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**Subdivision**  
**Control Ordinance**  
**Article One**  
**Basic Provisions**

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## Article One

# Basic Provisions

### 1.1 Title

This Ordinance shall be formally know as the “Madison County Subdivision Control Ordinance,” and it may be cited and referred to as the “Subdivision Regulations” or “Subdivision Control Ordinance”.

### 1.2 Defined Words & Construction

- A. Words used in a special sense in this Ordinance are defined in the Definitions section of the Madison County, Indiana Land Use & Development Code. Throughout this Ordinance, all words, other than the terms specifically defined, have the meaning inferred from their context in this Ordinance or their ordinarily accepted definitions.
- B. The following rules of construction shall apply to the text of the Ordinance:
- a. The particular will control the general.
  - b. The words “shall” and “will” are always mandatory and not discretionary. The word “may” is permissive.
  - c. Words used in the present tense include the future; and words used in the singular number include the plural; and the plural includes the singular; words of the masculine gender will include the feminine and the neuter gender will refer to any gender as required, unless the context plainly indicates the contrary.
  - d. A building or structure includes any part thereof.
  - e. The phrase “used for” includes “arranged for, designed for, intended for, maintained for, or occupied for.”
  - f. The word person includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
  - g. Unless it is plainly evident from the context that a different meaning is intended, a regulation which involves two (2) or more items, conditions, provisions, or events connected by the conjunction “and, or,” or “either . . . or,” the use of the conjunction is defined as follows:
    1. “And” means that all the connected items, conditions, provisions, and events apply together and not separately.
    2. “Or” means that the connected items, conditions, provisions, or events apply separately or in any combination.
    3. “Either . . . or” means that the connected items, conditions, provisions, or events shall apply separately but not in combination.
  - h. The word “includes” does not limit a term to the specified examples, but is intended to extend the term’s meaning to all other instances or circumstances of like kind or character.
  - j. The word “county” means Madison County, Indiana. The word “state” means the State of Indiana.

### 1.3 Authority

This Subdivision Control Ordinance is adopted by Madison County pursuant to its authority under the laws of the State of Indiana, 36-7-4 et seq. Whenever codes cited in this Ordinance refer to Indiana Code which has been amended or superseded, this Ordinance shall be deemed amended in reference to the new or revised code.

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#### 1.4 Jurisdiction

This Ordinance shall apply to all land within the jurisdiction of the Madison County Plan Commission, being all portions of the County not incorporated as a city or town and/or not in the ownership of the state or federal government.

This Ordinance, which was enacted pursuant to Indiana home rule and planning enabling legislation (Indiana Code, titles Section 36-1-3-4 and the Section 36-7-4-700 series, as amended), authorizes the Madison County Advisory Plan Commission to review and approve or disapprove plats for subdivisions within the jurisdiction defined above.

#### 1.5 Purpose

The purposes of the Subdivision Regulations are to protect and promote public health, safety, and general welfare, and to:

- A. Provide guidance for future growth and development in accordance with the Madison County Comprehensive Plan and applicable ordinances;
- B. Provide protection for the character and the social and the economic stability of all parts of the County;
- C. Encourage the orderly and beneficial development of the County;
- D. Provide protection and conservation of the value of land, structures, and other improvements to the land;
- E. Discourage conflicts between the uses of land and structures;
- F. Avoid scattered, illogical, and uncontrolled subdivisions of land that would result in the imposition of an excessive expenditure of public funds for the distribution or supply of infrastructure and/or services;
- G. Establish reasonable standards and procedures for subdivisions and re-subdivisions, in order to further the orderly layout and use of land;
- H. Ensure proper legal descriptions, legal recording, and monumenting of subdivided land;
- I. Prevent the pollution of air, water, and soil;
- J. Ensure the provision of drainage facilities, the safeguarding of the water table, and the protection from flooding or the causing of increased risk of flooding;
- K. Encourage the protection of natural resources in order to preserve the integrity, stability, natural beauty, topography, and the value of land;
- L. Plan for a balance between land uses, natural resources, open spaces, recreation, and public ways that is beneficial to the community as a whole, both currently and in the future;
- M. Cause the cost of design and installation of improvements in new, platted subdivisions to be borne by the developer and persons purchasing the lots, and to avoid any direct or indirect burden placed upon adjacent property owners or Madison County as a whole; and
- N. To cause the petitioner to bear all costs associated with the approval process, development process, and inspection process.

#### 1.6 Compliance

No person shall divide, record, transfer or sell any parcel before the proposed subdivision has been approved in accordance with the processes and provisions of this Ordinance, and filed with the County Recorder, unless otherwise specified by this Ordinance.

- A. **Subdivision Defined:** The division of any lot for the purpose of sale, transfer, gift, or lease resulting in the creation of 1 or more new building sites shall be considered a subdivision and shall be subject to the requirements of this Ordinance.

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- B. **Public Safety:** Land to be subdivided and developed must be able to be done so without adding peril to public safety, welfare, or health from flooding or other menace.
  - C. **Accessibility:** Land shall not be subdivided unless appropriate road access is demonstrated to be possible.
  - D. **Public Facilities:** Land shall not be subdivided unless all required public facilities are in place, or improvements and proper provisions have been planned and a surety given by the petitioner to meet all requirements for drainage, water, sewerage, and transportation facilities adequate for serving the subdivision. The general requirements of public schools, local police and fire departments, and other public service providers may also be considered.
  - E. **Plan Commission Approval:** No plat or re-plat of a subdivision of land located within the jurisdiction of the Madison County Plan Commission shall be recorded until it has been approved by the Commission, and such approval has been certified on the plat by the President and Secretary of the Commission.
  - F. **Permitted Uses:** No land shall be subdivided unless the intended use of the individual lot is in conformance with the Madison County Zoning Ordinance, now or hereafter adopted.
  - G. **Natural/Historic Features:** In all subdivisions, due regard shall be given to the preservation of historical sites and natural features such as large trees, water courses, wetlands, floodways, and scenic views.
  - H. **Permits:** No Improvement Location Permit or Certificate of Occupancy shall be issued for any parcel or plat of land which was created by subdivision after the effective date of, and not in conformity with, the provisions of these Subdivision Regulations. No excavation of land or construction of any public or private improvements shall take place or be commenced except in conformity with the regulations contained herein and in conformity with all additional construction standards adopted by Madison County.
  - I. **Legal Non-Conforming Subdivisions:** Any parcel surveyed, recorded, sold, leased, contracted for, or transferred prior to the effective date of this Ordinance that was officially approved and met all the requirements of the subdivision ordinance, or subdivision ordinances in effect at the time the proposed building site was established, and was recorded will be a grandfathered or legal nonconforming subdivision.

#### 1.7 Exemptions

The following subdivisions of land are exempt from the provisions of this Subdivision Control Ordinance subject to the specifications of this section. All exempt divisions shall be recorded through metes-and-bounds legal descriptions in the office of the Madison County Recorder.

- A. **Exempt I Subdivision:** A division of land not involving any new roads, public drainage easements, or other public improvements resulting in the creation of a lot or lots and a remaining tract, none of which is less than 40 acres or includes less than the frontage on a public road specified by the Madison County Zoning Ordinance for the zoning district in which the property is located;
- B. **Exempt II (Administrative) Subdivision:** A division of land consistent with an approved Rural Development Concept Plan meeting the requirements of Article 3 of this Ordinance.
- C. **Legal Description Correction:** A division of land for the transfer of a tract or tracts to correct errors in an existing legal description, provided that no additional building sites are created, and no additional public improvements are required or created;

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- D. **Right-of-Way Acquisition:** A division of land for federal, state, or local government to acquire right-of-way;
  - E. **Transfer Between Adjoining Property Owners:** A division of land for the transfer of a tract or tracts between adjoining lots provided that no additional building sites are created, and no additional public improvements are required or created by the subdivision and the resulting lots meet all of the development standards of the zoning ordinance.

**1.8 Replats**

- A. For any change in an approved or recorded subdivision plat, if such change affects any street layout shown on such plat, creates an additional building site, reduces the size of any lot, or alters any right-of-way or easement; such change shall be reviewed by the Plan Commission by the same procedure and regulations as for a major subdivision plat.
- B. For any change in an approved or recorded subdivision plat, if such change results in only the combination of 2 or more lots, or the division of a lot between adjoining property owners in a manner that does not result in the creation of an additional building site, partial remaining tract, or lot in violation of the provisions of the Zoning Ordinance, such change shall be reviewed by the Technical Review Committee consistent with the provisions of Article 2 of this ordinance for petitions for which the TRC has approval authority.

**1.9 Severability**

If any provision or the application of any provision of this Ordinance is held unconstitutional or invalid by the courts, the remainder of the Ordinance or the application of such provision to other circumstances shall not be affected.

**1.10 Interpretation**

The provisions of this Ordinance shall be the minimum requirements necessary for the protection of the health, safety, comfort, morals, convenience, and general welfare of the people at large. The provisions are also designed to establish and maintain reasonable community standards for the physical environment. If 2 or more provisions within this Ordinance are in conflict or are inconsistent with one another, then the provision which is most restrictive shall control.

**1.11 Application**

When this Ordinance along with private covenants, private contracts, commitments, permits, agreements, state laws, federal laws, or other regulations regulates a structure or parcel of land, the greater restriction shall control.

- A. **Public Provisions:** These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule, regulation, statute, or other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule, regulation, or other provision of law; whichever provisions are more restrictive or impose higher standards shall control.
- B. **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 easement, 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 requirement of these regulations, and such private provisions are not inconsistent with these regulations, then such private provisions shall be supplemental to these regulations. (Note: Private provisions can only be enforced privately, unless a public agency has been made party to such agreements.)

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**1.12 Saving Provision**

This Ordinance shall not be construed as eliminating or reducing any action now pending under, or by virtue of, an existing law or previous subdivision ordinance. Also, this Ordinance shall not be construed as discontinuing, reducing, modifying, or altering any penalty accruing or about to accrue.

**1.13 Repealer**

The Madison County Subdivision Control Ordinance of June 27, 1983 and all subsequent amendments are hereby repealed. This Ordinance shall replace the repealed ordinance as of the effective date.

**1.14 Transition Rules**

- A. **Subdivision Regulations:** Any subdivision either fully approved or submitted and docketed for a public hearing prior to the adoption of this Ordinance shall be regulated by the terms and conditions of the Subdivision Control Ordinance which were in place at the time of the approvals. However, all administrative procedures and penalties shall follow those set forth by this Subdivision Control Ordinance.
- B. **Permit Applications:** Any application for an Improvement Location Permit which has been filed with the Plan Commission or its designees and which is full and complete, prior to the effective date of this Ordinance, shall be regulated by the terms and conditions of the Subdivision Control Ordinance which was in place at the time of filing. However, all administrative procedures and penalties shall follow those set forth by this Ordinance.
- C. **Property Splits:** All new building sites shall meet the requirements of this Ordinance unless:
  - a. An Improvement Location Permit for the site has been issued and is still valid, or
  - b. A parcel was approved as a buildable lot by the Plan Commission or the Board of Zoning Appeals prior to the effective date of this Ordinance.
- D. **Previous Approvals:** All plats and other petitions regulated by this Ordinance which were approved prior to the effective date of this Ordinance and not yet executed though consistent with the provisions of the Ordinance under which they were approved shall expire and become void 1 year following the effective date of this Ordinance. All approvals which expire and/or become void shall comply with all applicable provisions of this ordinance if re-issued.

**1.15 Amendments**

- A. In accordance with I.C. 36-7-4-602, the legislative body may amend or partially repeal the text of this Ordinance. The Madison County Board of County Commissioners or the Plan Commission may initiate a proposal to amend or partially repeal the text according to the procedure of I.C. 36-7-4-602(b) and I.C. 36-7-4-607 and according to the Plan Commission Rules and Procedures.
- B. In its review of the text amendments, the Board and the Plan Commission shall pay reasonable regard to:
  - a. The most recently adopted Madison County Comprehensive Plan;
  - b. The most recently adopted Madison County Zoning Ordinance;
  - c. The current conditions and character of structures and uses in each district;
  - d. The most desirable use for which the land in each district is adapted;
  - e. The conservation of property values throughout Madison County;
  - f. Responsible development and growth; and
  - g. The public health, safety and welfare.

**1.16 Effective Date**

This Ordinance shall be in full force and in effect at \_\_\_\_\_ m, on \_\_\_\_\_. The effective date is based on the passage and notice of adoption as required by law.

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This Ordinance was recommended for adoption by the Plan Commission of Madison County, Indiana on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
President

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Vice-President

\_\_\_\_\_  
Secretary

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This Ordinance was passed and adopted by the Madison County, Indiana Board of County Commissioners on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
President

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ATTEST:

\_\_\_\_\_  
County Auditor

APPROVED AS TO FORM:

\_\_\_\_\_  
County Attorney

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