

ORDINANCE NO. 2004-05

AN ORDINANCE TO REQUIRE AND TO ESTABLISH
STANDARDS FOR PLATTING OF SUBDIVISIONS OF
REAL ESTATE IN DUBOIS COUNTY, INDIANA

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF DUBOIS COUNTY,
INDIANA:

SECTION 1. TITLE. This Ordinance shall be known and may be cited as the Subdivision Control Ordinance of Dubois County, Indiana.

SECTION 2. AUTHORITY. This Ordinance is adopted pursuant to I.C. 36-7-3-2.

SECTION 3. PURPOSE. This Ordinance is adopted for the following purposes:

(A) To assist the orderly and efficient development of Dubois County;

(B) To provide for the coordination of current and proposed County roads;

(C) To protect and provide for the public health, safety, and welfare of the residents of Dubois County;

(D) To ensure the coordination and availability of the extension of public facilities and services;

(E) To ensure uniform handling of all real estate subdivisions within Dubois County.

SECTION 4. This Ordinance shall apply to all real estate in Dubois County except those areas within the incorporated and jurisdictional planning areas of municipalities to the extent from time to time defined by maps or descriptions recorded in the Office of Recorder of Dubois County.

SECTION 5. DEFINITIONS. As used in this Ordinance, certain terms and words shall be interpreted and/or defined as set forth in this Section. The word "shall" shall be interpreted as being mandatory and the words "may" or "should" shall be interpreted as being discretionary. Words used in the present tense shall include the future tense and a singular number shall include the plural and the singular.

(A) Agricultural purpose. "Agricultural purpose" means the use of a tract of land for agricultural purposes only, including farming, dairying, pasturing, agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry.

(B) Block. "Block" means property abutting on one side of a street, and lying between the two nearest intersecting or intercepting roads, or between the nearest intersecting or intercepting road and a railroad right-of-way, waterway or other definite area.

(C) Building setback line. "Building setback line" means a line on a plat between which line and the road or property line of a lot, buildings may not be erected.

(D) County Commissioners. "County Commissioners" means the Board of Commissioners of Dubois County, Indiana.

(E) County. "County" means Dubois County, Indiana.

(F) Easement. "Easement" means a grant by the property owner of the use of a strip of land by the public, a corporation, or persons, for specified uses.

(G) Engineer. "Engineer" means the Dubois County Highway Engineer, County Surveyor, or a qualified engineer designated by the County Commissioners.

(H) Lot. "Lot" means a portion of a subdivision of a larger tract or other parcel of land intended as a unit for present or future transfer of ownership or for development.

(I) Plat. "Plat" means a map or drawing on which the subdivider's plan of a subdivision is presented and which is presented for approval. The final plat is the map or drawing which is intended for recordation and which meets the requirements of this Ordinance.

(J) Right-of-way. "Right-of-way" means a dedicated and accepted strip of land designated for public use as a road, street, highway, driveway, alley or walkway or for any drainage or public utility purpose or other similar use.

(K) Road. "Road" means the dedicated and accepted space or area between the lot lines or around the perimeter of the subdivision, abutting upon a right-of-way and designed as a way for vehicular traffic whether designated as an alley, street, highway, cul-de-sac, throughway, road, lane, place, or however otherwise designated.

(L) Subdivision. "Subdivision" means the division of a single lot, tract or parcel of land, or a part thereof, into two or more lots, tracts or parcels of land, any one of which is less than ten (10) acres, for the purpose, whether immediate or future, of transfer of ownership for use for residential, commercial or industrial purposes; or the division of a single lot, tract or parcel of land, or a part thereof, into two or more lots, tracts or parcels by means of buildings, building groups, roads, alleys, parking areas, or leaseholds, for the purpose, whether immediate or future, of development for residential, commercial or industrial purposes. This definition shall not include divisions of land for agricultural purposes only, or the sale of lots or exchange of parcels between adjoining lot owners that are not intended to create additional building sites.

SECTION 6. No building or other structure shall hereafter be constructed, erected or moved upon any transferred tract of real estate described in Subsection 5 (L) of this Ordinance unless and until a plat of the subdivision of said conveyed real estate shall be approved by the County Commissioners and recorded in the Office of Recorder of Dubois County or unless granted exception by the County Commissioners based upon special or exceptional circumstances.

SECTION 7. No real estate shall be subdivided for residential, commercial or industrial use unless direct access exists to the land over improved public streets or roads, and unless adequate provision has been made for water, sewage disposal and utility service, or if such land is unsuitable for development by reason of flooding or improper drainage, objectionable topography or other feature harmful to the health and safety of the occupant or the County as a whole.

SECTION 8. PLAT APPROVAL. All plats of subdivision shall be submitted in proper number, size and form to the County Commissioners for review as to compliance with this Ordinance. Before taking any action to approve or disapprove a proposed plat, the County Commissioners may require payment of a fee established by said Commissioners to cover the administrative costs related to said plat and may submit said plat for review by the Engineer or County staff and shall hold not less than one (1) public hearing thereon, after publication of public notice of hearing in accordance with I.C. 5-3-1, to be arranged and paid for by applicant. If after public hearing the County Commissioners disapprove a proposed plat, the County Commissioners shall make written finds that set forth its reasons and a decision denying approval, and shall provide the applicant with a copy thereof.

Any person feeling himself aggrieved at any action of the County Commissioners, or Commissioner's staff, or lack of action of the County Commissioners, or Commissioner's staff, upon a proposed plat or replat, may apply in writing to the County Commissioners, prior to the next regular meeting, for modification of the action complained of, or lack of action, on the proposed plat or replat. Such application shall be considered by the County Commissioners at such time in such manner as it may determine, but within sixty (60) days following the regular meeting.

SECTION 9. PLAT FILING AND RECORDATION. No plat or replat of a subdivision of real estate within jurisdiction of the County Commissioners shall be accepted for recording by the Office of Dubois County Recorder unless it has been first approved by the County Commissioners and filed with the Dubois County Auditor. The owner of real estate described in an approved plat shall present said plat for recordation prior to the transfer of any lot or parcel described in said plat, but in no event more than thirty (30) days after approval of said plat. Said owner shall pay the recording and entry fees related to said recording and entry and shall simultaneously submit to the County Auditor that number plat prints required by this Ordinance.

SECTION 10. PLAT REQUIREMENTS. A person desiring to submit a proposed plat or subdivision to the County Commissioners for consideration shall cause said plat to contain or be accompanied by the following information and be in the following form:

(A) The original drawing of the plat of the subdivision shall, if possible, be drawn to a scale of forty (40) feet to one (1) inch; provided, that if the resulting drawing would be over twenty (20) inches in greatest dimension, a scale of one hundred (100) feet to one (1) inch may be used. Two (2) black or blue line prints and four (4) milar copies, each being seventeen (17) inches by twenty (20) inches, shall be submitted of the original final plat, on which lettering may be applied in a manner which will permit the plat to be reproduced by film, litholoid or other photographic process at the designated scale. The following basic information shall be shown on said plat:

(1) All plat boundary lines with lengths of courses to hundredths of a foot and bearings to half minutes, these boundaries to be determined by an accurate survey in the field, which shall be balanced and closed,

(2) The exact location and dedication of roads and rights-of-way, on or adjoining the site, including dedicated widths, roadway widths, and widths of pavements, name, and other pertinent data,

(3) Easements, showing locations, widths and purposes, including utility easements, and the dedication thereof,

(4) Layout of lots, showing dimensions and numbers,

(5) True bearings and distances to nearest established street bounds, or official monuments, which monuments shall be located or accurately described on the plat,

(6) Building setback or front yard lines,

(7) Key plan, legend and notes, and

(8) Scale, North Arrow, and date.

(9) Drainage plan to the extent necessary to indicate or illustrate proper street right-of-way drainage.

(B) Name of the subdivision,

(C) Names and addresses of owner and/or subdivider and the engineer or qualified surveyor who prepared the plan.

(D) Covenants. A description of any protective covenants or private restrictions to be incorporated in the plat of the subdivision.

(E) A certificate by the owner of the land, executed before a notary public, that the owner certifies that the information contained on the plat is true and correct, that all requirements of this Ordinance, including standards for development, have been and will be complied with, that all roads and easements shown on said plat are thereby dedicated to the public, and that lots or parcels transferred will have the size and area shown on the plat.

(F) A certificate by the engineer or qualified surveyor that the information contained on the plat is true and correct.

(G) A certificate for approval by the County Commissioners.

Approval of the plat shall not be deemed to be an acceptance of the dedication nor as an acceptance of any road or easement into the County highway system.

SECTION 11. STANDARDS. In addition to other standards set forth in this Ordinance, in establishing and laying out a subdivision, the owner shall comply with those standards of development, principles and requirements set forth in this Section.

(A) In determining whether an application for approval shall be granted, the County Commissioners shall determine if the plat conforms to the principles and standards required in this Ordinance.

(B) Streets:

(1) Each lot or parcel shall abut on a dedicated public street or road.

(2) Except as provided in paragraph 7 of this Subsection (B), each street or road shall be constructed to the minimum design and width standards adopted for Dubois County roads as of the time of approval of the subject plat. Any improvement to roads or right-of-way subsequent to the initial development shall

be constructed to the minimum design or standards adopted for the County Highway Department as of the time of the proposed subsequent improvement.

(3) Where appropriate to the design, proposed streets shall be continuous and in alignment with existing, planned or platted roads with which they are to connect.

(4) Owner may be required to extend a proposed road to the boundary line of the tract to be subdivided, when in the opinion of the County Commissioners such extension is desirable and in the best interest of the County highway system.

(5) Proposed roads shall intersect one another as nearly at right angles as topography and other limiting factors of good design permit, but at not less than seventy (70) degrees in any case.

(6) Wherever there exists adjacent to the tract to be subdivided a dedicated or platted and recorded half-width road, the other half-width of such road shall be included in the subject plat; otherwise, half-roads shall be prohibited.

(7) Roads shall be completed as shown on the Plat as approved by the County Commissioners, and shall be graded, surfaced with rock and improved to the dimensions and the work shall be performed in the manner prescribed by the then current county standards for the road constructions. Prior to placement of road surfaces, adequate subsurface drainage for the road shall be provided by the subdivider. The person creating the subdivision shall be obligated to chip and seal any new road established on the plat when five (5) or more of the lots bordering newly established road(s) have been conveyed. The exception to this obligation is when the newly established road borders on the perimeter of the subdivision, then said perimeter road shall be chip and seal when three (3) or more of the lots bordering said road have been conveyed. The covenants contained in the plat of said subdivision shall clearly indicate this obligation.

Notwithstanding the provisions of this paragraph 7, in the event of a single lot subdivision, or in the event of any subdivision having no lot containing less than five (5) acres, access to such single lot (and solely to said lot) or to each such lot of five (5) acres or greater, may be by an unimproved road that satisfies dedication and easement requirements of this Ordinance but is not required to be improved to County standards.

(8) Fences, hedges, retaining walls, lattice-work screens, trees, flowers, plants, permanent mail boxes, nameplates, lamp posts, bird baths, bird houses, benches and landscaping of a like nature are permitted in any required front, side, or rear yard provided they are not located on public right-of-way. However, on any corner tract, nothing shall be erected, placed or planted, in such a manner as to materially impede vision between a height of two and a half (2 1/2) and ten (10) feet above the centerline grades of the intersecting streets, in the area bounded by the street right-of-way lines of the corner tract and a line joining two (2) points on the street right-of-way lines thirty-five (35) feet from the point of their intersection. Except for mail boxes constructed on breakaway posts and government road signs, no signs or other structure shall be placed on or project over public right-of-way.

(C) Lots or parcels:

(1) The size, shape and orientation of lots shall be appropriate for the location of the proposed subdivision and for the type of development contemplated.

(2) Each lot or parcel shall abut on a dedicated public street or road.

(3) The minimum lot size shall be one (1) acre, with a minimum front width of One Hundred Fifteen (115) feet at building setback line; provided, however, that should a lot be served by a public sanitary sewer system, the minimum size shall be ten thousand (10,000) square feet with a minimum front width of eighty (80) feet. A lot of one (1) acre not served by a public sanitary sewer system, while complying with this Ordinance, may not comply with the minimum requirements of State and/or County statutes, ordinances or regulations for private sanitary system requirements and therefore may not be acceptable for certain building or use purposes.

(4) Any residential structure constructed or placed on any lot or parcel shall have not less than One Thousand (1,000) square feet of living space, excluding garage or porch.

(D) Easements:

(1) Where alleys are not provided, easements for utilities shall be provided. Such easements when not located adjacent to a public road shall have minimum widths of twenty (20) feet; and when located adjacent to a public road shall have minimum combined width of twenty (20) feet along said road. Where located between adjacent lots, one-half (1/2) the twenty (20) foot width may be taken from each lot.

(2) Where a subdivision is traversed by a watercourse, drainageway, channel, or stream, adequate areas for stormwater or drainage easements shall be allocated for the purpose of widening, deepening, sloping, improving or protecting said watercourses in accordance with the requirements of the Dubois County Drainage Board.

(3) Where a new public road is being proposed as part of a subdivision, a utility easement having a minimum width of ten (10) feet shall be located adjacent to each side of that public road, but if said new road is on the perimeter of a subdivision and no easement is possible on both sides thereof, then the minimum easement width shall be twenty (20) feet on the subdivision side of said road.

(E) Building setback lines. Building setback lines as to any lot or parcel shall be set forth on the plat and shall have the following minimum distance from the lot line:

1. Front yard - 35 feet from R/W line
2. Side yard - 10 feet on each side
3. Rear yard - 20 feet from rear line.

(F) Due consideration shall be given to the prevention of air and stream pollution, proper treatment and disposal of refuse and other waste, and the elimination of other blighting characteristics, including the following elements:

(1) Water Pollution: No use shall produce erosion or other pollutants in such quantity as to be detrimental to adjacent

properties and conflict with water pollution standards established by the public agencies.

(2) Waste Matter: No use shall accumulate within the property or discharge beyond the property lines any waste matter, whether liquid or solid, in violation of applicable public health, safety and welfare standards and regulations.

(3) Water: All tracts not connected to or served by a public or private water system already approved by a state, county or city health authority shall have written approval from the Dubois County Health Department or the Indiana State Board of Health before construction thereon of any structure requiring water.

(4) Sanitary Sewage: All tracts not connected to or served by a public or private sanitary sewer system already approved by a state, county, or city health authority shall have written approval from the Dubois County Health Department or the Indiana State Board of Health before construction thereon of any structure requiring sewage disposal.

(G) The subdivision layout shall be of such a character that it protects the health, safety, and general welfare of Dubois County and its citizens.

(H) In any particular case where the subdivider can show that, by reason of exceptional topographic or other physical conditions, or because of an unusually large or small subdivision, or when made for industrial or commercial purposes, strict compliance with any requirement of these regulations would cause practical difficulty or exceptional or undue hardship, the County Commissioners may relax such requirement to the extent deemed just and proper, so as to relieve such difficulty or hardship; provided such relief may be granted without detriment to the public good and without impairing the intent and purpose of these regulations or the desirable general development of the neighborhood and the community. Any modification thus granted shall be entered in the minutes of the County Commissioners setting forth the reasons which, in the opinion of the County Commissioners, justified the modification.

(I) Any mobile home park which holds a license issued by the Indiana Board of Health under I.C. 16-41-27-18 shall be exempt from the provisions of this Section 11.

SECTION 12. NONCONFORMING CONDITIONS. If a lawful structure or structure and land in combination or division of land exists at the effective date of the adoption or amendment of this Ordinance, that would not be permitted under the terms of this Ordinance, that non-conforming condition may be continued.

Provided, however, any extension, reduction or further division shall not be subsequently permitted unless in compliance with the provisions of this Ordinance.

SECTION 13. FAMILY FARM EXCEPTION. Notwithstanding the provisions of the prior Sections set forth in this Ordinance, in the case of a farm where the owner wishes to convey a parcel of land, either with or without consideration, to a member or members of his family for the purpose of locating a residence to be occupied by the family member, said owner may be authorized by the County Commissioners to convey said parcel as an exception from the plat provisions of this Ordinance. Any exception thus authorized is required to be entered in writing in the minutes of

the County Commissioners and the reasoning on which the exception was authorized shall be set forth.

Any exception thus granted shall comply with the following provisions:

(A) For the purpose of this Section, a "farm" means an area containing forty (40) acres or more, used for agricultural purposes (as defined) by the resident owner.

(B) No more than two (2) parcels shall be conveyed as an exception from any one (1) farm.

(C) For the purpose of this section, "a member of the family" means only mother, father, son, or daughter.

(D) The original occupant of the residence to be located shall be the family member to whom the parcel was conveyed.

(E) In a case where the new parcel is located other than on an existing public right-of-way, access to the parcel shall be provided by a private way. This private access shall not be considered by the County Commissioners for a public thoroughfare or for use to serve more than three (3) farm residences until such time that the access shall be improved in accordance with the applicable County's improvement requirements for a county road.

(F) The new parcel, while not subject to the platting provisions of this Ordinance, shall be subject to all non-plat provisions of this Ordinance.

SECTION 14. AMENDMENT. The County Commissioners may from time to time introduce, consider and adopt amendments to this Ordinance.

SECTION 15. VIOLATION AND PENALTIES. Any person who violates any provision of this Ordinance shall, upon conviction thereof, be subject to a fine in any sum not to exceed One Thousand Dollars (\$1,000.00). Each separate violation thereof and each day's continued or renewed violation thereof shall constitute a separate offense.

SECTION 16. If any section, clause, provision or portion of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this Ordinance.

SECTION 17. This Ordinance shall take effect from and after its adoption and thirty (30) days after its publication, or on July 1, 2004, whichever is the later. Two (2) copies of this Ordinance shall be on file and available for inspection in the office of Auditor of Dubois County.

Adopted this 17th day of May, 2004.

BOARD OF COUNTY COMMISSIONERS
OF DUBOIS COUNTY, INDIANA

Lawrence M. Nelson

James R. Kasper

John H. Burger

ATTEST

Martha A. Weber

AUDITOR OF DUBOIS COUNTY, INDIANA