

STATE OF INDIANA

BEFORE THE BOARD OF CLARK COUNTY COMMISSIONERS

ORDINANCE NO. 16-2011

**AN ORDINANCE APPROVING THE FAVORABLE  
RECOMMENDATION OF THE CLARK COUNTY PLAN  
COMMISSION AND AMENDING CERTAIN PROVISIONS OF  
THE CLARK COUNTY SUBDIVISION CONTROL ORDINANCE.**

*[See attached text of Ordinance]*

TO THE BOARD OF COUNTY COMMISSIONERS  
OF CLARK COUNTY, INDIANA

**AMENDMENT NO. 6  
TO ORDINANCE NO. 18-2007**

**AN ORDINANCE AMENDING THE SUBDIVISION CONTROL ORDINANCE  
FOR CLARK COUNTY, INDIANA**

WHEREAS, the Board of Commissioners of Clark County, Indiana, adopted the County's Subdivision Control Ordinance as Ordinance No. 18-2007; and

WHEREAS, since the adoption of said Ordinance, the Executive Director has made a recommendation that the Subdivision Control Ordinance be modified; and

WHEREAS, both the Clark County Plan commission and the Commissioners of Clark County have reviewed such recommendation, and believe such recommendation should be followed:

The following is a summary of the Amendments 6 to Ordinance No. 18-2007:

The following is a summary of the proposed Amendments:

1. That Amendment No. 5 to Ordinance No. 18-2007 which was approved by the Plan Commission but which was not approved by the Clark County Board of Commissioners but which was considered passed in accordance with I.C. 36-7-4-607 (E)(3) is hereby entirely deleted.
2. That under "Definitions" the definition of "Bond" (on page 3) and "Letter of Credit" (on page 4) are deleted.
3. That under "Enforcement, Violations, and Penalties" paragraph C (on page 8) under "General" shall be amended to read as follows:

"(c) No Improvement Location Permit or Building Permit required under the Uniform Building Code, the Zoning Ordinance or this Ordinance shall be issued until the provisions of this Ordinance have been complied with and the final unconditional subdivision plat shall have been approved. However, the Subdivider may request and receive one (1) Improvement Location Permit or Building Permit for a single model home to be constructed in a subdivision prior to unconditional final Plat approval if: (i) the preliminary plat of the subdivision has been approved (ii) the roadway pavement from the subdivision entrance to the lot upon which the model home will be constructed has been fully installed in accordance with the plans and specifications of the subdivision and this

ordinance (iii) if sanitary sewers are to be included in the subdivision then the sanitary sewer must be completed and available for connection with said model home, and (iv) the County engineer certifies in writing to the Plan Commission that the roadway and any sewer to service the home as above referenced has been satisfactorily constructed.

4. That all language under "Final Approval" (pages 13, 14, 15 and partially 16) and identified as paragraphs 1 through 16) is entirely deleted and replaced with the following amended language which reads as follows:

**FINAL APPROVAL**

1. The Plan Commission may grant final approval of a plat or replat under this chapter.
2. No notice and hearing are required for final approval.
3. The purpose of final approval is to insure that the plat reflects all terms, conditions, and commitments given by the Subdivider or required by the Plan Commission at the hearing on preliminary approval and that the plat complies with the Subdivision Control Ordinance.
4. A final plat of subdivision may not be recorded in the office of the Clark County Recorder unless it is classified as unconditional final plat approval under this ordinance and signed and certified by the presiding officer of the Plan Commission attested to by the Executive Director of the Plan Commission and also the County Engineer or County Surveyor.
5. The Plan Commission may not grant conditional or unconditional final plat approval until construction plans for all public improvements have been prepared by the Subdivider's engineer and/or surveyor and recommended for approval by the County Engineer or County Surveyor and other agencies required by law or ordinance as being in technical compliance with this Ordinance and in accordance with said other laws and ordinances.
6. Conditional final plat approval may be granted by the Plan Commission upon submission of the proposed final plat and construction plans in the technical form and in the manner required by this ordinance and with the payment of all required fees. A final plat receiving conditional final approval shall not be signed by the County Engineer or County Surveyor nor recorded with the Clark County Recorder and become an unconditional final plat until: (1) the basic improvements and installations (except final asphalt coat on roads) have been confirmed in a letter by the County Engineer as fully complied with and satisfactorily completed, installed and/or constructed, including roads, curbs, gutters, drainage facilities, electric lines, sewer lines (where available), water lines, fire hydrants, any and all other utilities as required by this ordinance or any other ordinance of the county, and everything else set forth in the Conditional Final Plat, the Construction Drawings, the Drainage Plans, and the Erosion Plans, and (2) the subdivider has paid cash funds to Clark County in an amount equal to an acceptable bid amount to complete the final asphalt coat to all roads in the subdivision in accordance with the standards set forth in this ordinance, and (3) the Plat is signed by the County Engineer or County Surveyor.

7. Unconditional final plat approval may not be initially granted to a plat for a subdivision unless one of the following occurs:

(a) the Subdivider provides: (i) contracts or written evidence of contracts with utility companies that electric, water, and sewer utilities (where available) will be provided to the subdivision; and, (ii) an executed Performance and Escrow Agreement in the form created by the Plan Commission Attorney; and, (iii) Payment of cash escrow to the county in the amount required herein to insure completion of the subdivision in accordance with the Performance and Escrow Agreement, the approved preliminary plat, the construction drawings, the drainage plans, and the erosion plans, and, when applicable, the approved Planned Unit Development plats and drawings. Such cash escrow shall:

- i. be payable to Clark County in an amount set by the Plan Commission sufficient to complete the improvements and installations in compliance with the ordinance;
- ii. be in a sum which is at least 120% of the amount estimated to complete the roads, drainage structures and all other work or improvements to the subdivision required by this section or the above referenced subdivision documents. The estimate for such work shall be supplied by the Subdivider to the County Engineer with a detailed itemization acceptable to the County Engineer showing the estimated cost of construction for each component of the construction; and
- iii. be in the form of immediately available United States cash funds. Bank letters of credit and bonds are unacceptable to serve as cash escrow.
- iv. The County Engineer, with the approval of the County Commissioners, may release a portion of the cash escrow to the Subdivider after satisfactory completion of a part of the improvements and installations of the subdivision in an amount approved by the commissioners. Any such release shall occur no more frequently than monthly.

8. Any money received by Clark County from escrow or otherwise shall be used only for making the required improvements and installations for which the escrow or other surety was provided in the event the Subdivider defaults under a Performance Agreement (or Performance and Escrow Agreement). This money may be used for these purposes without appropriation. The improvements or installations must conform to the standards provided for such improvements or installations by the county as well as the Subdivision Control Ordinance.”

9. A person desiring the final approval of a plat or replat of land for subdivision shall submit to the Plan Commission the plat of the proposed subdivision with the required certificates attached.

The following certificates shall be affixed to the plat before recording:

CERTIFICATES:

- a. By the registered land surveyor to the effect that the plat represents a survey made by him/her on \_\_\_\_\_ and recorded in \_\_\_\_\_ that all monuments shown thereon exist or will be set, and that their locations are as shown or will be as shown.
- b. By the Subdivider(s)/applicant(s) and/or any other owner(s) of record, a notarized statement that said Subdivider(s) and/or other landowner(s) is/are the owner(s) of the lands and the platting of the subdivision is the Subdivider's and/or other owner's voluntary act and deed. The Subdivider(s) and/or owner(s) shall declare in this certificate by description or reference to the plat the purpose of all rights-of-way, easements, and other reservations shown on the plat.
- c. By the Plan Commission, fixed with the seal of the Plan Commission, signed by the president or presiding officer of the Plan Commission, and attested to by the executive director of the Plan Commission and the County Engineer. The certificate shall disclose that proper public notice was given, and that a majority of the members of the Plan Commission concur in its approval.

All subdivision plat applications must be accompanied by six (6) full sized sets of plats on either 18" by 24" or 24" by 36" paper and by fifteen (15) copies of reduced sized plat on 11" by 17" paper for both preliminary and final plat approvals. The full sized sets shall be distributed as follows: four (4) to the planning director who will distribute copies to the County Engineer and County Surveyor, one (1) to the County Drainage Board, and one (1) to the sewer company or county Health Department.

10. Except as provided for in subpart 11, below, a plat or replat of subdivision MUST BE GIVEN FINAL APPROVAL AND BE RECORDED within thirty-six (36) months of preliminary approval. Upon written request, the Plan Commission may extend the time limitation for one (1) year. If the Subdivider fails to record within this time period, the preliminary and final approval given by the Plan Commission shall be null and void. The time limit for recording the final plat shall extend to any preliminary plat approval not expired as of January 1, 2008.
11. Plats that have been granted preliminary approval after the adoption of this Ordinance may be submitted for final approval in sections as deemed most advantageous by the Subdivider with the approval of the Executive Director of the Plan Commission. Additional sections may be submitted for final approval without repeating preliminary approval if they substantially conform to the geometrics of the original preliminary plat. The thirty-six (36) month limit for recording the final plat is automatically renewed with the recording of any section of the approved preliminary plat.

The plat may be deemed to substantially conform to the preliminary plat if the geometrics of the final plat are substantially the same layout. The addition, removal, or alteration of road patterns, lot sizes, and total number of lots can

result in resubmission of the plat for preliminary approval unless such changes were a condition of the preliminary plat approval. The addition or removal of easements to accommodate utilities or drainage shall not constitute a substantial change in conformity.”

12. After: (i) the completion of all improvements and installations as provided in the Performance and Escrow Agreement or in accordance with the conditional final plat approval and the construction plans in a good and workmanlike manner and approval of same by the County Engineer acting with the specific authority from the County Commissioners and consulting with the County Engineer (as to roads and right-of-way areas), County Drainage Board (as to drainage and water quality), County Surveyor (as to monuments), and fire department district (as to fire hydrants) and soil and water conservation (as to IDEM erosion control), (ii) the cash payment to the County in payment for the final asphalt coat on the roads, and (iii) the posting of a Subdivision Maintenance Bond by the Subdivider, the Performance and Escrow Agreement and escrow funds as held by the County, shall be released by the County. The Subdivision Maintenance Bond shall be in favor of the County, be valid for a period of two (2) years and three (3) months or until 3 months after primary buildings have been completed on at least 80% of all lots shown on the recorded plat, whichever date is earlier and shall be in an amount equal to 20% of the initial construction cost of the subdivision. Said maintenance bond shall be used for road maintenance, drainage and snow removal (if not done by the Subdivider) for said period of time.
  13. Unless there is a separate construction entrance to the construction site, a Subdivider, person, corporation, association, partnership or other entity who develops land in sections or phases such that the development of one section requires construction traffic, truck traffic and/or heavy equipment to cross over existing subdivision roads shall repair any damages caused by construction traffic over existing subdivision roads prior to the final plat approval of a subsequent section of the subject subdivision, or the County may withhold such final plat approval until such time as repairs have been made to County standards as determined by the County Engineer.
  14. No road shall be accepted into the county’s inventory of roads until such time when the County Engineer has recommended same and the County Commissioners have accepted same at a public meeting. New subdivision roads shall be accepted when the binder coat (first coat) of asphalt has been installed per County specifications.
  15. If the major subdivision disturbs more than one (1) acre, detailed erosion control and sediment control plans, pursuant to 327 IAC 15-5 (Rule 5), as amended, as administered by the Indiana Department of Environmental Management should be submitted to the Clark County Drainage Board.
5. That under “Definitions” a new definition is added as follows:

"Subdivision Maintenance Bond means a surety bond issued by an insurance company authorized by the State of Indiana to do business in the State of Indiana, an irrevocable letter of credit by a bank licensed to do business in the State of Indiana (with an expiration date of two (2) years and three (3) months from the date of issuance or until 3 months after primary buildings have been completed on at least eighty percent (80%) of all lots shown on the recorded plat, whichever date is earlier) or a cash deposit in an amount equal to 20% of the initial construction cost of the subdivision. Said maintenance bond shall be provided on a form satisfactory to the County engineer."

EFFECTIVE DATE OF ORDINANCE AMENDMENT. This Ordinance shall become effective immediately from and after its passage.

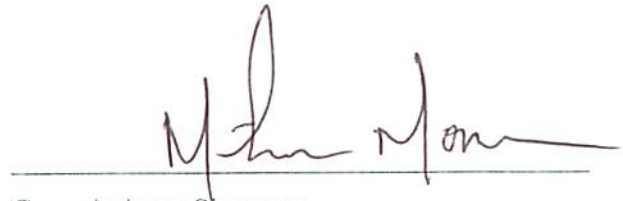
ADOPTED this 26<sup>th</sup> day of MAY, 2011.



Commissioner Signature



Commissioner Signature



Commissioner Signature

ATTEST:

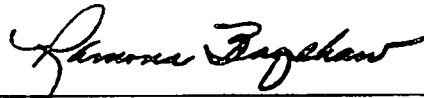


Auditor

REPORT OF CLARK COUNTY PLAN COMMISSION'S  
RECOMMENDING RESTATED AMENDMENT NO. 6 TO THE ORDINANCE NO.  
18-2007 FOR CLARK COUNTY, INDIANA

LET IT BE KNOWN, that the Clark County, Indiana Plan Commission on May 11, 2011, at its regular stated meeting voted to recommend to the Board of Commissioners for Clark County that Ordinance No. 18-2007, the County's Subdivision Control Ordinance, be amended as submitted.

I do hereby certify that a copy of this report has been provided to the office of the Clark County Commissioners and the office of the Clark County Auditor on this 16<sup>th</sup> day of May, 2011.



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Ramona A Bagshaw, Executive Director  
Clark County Plan Commission