Base Flood Elevation and/or Floodways/Fringes.
Sec. 10-26 Standards for Flood Prone Areas.

Division V. Variance Procedures.

Sec. 10-27 Designation of Variance and Appeals Board.
Sec. 10-28 Duties of Variance and Appeals Board.
Sec. 10-29 Variance Procedures.
Sec. 10-30 Conditions for Variances.
Sec. 10-31 Variance Notification.
Sec. 10-32 Historic Structure.
Sec. 10-33 Special Conditions.

2013 S-33
§ 10-34  ZONING AND SUBDIVISIONS  § 10-77

Sec. 10-34  Severability.
Sec. 10-35  Effective Date.

ARTICLE 2. RESERVED FOR FUTURE USE.

ARTICLE 3. SUBDIVISION CONTROL ORDINANCE.

Division I. Policy, Purpose and Authority.

Sec. 10-36  Title.
Sec. 10-37  Policy.
Sec. 10-38  Purposes of These Regulations.
Sec. 10-39  Authority and Jurisdiction.
Sec. 10-40  Definitions.
Sec. 10-41  through Sec. 10-44 Reserved for Future Use.

Division II. Procedures.

Sec. 10-45  Initial Submission - Requirements - Staff Meeting.
Sec. 10-46  Plan Commission Study Session.
Sec. 10-47  Request for Public Hearing.
Sec. 10-48  Primary & Secondary Approvals.
Sec. 10-49  through Sec. 10-54 Reserved for Future Use.

Division III. Procedure for Subdivision Control.

Sec. 10-55  General Improvements.
Sec. 10-56  through Sec. 10-59 Reserved for Future Use.

Division IV. Streets.

Sec. 10-60  General Requirements for Streets.
Sec. 10-61  Grading and Improvement Plan.
Sec. 10-62  Topography and Arrangement.
Sec. 10-63  Blocks.
Sec. 10-64  Access to Collector Streets.
Sec. 10-65  Access to Primary Arterials.
Sec. 10-66  Street Regulatory Signs.
Sec. 10-67  Street lights.
Sec. 10-68  Construction of Streets.
Sec. 10-69  Design Standards.
Sec. 10-70  Intersections.
Sec. 10-71  Street Dedications and Reservations.
Sec. 10-72  Lot Improvements.
Sec. 10-73  Drainage and Storm Sewers.
Sec. 10-74  Extension of Municipal Services.
Sec. 10-75  through Sec. 10-77 Reserved for Future Use.

2013 S-33
Division VI. Mandatory Park Dedication.

Sec. 10-78 Conditions for Secondary Subdivision Approval.
Sec. 10-79 Criteria for Requiring Park and Recreation Land Dedication.
Sec. 10-80 Reservation of Additional Land.
Sec. 10-81 Improved Sites.
Sec. 10-82 Procedure.
Sec. 10-83 Applicable only to Residential Zoned Subdivision.
Sec. 10-84 Reserved for Future Use.

Division VII. Construction Procedures.

Sec. 10-85 Liability Insurance.
Sec. 10-86 Pre-Construction Conference.
Sec. 10-87 Advanced Notification.
Sec. 10-88 Inspection Checklist.
Sec. 10-89 Acceptance Procedures.
Sec. 10-90 through Sec. 10-93 Reserved for Future Use.

Division VIII. General Provisions.

Sec. 10-94 Interpretation, Conflict, and Separability.
Sec. 10-95 Saving Provision.
Sec. 10-96 Repealer.
Sec. 10-97 Amendments.
Sec. 10-98 Conditions.
Sec. 10-99 Resubdivision of Land.
Sec. 10-100 Vacation of Plats.
Sec. 10-101 Modifications.
Sec. 10-102 Enforcement, Violations, and Penalties.
Sec. 10-103 Reserved for Future Use.

Division X. Certificates.

Sec. 10-104 Certificates Required.
Sec. 10-105 Certificate of Approval.
Sec. 10-106 Land Surveyor's or Registered Professional Engineer's Certificate.
Sec. 10-107 Legal Description Certificate.
Sec. 10-108 Acknowledgement Certificate.
Sec. 10-109 Dedication Certificate.
Sec. 10-110 Provision for Private Deed Restrictions or Covenants.
Sec. 10-111 Other Certificates.
Sec. 10-112 Enactment.
Sec. 10-113 Table 1 – Design Standards–Streets.
Sec. 10-114 Table 2 – Intersection Design Standards.

Division XI. Design Standards for Erosion and Sediment Control.

Sec. 10-115.1 Permit for Installation of Erosion and Sediment Control Systems.
Sec. 10-115.2 Review and Approval
Sec. 10-115.3 Erosion and Sediment Control Plan.
Sec. 10-115.4 Design Requirements.
ARTICLE 4. ZONING.

Division I. Zoning Ordinance.

Sec. 10-119 Schedule of Fees.
Sec. 10-120 Definitions.
Sec. 10-121 Establishment of Districts – Provisions for Official Zoning Map.
Sec. 10-122 Rules for Interpretation of District Boundaries.
Sec. 10-123 Application of District Regulations.
Sec. 10-124 Non-Conforming Lots, Non-Conforming Uses of Land, Non-Conforming Structures, Non-Conforming Uses of Structures and Premises.
Sec. 10-125 Protection of Shoreland, Watercourses and Wetlands.
Sec. 10-126 Excavations.
Sec. 10-127 Private Swimming Pools.
Sec. 10-128 Temporary Tract Offices.
Sec. 10-129 Filling Stations.
Sec. 10-130 Schedule of Zoning Districts Adopted.
Sec. 10-131 Supplementary District Regulations.
Sec. 10-132 Off-Street Parking Lots and Loading Areas.
Sec. 10-133 Administration and Enforcement - Building Permits and Certificates of Zoning Compliance.
Sec. 10-134 Board of Zoning Appeals - Establishment and Procedure.
Sec. 10-135 The Board of Zoning Appeals - Powers and Duties.
Sec. 10-136 Appeals From the Board of Zoning Appeals
Sec. 10-137 Duties of Administrative official, Board of Zoning Appeals, and Courts on Matters of Appeal.
Sec. 10-138 Schedule of Fees, Charges and Expenses.
Sec. 10-139 Amendments.
Sec. 10-140 Provisions of Ordinance Declared to be Minimum Requirements.
Sec. 10-141 Complaints Regarding Violations.
Sec. 10-142 Penalties for Violations.
Sec. 10-143 Severability Clause.
Sec. 10-144 Repeal of Conflicting Ordinances - Effective Date.
Sec. 10-145 Reserved for Future Use.
Sec. 10-146 Sign Regulations.
Sec. 10-146.1 General Provisions.
Sec. 10-146.2 Prohibited Signs.
Sec. 10-146.3 Off Premises Signs.
Sec. 10-146.4 Restrictions.
Sec. 10-146.5 Signs in Residential Districts.
Sec. 10-146.6 Signs in B-2, B-3 and I Districts.
Sec. 10-146.7 Signs in B-1 Business Districts.
Sec. 10-146.8 Exemptions.
Sec. 10-146.9 Enforcement.
Sec. 10-146.10 Sign Permit Fees.
Sec. 10-146.11 Definitions.
Sec. 10-146.12 Signs in Special Use Districts.
Sec. 10-147 Landscaping Requirements.
Sec. 10-147.1 Purpose.
Sec. 10-147.2 Applicability.
Sec. 10-147.3 Planting Standards.
Sec. 10-147.4 Conflicts in Standards.
Sec. 10-147.5 General Requirements.
Sec. 10-147.6 Screening Requirements.
Sec. 10-147.7 Bufferyard Landscaping Requirements.
Sec. 10-147.8 Landscape Plan Required; Content.
Sec. 10-147.9 Design Standards.
Sec. 10-147.10 Maintenance Requirements.
Sec. 10-147.11 Property Interior Requirements.
Sec. 10-147.12 Parking Lot Perimeter Requirements.
Sec. 10-147.13 Parking Lot Interior Requirements.
Sec. 10-147.14 Appendix A through D.
Sec. 10-148 Exterior Light Requirements.
Sec. 10-148.1 Purpose.
Sec. 10-148.2 Applicability.
Sec. 10-148.3 Definitions.
Sec. 10-148.4 Regulations.
Sec. 10-148.5 Light Trespass.
Sec. 10-148.6 General Lighting Design Requirements.
Sec. 10-148.7 Site Plans.
Sec. 10-148.8 Exemptions.
Sec. 10-148.9 Street Lighting.
Sec. 10-148.10 Injunction.
Sec. 10-148.11 Immunity from Prosecution.
Sec. 10-148.12 through 10-148.99 Reserved for Future Use.
Sec. 10-149 through Sec. 10-154 Reserved for Future Use.

Division II. Special Use Districts.

Sec. 10-155 Definition of Special Use District (SUD).
Sec. 10-156 Applicability of Special Use District Regulations.
Sec. 10-157 Purpose for Special Use District Regulations.
Sec. 10-158 Outline Development Plan.
Sec. 10-159 Application Process: Preliminary Development Plan.
Sec. 10-160 Application Process: Final Development Plan.
Sec. 10-161 Special Use District - West U.S. 30 Corridor
Sec. 10-161.1 Application.
Sec. 10-161.2 Building Types and Uses.
Sec. 10-161.3 Area Regulations.
Sec. 10-161.4 Building Standards.
Sec. 10-161.5 Parking.
Sec. 10-161.6 Utilities, Accessory Structures and Garbage.
Sec. 10-161.7 Non-Conforming Uses.
Sec. 10-161.8 Amendment to Zoning Map.
Sec. 10-162 Special Use District - Calumet Avenue Corridor.
Sec. 10-162.1 Application.
Sec. 10-162.2 Developmental Standards.
Sec. 10-162.3 Conflict.
Sec. 10-162.4 Application Process/Site Plan Review.
Sec. 10-162.5 Amendment of Zoning Map.
Sec. 10-163 Building Standards.
§ 10-164  ZONING AND SUBDIVISIONS  § 10-189

Sec. 10-164  Parking.
Sec. 10-165  Utilities, Accessory Structures and Garbage.
Sec. 10-166  Non-Conforming Uses.
Sec. 10-167  Amendment to Zoning Map.
Sec. 10-167.1  Special Use District - Sheffield Avenue Corridor.

Division III. Sexually Oriented Businesses.

Sec. 10-168.1  Policy.
Sec. 10-168.2  Definitions.
Sec. 10-168.3  Permit Required.
Sec. 10-168.4  Investigation and Application.
Sec. 10-168.5  Issuance of Permit.
Sec. 10-168.6  Annual Permit Fee.
Sec. 10-168.7  Inspection.
Sec. 10-168.8  Expiration of Permit.
Sec. 10-168.9  Suspension of Permit.
Sec. 10-168.10  Revocation of Permit.
Sec. 10-168.11  Judicial Review of Permit Denial, Suspension or Revocation.
Sec. 10-168.12  Transfer of Permit.
Sec. 10-168.13  Sexually Oriented Business Employee License.
Sec. 10-168.14  Regulations Pertaining to Exhibition of Sexually Explicit Films or Videos in Video Booths.
Sec. 10-168.15  Prohibitions Regarding Minors and Sexually Oriented Businesses.
Sec. 10-168.16  Advertising and Lighting Regulations.
Sec. 10-168.17  Hours of Operation.
Sec. 10-168.18  Nudity at Sexually Oriented Businesses Prohibited.
Sec. 10-168.19  Regulations Pertaining to Live Entertainment.
Sec. 10-168.20  Exemptions.
Sec. 10-168.21  Prohibition of Distribution of Sexual Devices.
Sec. 10-168.22  Penalties and Injunctive Relief.
Sec. 10-169  through Sec. 10-174 Reserved for Future Use.

Division IV. Fences.

Sec. 10-175  Front Yard Fence Regulations.
Sec. 10-176  Barbed Wire.
Sec. 10-177  Residential Fences.
Sec. 10-178  Fences in Commercial Districts.
Sec. 10-179  Fences in Industrial Districts.
Sec. 10-180  Front Yard Requirements in Commercial and Industrial Districts.
Sec. 10-181  through Sec. 10-189 Reserved for Future Use.
ZONING AND SUBDIVISIONS

ARTICLE 1. DYER FLOOD HAZARD AREA ORDINANCE.

Division I. Statutory Authorization, Findings of Fact, Purpose and Objectives.

Sec. 10-1 Statutory Authorization.

The Indiana Legislature has in Indiana Code, § 36-7-4 and Indiana Code, § 14-28-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the Town Council of the Town of Dyer does hereby adopt the following floodplain management regulations.

(Ord. 2011-14, 11-10-11)

Sect. 10-2 Findings of Fact.

a. The flood hazard areas of Dyer are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

b. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

(Ord. 2011-14, 11-10-11)

Sec. 10-3 Statement of Purpose.

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

a. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities;

b. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

c. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;

d. Control filling, grading, dredging, and other development which may increase erosion or flood damage;

e. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and

f. Make federally subsidized flood insurance available for structures and their contents in the Town by fulfilling the requirements of the National Flood Insurance Program.

(Ord. 2011-14, 11-10-11)
Sec. 10-4 Objectives.

The objectives of this ordinance are:

a. To protect human life and health;

b. To minimize expenditure of public money for costly flood control projects;

c. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

d. To minimize prolonged business interruptions;

e. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains;

f. To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas; and

g. To ensure that potential homebuyers are notified that property is in a flood area.

(Ord. 2011-14, 11-10-11)

Sec. 10-5 Definitions.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

a. A zone means portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In “A zones”, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These areas are labeled as Zone A, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM or FHBM. The definitions are presented below:

1. Zone A: Areas subject to inundation by the one-percent (1%) annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown. Mandatory flood insurance purchase requirements apply.

2. Zone AE and A1-A30: Areas subject to inundation by the one-percent (1%) annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. Mandatory flood insurance purchase requirements apply. (“Zone AE” is on new and revised maps in place of “Zones A1-A30”)

3. Zone AO: Areas subject to inundation by one-percent (1%) annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one (1) and three (3) feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone. Mandatory flood insurance purchase requirements apply.

4. Zone AH: Areas subject to inundation by one-percent (1%) annual chance shallow flooding (usually areas of ponding) where average depths are between one (1) and three (3) feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone. Mandatory flood insurance purchase requirements apply.
5. **Zone AR**: Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection. Mandatory flood insurance purchase requirements apply.

6. **Zone A99**: Areas subject to inundation by the one-percent (1%) annual chance flood event, but which will ultimately be protected upon completion of an under-construction federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. “Zone A99” may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown. Mandatory flood insurance purchase requirements apply.

b. **Accessory structure (appurtenant structure)** means a structure that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. “Accessory structures” should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

c. **Addition** (to an existing structure) means any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

d. **Appeal** means a request for a review of the Floodplain Administrator’s interpretation of any provision of this ordinance or a request for a variance.

e. **Area of shallow flooding** means a designated AO or AH Zone on the community’s Flood Insurance Rate Map (FIRM) with base flood depths from one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

f. **Base Flood Elevation (BFE)** means the elevation of the one-percent (1%) annual chance flood.

g. **Basement** means that portion of a structure having its floor sub-grade (below ground level) on all sides.

h. **Building** - see “Structure.”

i. **Community** means a political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

j. **Community Rating System (CRS)** means a program developed by the Federal Insurance Administration to provide incentives for those communities in the regular program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

k. **Critical facility** means a facility for which even a slight chance of flooding might be too great. “Critical facilities” include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.
§ 10-5  ZONING AND SUBDIVISIONS § 10-5

1. Development means any man-made change to improved or unimproved real estate including but not limited to:

   1. Construction, reconstruction, or placement of a structure or any addition to a structure;

   2. Installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than one hundred eighty (180) days;

   3. Installing utilities, erection of walls and fences, construction of roads, or similar projects;

   4. Construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;

   5. Mining, dredging, filling, grading, excavation, or drilling operations;

   6. Construction and/or reconstruction of bridges or culverts;

   7. Storage of materials; or

   8. Any other activity that might change the direction, height, or velocity of flood or surface waters.

“Development” does not include activities such as the maintenance of existing structures and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

m. Elevated structure means a non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, filled stem wall foundations (also called chain walls), pilings, or columns (posts and piers).

n. Elevation certificate is a certified statement that verifies a structure’s elevation information.

o. Emergency program means the first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

p. Encroachment means the advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

q. Existing construction means any structure for which the “start of construction” commenced before the effective date of the community’s first floodplain ordinance.

r. Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the community’s first floodplain ordinance.

s. Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

t. FEMA means the Federal Emergency Management Agency.
u. **Five-hundred year flood (500-year flood)** means the flood that has a 0.2 percent chance of being equaled or exceeded in any year.

v. **Flood** means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

w. **Flood Boundary and Floodway Map (FBFM)** means an official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

x. **Flood Hazard Boundary Map (FHBM)** means an official map of a community, issued by FEMA, where the boundaries of the areas of special flood hazard have been identified as Zone A.

y. **Flood Insurance Rate Map (FIRM)** means an official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

z. **Flood Insurance Study (FIS)** is the official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FBFM (where applicable), and the water surface elevation of the base flood.

aa. **Flood prone area** means any land area acknowledged by a community as being susceptible to inundation by water from any source. (See “Flood”)

bb. **Flood Protection Grade (FPG)** is the elevation of the regulatory flood plus two (2) feet at any given location in the SFHA. (see “Freeboard”)

c. **Floodplain** means the channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. The “floodplain” includes both the floodway and the fringe districts.

dd. **Floodplain management** means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

e. **Floodplain management regulations** means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. “Floodplain management regulations” are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.

ff. **Floodproofing (dry flood proofing)** is a method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.

gg. **Floodproofing certificate** is a form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a Registered Professional Engineer or Architect.
hh. **Floodway** is the channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

ii. **Freeboard** means a factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

jj. **Fringe** is those portions of the floodplain lying outside the floodway.

kk. **Functionally dependent facility** means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

ll. **Hardship** (as related to variances of this ordinance) means the exceptional hardship that would result from a failure to grant the requested variance. The Dyer Town Council requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one’s neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

mm. **Highest adjacent grade** means the highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

nn. **Historic structure** means any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

oo. **Increased Cost of Compliance (ICC)** means the cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood Insurance policies with effective dates on or after June 1, 1997, will include “ICC coverage”.

pp. **Letter of Map Amendment (LOMA)** means an amendment to the currently effective FEMA map that establishes that a property is not located in a SFHA. A “LOMA” is only issued by FEMA.

qq. **Letter of Map Revision (LOMR)** means an official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

rr. **Letter of Map Revision Based on Fill (LOMR-F)** means an official revision by letter to an effective NFIP map. A “LOMR-F” provides FEMA’s determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

ss. **Lowest adjacent grade** means the lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

tt. **Lowest floor** means the lowest of the following:

1. The top of the lowest level of the structure;
2. The top of the basement floor;
3. The top of the garage floor, if the garage is the lowest level of the structure;
4. The top of the first floor of a structure elevated on pilings or pillars;
5. The top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless:

   (a) The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of two (2) openings (in addition to doorways and windows) in a minimum of two (2) exterior walls having a total net area of one (1) square inch for every one (1) square foot of enclosed area subject to flooding. The bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and

   (b) Such enclosed space shall be usable solely for the parking of vehicles and building access.

uu. Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle.”

vv. Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale,

ww. Map amendment means a change to an effective NFIP map that results in the exclusion from the SFHA of an individual structure or a legally described parcel of land that has been inadvertently included in the SFHA (i.e., no alterations of topography have occurred since the date of the first NFIP map that showed the structure or parcel to be within the SFHA).

xx. Map panel number is the four (4) digit number followed by a letter suffix assigned by FEMA on a flood map. The first four (4) digits represent the map panel, and the letter suffix represents the number of times the map panel has been revised. (The letter “A” is not used by FEMA, the letter “B” is the first revision.)

yy. Market value means the building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. “Market value” can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

zz. Mitigation means sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is two (2) fold: to protect people and structures, and to minimize the cost of disaster response and recovery.

aaa. National Flood Insurance Program (NFIP) is the federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.

bbb. National Geodetic Vertical Datum (NGVD) of 1929 as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

ccc. New construction means any structure for which the “start of construction” commenced after the effective date of the community’s first floodplain ordinance.
ddd. **Non-riverine** means areas not riverine in character such as isolated depressional storage areas, ponds, and lakes.

eee. **New manufactured home park or subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community’s first floodplain ordinance.

fff. **North American Vertical Datum of 1983 (NAVD 88)** as adopted in 1993 is a vertical control datum used as a reference for establishing varying elevations within the floodplain.

ggg. **Obstruction** includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

hhh. **One-hundred year flood (100-year flood)** is the flood (that has a one percent (1%) chance of being equalled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent (1%) annual chance flood. See “Regulatory Flood”.

iii. **One-percent (1%) annual chance flood** is the flood that has a one percent (1%) chance of being equalled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent (1%) annual chance flood. See “Regulatory Flood”.

jjj. **Participating community** is any community that voluntarily elects to participate in the NFIP by adopting and enforcing floodplain management regulations that are consistent with the standards of the NFIP.

kkk. **Physical Map Revision (PMR)** is an official republication of a community’s FEMA map to effect changes to base (one percent (1%) annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

lll. **Post-FIRM construction** means construction or substantial Improvement that started on or after the effective date of the initial FIRM of the community or after December 31, 1974, whichever is later.

mmm. **Pre-FIRM construction** means construction or substantial improvement, which started on or before December 31, 1974, or before the effective date of the initial FIRM of the community, whichever is later.

nnn. **Probation** is a means of formally notifying participating communities of violations and deficiencies in the administration and enforcement of the local floodplain management regulations.

ooo. **Public safety and nuisance**, anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

ppp. **Recreational vehicle** means a vehicle which is (1) built on a single chassis; (2) four hundred (400) square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.
qqq. Regular program means the phase of the community’s participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.

rrr. Regulatory flood means the flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in Section 10-7 of this ordinance. The “Regulatory Flood” is also known by the term “Base Flood”, “One-Percent Annual Chance Flood”, and “100-Year Flood”.

sss. Repetitive loss means flood-related damages sustained by a structure on two (2) separate occasions during a ten (10) year period ending on the date of the event for which the second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded twenty-five percent (25%) of the market value of the structure at the time of each such flood event.

ttt. Riverine means related to, formed by, or resembling a channel and includes creeks and rivers.

uuu. Section 1316 is that section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

vvv. Special Flood Hazard Area (SFHA) means those lands within the jurisdictions of the Town subject to inundation by the regulatory flood. The “SFHAs” of the Town of Dyer are generally identified as such on the Lake County and Incorporated Areas Flood Insurance Rate Map prepared by the Federal Emergency Management Agency, dated January 18, 2012. The “SFHAs” of those parts of unincorporated Lake County that are within the extraterritorial jurisdiction of the Town or that may be annexed into the Town are generally identified as such on the Lake County and Incorporated Areas Flood Insurance Rate Map prepared by the Federal Emergency Management Agency and dated January 18, 2012. (These areas are shown on a FHBM or FIRM as Zone A, AE, A1-A30, AH, AR, A99, or AO).

www. Start of construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within one hundred eighty (180) days of the permit date. The actual start means the first placement or permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footing, installation of piles, construction of columns, or any work beyond the stage of excavation for placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms. For substantial improvement the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

xxx. Structure means a structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles to be installed on a site for more than one hundred eighty (180) days.

yyy. Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to it’s before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.
zzz. **Substantial improvement** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “repetitive loss” or “substantial damage” regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of a “historic structure”, provided that the alteration will not preclude the structures continued designation as a “historic structure”.

aaaa. **Suspension** means the removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP.

bbbb. **Variance** is a grant of relief from the requirements of this ordinance, which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

cccc. **Violation** means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

dddd. **Watercourse** means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. “Watercourse” includes specifically designated areas in which substantial flood damage may occur,

eeee. **Water surface elevation** means the height, in relation to the North American Vertical Datum of 1988 (NAVD B8) or National Geodetic Vertical Datum of 1929 (NGVD) (other datum where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas.

ffff. **X zone** means the area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRM (B zones on older FIRM) designate areas subject to inundation by the flood with a 0.2 percent chance of being equaled or exceeded (the 600-year flood). Unshaded X zones (C zones on older FIRM) designate areas where the annual exceedance probability of flooding is less than 0.2 percent.

gggg. **Zone** means a geographical area shown on a FHBM or FIRM that reflects the severity or type of flooding in the area.

hhhh. **Zone A** (see definition for “A Zone”)

iiii. **Zone B, C, and X** means areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. **Flood Insurance** is available in participating communities but is not required by regulation in these zones. (Zone X is used on new and revised maps in place of Zones B and C.)

(Ord. 2011-14, 11-10-11)

**Division II. General Provisions.**

**Sec. 10-6 Lands to Which This Ordinance Applies.**

This ordinance shall apply to all SFHAs and known flood prone areas within the jurisdiction of Dyer.

(Ord. 2011-14, 11-10-11)
Sec. 10-7  Basis for Establishing Regulatory Flood Data.

This ordinance’s protection standard is the regulatory flood. The best available regulatory flood data is listed below. Whenever a party disagrees with the best available data, the party submitting the detailed engineering study needs to replace existing data with better data and submit it to the Indiana Department of Natural Resources for review and approval.

a. The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of Dyer shall be as delineated on the one-percent (1%) annual chance flood profiles in the Flood Insurance Study of Lake County and Incorporated Areas dated January 18, 2012 and the corresponding Flood Insurance Rate Map prepared by the Federal Emergency Management Agency and dated January 18, 2012.

b. The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the Jurisdiction of Dyer, delineated as an “A Zone” on the Lake County and Incorporated Areas Flood Insurance Rate Map prepared by the Federal Emergency Management Agency and dated January 18, 2012, shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile.

c. In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community’s known flood prone areas shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile.

(Ord. 2011-14, 11-10-11)

Sec. 10-8  Establishment of Floodplain Development Permit.

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities in areas of special flood hazard.

(Ord. 2011-14, 11-10-11)

Sec. 10-9  Compliance.

No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this ordinance and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this ordinance and other applicable regulations.

Sec. 10-10  Abrogation and Greater Restrictions.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. 2011-14, 11-10-11)

Sec. 10-11  Discrepancy between Mapped Floodplain and Actual Ground Elevations.

a. In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.

b. If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.
§ 10-11  ZONING AND SUBDIVISIONS  § 10-15

c. If the elevation (natural grade) of the site in question is above the base flood elevation, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner should be advised to apply for a LOMA.
(Ord. 2011-14, 11-10-11)

Sec. 10-12 Interpretation.

In the interpretation and application of this ordinance all provisions shall be:

a. Considered as minimum requirements;
b. Liberally construed in favor of the governing body; and
c. Deemed neither to limit nor repeal any other powers granted under state statutes.
(Ord. 2011-14, 11-10-11)

Sec. 10-13 Warning and Disclaimer of Liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this ordinance does not create any liability on the part of Dyer, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this ordinance or any administrative decision made lawfully thereunder.
(Ord. 2011-14, 11-10-11)

Sec. 10-14 Penalties for Violation.

Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Town Code of Dyer. All violations shall be punishable by a fine not exceeding Two thousand five hundred dollars ($2,500.00).

a. A separate offense shall be deemed to occur for each day the violation continues to exist.

b. The Dyer Stormwater Management Board shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.

c. Nothing herein shall prevent the Town from taking such other lawful action to prevent or remedy any violations: all costs connected therewith shall accrue to the person or persons responsible.
(Ord. 2011-14, 11-10-11)

Sec. 10-15 Increased Cost of Compliance (ICC).

In order for buildings to qualify for a claim payment under ICC coverage as a “repetitive loss structure” the National Reform Act of 1994 requires that the building be covered by a contract for flood insurance and incur flood-related damages on two occasions during a ten (10) year period ending on the date of the event for which the second claim is made in which the cost of repairing the flood damage, on the average, equaled or exceeded twenty-five percent (25%) of the market value of the building at the time of each such flood event.
Division III. Administration.

Sec. 10-16 Designation of Administrator.

The Town Council of Dyer hereby appoints the Dyer Stormwater Management Board to administer and implement the provisions of this ordinance and it shall appoint a Floodplain Administrator.

(Ord. 2011-14, 11-10-11)

Sec. 10-17 Permit Procedures.

Application for a Floodplain Development Permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically the following information is required:

a. Application stage.

1. A description of the proposed development;

2. Location of the proposed development sufficient to accurately locate property and structure in relation to existing roads and streams;

3. A legal description of the property site;

4. A site development plan showing existing and proposed development locations and existing and proposed land grades;

5. Elevation of the top of the lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD;

6. Elevation (in NAVD 86 or NGVD) to which any non-residential structure will be flood proofed;

7. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development; and

b. Construction stage. Upon placement of the lowest floor; or floodproofing, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the NAVD 88 or NGVD elevation of the lowest floor or floodproofed elevation, as built. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. When floodproofing is utilized for a particular structure said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holders’ risk. (The Floodplain Administrator shall review the lowest floor and floodproofing elevation survey data submitted.) The permit holder shall correct deficiencies defected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

(Ord. 2011-14, 11-10-11)
Sec. 10-18 Duties and Responsibilities of the Floodplain Administrator.

a. The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this ordinance. The Administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose.

b. Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to:

1. Review all floodplain development permits to assure that the permit requirements of this ordinance have been satisfied;

2. Inspect and inventory damaged structures in the SFHA and complete substantial damage determinations;

3. Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Sections 10-23 and 10-24 of this ordinance, and maintain a record of such authorization (either copy of actual permit or floodplain analysis/regulatory assessment);

4. Ensure that all necessary federal or state permits have been received prior to issuance of the focal floodplain development permit. Copies of such permits are to be maintained on file with the floodplain development permit;

5. Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA;

6. Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Amendment (LOMA), Letters of Map Revision (LOMR), copies of DNR permits and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and “as-built” elevation and floodproofing data for all buildings constructed subject to this ordinance;

7. Utilize and enforce all Letters of Map Revision (LOMR) or Physical Map Revisions (PMR) Issued by FEMA for the currently effective SFHA maps of the community;

8. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;

9. Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Section 10-17;

10. Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed, in accordance with Section 10-17;

11. Review certified plans and specifications for compliance;

12. Stop Work Orders;

   (a) Upon notice from the floodplain administrator, work on any building, structure or premises that is being done contrary to the provisions of this ordinance shall immediately cease.
(b) Such notice shall be in writing and shall be given to the owner of the property, or to his or her agent, or to the person doing the work and shall state the conditions under which work may be resumed.

13. Revocation of permits.

   (a) The floodplain administrator may revoke a permit or approval, issued under the provisions of the ordinance. In cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

   (b) The Floodplain Administrator may revoke a permit upon determination by the Floodplain Administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this ordinance.

14. Inspect sites for compliance. For all new and/or substantially improved buildings constructed in the SFHA, inspect before, during and after construction. Authorized Town officials shall have the right to enter and inspect properties located in the SFHA.

(Ord. 2011-14, 11-10-11)

Division IV. Provisions for Flood Hazard Reduction.

Sec. 10-19 General Standards.

In all SFHAs and known flood prone areas the following provisions are required:

a. New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;

   b. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;

   c. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG;

   d. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

   e. Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG, water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG;

   f. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

   g. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

   h. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
i. Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this ordinance shall meet the requirements of “new construction” as contained in this ordinance; and

j. Any alteration, repair, reconstruction or improvement to a structure that is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not further, extended, or replaced;

k. Whenever any portion of the SFHAs authorized for use, the volume of space which will be occupied by the authorized fill or structure below the BFE shall be compensated for and balanced by a volume of excavation taken below the BFE. Compensatory excavation one and one-half (1.5) times the storage lost below the BFE shall be required incrementally for all activities within a riverine SFHA. Incrementally refers to the case where storage lost below the existing ten (10) year flood elevation is replaced below the proposed ten (10) year flood elevation, and the storage lost above the existing ten (10) year flood elevation is replaced above the proposed ten (10) year flood elevation. The Floodplain Administrator may reduce the compensation ratio required for activities in riverine SFHAs to be less than one and one-half (1.5) to one (1) (however not less than one (1) to one (1)) for a specific project compensatory storage for non-riverine SFHA systems may be replaced non-incrementally below the BFE at a ratio of one (1) to one (1).

(1) The excavation shall take place in the floodplain and in the same property in which the authorized fill or structure is located;

(2) Under certain circumstances, the excavation may be allowed to take place outside of but adjacent to the floodplain provided that the excavated volume will be below the regulatory flood elevation, will be in the same property in which the authorized fill or structure is located, will be accessible to the regulatory-flood water, will not be subject to ponding when not inundated by flood water, and that it shall not be refilled;

(3) The excavation shall provide for true storage of floodwater but shall not be subject to ponding when not inundated by flood water;

(4) The fill or structure shall not obstruct a drainage way leading to the floodplain;

(5) The grading around the excavation shall be such that the excavated area is accessible to the regulatory flood water;

(6) The fill or structure shall be of a material deemed stable enough to remain firm and in place during periods of flooding and shall include provisions to protect adjacent property owners against any increased runoff or drainage resulting from its placement; and

(7) Plans depicting the areas to be excavated and filled shall be submitted prior to the actual start of construction or any site work; once site work is complete, but before the actual start of construction, the applicant shall provide to the Floodplain Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with this article.

(Ord. 2011-14, passed 11-10-11)

Sec. 10-20 Specific Standards.

In all SFHAs, the following provisions are required:

a. In addition to the requirements of Section 10-27, all structures to be located in the SFHAs half be protected from flood damage below the FPG. This building protection requirement applies to the following situations:
1. Construction or placement of any new structure having a floor area greater than four hundred (400) square feet.

2. Addition or improvement made to any existing structure:
   (a) Where the cost of the addition or improvement equals or exceeds fifty percent (50%) of the value of the existing structure (excluding the value of the land);
   (b) With a previous addition or improvement constructed since the community’s first floodplain ordinance.

3. Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds fifty percent (50%) of the market value of the structure (excluding the value of the land) before damage occurred;

4. Installing a travel trailer or recreational vehicle on a site for more than one hundred eighty (180) days.

5. Installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage; and

6. Reconstruction or repairs made to a repetitive loss structure.

b. Residential construction. New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (two (2) feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 10-20.

c. Non-residential construction. New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to Dr above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 10-20. Structures located in all “A Zones” may be floodproofed in lieu of being elevated if done in accordance with the following:

1. A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the official as set forth in Section 10-18.

2. Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

d. Elevated structures. New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.
Elevated structures with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs must meet the following minimum criteria:

1. Provide a minimum of two openings located in a minimum of two (2) exterior walls (having a total net area of not less than one (1) square inch for every one (1) square foot of enclosed area); and

2. The bottom of all openings shall be no more than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and

3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions; and

4. Openings are to be not less than three (3) inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device; and

5. Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and

6. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms; and

7. The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade; and

8. Where elevation requirements exceed six (6) feet above the highest adjacent grade, a copy of the legally recorded deed restriction prohibiting the conversion of the area below the lowest floor to a use or dimension contrary to the structure’s originally approved design, shall be presented as a condition of issuance of the final Certificate of Occupancy.

e. Structures constructed on fill. A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:

1. The fill shall be placed in layers no greater than one (1) foot deep before compacting to ninety-five percent (95%) of the maximum density obtainable with either the Standard or Modified Proctor Test method.

2. The fill should extend at least ten (10) feet beyond the foundation of the structure before sloping below the FPG.

3. The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than three (3) horizontal to one (1) vertical.

4. The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.

5. The top of the lowest floor including basements shall be at or above the FPG.
f. Standards for Manufactured Homes and Recreational Vehicles. Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than one hundred eighty (180) days must meet one (1) of the following requirements:

1. The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site;

   (a) Outside a manufactured home park or subdivision;
   (b) In a new manufactured home park or subdivision;
   (c) In an expansion to an existing manufactured home park or subdivision; or
   (d) In an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as a result of a flood.

2. The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than thirty-six (36) inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood.

3. Manufactured homes with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 10-28.

4. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

5. Recreational vehicles placed on a site shall either:

   (a) Be on site for less than one hundred eighty (180) days; and
   (b) Be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
   (c) Meet the requirements for “manufactured homes” as stated earlier in this section.

(Ord. 2011-14, 11-10-11)

Sec. 10-21 Standards for Subdivision Proposals.

a. All subdivision proposals shall be consistent with the need to minimize flood damage;

b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and
d. Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions).

e. All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted In the SFHA.

f. All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).

(Ord. 2011-14, 11-10-11)

Sec. 10-22 Critical Facility.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.

(Ord. 2011-14, 11-10-11)

Sec. 10-23 Standards for Identified Floodways.

a. Located within FHAs, established in Section 10-7 are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of Indiana Code 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. Indiana Code 14-28-1-26 allows construction of non-substantial additions/improvements to residences. In a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval (construction in a floodway permit) for the fill is required from the Indiana Department of Natural Resources).

b. No action shall be taken by the Floodplain Administrator until a permit (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Division IV of this ordinance have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community’s more restrictive regulations (if any) shall take precedence.

c. No development shall be allowed which acting alone or in combination with existing or future development, will increase the regulatory flood more than 0.14 of one (1) foot; and
d. For all projects involving channel modifications or fill (including levees) the Town shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data.
(Ord. 2011-14, 11-10-11)

Sec. 10-24 Standards for Identified Fringe.

If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in Division IV of this ordinance have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be of or above the FPG.
(Ord. 2011-14, 11-10-11)

Sec. 10-25 Standards for SFHAs Without Established Base Flood Elevation and/or Floodways/Fringes.

a. Drainage area upstream of the site is greater than one square mile:

1. If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

2. No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway or a floodplain analysis/regulatory assessment citing the one-percent (1%) annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

3. Once the Floodplain Administrator has received the proper permit for construction in a floodway or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit may be issued provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in Division IV of this ordinance have been met.

b. Drainage area upstream of the site is less than one square mile:

1. If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and one-percent (1%) annual chance flood elevation for the site.

2. Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Division IV of this ordinance have been met.

c. The total cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the regulatory flood more than 0.14 of one (1) foot and will not increase flood damages or potential flood damages.
(Ord. 2011-14, 11-10-11)

Sec. 10-26 Standards for Flood Prone Areas.

All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards as required per Division IV.
(Ord. 2011-14, 11-10-11)
§ 10-27  ZONING AND SUBDIVISIONS § 10-29

Division V. Variance Procedures.

Sec. 10-27  Designation of Variance and Appeals Board.

The Town of Dyer Stormwater Management Board as established by the Town Council of the Town of Dyer shall hear and decide appeals and requests for variances from requirements of this ordinance.
(Ord. 2011-14, 11-10-11)

Sec. 10-28  Duties of Variance and Appeals Board.

The Board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the Board may appeal such decision to the Lake County Circuit/Superior Courts.
(Ord. 2011-14, 11-10-11)

Sec. 10-29  Variance Procedures.

In passing upon such applications, the Town of Dyer Stormwater Management Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance; and

a. The danger of life and property due to flooding or erosion damage;

b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

c. The importance of the services provided by the proposed facility to the community;

d. The necessity to the facility of a waterfront location, where applicable;

e. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

f. The compatibility of the proposed use with existing and anticipated development;

g. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

h. The safety of access to the property in times of flood for ordinary and emergency vehicles;

i. The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site; and

j. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
(Ord. 2011-14, 11-10-11)
Sec. 10-30 Conditions for Variances.

a. Variances shall only be issued when there is:
   1. A showing of good and sufficient cause;
   2. A determination that failure to grant the variance would result in exceptional hardship; and
   3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

b. No variance for a residential use within a floodway subject to Sections 10-23 or 10-24 of this ordinance may be granted.

c. Any variance granted in a floodway subject to Sections 10-23 or 10-24 of this ordinance will require a permit from the Indiana Department of Natural Resources.

d. Variances to the Provisions for Flood Hazard Reduction of Section 10-28, may be granted only when a new structure is to be located on a lot of one-half (1/2) acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.

e. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

f. Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

g. Any application to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (See Section 10-31).

h. The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (see Section 10-31).

(Ord. 2011-14, 11-10-11)

Sec. 10-31 Variance Notification.

a. Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:
   1. The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars ($25.00) for one hundred dollars ($100.00) of insurance coverage; and
   2. Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
b. The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in the community’s biennial report submission to the Federal Emergency Management Agency.
(Ord. 2011-14, 11-10-11)

Sec. 10-32 Historic Structure.

Variances may be issued for the repair or rehabilitation of “historic structures” upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as an “historic structure” and the variance is the minimum to preserve the historic character and design of the structure.
(Ord. 2011-14, 11-10-11)

Sec. 10-33 Special Conditions.

Upon the consideration of the factors listed in Division V, and the purposes of this ordinance, the Town of Dyer Stormwater Management Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
(Ord. 2011-14, 11-10-11)

Sec. 10-34 Severability.

If any section, clause, sentence, or phrase of the ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this ordinance.
(Ord. 2011-14, 11-10-11)

Sec. 10-35 Effective Date.

This ordinance shall take effect on January 18, 2012.
(Ord. 2011-14, 11-10-11)

ARTICLE 2. RESERVED FOR FUTURE USE.

ARTICLE 3. SUBDIVISION CONTROL ORDINANCE.

Division I. Policy, Purpose and Authority.

Sec. 10-36 Title.

This ordinance and the regulations contained herein shall hereafter be known and cited as the Subdivision Control Ordinance of the Town of Dyer, Lake County, Indiana.
(Ord. No. 94-9, 8-9-94)

Sec. 10-37 Policy.

a. It is declared to be the policy of the Town to consider the subdivision of land and the subsequent development of the subdivided plat as subject to the official comprehensive plan and related policies (contained in the Dyer Zoning Ordinance) for the orderly and efficient development of the Town.
b. Land to be subdivided shall be of such a character that it can be developed without intentional or discoverable peril to health or intentional or discoverable peril from flood, fire or other menace. Land shall not be subdivided until access is made available to existing public facilities and until improvements and proper provision have been made for drainage, water, sewerage, other necessary new public improvements such as schools, parks, recreation facilities; and transportation facilities are adequate for serving the subdivision. Private wells and septic systems in lieu of public water and sewer facilities shall be allowed in the Town upon securing all applicable permits from the Board of Health only in the absence of available public water and sewer facilities within three hundred (300) feet of the property line. This requirement may be waived at the discretion of the Plan Commission.

c. Both existing and proposed public facilities serving the subdivision shall be properly related and conform to the terms and provisions of the Zoning Ordinance.

(Ord. No. 94-9, § 1, A, 8-9-94)

Sec. 10-38 Purposes of These Regulations.

a. To protect and provide for the public health, safety, and general welfare of the Town.

b. To guide the future development and renewal of the Town in accordance with the Comprehensive Plan and related policies.

c. To provide for the safety, comfort, and soundness of the built environment and related open spaces.

d. To protect the compatibility, character, economic stability and orderliness of all development through reasonable design standards.

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

(Ord. No. 94-9, § 1, B, 8-9-94)
Sec. 10-39 Authority and Jurisdiction.

a. This ordinance which was enacted pursuant to Indiana Home Rule and planning enabling legislation (Indiana Code, titles § 36-7-4-700 series, as amended) authorizes the Dyer Plan Commission to review and approve or disapprove plats for subdivisions throughout the Town, which show lots, blocks, or sites with or without new streets or highways. This authority extends to the development or resubdivision of undeveloped portions of already recorded plats.

b. No construction of any kind shall be undertaken upon any vacant unsubdivided parcel of land within the corporate boundaries of the Town of Dyer.

c. This ordinance shall apply to all subdivision of land within the corporate limits of Dyer. No plat or replat of a subdivision of land located within the Town of Dyer shall be recorded until it shall have been reviewed and approved by the Dyer Plan Commission. Such approvals shall be entered in writing on the plat by the President and Executive Secretary of the Plan Commission, who shall then affix the Plan Commission Seal thereto.

d. No lot, tract or parcel of land within a subdivision shall be offered for sale nor shall a sale, contract for sale, or option be made or given until the final plat of subdivision has been reviewed, officially approved by the Dyer Plan Commission and recorded. No construction work on any proposed subdivision, including grading, shall be made until the owner or owners thereof, or his or their agent, have obtained from the Plan Commission final written engineering approval of a preliminary plat of the proposed subdivision, IDEM water and wastewater permits, any and all local, state and federal permits required according to the procedures outlined herein.

(Ord. No. 94-9, § I, C, 8-9-9; Am. Ord. No. 2000-41, 12-19-00)

Sec. 10-40 Definitions.

Accessory Building - A subordinate structure, such as a garage, storage shed, or barn, the use of which is incidental to that of the dominant use of the principal building or land.

Administrator - The officer appointed by and/or delegated the responsibility for the administration of these regulations by the Planning Commission. This term shall be construed to include those planning staff members working under the direction of the Administrator in the exercise of his/her responsibilities in regard to the processing of these Subdivision Regulations.

Adjacent Property Owners - Those parties who are the owners of properties adjoining or adjacent to the proposed subdivision as shown on the sketch plan.

Alley - A public or private vehicular right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

Applicant - The owner of land proposed to be subdivided or his agent or his legal representative.

Block - A tract of land bounded by streets, or by a combination of streets and public parks, cemetery, railroad rights-of-way, shorelines of waterways, or boundary lines of municipalities.
Block Park - A park of one (1) acre or less in size.

Bond - Any form of security including a cash deposit, surety bond, collateral, property, or instrumental credit in an amount and form satisfactory to the Town Council. All bonds shall be approved by the Town Council wherever a bond is required by these regulations.

Book of Standards - The document which accompanies the Subdivision Control Ordinance and contains construction and design standards for all required infrastructure improvements.

Buffer Landscaping - Any trees, shrubs, walls, fences, berms, or related landscaping features required under this ordinance or the Zoning Ordinance on private lots and privately maintained buffering lots from adjacent and/or properties or public rights of way for the purpose of increasing visual privacy. (See Screening also.)

Building - Any roofed structure built for the support, shelter, or enclosure of persons, animals, or movable property of any kind.

Building Code - That Town ordinance or group of ordinances establishing and controlling the standards for constructing buildings, utilities, mechanical equipment and all forms of structures and permanent installations and related matters, within the Town. Also referred to herein as the Dyer Building Code.

Building Inspector - That official of local government authorized to issue building permits.

Building Permit - A certificate issued by the Building Inspector of a governing body permitting a person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure within its jurisdiction, or cause the same to be done.

Capital Improvements Program - A proposed schedule of all future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project. All major projects requiring the expenditure of public funds, over and above the annual local government’s operating expenses for the purchase, construction or replacement of the more durable, longer lived physical assets for the community are included.

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

Central Water Systems - A community water supply system including existing and new wells and/or surface water sources and intakes, treatment facilities, and distribution lines and includes such of the above facilities established by the developer to serve a new subdivision.

Certificate - The signed and attested document which indicates that a subdivision has been granted secondary approval by the Commission subsequent to proper public notice of its hearing.

Commission - The Dyer Plan Commission.
**Commission Attorney** - The licensed attorney designated by the Dyer Town Council to furnish legal assistance for the administration of this ordinance or as provided by statute.

**Community Park** - A park in excess of ten (10) acres.

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

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

**Construction Plan(s)** - The preliminary and/or final drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed for the subdivision in accordance with the requirements of this ordinance as a condition of the approval of the plat.

**Cul-de-Sac** - A local street with only one (1) outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement including public safety vehicles.

**Dead-End Street** - A street or a portion of a street with only one (1) vehicular traffic outlet, and no turnaround at the terminal end.

**Developer** - The owner of land proposed to be subdivided or one who is hired by the owner to subdivide or develop the land. Consent for making applications for development approval shall be required from the legal owner of the premises.

**Drives, Private** - Vehicular streets and driveways, paved or unpaved, which are wholly within private property, except where they intersect with other streets within public rights-of-way.

**Easement** - An authorization grant by a property owner for the use by another of any designed part of his property for a clearly specified purpose(s).

**Engineer (Design)** - Professional engineer hired by a developer/private party for the purposes of designing a particular project.

**Engineer (Town)** - Professional engineer or engineering firm employed by the Town of Dyer either as a Town employee or as a consulting engineer.

**Escrow** - A deposit of cash with the Town Council in lieu of an amount required and still in force on a performance or maintenance bond. Such escrow funds shall be held by the Clerk-Treasurer.

**Final Plat** - The map, drawing or plan described in this ordinance of a subdivision and any accompanying material submitted to the Commission for secondary approval, and which, if approved and signed by the designated officials, may be submitted to the County Recorder for recording.
**Flood Hazard Areas** - Those flood plains which have not been adequately protected from flooding by the Regulatory Flood by means of dikes, levees, or reservoirs, and are shown on the Floodway-Flood Boundary Maps of the Federal Insurance Administration or maps provided to the Commission from the Indiana Department of Natural Resources.

**Flood Plains** - The area adjoining the river or stream which has been or may hereafter be covered by flood water from the Regulatory Flood.

**Flood Protection Grade** - The elevation of the lowest point around the perimeter of a building at which flood waters may enter the interior of the building.

**Floodway Fringe** - Those portions of the Flood Hazard Areas lying outside the Floodway, shown on the Floodway-Flood Boundary Maps of the Federal Insurance Administration.

**Foundations** - The supporting member of a wall or structure.

**Frontage** - That side of a lot abutting on a street or way and ordinarily regarded as the front of the lot. Corner lots will be considered to front on both intersecting streets. (No access for any one lot is permitted to more than one street and that street generally will be the one calculated to have lower traffic volumes and less frequent intersections.)

**Frontage Street** - Any street to be constructed by the developer or any existing street in which development shall take place on both sides.

**Front Yard** - A yard as defined herein, encompassing the horizontal space between the nearest foundation of a building to the right-of-way line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the right-of-way line.


**Grade** - The slope of a street, or other public way, specified in percentage (%) terms.

**Health Department and Health Officer** - The agency and person designated by the County to administer the health regulations within the County's jurisdiction.

**Indiana Code** - The Burns Indiana Statute Code Edition, which codifies all Indiana statutes for reference purposes. The latest edition with any amending supplements must be referred to for the laws “now” in force and applicable. (Usually abbreviated as I.C. herein.)

**Joint Ownership** - Joint ownership among persons shall be construed as the same owner, “constructive ownership” for the purpose of imposing subdivision regulations.

**Landscaping** - See Buffer Landscaping, Screening and Shade Trees.
Lot - For purposes of this ordinance, a lot is a subdivided and recorded parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:

1. A single lot of record.

2. A combination of complete lots of record, or complete lots of record and portions of lots of record.

Lot Frontage - The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under Yards in this section.

Lot Lines - The lines bounding lots as defined herein.

Lot Measurement -

1. Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

2. “Width” of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard, provided, however, that width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than eighty percent (80%) of the required lot width except in the case of lots on the turning circle of a cul-de-sac or eyebrow. Examples of said measurements may be found in Appendix “A.”

Lot of Record - A lot which is part of a subdivision recorded in the office of the Recorder of Lake County.

Lot Types

a. “Corner Lot” is defined as a lot located at the intersection of two (2) or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than one hundred thirty-five degrees (135°).

b. “Interior lot” is defined as a lot other than a corner lot with only one frontage on a street.

c. “Through lot” is defined as a lot other than a corner lot with frontage on more than one (1) street. Through lots abutting two (2) streets may be referred to as double frontage lots.

d. “Reversed Frontage lot” is defined as a lot on which the frontage is at right angles or approximately right angles (interior angle less than one hundred thirty-five degrees [135°]) to the general pattern in the area. A reversed frontage lot may also be a corner lot, an interior lot, or a through lot.
Major Subdivisions - Any subdivision not classified as a minor subdivision, including, but not limited to, subdivision of four (4) or more lots, or any size subdivision requiring any new street or extension of the local governmental facilities, to the creation of any public improvements.

Map - A representation of a part or the whole of the earth's surface, in signs and symbols, on a plane surface, at an established scale, with a method of orientation indicated.

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

Master Plan - See Comprehensive Plan.

Minor Subdivision - Any subdivision containing not more than three (3) lots fronting on existing street which is an improved right-of-way maintained by the Town involving no street or the extension of municipal facilities, or the creation of any public improvements. A minor subdivision shall not adversely affect the remainder of the parcel or adjoining property, and shall not conflict with any provision or portion of the Comprehensive Plan, Official Map, Zoning Ordinance, or this ordinance.

Model Home - A dwelling unit used initially for display purposes which typifies the kind of units that will be constructed in the subdivision.

Monument - A physical structure which marks the location of a corner or other survey point.

Neighborhood Park - A park of one (1) to ten (10) acres in size.

Nonresidential Subdivision - A subdivision whose intended use is other than residential, such as commercial or industrial. Such subdivision shall comply with the applicable provisions of these regulations.

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

Official Map - The zoning map established by the Town pursuant to law and any amendments or additions thereto adopted by the Town or additions thereto resulting from the approval of subdivision plats by the Commission and the subsequent filing of such approved plats.

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

Owner - Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to the land sought to be subdivided under these regulations.

Parcel - A part or portion of land having a legal description formally set forth in a conveyance together with the boundaries thereof, in order to make possible its easy identification.
**Perimeter Street** - Any existing street to which the parcel of land to be subdivided abuts on only one side.

**Person** - A person includes a corporation, partnership and an unincorporated association of persons such as a club.

**Plan Commission** - That Commission established by the Town of Dyer in accordance with *Indiana Code*, § 36-7-1-2.

**Planned Unit Development** - A means of land regulation which permits a unified land development in a configuration and possibly a mix of uses not otherwise permitted “as of right” under the Town Zoning Ordinance, but requiring under that ordinance or a special ordinance a special review and approval process.

**Primary Approval** - An approval (or approval with conditions imposed) granted to a subdivision by the Commission after having determined in a public hearing that the subdivision complies with the standards prescribed in this ordinance (per *Indiana Code*, § 36-7-4-700 series: Subdivision Control).

**Primary Plat** - The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the Commission for approval which include full engineering drawings.

**Principal Use Building** - A building in which the principal use of the lot or parcel is conducted. Standards recognized by the Indiana Administrative Building Council shall be used to determine whether a given structure constitutes one or more buildings in cases where ambiguities exist.

**Public Improvement** - Any drainage ditch, street, highway, parkway, sidewalk, pedestrian-way, tree, lawn, off-street parking area, lot improvement, or other facility used by the general public and not intended for private use.

**Rear Yard** - A yard defined herein, encompassing the horizontal spaces between the nearest foundation of a building to a rear lot line and that rear lot line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the real lot line. The rear yard of a corner lot shall be that yard at the opposite end of the lot from the front yard.

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

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

**Regulatory Flood** - That flood having a peak discharge which can be equaled or exceeded on the average of once in one hundred (100) year period, as calculated by a method and procedure which is acceptable to and approved by the Federal Emergency Management Agency (FEMA); this flood is equivalent to a flood having probability of occurrence of one percent (1%) in any given year.
Regulatory Flood Elevation - The maximum elevation, as established by FEMA, reached by the Regulatory Flood at the location in question relevant to approval of a given subdivision under consideration.

Regulatory Floodway - The channel of a river or stream and those portions of the Flood Plains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flow of the Regulatory Flood of any river or stream shown on the Floodway-Flood Boundary Maps of the Federal Insurance Administration.

Restrictive Covenants - Regulations of various kinds on the usage of lots or parcels of land within a subdivision which are proposed by the subdivision, and in the case of public health, safety, and welfare by the Commissions, that are recorded with the plat and run with the land.

Resubdivisions - A change in a map of an approved or recorded subdivision plat.

Right-of-Way - A strip of land occupied or intended to be occupied, by a street, pedestrian-way, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, special landscaping, or for another special use. The usage of term “right-of-way” for land platting purposes shall mean that every right-of-way hereafter established and shown on a final 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, screening or special landscaping, or any other use involving maintenance by a public agency shall be dedicated to public use by the subdivider on whose plat such right-of-way is established.

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

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

Screening - Either (a) a strip of at least ten (10) feet wide, densely planted (or having equivalent natural growth) with shrubs or trees at least four (4) feet high at the time of planting, of a type that will form a year round dense screen at least six (6) feet high; or (b) an opaque wall or barrier or uniformly painted fence at least six (6) feet high. Either (a) or (b) shall be maintained in good condition at all times and may have no signs affixed to or hung in relation to the outside thereof except as permitted or required under the Zoning Ordinance. Where required by the Zoning Ordinance, a screen shall be installed along or within the lines of a plot as a protection for adjoining or nearby properties. Earth berms may be incorporated as part of such screening measures where appropriate.

Secondary Approval - The stage of applications for formal Plan Commission approval of a final plat of a subdivision the construction of which has been completed or substantially
completed which, if approved and signed by the designated officials, may be submitted to the County Recorder for filing.

**Setback** - A line parallel to and equidistant from the relevant lot line (front, back, side) between which no buildings or structures may be erected as prescribed in the Town Zoning Ordinance.

**Shall** - Mandatory without exception.

**Side Lot Lines** - Any lines separating two lots other than front or rear lot lines.

**Sketch Plan** - The initially submitted graphic representation of a proposed subdivision, drawn to the approximate scale, whether superimposed upon a print of a topographic survey or presented in any other suitable graphic medium or form acceptable to the Commission. Drawing or drawings indicating the proposed manner of layout of the subdivision meeting the conditions of the subdivision ordinance to be submitted to the Commission for primary approval.

**Special Landscaping** - Areas of tree planting, shrubs, or other landscape feature serving a public purpose and maintained by the Town. (See also Buffer Landscaping and Screening.)

**State Acts** - Such legislative acts of the State of Indiana as they affect these regulations.

**State Plan Coordinates System** - A system of plan coordinates, based on the Transverse Mercator Projection for the Western Zone of Indiana, established by the United States Coast and Geodetic Survey for the State of Indiana.

**Street, Public** - All major secondary and minor streets which are shown on the subdivision plat and are to be dedicated for public use.

**Street, Approved** - Any street, whether public or private, meeting standards and specifications of the Town. Specific street classifications are defined in Section 1 of the Design Standards for Improvements in the Town of Dyer, in the attached appendix.

**Street Line** - The right-of-way line of a street.

**Street Right-of-Way Width** - The distance between property lines measured at right angles to the center line of the street.

**Structure** - Anything constructed or erected that requires location on or in the ground or is attached to something having a location on or in the ground.

**Subdivider** - Any person, or his legally designated Attorney-in-Fact by a Power of Attorney properly executed and recorded in the Miscellaneous Records of Lake County Indiana, who (1), having a proprietary interest in land, causes it, directly or indirectly, to be divided into a subdivision; or who (2) directly sells, leases, or develops, or offers to sell, lease, or develop, or advertise for sale, lease, or development, any interest, lot, parcel site, unit, or plat in a subdivision; or who (3) engages directly, or through an agent, in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision of any
interest, lot, parcel site, unit, or plat in a subdivision; or (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 one or more lots for the purpose of transfer of ownership or building development. If a new street is involved, any division of a parcel of land is considered to be a subdivision. The term “subdivision” includes resubdivision and; when appropriate to the context, shall relate to the process of subdividing or to land being subdivided.

Subdivision Plat - A map indicating the subdivision or resubdivision of land filed or intended to be filed of record with the County Recorder.

Temporary Improvement - Improvements built and maintained by a subdivider during construction of the subdivision and intended to be replaced by a permanent improvement.

Temporary Turnaround - Turnaround improvements at the ends of stub streets intended to be replaced when the adjoining area is developed and the through street connection is made.

Thoroughfare Plan - That part of the Comprehensive Plan for Dyer now or hereafter adopted, which includes a Major Thoroughfare Plan and sets forth the general or approximate location, alignment, dimensions, identifications and classifications of existing and proposed highways and other thoroughfares (including streets as defined hereinabove) located with the Town of Dyer.

Yard - A space on the same lot with a principal building, such space being open, unoccupied and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings are expressly permitted.

Zoning Ordinance - That Town ordinance setting forth the regulations controlling the use of land in the Town of Dyer. (Ord. No. 94-9, § II, 8-9-94; Am. Ord. No. 2000-41, 12-19-00)

Sec. 10-41 and Sec. 10-44 Reserved for Future Use.

Division II. Procedures.

Sec. 10-45 Initial Submission - Requirements - Staff Meeting.

a. Official Submission Dates. The deadline for submittal of the primary plat application (Form #1) for review of primary plat shall be at least sixty (60) days prior to the date of public hearing, at which the petitioner intends to have his primary plat submission heard by the Plan Commission. Such submittal shall include payment of all necessary and required fees in accordance with the fee schedule found in Section 10-119.

b. Submission Requirements. The submission shall:


2. Be made on forms available at the office of the Commission and be submitted with the fee as set forth in the fee schedule in Section 10-119.
§ 10-45  ZONING AND SUBDIVISIONS

3. Include indication of all land which the petitioner proposes to subdivide and all land immediately adjacent and across any street or railroad right-of-way, extending three hundred (300) feet therefrom.

4. Be accompanied by five (5) copies of full engineering and fifteen (15) copies of lot layout only.

   c. Petitioner shall attend a staff meeting as scheduled by the Zoning Administrator. Such staff meeting shall be at least ten (10) days prior to the regularly scheduled Plan Commission Study Session at which the project is to be discussed. Petitioner shall submit a sketch of his/her proposal (10 copies) to the Zoning Administrator at least ten (10) days prior to the staff meeting.

(Ord. No. 2000-41, 12-19-00; Am. Ord. 2007-25, 12-19-07)

Sec. 10-46  Plan Commission Study Session.

Subsequent to the staff meeting, petitioner shall attend a Plan Commission Study Session, as scheduled by the Zoning Administrator. At that study session, the petitioner shall provide sufficient individual copies of their proposed plan for all members of the Plan Commission, and a copy in a compatible electronic format for viewing. The petitioner will briefly describe their plan and receive feedback from the Commission and staff. Following attendance at the study session, the petitioner shall become eligible to request a public hearing on their petition, pursuant to Section 10-47.


Sec. 10-47  Request for Public Hearing.

At a public meeting of the Plan Commission a petitioner shall request that the Commission set a date for a public hearing to be held on the petitioner's proposal. At this meeting, the petitioner shall give a brief overview of their proposal and confirm that the following items have been submitted to the Zoning Administrator:

   a. Sufficient copies of all required drawings and plans have been provided, both in hard copy and compatible electronic format;

   b. Documentation indicating proof of an ownership interest in the subject property, such as but not limited to, a deed, purchase contract, or a power of attorney, for review by the Commission's attorney; and

   c. All required fees have been paid in full.

Upon a finding that the petition is in order, per the requirements above, the Plan Commission shall then make a motion setting a date for a public hearing on the petitioner's plan. Further, the Commission, through the Zoning Administrator, shall distribute all necessary copies of the plan to those individuals or agencies identified in the Primary Plat Review Process, as found in Section 10-48(b).

(Ord. No. 94-9, § III, C, 8-9-94; Am. Ord. 2007-25, 12-19-07)

Sec. 10-48  Primary & Secondary Approvals.

a. General Procedures for Primary and Secondary Approval. The petitioner seeking approval of a subdivision shall submit the previously reviewed primary plat to be approved, conditionally approved, or rejected by the Commission at a public meeting, and a final subdivision plat which must be found in compliance with the primary plat as approved by the Commission or otherwise approved in order to be signed and recorded.
b. Primary Plat Review Process After a public hearing date has been set by the Plan Commission, the Lake Central School Board, Dyer Fire Department, Dyer Police Department, Dyer Park Department, Dyer Public Works Director, Dyer Town Engineer, Dyer Storm Water Management Board, Dyer Sanitary Board and Dyer Water Board shall have an opportunity to study the proposal and submit reports thereon. The Zoning Administrator shall meet with the petitioner to discuss any pertinent aspects of the possible modifications and/or changes that may be suggested or required by this ordinance.

c. Primary Plat Procedures for Primary Approval.

1. Placement on the Commission Agenda. Subsequent to the submission for primary approval, the Commission shall place the matter on its next regular meeting agenda for formal action.

2. Public Hearing Notification Requirements. The Commission shall hold a public hearing on the primary plat and notice of such hearing shall be given to all interested parties in accordance with I.C., 36-7-4-706 and the Rules of Practice and Procedure of the Plan Commission of the Town of Dyer, Indiana.

3. Primary Approval of the Primary Plan. After the Commission has held a hearing upon the primary plat, and has reviewed the Zoning Administrator's report, the Town Engineer's report, department head recommendations, testimony and exhibits submitted at the public hearing, the petitioner shall be advised of any required changes and/or additions. The Commission will review the primary plat and determine its technical conformity with the requirements of the subdivision control ordinance, as well as its conformity with the factors outlined in Section 10-155(a). The Commission shall, at a public hearing, grant primary plat approval, or disapprove the primary plat or table the matter if necessary. One (1) copy of the primary plat shall be returned to the petitioner with the date of approval, conditional approval, or disapproval and the reasons therefore accompanying the plat within five (5) days of the public hearing. Primary approval by the Commission is subject to review by certiorari.

a. Primary plat approval shall not be granted without engineering approval of all required improvements.

b. Subdivision inspection fee shall be paid upon primary plat approval in accordance with the fee schedule in Section 10-119.

4. Effective Period of Primary Approval. Unless extended, the primary approval of a primary plat shall be effective for a period of twelve (12) months after the date of primary approval, at the end of which time secondary approval of the subdivision must have been obtained and certified by the Commission. Any plats not receiving secondary approval within the period of time set forth herein shall be null and void, and the petitioner shall be required to resubmit a new application for primary plat review and certificate subject to all the zoning restrictions and subdivision regulations in effect at the time of resubmission. Secondary approval of a phase of a development automatically extends primary approval of the entire development for an additional twelve (12) months. Upon request of the petitioner, the Commission may extend the primary approval of a primary plat one (1) year beyond any expiration date or extension thereof without further notice and public hearing.

5. When installation of improvements is completed, including inspection approval by Town of Dyer personnel and Town Engineer or his/her designee the Commission shall, after all other conditions of primary approval have been satisfied, approve the "as built" construction plans. Upon receipt of said "as built" construction plans together with written evidence that the required public facilities have been installed in a
manner satisfactory to the Town of Dyer and in complete conformity with the Design Standards for Improvements in the Town of Dyer, as set forth in Appendix A of Ordinance No. 2007-25 and incorporated herein by reference, the Public Works Director and the Town Engineer shall verify that the necessary improvements have been accomplished. The "as built" drawings shall be submitted in electronic (CAD) format.

d. Secondary Plat Procedure (Secondary Approval).

1. Submission Requirements. Following primary approval or conditional primary approval of the primary plat approval of the construction plans and satisfactory completion of all required subdivision and off-site public improvements as set forth therein, the petitioner shall file with the Commission a request for secondary approval of a secondary plat. The application (Form #2) shall:

   a. Be submitted in writing;
   b. Include the entire subdivision, or section thereof, which derives access from an existing state, county, or municipal roadway;
   c. Be accompanied by fifteen (15) copies of the final plat as described in this ordinance;
   d. Totally comply with this ordinance and the terms and conditions of primary approval;
   e. Be accompanied by any restrictive covenants where they have been proposed by the subdivider.

2. Determination of Conformance (Secondary Approval). In order to be recorded, a secondary plat shall be found to be in conformance with the primary approval by the Commission at a public meeting. If the secondary subdivision plat deviates from the primary plat that received primary approval, the subdivision shall be resubmitted to the Commission at a public hearing for a new primary approval. The petitioner shall request Commission review in writing no less than thirty (30) calendar days prior to the date of the public meeting at which he intends to have the secondary plat reviewed. The Commission shall place the matter on its appropriate meeting agenda. At the meeting, the Commission shall approve or disapprove the secondary plat. If granted secondary approval, it shall be signed by the designated officials. If not granted secondary approval, the petitioner shall be informed as to the insufficiency of the submittal.

3. Secondary approval may be granted to a plat for a subdivision in which the improvements and installments have not been completed as required by this ordinance if:

   a. The petitioner provides a cash escrow, or letter of credit, that:
      
      (1) Is an amount determined by the Plan Commission to be sufficient to complete the improvements and installations in compliance with the ordinance; and
      
      (2) Provides surety satisfaction to the Plan Commission; or

   b. With respect to the installation of extension of water, sewer, or other utility service:
      
      (1) The petitioner shows by written evidence that it has entered into a contract with the political subdivision or utility providing the service; and
§ 10-48 ZONING AND SUBDIVISIONS § 10-48

(2) The Plan Commission determines based on written evidence that the contract provides satisfactory assurance that the service will be installed or extended in compliance with this ordinance.

4. Unit Development. Prior to granting secondary approval of a major subdivision plat, the Commission may permit the plat to be divided into two (2) or more units and may impose such conditions upon the filing of the units as it may deem necessary to assure the orderly development of the plat. The Commission may require that the cash escrow or letter of credit be in such amount as will be commensurate with the unit or units of the plat to be filed and may defer the remaining required cash escrow or letter of credit principal amount until the remaining units of the plat are offered for filing. Such units must contain at least twenty (20) lots or ten percent (10%) of the total number of lots contained in the approval plat, whichever is greater.

e. Signing and Recording a Plat.

1. Signing of Plat.

a. When the filing of a cash escrow or letter of credit is required, the President and Executive Secretary of the Commission shall endorse approval on the plat by signing the certificate only after the cash escrow or letter of credit and the construction plans have been approved, and all the conditions of the primary and secondary approval have been satisfied, including payment of all fees.

b. When installation of improvements has been completed, inspected and approved by Town of Dyer personnel and Town Engineer or his/her designee, the President and Executive Secretary of the Commission shall endorse the plat after all conditions of the primary and secondary approval have been satisfied, all improvements satisfactorily completed and accepted for public maintenance, "as built" construction plan submitted, a two (2) year maintenance cash escrow or letter of credit covering all improvements in the subdivision except the final surface coat on the streets, and all engineering fees paid. The "as built" drawings shall be submitted in electronic (CAD) format. Streets in the subdivision shall not have a final surface coat laid upon them until authorized by the Town but no later than one (1) year after the subdivision was completed. The Town requires a minimum of one (1) year of use on the binder course prior to placing of the surface course. The binder course shall not remain uncovered for more than two (2) years. At that time, the petitioner shall provide a one (1) year maintenance cash escrow or letter of credit covering the final surface coat on the subdivision's streets. The amount of the maintenance cash escrow or letter of credit shall be that amount as set forth on the fee schedule in Section 10-119. There shall be written evidence that the required public facilities have been installed in a manner satisfactory to the Public Works Director, Town Engineer and that the necessary improvements have been installed, inspected and approved by the Town of Dyer personnel and Town Engineer or his/her designee.

2. The division of any lot or any parcel of land into a subdivision, as defined in this ordinance, by the use of metes and bounds description for the purpose of sale, or transfer, or lease resulting in the creation of one (1) or more new building sites shall not be permitted. All such described divisions shall be subject to all of the appropriate requirements of this ordinance.

3. No improvement location permit or building permit required under the Uniform Building Code, the zoning ordinance or this ordinance shall be issued on any property subject to this ordinance until the provisions of this ordinance have been complied with and all infrastructure improvements, other than street lights and the final coat of asphalt, have been installed, inspected and approved by Town of Dyer personnel and Town Engineer or his/her designee. Additionally, a lot inspection shall be performed by public works personnel prior to issuance of occupancy permit.
4. Violations and Penalties. Any person who violates a provision of this ordinance or any regulations herein contained shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than twenty-five dollars ($25.00) and not more than two thousand five hundred dollars ($2,500.00) for each day's violation.

   a. Any land within the participating jurisdiction subdivided in violation of the terms of this ordinance after the effective date thereof, is declared to be a common nuisance, which may be restrained, enjoined or abated in any appropriate action or proceeding.
   
   b. The Commission may institute an injunction suit requesting an individual governmental unit be directed to remove a structure erected in violation of this ordinance, or to make the same comply with its terms. If the Commission is successful in its suit, the respondent shall bear the costs of the action, including reasonable attorney fees.
   
   c. The Commission may institute a suit for mandatory injunction requesting an individual or governmental unit be directed, where such individual or governmental unit has violated any provisions of this ordinance, to comply with the provisions of this ordinance. If the Commission is successful in its suit, the respondent shall pay the Commission's reasonable attorney fees and all costs related to the enforcement of this ordinance.

6. Recording of Final Plat.
   a. The President and Executive Secretary of the Commission shall sign three (3) recordable plats of the subdivision on mylar or some other material such as cloth which is not easily susceptible to damage.
   
   b. It shall be the responsibility of the petitioner to file the plat with the County Recorder and return an original, recorded mylar to the Town of Dyer within thirty (30) days of the date of signature, together with twelve (12) paper copies of said mylar. The mylar shall include all information as is required in Section 10-48(6)(c) of this ordinance. Failure by the petitioner to file the plat as herein provided and return to the Town of Dyer within thirty (30) days shall constitute a violation of this ordinance and shall void the primary and secondary approval previously granted. The Zoning Administrator shall have the discretion to extend the time within which the plat must be recorded and returned to the Town of Dyer for a period of up to an additional thirty (30) days upon submission by the petitioner of clear and convincing evidence of hardship.
   
   c. Information Required on Mylar.
      1. The Final Plat must include the following information:
         a. Primary control points, approved by the Commission, or descriptions and "ties" to such control points, to which all dimensions, angles, bearings and similar data on the plat shall be referred.
         
         b. Subdivision boundary lines, right-of-way lines of streets, easements and other rights-of-way, and property lines of residential lots and other sites, with accurate dimensions deflection angles or bearings, and radii, arcs, and central angles of all curves.
         
         c. Name and right-of-way width of each street or other right-of-way.
§ 10-48  ZONING AND SUBDIVISIONS

 d. Location, dimensions and purpose of any easements.

e. Lot and street numbers to identify each lot or site. Numbers shall conform to established town numbering system and as stated on primary plat.

f. Purpose for which sites, other than residential lots, are dedicated or reserved.

g. Minimum building setback lines on all lots and other sites.

h. Location and description of monuments.

i. Reference to recorded subdivision plats of adjoining platted land by record name, date and number.

j. Certification and seal by Registered Land Surveyor or Registered Professional Engineer certifying to accuracy of survey and plat.

k. Certification of ownership of land covered by the plat, showing that applicant is the land owner.

l. Statement by owner dedicating streets, rights-of-way and any sites for public uses.

m. Title, scale, north arrow and date.

n. A certificate for execution by the Commission.

o. An acknowledgment certificate signed by a Notary Public.

p. Such protective covenant as subdivider deems necessary in form for recording.

q. Such other certificates, affidavits, endorsements, or dedications as may be required by the Commission in the enforcement of this ordinance.

r. All engineering specifications, plans and documents required hereunder are considered to be a part of the final plat data necessary.

s. Vicinity map.


Sec. 10-49 through Sec. 10-54  Reserved for Future Use.
Division III. Procedure for Subdivision Control.

Sec. 10-55 General Improvements.

a. Conformance to Applicable Rules and Regulations. In addition to the requirements established herein, all subdivision plats shall comply with the following laws, rules and regulations:

1. all applicable state and local statutory provisions;
2. the Dyer Zoning Ordinance, Building Codes and all other applicable laws and ordinances of the Town of Dyer;
3. the Comprehensive Plan, Official Map or Thoroughfare Plan and Public Utilities Plan including all streets, drainage systems, and parks shown on the Official Map or Comprehensive Plan as adopted;
4. the rules and regulations of the Indiana Department of Highways if the subdivision or any lot contained therein abut a state highway or state frontage road;
5. the highways and drainage standards and regulations adopted by the Town Engineer and all applicable boards, commissions, agencies, and officials of the Town, County, State and Federal Government;
6. Storm Drainage Control Ordinance;
7. Design standards of the Town of Dyer set forth in Appendix A.

b. Plat approval may be withheld if a subdivision is not in conformity with the above guides and requirements or with the policies and purposes of these regulations established.

c. Self-Imposed Restrictions. If the owner places restrictions on any of the land contained in the subdivision greater than those required by the Zoning Ordinance or these regulations, such restrictive covenants shall be recorded on the final plat.
§ 10-55  ZONING AND SUBDIVISIONS  § 10-62

d. Character of the Land. Land which the Commission finds to be unsuitable for subdivision or
development because of flooding, wetlands classification, improper drainage, steep slopes, rock
formations, adverse earth formations or topography, utility easements, or other features which might
reasonably be harmful to the safety, health and general welfare of the present or future inhabitants of
the subdivision and/or its surrounding area, shall not be subdivided or developed unless adequate
methods are formulated by the developer and approved by the Commission, upon recommendation of
the Town Engineer, to solve the problem created by the unsuitable land conditions. Such land shall be
set aside for such uses permitted by the Zoning Ordinance as shall not involve any such danger.

e. Subdivision Name. The proposed name of the subdivision shall not duplicate, or too closely
approximate phonetically, the name of any other subdivision in the area covered by these regulations.
The Commission shall have final authority to designate the name of the subdivision which shall be
determined at the time of primary approval.

f. The Town shall not be responsible for policing covenants and restrictions imposed upon a
subdivision by the owners of the real estate composing the subdivision. (Ord. No. 94-9, § IV, 8-9-94;
Am. Ord. No. 2000-41, 12-19-00)

Sec. 10-56 through Sec. 10-59  Reserved for Future Use.

Division IV. Streets.

Sec. 10-60  General Requirements for Streets.

  Frontage on Improved Streets. No subdivision shall be approved unless the area to be subdivided
shall have frontage on an existing street. Such street or highway must be suitably improved as required
by the highway rules, regulations, or orders or be secured by a letter of credit as required under these
regulations, with the width and right-of-way required by these regulations or as indicated on the official
Map or Thoroughfare Plan. Whenever the area to be subdivided is to use an existing street frontage,
such street shall be suitably improved as provided hereinabove. Reasonable access to the subdivision
shall be afforded. (Ord. No. 94-9, § V, A, 8-9-94)

Sec. 10-61  Grading and Improvement Plan.

  Streets and lots shall be graded and improved and conform to the standards and specifications of
the Town of Dyer and shall be approved as to design and specification by the Town Engineer, in
accordance with the construction plans required to be submitted for primary approval. (Ord. No. 94-9,
§ V, B, 8-9-94; Am. Ord. 2000-41, 12-19-00)

Sec. 10-62  Topography and Arrangement.

  a. Streets shall be related appropriately to the topography. Grades of streets shall conform as
closely as possible to the original topography. A combination of steep grades and sharp curves shall be
avoided. Specific standards are set forth in Appendix A.
b. All streets shall be properly integrated with the existing and proposed system of thoroughfares and dedicated right-of-way as established on the Official Map or Thoroughfare Plan.

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

d. Proposed streets shall, where appropriate, be extended to the boundary lines of the tract to be subdivided unless this is prevented by topography or other physical conditions, or unless in the opinion of the Plan Commission such extension(s) is/are not necessary or desirable for the layout of the subdivision undo consideration with the existing street layout or for the most advantageous future development of adjacent tracts.

e. In business and industrial developments, the streets and other accessways shall be planned in connection with the grouping of buildings, location of rail facilities, truck loading and maneuvering areas, walkways, bikeways, and parking areas so as to minimize conflict of movement between the various types of vehicular and pedestrian traffic.

f. Alleys shall be discouraged in residential areas, except where topographical or other conditions necessitate their use.

g. Street design shall conform to the Design Standards for Improvements in the Town of Dyer, as contained in Appendix A. (Ord. No. 94-9, § V, C, 8-9-94; Am. Ord. No. 2000-41, 12-19-00)

Sec. 10-63 Blocks.

a. Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depths. Exceptions to this prescribed block widths shall be permitted in blocks adjacent to arterial streets, railroads, and waterways.

b. The lengths, widths, and shapes of blocks shall be such as are appropriate for the locality and the type of development contemplated.

c. Blocks designed for industrial uses shall be of such length and width as may be determined to be suitable by the Commission for the extended use. (Ord. No. 94-9, § V, D, 8-9-94; Am. Ord. No. 2000-41, 12-19-00)

Sec. 10-64 Access to Collector Streets.

Where possible, lots in single family residential subdivisions fronting on collector streets shall be avoided and lots at the corners of intersections between local and collector streets shall front on the local street and have driveway access to it only and not to the collector street. In multiple family residential area, entrances to group parking lots shall have access only to collector streets (where possible) and such entrances shall be widely spaced. (Ord. No. 94-9, § V, E, 8-9-94)
Sec. 10-65 Access to Primary Arterials.

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

a. the subdivision of the 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 within a strip of land along the property line of such lots;

b. a series of cul-de-sacs, entered from, and designed generally to be at right angles to an access street that is at some distance from and parallel to the arterial street, with the rear lines of their terminal lots backing onto the arterial; and,

c. a marginal access or service road (separate from the primary arterial by a landscaped and/or decoratively fenced grass strip and having access thereto at widely spaced suitable points). (Ord. No. 94-9, § V, F, 8-9-94)

Sec. 10-66 Street Regulatory Signs.

The applicant shall provide and install a street sign at every street intersection within his/her subdivision as required by the Town Engineer. The Town shall inspect and approve all street signs before issuance of building permits for any residence on the approved streets. (Am. Ord. No. 2000-41, 12-19-00)

Sec. 10-67 Street Lights.

Installation of street lights shall be required in accordance with the Design Standards of the Town of Dyer as set forth in Appendix A. The Developer shall also be responsible for all costs of operating and maintaining street lights for a period of two (2) years after installation. Operation and maintenance costs for street light(s) shall be collected in advance at the time of secondary approval based upon current costs, with any difference due to an increase in costs or extraordinary maintenance expenditures to be collected at the conclusion of the two year period after installation. Street lights shall be operational prior to occupancy permits being issued. (Ord. No. 94-9, § V, H, 8-9-94; Am. Ord. 2000-41, 12-19-00)

Sec. 10-68 Construction of Streets.

a. Construction of Streets Other than Cul-de-Sacs. The arrangement of streets shall provide for the continuation of streets between adjacent subdivisions or other properties when such continuation is necessary for the convenient movement of traffic, for effective fire protection, for efficient provision of utilities, and where such continuation is in accordance with the Comprehensive Plan. If the adjacent property is undeveloped and the street must be a dead-end (stub) street temporarily, the right-of-way shall be provided for all such temporary dead-end streets. Temporary turnarounds must be provided at the ends of such stub streets. The Commission may limit the length of temporary dead-end streets in accordance with the design standards in these regulations.
§ 10-68  ZONING AND SUBDIVISIONS

b. Cul-de-Sacs (Permanent Dead-End Streets). Where a street does not extend beyond the boundary of the subdivision and its continuation is not required by the Commission for access to adjoining property, its terminus shall normally not be nearer to such boundary than sixty (60) feet. However, the Commission may require the reservations of an appropriate easement to accommodate drainage facilities, pedestrian traffic, or utilities. A cul-de-sac turnaround shall be provided at the end of a permanent dead-end street in accordance with Town construction standards and specifications. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall be limited to length in accordance with the design standards in these regulations (Ord. No. 94-9, § V, I, 8-9-94; Am. Ord. No. 2000-41, 12-19-00)

Sec. 10-69 Design Standards.

a. General. In order to provide for streets of suitable location, width, and improvement to accommodate prospective traffic and afford satisfactory access for police, fire-fighting, snow removal, sanitation and street maintenance equipment, and to coordinate street location in order to achieve a convenient system and avoid undue hardships to adjoining properties, the following design standards for streets are required.

b. Street Surfacing and Improvements. After sewer and water utilities have been installed by the developer, the applicant shall construct curbs and gutters and shall surface or cause the roadways to be surfaced to the widths prescribed in these regulations. Said surfacing shall be of such character as is suitable for the expected traffic and in harmony with similar improvements in the surrounding areas. Types of pavement shall be as determined by the Design Standards. Adequate provisions shall be made for culverts, drains and bridges. All street pavement, shoulders, drainage improvements and structures, curbs, turn-arounds, and sidewalks shall conform to all construction standards and specifications adopted by the Design Standards and shall be incorporated into the construction plans required to be submitted by the developer for plat approval.

c. Excess Right-of-Way. Right-of-way widths in excess of the standards designed in these regulations shall be required whenever, due to topography, additional width necessary to provide for adequate and stable earth slopes. Such slopes shall not be in excess of three to one.

d. Railroads and Limited Access Highways. Railroad right-of-way and limited access highways where so located as to affect the subdivisions of adjoining lands shall be treated as follows:

1. In residential districts a buffer strip at least twenty-five (25) feet in depth in addition to the normal depth of the lot required in the district shall be provided adjacent to any 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 structures hereon other than earth berms, walls, fences and other landscape screening devices approved by the Commission is prohibited.

2. In districts zoned for business, commercial or industrial uses, the nearest street extending parallel or approximately parallel to a railroad shall, wherever practical, be at a sufficient distance therefrom to ensure a suitable depth for commercial or industrial sites.
3. Streets parallel to a railroad when intersecting for a street which crosses the railroad at grade shall to the extent practicable, be at a distance of at least one hundred fifty (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. (Ord. No. 94-9, § V, J, 8-9-94)

Sec. 10-70 Intersections.

a. Shall be designed in accordance with the Book of Standards.

b. Streets shall be laid out so as to intersect as nearly as possible at right angles. Not more than two (2) streets shall intersect at any one point unless specifically approved by the Commission. (Ord. No. 94-9, § V, 1C, 8-9-94; Am. Ord. No. 2000-41, 12-19-00)

Sec. 10-71 Street Dedications and Reservations.

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

b. Widening and Realignment of Existing Streets. Where a subdivision borders an existing narrow street or when the Comprehensive Plan, Official Map, Thoroughfare Plan, or zoning set back regulations indicate plans for realignment or widening of a street that would require use of some of the land in the subdivision, the applicant shall be required to improve and dedicate such streets at his own expense. Such frontage streets and other streets on which subdivision lots form shall be improved and dedicated by the applicant at his own expense to the full width required by those subdivision regulations. Land reserved for any street purposes may not be counted toward satisfying the yard or area requirements of the Zoning Ordinance. (Ord. No. 94-9, § V, L, 8-9-94)

Sec. 10-72 Lot Improvements.

a. Lot Arrangement. The lot arrangement shall be such that there will be no foreseeable difficulties for reasons of topography or other conditions in securing building permits to build on each of the created lots in compliance with the Zoning Ordinance and Health Regulations and in providing driveway access to buildings on such lots from the appropriate approved street.

b. Lot Dimension. Lot dimensions shall comply with the minimum standards in the Zoning Ordinance. Where lots are more than double the minimum required area for the zoning district, the Commission may require that such lots be arranged so as to allow further subdivision and the opening of future streets where they would be necessary to serve all such potential lots in compliance with the Zoning Ordinance and these regulations. In general, side lot lines shall be at right angles to the street lines (or radial to curving street lines) unless a variation from this rule will give a better street or lot plan. Corner lots shall observe the minimum front yard setback from both streets. Depth and width of properties reserved or laid out for business, commercial, or industrial purposes shall he adequate to provide for all of the off-street parking and loading facilities required for the type of use and development contemplated, as established in the Zoning Ordinance.
c. 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 for the separation of residential development from the traffic bordering arterials or to overcome specific disadvantages of topography and orientation affecting the subdivided lots.

2. Access from Primary and Secondary Arterials. Lots shall not, in general, derive access from a primary or secondary arterial street. Where driveway access from a primary or secondary arterial street may be the only possible access for several adjoining lots, the Commission may require that such lots be served by a combined access drive in order to limit possible traffic hazards from multiple access to such streets. Where possible, driveways should be designed and arranged so as to avoid requiring vehicles to back into traffic on primary or secondary arterials.

d. Soil Preservation, Grading and Seeding.

1. Soil Preservation and Final Grading. No certificates of occupancy shall be issued until final grading has been completed in accordance with the approved engineering plans.

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 water drainage pattern for the area. Drainage shall be designed so as to avoid the accumulation of storm water on any one or more lots from adjacent lots. It shall be the responsibility of the lot owner to maintain the lot grade, as it applies to drainage, as provided for in the approved engineering plans.

3. Lawn Grass Seed and Sod. Erosion control shall be in accordance with the Soil and Conservation Service Rule 5. Lot owner is responsible for compliance with Rule 5. Final landscaping to be completed within nine (9) months of date of occupancy or issuance of occupancy permit whichever is first.

e. Debris and Waste. No cut trees, timber, debris, earth, rocks, stones, junk rubbish, or other waste material of any kind shall be buried in any land, or left or deposited on any lot or street at the time of occupancy within a subdivision, nor shall any be left or deposited in any area of the subdivision at the time of expiration of the performance bond of public improvements.

f. Fencing. Each subdivider and/or developer shall be required to furnish and install fences wherever the Commission determines that a hazardous condition may exist. The fences shall be constructed to the height and material as noted on the final plat. No certificate of occupancy shall be issued until said fence improvements have been duly installed.

g. Waterbodies and Watercourses. If a tract being subdivided contains a water body, or portion thereof, lot lines shall be so drawn as to distribute the entire ownership of the water body among the fees of adjacent lots. The Commission may approve an alternative allocation of interests whereby the ownership of and responsibility for safe maintenance of the water body is so placed that it will not become a local government responsibility. No part of the minimum area of a lot required under the Zoning Ordinance may be satisfied by land which is under water. Where a watercourse separates the buildable area of a lot from the street from which it has access, provisions shall be made for installation of a culvert or other structure, of a design approved by the Town Engineer. (Ord. No. 94-9, § V, M, 8-9-94; Am. Ord. No. 2000-41, 12-19-00)
Sec. 10-73 Drainage and Storm Sewers.

a. General Requirements. The Commission shall not recommend for approval any subdivision plat which does not make adequate provision for storm or flood water runoff channels or basins as per the Book of Standards.

b. Nature of Storm Water Facilities.

1. Location. The applicant may be required by the Commission to carry away by pipe or open ditch any spring or surface water that may exist, either previously to, or as a result of the subdivision. Such drainage facilities shall be located in the street right-of-way where feasible, or in perpetual, unobstructed easements of appropriate width, and shall be constructed in accordance with the Town's construction standards and specifications.

2. Accessibility to Public Storm Sewers. Where public storm sewer/s is/are accessible, the applicant shall install storm sewer facilities, or if no other outlets are within a reasonable distance, adequate provision shall be made for the disposal of storm water, subject to the specifications of the Town Engineer. However, in subdivisions containing lots of less than fifteen thousand (15,000) square feet in area and in business and industrial districts, underground storm sewer systems shall be constructed throughout the subdivision and be conducted to an approved outfall. Inspection of facilities shall be conducted by the Town Engineer.

3. Accommodation of Upstream Drainage Areas. A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The Town Engineer shall approve the necessary size of the facility as determined by Design Engineer, based on the provisions of the required construction standards and specifications assuming conditions of maximum potential watershed development permitted by the Zoning Ordinance.

4. Effect on Downstream Drainage Area. The Design Engineer shall determine the effect of each proposed subdivision with approval of Town Engineer on the existing drainage facilities outside the area of the subdivision. Town drainage studies together with such other studies as may be available and appropriate, shall serve as a guide to needed improvements. The subdivision, when completely developed, shall not discharge water at a faster rate than it did in its natural state. All excess runoff to the extent of the amount of water anticipated in a one hundred (100) year flood event, shall be withheld in a retention or detention basin and discharged at a rate not greater than that of the three (3) year flood event. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the Commission may withhold primary approval of the subdivision until provisions (such as a storage facility) has been made for the improvement of said potential condition in such sum as the Commission shall determine. No subdivision shall be approved unless adequate drainage from it will be provided to an adequate drainage water course or facility.

5. Areas of Poor Drainage. Areas which are not in the Flood Plain but contain soils which are subject to flooding may be approved for subdivisions by the Commission, provided that the subdivider fills the affected area of said subdivision to an elevation sufficient to place building sites and streets two (2) feet above ponding levels.
§ 10-73  ZONING AND SUBDIVISIONS  § 10-73

6. Floodway Areas. If a subdivision of land is proposed within the flood plain floodways shall be preserved and not diminished in capacity by filling or obstruction, except as approved by the Natural Resources Commission in writing. No residential building site may be located within the floodway, in accordance with Section 10-18 of the Town Code.

7. Floodway Fringe Areas. Where a subdivision is proposed within an area of the flood plain designated as a floodway fringe, the Commission may approve such subdivision, provided that 1) all streets are elevated sufficiently to be above the regulatory flood elevation; 2) all lots for residential usage have a flood protection grade two (2) feet above the regulatory flood elevation; 3) where provided, water and sanitary sewer facilities are constructed to eliminate contamination of or by flood water; [and] 4) approval to fill the area from the Department of Natural Resources has been obtained in writing. Land below the regulatory flood elevation shall not be used for computing the area requirement for any lot, in accordance with Section 10-18 of the Town Code.

8. Flood Plain Areas. Where a subdivision is proposed within an area of the flood plain for which floodway and floodway fringe designations have not been made, the Commission shall not approve such a subdivision unless all streets are raised sufficiently to be above the regulatory flood elevation; all lots for residential usage have a flood protection grade of two (2) feet above the regulatory flood elevation; where provided, public water and sanitary sewer facilities are constructed to eliminate contamination of or by flood water; and filling to achieve the above will not raise the level of the regulatory flood elevation more than one-tenth (1/10) of one (1) foot for that reach of the stream. All filling in the flood plain must be approved in writing by the Department of Natural Resources. Lands below the regulatory flood elevation shall not be used for computing the area requirement for any lot, in accordance with Section 10-18 of the Town Code.

9. Recording of Plats in the Flood Plain and Floodway Fringe. All final plats having within their boundaries areas whose elevation is below that of the regulatory flood elevation shall show and label the regulatory flood boundary and elevation, as of the date the final plat is drawn, on the final plat for recording, in accordance with Section 10-18 of the Town Code.

c. Dedication of Drainage Easements.

1. General Requirements. Where a subdivision is traversed by a drainage course, drainage way, channel, or stream, a storm water easement conforming substantially to the lines of such watercourse, and of such width and construction or both as will be adequate for the purpose of both drainage and maintenance of the right-of-way shall be dedicated to the Town of Dyer or appropriate entity thereof. Wherever possible, it is desirable that the drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume of flow.

2. Drainage Easements.

   a. Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within street rights-of-way, perpetual unobstructed easements at least fifteen (15) feet in width for such drainage facilities shall be provided across property outside the right-of-way lines and with satisfactory access to the street. Easements shall be indicated on the plat. Drainage easements shall be carried from the street to a natural watercourse or to other drainage facilities.
b. The applicant shall dedicate, either in fee or by drainage or conservation easement land on both sides of existing watercourses of a width to be determined by the Commission and, in the case of legal drains, the County Drainage Board.

c. When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and indicated on the plat.

d. Low-lying lands along watercourses subject to flooding or overflowing during storm periods, whether or not included in areas for dedication, shall be preserved and retained in their natural state as drainage ways. Such land or lands subject to periodic flooding shall not be included in the computations for determining the number of lots allowable under the average density procedures nor for computing the area requirement for individual lot. (Ord. No. 94-9, § V, N, 8-9-94; Am. Ord. No. 2000-41, 12-19-00)
Sec. 10-74 Extension of Municipal Services.

a. General Requirements.

1. Utility and street improvement shall be provided in each new subdivision in accordance with the following requirements:

   a. Gas, water, storm sewers, phone, cable and electric utilities service shall be made available for all lots.

   b. Streets and alleys shall be improved with the kind of paving and of such width as shall meet the Town's standard requirements.

   c. Sanitary sewers or septic systems shall be provided for all lots of such size and grades in materials as are required by law, and they shall be subject to the approval of the Town Engineer.

b. Location of Water Mains. Unless no other reasonable engineering alternative exists, water mains may not be located in side or rear yard easements.


Sec. 10-75 through 10-77 Reserved for Future Use.

Division VI. Mandatory Park Dedication.

Sec. 10-78 Conditions for Primary Subdivision Approval.

As a condition of primary approval of a subdivision, for residential zoned real estate or real estate that is developed and or zoned for mixed uses which include residential uses, each subdivider or developer will be required to dedicate land for park and recreational purposes to serve the immediate and future needs of the residents of the development, in accordance with the standards, criteria and formula set forth in this section. Such dedication of park land may be accomplished by dedicating or donating land that is outside of the proposed development so long as such dedication or donation meets the standards and criteria outlined in Section 10-79(e) below. (Ord. No. 94-9, § VII, 8-9-94; Am. Ord. No. 99-02, 1-19-99; Am. Ord. No. 2000-41, 12-19-00; Am. Ord. No. 2006-19, 10-18-06)

Sec. 10-79 Criteria for Requiring Park and Recreation Land Dedication.

a. Requirement and Population Ration: The ultimate density of a proposed development shall bear directly upon the amount of land required for dedication. The total requirement shall be determined by multiplying the ultimate population by .020, the product of which shall be the total park acreage required. The determination of "ultimate population" shall be determined as follows:

<table>
<thead>
<tr>
<th>Housing Occupancy Average</th>
<th>2.83 persons</th>
</tr>
</thead>
</table>

592
This information was taken from Table DP-1 Profile of General Demographic Characteristics: 2000 in the 2000 Census for the Town of Dyer. There were 4,805 occupied housing units in Dyer with 91.5% being owner occupied for a total population in such unit of 12,658 people. There were 8.5% renter occupied units for a total population in such units of 918 people. The grand total population was 13,576. That number divided by the occupied housing units (4,805) = 2.82539 persons per dwelling unit. The average number of persons living in an owner occupied housing unit was 2.88 and the average number of persons living in a renter occupied housing unit was 2.24 according to the 2000 Census for the Town of Dyer.

Except as provided, however, that if the product derived by multiplying the ultimate population of the entire proposed development by .020 does not exceed three quarters (3/4) of an acre, no park land dedication shall be required in the subdivision

b. Location: The Dyer Park Board may recommend, approve, or disapprove the location of any proposed site. A central location, which will serve equally the entire community, is most desirable. In large developments, sites should be located throughout the development according to established standards for park area distances.

The final determination concerning the acceptability of land for park use and type shall be made by the Plan Commission at the time of primary plat approval.

c. Credit for Private Open Spaces and Recreation Areas: When subdividers or developers provide their own open space for recreation areas and facilities, it has the effect of reducing the demand for local public recreational services. Depending on the size of the development, a portion of the park and recreation area in subdivisions or planned unit developments may, at the option of the Plan Commission, be provided in the form of "private" open spaces in lieu of dedicated "public open space". The application of the subdivider shall be referred to the Park Board for review, report and recommendation, which review shall consider the needs of the projected residents of the development. After receipt of the report of the Park Board, and a finding that the application will serve the needs of the projected residents and meets the standards set forth hereafter, the Plan Commission shall approve the application at the time of primary approval.

In general, a substitution of private open space for dedicated parks will imply a substantially higher degree of improvement and the installation of recreational facilities, including equipment by the developer as part of his obligation. Detailed plans of such areas, including specifications of facilities to be installed, must be approved by the Plan Commission and before any credit is given for private recreation areas, the subdivider or developer must guarantee that these private recreation areas will be permanently maintained for such use by the execution of the appropriate legal documents, including covenants. When an adjustment for private recreation areas is warranted, it will be necessary to compute the total park land dedication that would have been required from the subdivision or planned unit development and then subject the credit to be given.

d. Standards for Private Recreation Improvements: If the Plan Commission, after report and recommendation from the Park Board, finds that it is in the public interest to accept certain private recreation improvements, the following standards should be met:
1. yards, court areas, setbacks, and other open areas required to be maintained by the zoning and building ordinances and regulations shall not be included in the computation of such private open space;

2. private ownership and maintenance of the open space is adequately provided for by recorded written agreement, conveyance, or restrictions;

3. use of the private open space is restricted for park and recreational purposes by recorded covenant, which runs with the land in favor of the future owners of property and which cannot be defeated or eliminated without the consent of the Plan Commission;

4. the proposed private open space is reasonably adaptable for use for park and recreational purposes, taking into consideration such factors as size, shape, topography, geology access, and location;

5. the facilities proposed for the open space are adequate to serve the purpose of the open space.

e. Credit for Donation of Land Outside Proposed Development: The requirement outlined in Section 10-78 may be satisfied by dedication or donation of land, of the size required under (a) of this section, outside the proposed development for park and recreational purposes. The application of the subdivider shall be referred to the Park Board for review, report and recommendation. Such review, report and recommendation by the Park Board shall be made in consideration of the following factors:

1. The proposed land to be donated must be adjacent to an existing park within the Town of Dyer.

2. The proposed dedication and donation of land outside the development is compatible with current and name uses and growth of existing park and recreation facilities, as envisioned by The Town of Dyer's Comprehensive Plan and the Master Plan of the Dyer Park Board.

After receipt of the report of the Park Board, and a finding that the application meets the standards set forth in this section, the Plan Commission shall act on the application at the time of primary plat approval.

Sec. 10-80 Reservation of Additional Land.

Where the recommendation of the Park Board and determination of the Plan Commission call for a larger amount of park and recreational land in a particular proposed subdivision or planned unit development than the developer is required to dedicate, then the land needed beyond the developer's contribution shall, if so determined by the Plan Commission, be reserved for subsequent purchase by the Town or other public body designated by the Town provided that the acquisition is made within three (3) years from the date of approval of the final plat. (Ord. No. 94-9, § VII, B, 8-9-94; Am. Ord. No. 2006-19, 10-18-06)
Sec. 10-81 Improved Sites.

All park sites shall be dedicated in a condition that includes being provided with a sanitary sewer tap, a water tap, final grading, seeding or sodding, as well as being provided direct access to electric, telephone, and cable television. Additionally, parks shall have sidewalks installed along all street frontages and streets (including enclosed drainage and curb and gutter) as applicable to the location of the site, or acceptable provision made therefor. (Ord. No. 94-9, § VII, C, 8-9-94; Am. Ord. No. 2000-41, 12-19-00; Am. Ord. No. 2006-19, 10-18-06)

Sec. 10-82 Procedure.

At the time of primary approval of the subdivision, the Park Board may recommend land to be dedicated. The recommendation by the Park Board shall include the following:

a. the amount of land required;

b. that a stated amount of credit be given for private recreation facilities or unique natural and special features;

c. the location of the park land to be dedicated;

d. the approximate time when development of the park or recreation facility shall commence.

This recommendation shall be forwarded to the Plan Commission for final determination. In making its final determination, the Plan Commission shall be guided by the standards contained in this ordinance. After making its final determination, the Plan Commission shall give notice to the subdivider, the Town Council, and any other interested party.

Prior to the time of the signing of the final plat of subdivision, the subdivider shall dedicate the land as previously determined by the Plan Commission.

Open space covenants for private park or recreational facilities shall be submitted to the Plan Commission prior to primary approval and shall be recorded contemporaneously with the final plat of subdivision. (Ord. No. 94-9, § VII, D, 8-9-94; Am. Ord. No. 99-02, 1-19-99; Am. Ord. No. 2000-41, 12-19-00; Am. Ord. No. 2006-19, 10-18-06)

Sec. 10-83 Applicable only to Residential Zoned Subdivision.

The provisions of this section shall apply to all subdivisions zoned residential and shall not apply to Business, Shopping Center, Industrial or Planned Unit Development Commercial zoned subdivisions. (Ord. No. 94-9, § VII, E, 8-9-94; Am. Ord. No. 2006-19, 10-18-06)

Sec. 10-84 Reserved for Future Use.
Division VII. Construction Procedures.

Sec. 10-85 Liability Insurance.

The developer or developer's contractor shall purchase and maintain such liability and other insurance as appropriate for the work being performed and furnished and as will provide protection from claims set forth below which may provide protection from claims set forth below which may arise out of or result from the performance and furnishing of the work by anyone directly or indirectly employed by the developer and the developer's contractor and developer's other obligations under this Subdivision Control Ordinance whether it is to be performed or furnished by contractor, by any subcontractor, or supplier, by anyone directly or indirectly employed by any of them to perform or furnish any of the work or by anyone for whose acts any of them may be liable:

a. Workers' Compensation. Workers' Compensation in accordance with the laws of the State of Indiana and employers' liability in an amount not less than five hundred thousand dollars ($500,000.00).

b. General Liability.

1. Bodily Injury Liability and Property Damage Liability in an amount not less than one million dollars ($1,000,000.00) each occurrence and in the aggregate.

2. Above to include Premises Operations, Blanket Contractual Liability, Products, Completed Operations, Independent Contractors, Broad Form Property Damage, Personal Injury (employees' exclusion deleted) and “X”, “C” and “U” exclusions deleted.

c. Automobile Liability.

1. Bodily Injury Liability in an amount not less than five hundred thousand dollars ($500,000.00) for each person in one accident, and one million dollars ($1,000,000.00) for injuries sustained by two or more persons in any one accident.

2. Property Damage Liability in an amount not less than two hundred fifty thousand dollars ($250,000.00) each accident.

3. Coverage shall include hired and non-owned automobile.

d. Excess (Umbrella) Liability.

Coverage in an amount not less than three million dollars ($3,000,000.00) shall include, but not be limited to, excess coverage for the Workers' Compensation, Comprehensive General Liability, and Comprehensive Automobile Liability policies. The policies of insurance so required to be purchased and maintained shall:

1. include as additional insured the Town of Dyer and Town Engineer and all of whom shall be listed by name as additional insureds, and include coverage for the respective officers and employees, all of such additional insured;

2. remain in effect at least until final acceptance and at all times thereafter when contractor may be correcting, removing or replacing defective work.
§ 10-85 ZONING AND SUBDIVISIONS § 10-86

The developer's contractor shall not commence work until he has filed with the Town Clerk-Treasurer a certificate of insurance showing complete coverage of all insurance required, signed by the insurance companies or their authorized agents. Each certificate shall provide that coverage shall not be terminated or reduced without thirty (30) days advance written notice to the Town Clerk-Treasurer.

All bonds and insurance required by the contract documents to be purchased and maintained by developer or developer's contractor shall be obtained from surety or insurance companies that are fully licensed or authorized in the jurisdiction in which the project is located to issue bonds or insurance policies for the limit and coverages so required.

In addition to delivering certificates of insurance, developer or developer's contractor shall also deliver to the Town, with copies to each additional insured, copies of all endorsements to the insurance policies which developer is required to purchase and maintain within ninety (90) calendar days after the date of the Pre-Construction Conference. (Ord. No. 94-9, § VIII, A, 8-9-94)

Sec. 10-86 Pre-Construction Conference.

At least seven (7) calendar days prior to initiation of construction, a Pre-Construction Meeting is required of the developer, with the following items being discussed:

a. Proposed start of construction date.

b. Responsibilities of all parties involved.

c. Names, addresses, and emergency phone numbers of all involved parties.

d. Any construction restrictions set by the Town.

e. Approval of selected materials, trench backfill, etc.

f. Any questions contractor or subcontractors have regarding plans, specifications, Town restrictions or regulations, and rules to follow during construction.

g. Proposed construction schedule.

h. Traffic flow restrictions if applicable; responsibility for safety.

i. Permits required; IDEM, INDOT, County Drainage, etc.

j. Any and all other items pertaining to construction.

k. Proper insurance coverages.

l. The following personnel should be present at the preconstruction meeting:

1. Town Director of Public Works.
2. Town Engineer.
3. Developer's Representative.

4. Developer's Engineer.

5. General Contractor's Representative.

7. Public Utilities Representatives; Northern Indiana Public Service Company, Ameritech, etc. (Ord. No. 94-9, § VIII, B, 8-9-94; Am. Ord. No. 2000-41, 12-19-00)

Sec. 10-87 Advanced Notification.

The developer or his representative will give the Department of Public Works seventy-two (72) hours written notice prior to commencing any construction. After construction commences, a forty-eight (48) hour written notice to the Town Director of Public Works shall be required prior to starting each specialized phase of construction (earthwork, sanitary sewer, storm sewer, water main, curb and gutter, or street construction), and prior to testing of any of the utilities. (Ord. No. 94-9, § VIII, C, 8-9-94; Am. Ord. No. 2000-41, 12-19-00)

Sec. 10-88 Inspection Checklist.

During construction, the Town Engineer and the Town's Director of Public Works will maintain periodic observation of the progress of the construction to observe it for proper workmanship and compliance with the approved plans and specifications. The following list indicates the minimum items that will be checked during the periodic inspections:

a. Sanitary Sewers and Storm Sewers.

   1. Location of sewer in right-of-way.

   2. Elevation of sewer from construction stakes.


   4. Stone bedding materials to support sewer.

   5. Backfill material and method of backfilling.

   6. Special trench backfill installed where required.

   7. Location and construction of manholes, inlets, catch basins and dry wells.

   8. Manhole inverts, benches, steps, frame and cover.


  10. Finished grades.

  11. Construction of storm retention or detention ponds as per section 900 et seq. of Appendix A to the Town of Dyer Subdivision Control Ordinance as set forth in Article 3, Chapter 10 of the Dyer Town Code.
12. Infiltration, exfiltration and deflection testing of sewers.

13. Location, installation, and backfilling of corporation stops, service lines, curb stops, service b-boxes.

b. Watermain Systems.

1. Location in right-of-way.

2. Depth of cover from construction stakes.

598

2004 S-19


5. Special trench backfill where required.

6. Location of fire hydrants.

7. Installation of fire hydrants.

8. Workability of fire hydrants, valves and curb stops.

9. Location, installation, and backfilling of corporation stops, service lines, curb stops, service B-boxes.

10. Finished grade.

11. Hydrostatic, pressure, and leakage testing.

12. Disinfection of water system.

The following construction and associated inspection shall begin only after installation and approval of the above underground utilities:

c. Streets, Curbs and Gutters.

1. Location of streets in right-of-way.

2. Subgrade prior to placing base course (also subbase in some cases) to include proof-rolling and/or density tests.

3. Curb and gutter subgrade (or base course in some cases).

4. Line and grade of curb and gutter after forming or setting of string lines is completed.

5. Spot check installation of curb and gutter, including location of expansion joints and contraction joints, application of curing compound, and assure that the contractor is taking concrete compression test cylinders.

6. Spot check placing of base course to assure that proper equipment is used, proper compaction practices are followed, and proper depth is achieved.

7. Check base course for final shape and compaction prior to application of prime coat, including proof-rolling.

8. Spot check placing of bituminous binder course. The Town requires a minimum of one year of use on the binder course prior to placing of the surface course. The binder course shall not remain uncovered for more than two (2) years.
9. After the minimum one (1) year required waiting period, and before final bituminous surface course is applied, inspect curb and gutter and binder course for defects, settlements, or construction damage.

Sec. 10-89 Acceptance Procedures.

Upon completion of an improvement, Town Engineer or its designee will witness any remaining testing of the completed work, and if all items are in order, will inform the Town and developer that acceptance procedures may be initiated. Final acceptance of a subdivision by the Town shall be granted only after all of the following criteria are satisfied:

All subdivision improvements are completed, and have passed all testing and inspection requirements, as per approved plans and specifications, including:

a. All sanitary sewer, storm sewer, and watermain installation.

b. All curb and gutter, and sidewalks.

c. All streets, including final wearing surface.

d. Retention and/or detention ponds.

e. Trees and/or other plantings.

f. Street lights and street signs.

g. Public utilities, e.g., gas mains, electric power, telephone, TV cable, etc.

h. All of the following legalities are satisfied:

1. Any amendments to final approved plat of development, if applicable.

2. Recapture agreements, if applicable.

3. Plan and profile as built drawings of all improvements supplied to the Town Director of Public Works by the developer's engineer. Electronic drawing submittals. The developer shall, in addition to any other forms of submittal required elsewhere in this ordinance, provide to the town all primary and secondary plats as well as as-built engineering drawings in an electronic form, in the AutoDesk AutoCAD drawing format. The drawing format must be in either the current or previous version of the AutoDesk AutoCAD software. The submittal shall be provided to the town in a standard form of magnetic or optical media that is readable by the town information systems. Alternate drawing formats or means of submittal may be accepted upon prior approval from the town.

4. One (1) year guarantee of workmanship, in writing, on street, curb and gutter and surface improvements, to initiate upon final acceptance.

5. One (1) year warranty of workmanship on underground portions of the improvements, in writing, to initiate when the improvements are complete and ready for acceptance.

i. Development has passed “Final Inspection”. The final inspection is requested by the developer through the Town's authorized representative. The final inspection is conducted by the Town Engineer, accompanied by the developer or his representative (engineer), contractor, and the Town's
representative(s) (Director of Public Works, Building Inspector, Fire Department personnel, Water Works personnel, or others) if they wish to attend.

The purpose of the final inspection is to verify on-site that the final elevations of all improvements are correct as per approved plans, and coincide correctly with the final street grades, landscaping, and storm drainage systems of the development.
A final inspection of the sanitary, storm, and water system appurtenances is conducted to assure that there was no damage to these improvements during final construction and grading work. The items that are checked during the final inspection are as follows:

1. Condition of bituminous concrete surface course.
2. Condition of curb and gutter.
3. Condition of sidewalks, if applicable.
4. Finished grade of all manhole rims, structures, valve vaults, valve boxes, fire hydrants, and water service B-boxes.
5. Manholes, storm manholes and inlets, valve vaults, fire hydrant auxiliary valves, and any structure lids are opened to assure no debris was deposited inside the structures during final grading.
6. Every water service B-box is keyed and turned to assure proper operation.
7. Every fire hydrant is opened and closed to assure proper operation.
8. Street lighting and street signs are checked.
9. Final grading and grass cover is checked in all detention and/or retention ponds, and in parkways if applicable.
10. Tree or planting installation if applicable.
11. The Town of Dyer Public Works Department shall perform cleaning and televising of sanitary sewers and storm sewers. A fee, charged to the developer has been established for this service in the Dyer Town Code at Section 10-119.

During the final inspection, a final punchlist is prepared that notes any deficiencies. Upon the correction of the deficiencies, a reinspection is conducted, and if all work is satisfactorily completed, the Town Engineer will prepare a letter recommending final acceptance by the Town. Final acceptance shall not be granted until all requirements are satisfied.

These inspections and recommendations for acceptance do not relieve the developer or his engineer or his contractor of their responsibility for proper materials or workmanship on the project, and they shall be responsible for correction of any defects which are discovered during the guarantee time provided by the Town's ordinances. (Ord. No. 94-9, § VIII, E, 8-9-94; Am. Ord. No. 2000-41, 12-19-00; Am. Ord. No. 2003-24, 10-21-03)

Sec. 10-90 through 10-93 Reserved for Future Use.

Division VIII. General; Provisions.

Sec. 10-94 Interpretation, Conflict, and Separability.
a. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.


1. Public Provisions - The regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. Where any provision of these
§ 10-94

ZONING AND SUBDIVISIONS

§ 10-98

These regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

2. Private Provisions - These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such enactment, covenant, or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirements of these regulations, or the determinations of the Commission in approving a subdivision or in enforcing these regulations, and such private provisions are not inconsistent with these regulations or determinations thereunder, then such private provisions shall be operative and supplemental to these regulations and determinations made thereunder.

3. Separability - If any part or provision of these regulations or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which such judgment shall have been rendered and shall not effect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The Town declares that it would have enacted the remainder of these regulations even without any such part, provision or application. (Ord. No. 94-9, § IX, A, 8-9-94)

Sec. 10-95 Saving Provision.

These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, or as discontinuing abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the Town under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the Town except as shall be expressly provided for in these regulations. (Ord. No. 94-9, § IX, B, 8-9-94)

Sec. 10-96 Repealer.

Upon the adoption of this ordinance, according to law, the Subdivision Ordinance of the Town of Dyer, adopted August 9, 1994, being Ordinance 94-9, as amended is repealed, except for such sections expressly retained herein. (Ord. No. 2000-41, 12-19-00)

Sec. 10-97 Amendments.

For the purpose of providing for the public health, safety, and general welfare, the Town, on recommendation of the Plan Commission, may from time to time amend the provisions imposed by these subdivision regulations. Public hearings on all proposed amendments shall be held by the Plan Commission in the manner prescribed by law. (Ord. No. 94-9, § IX, D, 8-9-94)

Sec. 10-98 Conditions.
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 to this Town. The developer has the duty of compliance with reasonable conditions laid down by the Commission for design, dedication, improvement, and restrictive use of the land in order to conform to the physical and economical development of the Town and to the safety and general welfare of the future plot owners in the subdivision and of the Town. (Ord. No. 94-9, § IX, E, 8-9-94)
Sec. 10-99 Resubdivision of Land.

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

b. Procedure for Subdivisions where Future Resubdivision is Indicated - Wherever a parcel of land is subdivided and subdivision plat shows one or more lots containing more than one acre of land and there are indications that such lots will eventually be resubdivided into smaller building sites, the Commission may require that such parcel of land allow for the future opening of streets and the ultimate extension of adjacent streets. Easements providing for the future opening and extension of such streets may be made a requirement of the plat. (Ord. No. 94-9, § IX, F, 8-9-94)

Sec. 10-100 Vacation of Plats.

Any recorded plat or part of any recorded plat may be vacated only in accordance with Indiana Code, § 36-7-3, as amended 1982, 1983 and 1986. (Ord. No. 94-9, § IX, G, 8-9-94)

Sec. 10-101 Modifications.

a. General - Where the Commission finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve variances to these subdivision regulations so that substantial justice may be done and the public interest secured, provided that such variances shall not have the effect of nullifying the intent and purpose of these regulations; and further provided the Commission shall not approve modifications unless it shall make findings based upon the evidence presented to it in each specific case that:

1. The granting of the modification will not be detrimental to the public safety, health, or welfare or injurious to other nearby property;

2. The conditions upon which the request for a modification is based are unique to the property for which the variance 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 are carried out;

4. The modification will not in any manner contravene the provisions of the Zoning Ordinance, Comprehensive Plan, or Official Map as interpreted by the Commission and the Town Engineer and;

b. Conditions - In approving modifications, the Commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of these regulations.
§ 10-101  ZONING AND SUBDIVISIONS

   c.  Procedures - A petition for any such modification shall be submitted by the subdivider at the time when the preliminary plat is filed for the consideration of the Commission. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner. The Plan Commission shall have no authority to grant modifications other than those granted on petition of the subdivider filed as part of the Petition for Subdivision. (Ord. No. 94-9, § IX, H, 8-9-94; Am. Ord. 2007-25, 12-19-07)

Sec. 10-102  Enforcement, Violation, and Penalties.

   a.  General.

       1.  It shall be the duty of the Building Commissioner and/or Zoning Administrator to enforce these regulations and to bring any violations or lack of compliance to the attention of the Town Attorney.

       2.  No owner, or agent of the owner, of any parcel of land located in a proposed subdivision shall transfer or sell any such parcel before a plat of such subdivision has been approved by the Commission, in accordance with the provisions of these regulations and filed with the County Recorder.

       3.  The division of any lot or any parcel of land into a subdivision, as defined in this ordinance, by the use of metes and bounds description for the purpose of sale, or transfer, or lease resulting in the creation of one or more new building sites shall not be permitted. All such described divisions shall be subject to all of the appropriate requirements of this ordinance.

       4.  No Improvement Location Permit or Building Permit required under the Uniform Building Code, the Zoning Ordinance or this ordinance shall be issued on any property subject to this ordinance until the provisions of this ordinance have been complied with and all infrastructure improvements, other than the final coat of asphalt, have been installed, inspected and approved by the Town of Dyer personnel and Town Engineer or his/her designee. Additionally, a lot inspection shall be performed by public works personnel prior to issuance of occupancy permit.

   b.  Violations and Penalties - Any person who violates a provision of this ordinance or any regulations herein contained shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than twenty-five dollars ($25.00) and not more than two thousand five hundred dollars ($2,500.00) for each day's violation.


       1.  Any land within the participating jurisdictions subdivided in violation of the terms of this ordinance after the effective date hereof, is declared to be a common nuisance, which may be restrained, enjoined, or abated in any appropriate action or proceeding.

       2.  The Commission may institute an injunction suit requesting an individual governmental unit be directed to remove a structure erected in violation of this ordinance, or to make the same comply with its terms. If the Commission is successful in its suit, the respondent shall bear the costs of the action, including reasonable attorney fees.
3. The Commission may institute a suit for mandatory injunction requesting an individual or governmental unit be directed, where such individual or governmental unit has violated any provisions of this ordinance, to comply with the provisions of this ordinance. If the Commission is successful in its suit, the respondent shall pay the Commission's reasonable attorney fees and all costs related to the enforcement of this ordinance. (Ord. No. 94-9, § IX, I, 8-9-94; Am. Ord. No. 2000-41, 12-19-00)

Sec. 10-103 Reserved for Future Use.

Division X. Certificates.

Sec. 10-104 Certificates Required.

Each final plat submitted to the Commission for approval shall contain or be accompanied by the following certificates, acknowledgments and descriptions in substantially the following forms. (Ord. No. 791, Title XIV, 68-71)

Sec. 10-105 Certificate of Approval.

Under the authority provided by Chapter 174, Acts of 1947, enacted by the General Assembly of the State of Indiana, and all acts amendatory thereto and an ordinance or amendments thereto adopted by the Town Council of the Town of Dyer, Lake County, Indiana, this plat was given final approval by a majority of the members of the Town Plan Commission of Dyer, Indiana, at a meeting held _____ 19 .

Dyer Plan Commission

President

Secretary (Ord. No. 791, Title XIV, § 1, 6-8-71)

Sec. 10-106 Land Surveyor's or Registered Professional Engineer's Certificate.

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

“I, ____________, hereby certify that I am a Registered Professional Land Surveyor or Registered Professional Engineer of the State of Indiana; that this plat correctly represents a survey completed by me on ________, 19 ____, that all the monuments shown thereon actually exist, and that their location, size, type and material are accurately shown, and comply with the provisions of the Subdivision Control Ordinance.” (Ord. No. 791, Title XIV, § 2, 6-8-71)
§ 10-107  Legal Description Certificate.

The Final Plat submitted to the Commission for approval shall contain a metes and bounds legal description prepared by the Registered Professional Land Surveyor or Registered Professional Engineer of the outside boundary of the completed survey. (Ord. No. 791, Title XIV, § 3, 6-8-71)

§ 10-108  Acknowledgment Certificate.

State of Indiana  )
  ) SS:
County of Lake  )

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

[The next page is 611]