

ORDINANCE NO. 87-4-C.M

An Ordinance Amending Sections 1, 2, 3, 5, and 6 of Ordinance Number \_\_\_\_\_ Being the Subdivision Ordinance of the Cities of Lafayette and West Lafayette, the Towns of Battle Ground and Dayton, and Tippecanoe County, Indiana.

Be it ordained by the (County Commissioners of Tippecanoe County; the City Council of the City of Lafayette, Indiana; the City Council of the City of West Lafayette, Indiana; the Board of Trustees of the Town of Battle Ground, Indiana; the Town Board of the Town of Dayton, Indiana) that Ordinance Number \_\_\_\_\_, being the Subdivision Ordinance of the Cities of Lafayette and West Lafayette, the Towns of Battle Ground and Dayton, and Tippecanoe County, Indiana is hereby amended as follows:

Section 1. Subsection 1.8(3) of Section 1 GENERAL PROVISIONS, is hereby amended to read as follows:

1.8 Saving Provision (3). Any division of land, or any act done prior to the enactment of this ordinance, and subsequent to July 1, 1978, which division or act was in violation of any ordinance repealed by this ordinance, shall be subject to all remedies, penalties and defenses under the repealed ordinance.

Section 2. Subsection 1.11(2) of Section 1 GENERAL PROVISIONS, is hereby amended to read as follows:

1.11 Resubdivision of Land (2). Procedure for Subdivisions where Future Resubdivision is Indicated. Whenever a parent tract is subdivided and the 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 small building sites, the Commission may require that such plat 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.

Section 3. Subsection 1.13(1)(b) and 1.13(2) of Section 1 GENERAL PROVISIONS, are hereby amended to read as follows:

1.13 Enforcement, Violations, and Penalties (1) General. (b) The division of any 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.

(2) Limits of Land Transfer. No owner, subdivider, or subdivision agent of the owner, of any land located in a proposed subdivision shall transfer or sell or lease any such land for purposes of subdivision as defined in this ordinance before a final plat of such subdivision has been signed by the designated officials and recorded in accordance with the provision of this ordinance.

Section 4. Subsection 2.2 of Section 2 DEFINITIONS is hereby amended by the addition of the term PARENT TRACT, and by the amendment to the definition of the words and terms BUILDING SITE, LOT, MINOR SUBDIVISION, PARCEL, PARCELIZATION, PRINCIPAL USE BUILDING, SUBDIVISION and SUBDIVISION AGENT, all to read as follows:

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PARENT TRACT. A piece of land, the location, shape and size of which is determined by the official record of the last transfer of its ownership transacted before this ordinance was enacted or the last division by recordation of a plat prior to the enactment of this ordinance provided such plat is not in violation of any previous ordinance. This ordinance was enacted on November 19, 1979 in Tippecanoe County; December 3, 1979 in Lafayette, West Lafayette and Dayton; and March 3, 1980 in Battle Ground.

BUILDING SITE. Any piece of land having sufficient area to qualify for an Improvement Location Permit for a principal use building under the Unified Zoning Ordinance.

LOT. A tract, plot, portion of a subdivision, parcel, or other piece of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or of building development.

MINOR SUBDIVISION. Any subdivision of not more than four (4) lots, all with frontage on a perimeter street, or any further subdivision or resubdivision of a non-residential development whose lots may or may not have frontage on a perimeter street which does not include any improvement to a public road, provided such subdivision activity involves neither the construction of any new street or road, nor the imposition of any adverse effect upon the use of the remainder of the land or adjoining property as determined by the Commission, and provided such activity conflicts with neither any provision or portion of the Comprehensive Plan, Official Map, or Unified Zoning Ordinance, nor any of the regulations set forth herein.

PARCEL. A lot created by parcelization.

PARCELIZATION. Any division of land complying fully with subsection 3.5 of this ordinance.

PRINCIPAL USE BUILDING. A building in which the principal use of the lot, parcel or other piece of land is conducted. Standards recognized by the Administrative Building Council shall be used to determine whether a given structure constitutes one or more buildings in cases where ambiguities exist.

SUBDIVISION. The division of a parent tract or other piece of land into at least two (2) smaller lots so that either now or in the future the subdivider can do any of the following with one or more of the subdivided lots:

1. transfer ownership
2. construct buildings
3. create new building sites for leasehold.

The actual location, shape and size of a parent tract to be divided is determined by the official record of the last transfer of its ownership transacted before this ordinance was enacted or by its last conditional transfer of ownership by recorded contract transacted before this ordinance was enacted. The following kinds of divisions are not subdivisions and are exempt from the rules of this ordinance:

- A. A division of land into two (2) or more tracts all of which are at least 10 acres in size;
- B. A division of land for the sale or exchange of tracts to correct errors in an existing legal description, provided that no additional building sites other than for accessory buildings are created by the division.

C. A division of land pursuant to an allocation of land in the settlement of a decedent's estate or a court decree for the distribution of property;

D. A division of land for the acquisition of street right-of-way, or easement; and

E. A division of land for the sale or exchange of tracts between adjoining land owners, provided that no additional building sites other than for accessory buildings are created by the division.

Additionally, any division of land complying fully with subsection 3.5 of this ordinance is not a subdivision and shall be called a PARCELIZATION.

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

Section 5. Subsections 3.1(1) and (2) of Section 3 SUBDIVISION APPLICATION PROCEDURES AND APPROVAL PROCESSES are hereby amended to read as follows:

3.1 General Procedure (1) Classification of Land Divisions. All land to be divided shall be categorized into one of three (3) main classes of land division indicated within this ordinance's definition of subdivision. These classes are: (a) subdivisions, major and minor, (b) parcelizations, and (c) exempt divisions. Exempt divisions are not subject to the requirements of this ordinance. Before any permit shall be granted for a structure to be erected on land to be subdivided, the subdividing owner or his subdivision agent shall apply for and secure approval of the proposed subdivision in accordance with Section 3.2 and either Section 3.3 or Section 3.4 of this ordinance. Before any permit shall be granted for a structure to be erected on land to be parcelized, the land divider or his agent shall certify to the satisfaction of the Staff of the Commission that all requirements for parcelization have been met, as detailed in Section 3.5 of this ordinance.

(2) Discussion of Requirements. Prior to submitting any of the materials required by this ordinance, the applicant or his representative should discuss with the Staff of the Commission the nature of the land division being proposed, so that the applicant may be instructed as to the need to either subdivide or parcelize and the procedures that must be followed in either case. Where subdivision is called for, requirements as to general layout of streets and for reservations of land, street improvements, drainage, sewerage, fire protection, and similar matters, as well as the availability of existing services should be discussed. The Staff shall also advise the applicant, where appropriate, to discuss the proposed land division with those officials who must eventually approve those aspects of the parcelization or subdivision plat coming within their jurisdiction. The distinction between major and minor subdivision as defined in this ordinance, shall be made by the Staff when the applicant submits an application for sketch plan approval.

However the further division of a parent tract from which four (4) lots or parcels eligible for residential use have already been created (whether by minor subdivision, parcelization or a combination of both), shall be classified as a major subdivision, unless this further division is exempt under the definition of subdivision.

Section 6. Subsection 3.5 of Section 3 SUBDIVISION APPLICATION PROCEDURES AND APPROVAL PROCESSES, is hereby amended to read as follows:

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3.5 Parcelization

(1) General Procedure.

Presubmission discussion between the prospective land divider or his agent and the Staff of the Commission will clarify the land divider's eligibility to use the parcelization process. Following such discussion, the land divider or his agent shall then file an application for parcelization review with the Staff, and provide the documents specified below. The Staff and the Executive Director shall then review the complete submission for compliance with this section of the ordinance, and the Staff shall notify the land divider or his agent of the results of that review. The land divider or his agent shall then file the approved parcelization with the County Recorder within thirty calendar days of the end of the review process. Failure to so record shall automatically void the approved parcelization.

(2) Application Requirements.

The application for parcelization review shall:

- (a) Be made, in duplicate, on forms available at the Office of the Commission;
- (b) Include all documentation required in subsection 3.5(4);
- (c) Include ten sets of legal descriptions for all parcels (under ten acres in area) being created. The land divider may, instead, submit ten sets of parcelization drawings, using subsection 6.4(1) (b, c, d, f, g, i, j, l, m) as a basis for the drawings' format; and
- (d) Include the notarized consent of the legal owner or contract owner or optionee of the property (parent tract, lot or parcel) to be parcelized, if such person is different from the land divider.

(3) Standards

(a) Number and Area of Parcels.

The maximum number of parcels that can be created from a parent tract as defined in subsection 2.2 of this ordinance, and the minimum area of those parcels shall depend on the zoning classification of the land to be parcelized:

Zoning Classification of Land to be Parcelized	Maximum No. of Parcels	Minimum Area of Parcels, Exclusive of Right-of-way*
A, AA, FC, RL, R1A, R1B, R2	4	2 acres
R3, AB, LB, LBS, GB, SC, I, IR	2	2 acres (sewered) or 5 acres (unsewered)

\* Unless Tippecanoe County Code Chapter 41 requires more

A parcel may contain some FP-zoned land as well, but only if there is sufficient land within the non-FP portion to place a principal use building and its accessory buildings and paved areas and still conform with Unified Zoning Ordinance Sections 4.6 through 4.10, 4.14(b) and 4.15(e),

and Tippecanoe County Code Chapter 41. Parcel area shall be measured exclusive of right-of-way.

(b) Parcels Abutting a Public Road.

For parcels that abut a public road, the minimum parcel width shall be 200 feet. All parcels on land zoned R3, AB, LB, LBS, GB, SC, I, or IR shall abut a public road. Parcel width shall be measured along the right-of-way line of the public road. For parcels abutting more than one public road, parcel width standards shall apply along each public road abutted. For parcels abutting a public road that cannot derive access from that road, an easement for vehicular access and utility placement, connecting all such parcels to a public road, shall be provided at the time of parcelization.

(c) Parcels Not Abutting a Public Road.

For parcels that do not abut a public road, the minimum parcel width shall be in accordance with the requirements of Tippecanoe County Code Chapter 41. For each such parcel, either a front lot line and all necessary setbacks or a building setback of 25 feet from all property lines, shall be included either on the drawings or recorded as a covenant. An easement for vehicular access and utility placement, connecting all such parcels to a public road, shall be provided, either at the time of parcelization or at the time of driveway permit issuance.

(d) Sewage Disposal.

Each parcel shall be served either by sanitary sewer or on-site sewage disposal system. If the property to be parcelized is located within the Cities of Lafayette and West Lafayette, or the Towns of Dayton and Battle Ground, parcels may not be served by an individual sewage disposal system. If the property to be parcelized is located outside these incorporated cities and towns and a sanitary sewer system from within an incorporated city or town abuts that property, parcels shall then be subject to the provisions of Section 41-3-F of the Tippecanoe County Code. Where such service is unavailable (outside the indicated incorporated cities and towns either within or beyond areas served by these systems), on-site sewage disposal systems that meet the standards of Tippecanoe County Code Chapter 41, shall be required.

(e) Right-of-Way.

If a parcel abuts a public road along which full right-of-way width has not yet been obtained, the land divider shall, by appropriate instrument, convey to the public sufficient right-of-way for one-half the required width for that specific road (as indicated in the Thoroughfare Plan for Tippecanoe County or its successor), for the full width of that parcel along that roadway.

(f) Conflict with Public Provisions.

The provisions of subsection 3.5 are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute or other provisions of law. Where any provisions of this subsection impose restrictions different from

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those imposed by any other ordinance, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control, unless otherwise stated herein.

(g) Public Improvement.

Any proposed division of land necessitating the creation or extension of a public improvement shall not qualify as a parcelization.

(h) Saving Provision.

All parcelizations approved prior to the effective date of this amendment to the Unified Subdivision Ordinance shall remain valid.

(4) Documentation.

(a) Sewage Disposal.

If the property to be parcelized is located outside the Cities of Lafayette and West Lafayette or the Towns of Dayton and Battle Ground but within an area served by a sanitary sewer system from an incorporated city or town, the land divider shall submit written documentation from the appropriate service provider as to whether sanitary sewer would be available for use. If such service is unavailable, or if the property is located beyond the areas served by the systems, the land divider shall provide written documentation that the County Board of Health has been satisfied that the standards of Tippecanoe County Code Chapter 41 have been met to assure the continued operation or the proper installation of an on-site sewage disposal system on each parcel.

(b) Right-of-way.

If additional right-of-way is required as per subsection 3.5(3)(e) the land divider shall submit the appropriate conveyance, with a legal description prepared by a registered land surveyor, conveying such right-of-way to the appropriate jurisdiction. Conveyances shall be prepared in a format available at the Office of the Commission and shall be signed by the land owner and notarized.

(c) Easements for Private Drives.

Should the land divider at the time of parcelization provide an easement for a private drive connecting parcels to a public road, the land divider shall submit ten copies of the description of that easement prepared by a registered land surveyor, and signed by all owners and notarized. Where applicable, a statement shall be appended to each legal description of each parcel as follows: "This parcel is subject to an easement for ingress and egress recorded in \_\_\_\_\_ Record \_\_\_\_\_, Page \_\_\_\_\_." Should the land divider choose to submit parcelization drawings, the description should appear on the face of the drawings. An additional statement must accompany any such easement description indicating that private driveways constructed in these easements shall not be accepted for maintenance by any participating jurisdiction.

(5) Private Driveways.

The construction and maintenance of private driveways built to provide access to parcels shall be the responsibility of the owner or owners of the land. These driveways shall not be accepted for maintenance by participating jurisdictions. A private driveway may be named by the land divider, provided the name is approved by the Commission's Staff, as not duplicating, or too closely approximating phonetically, the name of any other street whether public or private, in the area covered by this ordinance. A sign indicating the name of the private driveway only may be erected, provided that the sign is not constructed with white letters on a green background, and is not constructed using any other format or color scheme used by a participating jurisdiction to identify a publicly maintained street or road. The words "private drive" shall be placed after the name. Placement of the sign shall be approved by the County Highway Engineer or appropriate City Engineer or Town Board at the time of the driveway permit issuance.

(6) Review, Approval and Recordation.

- (a) An application for parcelization shall not be considered complete until all items in subsections 3.5(2) and 3.5(4) have been submitted to the Commission's Staff. Within three working days of the submission of the completed application, the Commission's Staff shall review all items and notify the land divider as to their compliance or deficiencies with regard to all requirements of subsection 3.5.
- (b) Upon a finding of compliance, the Executive Director or his designee shall sign all ten sets of legal descriptions or drawings. Once signed, the approved parcelization is eligible to be recorded.
- (c) It shall be the responsibility of the land divider in the presence of the Executive Director or his designee to file the approved parcelization with the County Auditor and Recorder within thirty (30) days of the date of signature. Failure to so file and record shall automatically invalidate the approval, rendering it null and void and requiring resubmittal for approval.

(7) Dissolution.

- (a) A recorded parcelization or portion thereof may be dissolved by the property owner or owners if, in doing so, no provision of this or any other ordinance, rule, regulation, statute or provision of law is violated. To do so, ten copies of a statement dissolving the parcelization (or any part of it) shall be submitted to Staff for review of compliance with above-stated ordinances, rules, etc. This statement, signed by all legal owners, contract buyers, and optionees of the property and notarized, shall contain the parcelization number and legal descriptions of the parcels involved.
- (b) Upon a finding of compliance, the Executive Director or his designee shall sign all ten statements. Once signed, the approved dissolution is eligible to be recorded.
- (c) It shall be the responsibility of the land divider in the presence of the Executive Director or his designee to file the approved dissolution with the County Auditor and Recorder within thirty (30)

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days of the date of signature. Failure to so file and record shall automatically invalidate the approval, rendering it null and void and requiring resubmittal for approval.

- (d) Upon recording the dissolution statement, the land owner is once more eligible to pursue the full parcelization process as per subsection 3.5 of this ordinance. That is, the land involved, for purposes of land division, is restored to its pre-parcelization status.

Section 7. Subsection 5.9(3) of Section 5 REQUIREMENTS FOR IMPROVEMENTS, RESERVATIONS AND DESIGN is hereby amended to read as follows:

5.9 Parks, Playgrounds, Recreational Areas and Other Community Facilities (3) Referral to Public Body. The sketch plan shall be referred to the public body concerned with the reservation for its consideration and report as per Section 3.2(2) of this ordinance. The public body or agency shall have forty-five (45) days for reply indicating its official action in writing. The public body or agency's recommendation, if affirmative, shall include a copy of the sketch plan showing the boundaries and area of the land to be acquired and an estimate of the time within five (5) years required to complete the acquisition.

Section 8. Subsection 5.12(1) of Section 5 REQUIREMENTS FOR IMPROVEMENTS, RESERVATIONS AND DESIGN is hereby amended to read as follows:

5.12 Multi-family Subdivisions (1) General. Unless otherwise excluded under Section A of the definition of Subdivision, or under the provisions for Parcelization indicated in Section 3.5 of this ordinance, the development of more than one multi-family structure on a single ownership lot constitutes a subdivision of land as defined herein. Yet the creation of a separate lot for each principal use building, that is, each multi-family structure, poses unique and complex problems for the subdivider of land to be so used. Many of the standards set forth in the Unified Zoning Ordinance to be applied to individual residential lots cannot be met without destroying the unifying concept of a well-designed complex of multi-family structures. Most notable among these standards are lot size, frontage and setback requirements, all of which assume a progression of uniform lots along a roadway, more typical of single family and some duplex developments. Despite these difficulties associated with the subdivision of land for multi-family development, the purposes of this ordinance, as listed in Section 1.3, must be met. Thus, with regard to proposed multi-family subdivision, the emphasis of the Commission shall be on the number of principal use buildings, the number of proposed dwelling units and the required parking spaces, and the provision of required public improvements. To this end, the necessity of placing interior lot lines on sketch plans and preliminary and final plats shall be at the subdivider's option, so long as all principal use buildings and all accessory buildings remain in the ownership or leasehold of a single entity. That option shall be revoked at such time as the ownership or leasehold of fewer than all such buildings is to be transferred to another entity. Such transfer shall necessitate a resubdivision of the affected property, complete with appropriate lot lines.

Section 9. Subsection 6.1(4)(f) of Section 6 SPECIFICATIONS FOR DOCUMENTS TO BE SUBMITTED is hereby amended to read as follows:

6.1(4) Features. (f) The approximate location, dimensions, and area of all land proposed to be set aside for park and playground use or other public use, or for the common use of property owners in the proposed subdivision;