

## CITY OF GARRETT, INDIANA CODE OF ORDINANCES

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### CHAPTER 152: SUBDIVISION CODE

#### Section

#### 152.01 Subdivision Code adopted by reference

#### § 152.01 SUBDIVISION CODE ADOPTED BY REFERENCE.

The Subdivision Code is hereby adopted by reference and declared to be a part of this Code as if set out in full herein.

(Ord. 94-11, passed 5-3-94; Am. Ord. 96-20, passed 12-3-96; Am. Ord. 98-19, passed 9-1-98; Am. Ord. 2001-15, passed 10-2-01; Am. Ord. 2005-12, passed 8-2-05; Am. Ord. 2009-16, passed 10-20-09)

#### CHAPTER 152.02 TITLE, PURPOSE AND AUTHORITY

##### §152.02.1 Title

- a. This Ordinance shall be known and cited as the "Subdivision Ordinance of the City of Garrett, Indiana, from now on called "Ordinance."

##### §152.02.2 Purpose

- a. The purpose of this Ordinance is to protect and promote the public health, public safety, and the general welfare of the community, to ensure the proper and efficient management of natural resources, and to:
  1. Guide future growth and development within the City of Garrett according to the land use goals and policies contained within the comprehensive plan, as amended and adopted by the City of Garrett, Indiana Common Council;
  2. Protect land and building values;
  3. Avoid scattered and uncontrolled subdivisions of land that result in excessive spending for the provision of municipal services;
  4. Establish reasonable standards of design and minimum requirements for the creation, installation and improvement of physical facilities which are, or will be, maintained for the benefit of the public;
  5. Establish reasonable standards and procedures for subdivisions and re-

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subdivisions to ensure the orderly layout and use of land; and to assure proper legal descriptions and markings of subdivided land;

6. Prescribe the administration of this ordinance by defining the form of marking, filing and processing any plat.

b. Any land proposed for subdivision within the City of Garrett shall be of such character that it can be developed safely without danger to health or peril from fire, flood or other menace. Land shall not be subdivided until proper provision has been provided for drainage, water supply, sewerage, school and recreation facilities, and all other elements that may, in concert, enhance the quality of life within the City of Garrett.

### **§ 152.02.3 Authority** *(amended June 28, 2005 by Ordinance # 2005-12)*

a. This Ordinance is incorporated into the City of Garrett, Indiana Comprehensive Plan per §154.04.1(1)(d).

1. New subdivisions within Garrett are subject to the requirements of the City of Garrett Zoning Ordinance, as incorporated into §154.04.1(b) of the City of Garrett Comprehensive Plan, unless otherwise noted.

2. New subdivisions within Garrett are subject to the “Infrastructure Design Specifications” as defined in §152.03.2(a) of this Ordinance, and adopted by the City of Garrett Board of Public Works & Safety.

### **§ 152.02.4 Separability**

a. It is the intent of the Council that the several provisions of this ordinance be separable, according to the following:

1. If any court of competent jurisdiction shall adjudge any provision of this ordinance to be invalid, such judgment shall not affect any provision of this ordinance not specifically included in such judgment;

2. If any court of competent jurisdiction shall rule invalid the application of any provision of this ordinance to a particular property, building, or other structure, such judgment shall not affect the application of such provision to any property, building, or other structure not specifically included in such judgment.

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### § 152.03.1 Short Title

- b. This Ordinance, and all amendments hereto, shall be known as, and may be cited from now on as "this Ordinance" or "Ordinance."

### § 152.03.2 Definitions

- a. As used in this Ordinance, the following words shall have the respective meanings:

**Aggressive Soils** – Soils that may be corrosive to cast iron and ductile iron pipe. These soils represent approximately five (5) percent of the soils found within the United States and include dump areas, swamps, marshes, alkaline soils, cinder beds, polluted river bottoms, etc., that are considered potentially corrosive.

**Alley** – A permanent service way or right-of-way, dedicated to public use, other than a street, place, road, crosswalk or easement, designed to provide secondary access to abutting properties.

**Block** – A unit of property entirely surrounded by public highways, streets, railroad rights-of-way, waterways or other barriers, or some combination of these boundaries.

**Block Frontage** – Property abutting on one side of a street, lying between the two nearest intersecting or intercepting streets, or between the nearest intersecting / intercepting street and railroad right-of-way, waterway or other definite barrier.

**Building Setback Line / Building Line** – The line, nearest the front and side of a lot, which establishes the minimum yard between the principal building / structure and the lot line.

**Commission** – The Garrett, Indiana Plan Commission.

**Construction Access Road** – A construction access road is a temporary road that provides access to a construction site by heavy equipment and vehicles bearing construction materials, workers and other parties involved in the construction and development of the subdivision. *(Amended June 28, 2005 by Ordinance # 2005-12).*

**County** – DeKalb County, Indiana.

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**County Plan Commission** – The DeKalb County Plan Commission.

**Cul-de-sac** – A short residential street having one end open to traffic with the other end permanently closed by a vehicle turnaround. Commonly known as a "dead-end or bubble-ended street."

**Dedication** – The setting apart of land, or interests in land, for use by the public by ordinance, resolution or entry in the official minutes as by the recording of a plat.

**Detention Basin** – A manmade or natural water collector facility designed to collect surface and subsurface water. The basin works to impede water flow and to release detained water gradually into natural or manmade outlets at a rate not greater than that before the development of the property.

**Developer-Applicant** – The legal or beneficial owner or owners of a lot, or of any land included in a proposed development. Also, the holder of an option or contract to purchase, or any other person having enforceable proprietary interest in such land. In this Ordinance, an applicant is a developer who submits a plat application.

**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** – A grant by a property owner to another person or entity to use a strip of land for specified purposes.

**INDOT** – The Indiana Department of Transportation.

**Infrastructure Design Specifications** – Drawings, illustrations and narratives depicting and/or describing the infrastructure (streets, mains, manholes, etc.) typically installed within subdivisions. Such specifications shall be as adopted by the City of Garrett Board of Public Works & Safety, and shall be subject to periodic review and revision by the Board.

*(Amended June 28, 2005 by Ordinance # 2005-12)*

**Lot** – Part of a subdivision, or other parcel of land, intended as a unit for transfer of ownership or development.

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**Marker** – A stake, pipe, rod, nail or any other object used for lot recording purposes. Not intended to be used as a permanent point.

**Monument** – A structure that marks the location of a corner or other survey point, for lot recording purposes.

**Nonresidential Subdivision** – A subdivision designed for industrial or commercial land uses. *(Amended October 2, 2001 by Ordinance # 2001-15).*

**Parking Space, Off-Street** – A parking space provided in a parking lot, parking structure or private driveway.

**Parking Space, On-Street** – A parking space that is located on a dedicated street right-of-way.

**Percolation Test** – A test designed to find the ability of ground to absorb water, and used to learn the suitability of a soil for drainage or for a septic system.

**Potable Water Supply** – Water suitable for drinking or cooking purposes.

**Performance Bond** – Any amount of money, or other negotiable security, paid by the subdivider, or his/her surety, to the Garrett Clerk-Treasurer that guarantees that the subdivider will perform all actions required by the Plan Commission regarding an approved plat. Such bond provides that, if the subdivider defaults and fails to comply with the provisions of an approved plat, he/she will pay damages up to the limit of the bond, or the surety itself will complete such requirements.

**Person** – A corporation, firm, partnership, association, organization, or any other group that acts as a unit.

**Plan Jurisdiction** – An area composed of the City of Garrett, and an adjoining, unincorporated area, identified by legal description by the Garrett Plan Commission and adopted by ordinance by the Garrett Common Council, which is subject to the provisions of relevant Garrett and DeKalb County ordinances.

**Plat** – A map or chart indicating the subdivision or re-subdivision of land intended to be filed for record.

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**Plat, Primary** – The preliminary drawing, or drawings, described in this Ordinance, which shows the proposed manner or layout of a subdivision.

**Plat, Secondary** – The final and formal presentation of the map, plan or record of a subdivision, and any accompanying material, as described in this Ordinance.

**Plat, Sketch** – An informal sketch drawn before the preparation of a primary plat, to save time and expense in reaching general agreement with the Plan Commission as to the form of a proposed plat.

**Pre-Application Conference** – An initial meeting between developers and planning staff that allows developers to present a proposal informally.

**Public Open Spaces** – An open space area conveyed or otherwise dedicated to the City of Garrett, or other public body, for recreational or conservation uses.

**Residential Density** – The number of dwelling units per gross acre of residential land area including streets, easements and open space portions of a development.

**Retention Basin** – A pond, pool or basin used for the permanent storage of water runoff.

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

**Storm Water Retention** – A provision for storage of storm water runoff.

**Street:** A right-of-way, other than an alley, dedicated or otherwise legally established for public use, usually affording the principal means of access to abutting property. A street can be designated a highway, thoroughfare, parkway, boulevard, road, avenue, lane, drive or court.

**Subdivider:** Any person responsibly engaged in developing or improving a tract of land which complies with the definition of a subdivision as defined in this Ordinance.

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**Subdivision:** The division of a parcel of land into two (2) or more lots, parcels, sites, units, plats or interests for offer, sale, lease or development. Includes the development of land zoned for residential or nonresidential uses.

This term does not apply to the following:

- The division of land into parcels larger than five (5) acres for agricultural purposes not involving any new streets or easements of access.
- The sale or exchange of parcels between adjoining lot owners where such sale or exchange does not create additional building sites.

**Subdivision, Major:** Any subdivision containing four (4) or more lots.

**Subdivision, Minor:** Any subdivision containing not more than three (3) lots.

**Subgrade:** The natural ground lying beneath a road.

**Topsoil:** The original upper layer of soil material, to a depth of six (6) inches, which is usually darker and richer than the subsoil.

**Zoning Regulations:** The part of the comprehensive plan, as amended, that includes an ordinance providing regulations and procedures for the establishment of land use controls, and a zoning map that divide the Garrett Plan Jurisdiction into zoning districts.

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### CHAPTER 152.04 PROCEDURE

#### § 152.04.1 Pre-Application Conference

- a. To expedite plat and application review, ensure that a proposed plat complies with the provisions of this Ordinance, and to reduce design and development costs, a preapplication conference shall be held between City of Garrett officials and the developer and his/her representatives. A public hearing regarding a primary plat will not be held by the Commission until such a conference occurs. *(amended 12-3-96 by Ordinance # 96-21).*

#### § 152.04.2 Application

- a. **Purpose** – The documents to be submitted are intended to provide the Commission with sufficient information and data to assure compliance with all applicable codes and specifications, and to ensure that the proposed development meets the design and improvements standards contained in this Ordinance.
- b. **Requirements** – The documents to be submitted with an application are listed below. In specific cases, and for documented reasons, the Commission may waive, by rule in a public hearing, the submission of a particular document. The reasons for the waiver shall be shown in the Commission minutes. The Commission's ability to waive specific application documents under this section does not extend to waiving other requirements of this Ordinance. Nor can the Commission grant variances from the requirements of the Garrett Zoning Regulations. Use and development variances for items proposed in a subdivision plat are granted by the Garrett Board of Zoning Appeals under Chapter 152.09 of this Ordinance. *(Amended October 2, 2001 by Ordinance # 2001-15 ).*
- c. A subdivider wanting approval of a subdivision plat of any land lying within the City of Garrett shall submit a written application on a form provided by the Garrett Plan Commission. Said application shall contain the information prescribed by this Chapter, or as required by the Commission by rule.
- d. The developer shall provide five (5) copies of a primary subdivision plat to the Commission office. *(Amended October 2, 2001 by Ordinance # 2001-15 ).*

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§ 152.04.3 Primary Subdivision Plat – Contents and Provisions

a. **Location Map** – The applicant shall provide a location map illustrating the following information:

1. Subdivision name and location.
2. Thoroughfares related to the subdivision.
3. Existing elementary and high schools, parks, playgrounds and other community facilities within the area of the proposed subdivision that may serve the new residential development.
4. Title, scale, northpoint and date.

b. **Primary Subdivision Plat:** The applicant shall provide a primary subdivision plat illustrating the following items:

- major streets and highways serving the plat area.
- school and recreation sites serving the plat area.
- shopping centers serving the plat area.
- water, sanitary sewer and drainage facilities serving the plat area.
- community facilities serving the plat area.
- other developments within the vicinity of the plat.

These items shall be illustrated on a primary plat prepared by a registered land surveyor or engineer illustrating the following:

1. The proposed name of the subdivision.
2. The names and addresses of the owner(s) and registered land surveyor and engineer.
3. Commission's certificate regarding deed of dedication.
4. All streets and rights-of-way, on and adjoining the site of the proposed subdivision, showing the names, roadway widths, approximate gradients, types and widths of pavement, curbs, sidewalks, crosswalks, tree planting and other pertinent data.

New streets proposed as part of a subdivision plat shall not duplicate the names of existing streets with Garrett, unless an existing street will be

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extended. All proposed street names are subject to Commission approval.

5. Easements, including locations, widths and purposes.
6. A narrative statement concerning the location, depth and approximate size or capacity of the all utilities to be installed within the proposed subdivision. *(Amended October 2, 2001 by Ordinance # 2001-15 )*.
7. The layout of lots, showing the dimensions, number designation and square footage for each lot.
8. Any parcels of land the developer proposes to dedicate or reserve for schools, parks, playgrounds or other public, semi-public or community purposes.
9. Contours at vertical intervals of two (2) feet, if the slope of the site is less than ten (10) percent, and at vertical intervals of five (5) feet if the general slope is ten (10) percent or greater.
10. A Drainage Plan, including narrative and illustrations, indicating how the plat will be drained, how stormwater runoff will be detained, how detained runoff will be out flowed, and where runoff will be outflowed. *(Amended October 2, 2001 by Ordinance # 2001-15 )*.
11. Tract boundary lines showing dimensions, bearings and angles, which are referenced to known landlines or benchmarks.
12. Building setback lines.
13. Legend and notes.
14. Other features or conditions.
15. Scale, northpoint and data.
16. Construction plans illustrating the location of all sanitary sewers, storm sewers and water mains within the plat; their elevations, inverts, and all relevant notes; street cross-sections, gradients and paving notes; sanitary tap locations, manhole details, bedding details, inlet details, backfill requirements, and any other information required by the Commission. The developer shall also provide any permits or approvals

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required from other state, county or local government agencies; or private utility companies for driveway cuts, drainage into a county regulated drain, use of an existing easement, etc. (*amended 12-3-96 by Ordinance # 96-21*).

The plat infrastructure detailed in the construction plans shall comply with the requirements of the "Infrastructure Design Specifications" as approved by the City of Garrett Board of Public Works & Safety. (*Amended June 28, 2005 by Ordinance # 2005-12*).

A subdivision primary plat shall be drawn to a scale of fifty (50) feet to one (1) inch, or one-hundred (100) feet to one (1) inch. However, if the resulting drawing would be over thirty-six (36) inches in shortest dimension, a different scale recommended by the Commission may be used.

The Commission may require additional information on a primary plat if it deems necessary.

- c. **Certifications** – The applicant shall certify on the primary plat that access to the land proposed for subdivision will be provided over either existing public streets, or over streets to be constructed by the applicant. The applicant shall also certify that the proposed subdivision will not be constructed if the Plan Commission finds that the land proposed for subdivision is unsuitable for such use because of flooding, improper drainage, objectionable earth and rock formations, topography, or any other feature harmful to the health and safety of the community as a whole.
- d. **Covenants** – A description of the protective covenants or private restrictions to be incorporated in the plat of the subdivision, or become covenants in the deed for lots.
- e. **Subdivision Name** – The proposed name of the subdivision, which shall not duplicate, or too closely approximate phonetically, the name of any other subdivision or manufactured housing park within the City of Garrett. The Commission shall reserve final authority to designate the name of the subdivision at the time of primary approval.
- f. **Political and Jurisdiction Boundaries** – To eliminate potential jurisdictional disputes, and to ease effective coordination and planning of development, the Commission shall be guided by the following policy –

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1. Whenever access to the subdivision is required across land within another local government jurisdiction, the Commission shall request assurance from the attorney for said jurisdiction that such access is legally established, and from the designated engineer for said jurisdiction that the access road is adequately improved, or that a performance bond has been duly executed and is sufficient in an amount to assure construction of the access road.
2. Lot lines shall be laid out to not cross boundary lines between adjacent units of local government, each of which has a separate, autonomous governing body.

### § 152.04.4 Primary Plat – Approval Process

- a. The developer shall submit five (5) copies of all required plats, maps and data to the Plan Commission office at least forty-two (42) days prior to a regularly-scheduled Commission meeting date. The Commission staff, and other relevant City officials shall review the plat and provide written comment to the developer, noting any required changes or modifications as follows (*Amended October 2, 2001 by Ordinance # 2001-15*)

1. A plat shall be routed and reviewed by the following City departments and/or officials –

- a. Superintendent of Utilities (electric, water and sanitary sewer).
- b. Superintendent of Streets.
- c. City (consulting) Engineer.
- d. Police Chief.
- e. Fire Chief.
- f. Planning Director.
- g. Any other City official or interested party as determined by the Commission.

The above officials shall, after reviewing a plat, note their comments and sign off on a plat review form provided by the Commission. (*amended 12-3-96 by Ordinance # 96-21*).

- b. Upon completion of the plat routing process, and the pre-application conference required by §152.04.1(a), the Commission staff shall set a hearing date after completing a written review of the plat. A hearing notice shall be published according to I.C. 5-3-1. The publication cost shall be borne by the applicant.

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The applicant staff shall also identify affected property owners in the area of the proposed plat. The applicant shall send hearing notices to all identified property owners by certified mail and bear the postage cost. *(Amended October 2, 2001 by Ordinance # 2001-15 )*.

The Commission staff shall notify any governmental unit having a probable interest in the proposed plat application of the hearing date.

- c. The Commission shall then hold a public hearing to review the primary plat. The Commission shall review and consider all comments on the plat provided during the routing process by City officials.

The developer, and/or his/her designated representative, shall be present at the hearing to present the plat, and to answer any questions the Commission or staff may have regarding the plat that arise from the routing process or during the hearing.

The Commission shall hear all oral and written comments regarding the plat that may be offered from adjoining property owners, and other interested parties, according to the rules established in the Commission's Rules of Procedures.

The Commission may advise the applicant of any desired changes in the primary plat before it grants secondary plat approval. The Commission may also place conditions upon a plat. Such conditions must be satisfied before a secondary plat is submitted to the Commission for review and approval. *(Amended October 2, 2001 by Ordinance # 2001-15 )*.

- d. The Commission shall, by rule, refer the infrastructure construction plans for a plat to the Board of Public Works and Safety for review. The Board may issue any conditions regarding possible liability of the developer for any damages caused to existing public infrastructure during construction.

An applicant whose submitted plat has been disapproved by the Commission, as provided in §152.04.4(c), may not submit another plat for the same property for a period of one (1) year after the date of signed findings for said disapproval. *(Amended October 2, 2001 by Ordinance # 2001-15 )*.

- e. Following approval of the primary plat by the Plan Commission, and the construction plans by the Board of Works, the developer may begin installation of the infrastructure improvements, provided that he/she

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complies with the bonding / withholding requirements of Chapter 6 of this Ordinance. *(amended 12-3-96 by Ordinance # 96-21).*

**§ 152.04.5 Secondary Plat – Content**

Following Commission approval of a primary plat, the developer shall submit a secondary subdivision plat in the following form:

- a. The secondary plat will include all or a part of the approved primary plat.
- b. The original drawing of the secondary plat shall be drawn in a size required by the DeKalb County Recorder. *(Amended October 2, 2001 by Ordinance # 2001-15 ).*
- c. The developer shall submit five (5) reproducible prints for secondary plat approval. *(Amended October 2, 2001 by Ordinance # 2001-15 ).*
- d. The following basic information shall be shown on a secondary plat:
  1. Accurate boundary lines, with dimensions and angles, which provide a survey of the tract, closing with an error of not more than one (1) foot in five-thousand (5,000) feet.
  2. Accurate distances and directions to the nearest established street corners or official monuments. Reference corners shall be accurately described on the plan.
  3. Accurate locations of all existing and recorded streets intersecting boundaries of the tract.
  4. Accurate metes and bounds description of the boundary.
  5. Source of title to the land as shown on the books of the DeKalb County Recorder.
  6. Street names.
  7. Complete curve notes for all curves included in the plan.
  8. Street lines with accurate dimensions in feet and hundredths of feet, with angles to street, alley and lot lines.

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9. Lot numbers, dimensions and street addresses as assigned by the Commission. *(Amended October 2, 2001 by Ordinance # 2001-15 )*.
10. Accurate dimensions for any property to be dedicated or reserved for public, semi-public or community use.
11. Accurate locations of easements for utilities and any limitations on such easements.
12. Drainage Plan.
13. Building setback lines and dimensions.
14. Location, type, material and size of all monuments and lot markers.
15. Plans and specifications for the improvements required by this Ordinance, as prescribed by the Infrastructure Design Specifications approved by the City of Garrett Board of Public Works & Safety. *(Amended June 28, 2005 by Ordinance # 2005-12)*
16. Restrictions of all types that will run with the land and become covenants in the deeds for lots.
17. Name of the subdivision.
18. Names and addresses of the owner and the subdivider.
19. Northpoint, scale and date.
20. Certification by a registered land surveyor (and a registered civil engineer, if applicable).
21. Certification of dedication of streets and other public property.
22. Certificate for approval by the Commission.
23. The construction plans for the plat, as approved by the Board of Works. *(amended 12-3-96 by Ordinance # 96-21)*.

**§ 152.04.6 Secondary Plat – Approval Process**

- a. The developer shall submit a secondary plat for review by the Commission

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at least twenty-eight (28) days prior to a regularly-scheduled Commission meeting. A secondary plat shall be reviewed by the Plan Commission at a public meeting. Such plat must contain all the items approved in the primary plat, plus any changes required by the Commission. The secondary plat must also be in compliance with any conditions placed upon the primary plat by the Commission, or the construction plans by the Board of Works. *(Amended October 2, 2001 by Ordinance # 2001-15 ).*

In order to ensure the proper installation of infrastructure improvements within the plat, the developer shall submit the following for consideration by the Board of Public Works and Safety *(amended 2-20-96 by Ordinance # 96-7)*:

- a. (RESERVED FOR FUTURE USE).**
- b. A performance bond, which shall:
  - a. Run to the Board of Public Works and Safety of the City of Garrett, Indiana.
  - b. Be in the amount required to complete the improvements and installations according to this Ordinance for that portion of the subdivision in the secondary plat, as prescribed by §152.07.2(a) of this Ordinance.
  - c. Be with surety satisfactory to the Board of Works.
  - d. Specify the time for the completion of the improvements and installations, per §152.07.2(a)(2) of this Ordinance.

Said required bond shall be released only upon the submission of an engineer's or surveyor certificate, and verification by the City Engineer, that all improvements and installations for the subdivision have been made or installed according to the specifications prescribed by this Ordinance, and the submission of "as-built" drawings to the Garrett Plan Commission office.

The developer may submit the bond to the Board of Works following conditional approval of a secondary plat by the Commission.

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§ 152.04.7 Non-Residential Subdivisions

- a. **General** – A nonresidential subdivision shall be subject to all the plat content and approval processes prescribed by this Ordinance.
  
- c. **Standards:** The applicant shall display that the proposed street-block-lot-parcel pattern of the nonresidential subdivision is specifically adapted to its anticipated uses, and considers other uses in the vicinity. The following principles and standards shall be observed:
  1. Each nonresidential area or parcel shall be shown and marked on the plat as to its intended purpose. Proposals for incremental lot-by-lot development shall also be noted.
  2. Proposed parcels shall be suitable in area and dimensions to the types of anticipated development.
  3. The Commission may impose special requirements on street, curb, driveway and sidewalk design and construction.
  4. Street rights-of-way and pavement construction shall handle the type and volume of anticipated traffic.
  5. The Commission may impose special requirements on the installation of public utilities, including water, sewer, storm water drainage, the reprocessing of sewage and the storage and disposal of toxic materials. The Commission shall, by rule, refer the infrastructure construction plans for a non-residential subdivision plat to the Board of Public Works & Safety for review. The Board may issue any conditions regarding possible liability of the developer for any damages caused to existing public infrastructure during construction. *(Amended October 2, 2001 by Ordinance # 2001-15 )*.
  6. The Commission may impose special requirements to protect adjacent residential areas from any potential nuisance caused by a nonresidential subdivision, including the provision of extra depth on parcels backing onto existing or potential residential areas, and for permanent landscape buffers when necessary.
  7. Streets carrying nonresidential traffic shall not normally be extended to the boundaries of adjacent existing or potential residential areas. Truck routes shall be established as necessary to prevent industrial traffic from

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encroaching into adjacent residential areas.

8. Non-residential subdivision plats shall include a drainage plan. Such plan shall be approved in advance by the DeKalb County Drainage Board if a regulated drain is affected by the proposed development.

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CHAPTER 152.05. PRINCIPLES AND STANDARDS OF DESIGN

§ 152.05.1 Purpose

- a. The purpose of good subdivision and site design is to create a functional and attractive development, to minimize adverse impacts, and to ensure a project will be an asset to the community. To promote this purpose, the subdivision shall conform to the following standards that are designed to result in a well-planned community without adding unnecessary development costs.

§ 152.05.2 Streets

- a. **Circulation System Design** – The road system within a plat shall be designed to allow the safe, efficient and orderly movement of traffic; to meet, but not exceed the needs of the present and future population served; to have a simple and logical pattern; to respect natural features and topography; and to present an attractive streetscape. (Typical cross-sections of subdivision infrastructure are offered for guidance in the Infrastructure Design Specifications approved by the City of Garrett Board of Public Works & Safety. *(Amended June 28, 2005 by Ordinance # 2005-12).*
- b. In residential subdivisions, the road system shall be designed to serve the needs of the neighborhood and to discourage use by through traffic unless the proposed plat is located in an area where through traffic is needed to provide access to adjoining properties. *(Amended October 2, 2001 by Ordinance # 2001-15 ).*
- c. The pedestrian system shall be located as required for safety. In commercial developments, walks shall be placed parallel to the street, with exceptions permitted to preserve natural features or to provide visual interest.
  1. **Arrangement Standards** – The street and alley layout shall provide access to all lots and parcels of land within the subdivision. Where streets cross other streets, jogs shall not be created. Cul-de-sacs shall not exceed five-hundred (500) feet in length unless site topography shows that longer cul-de-sacs would be appropriate.
  2. Proposed streets shall be adjusted to the contour of the land to produce usable lots and streets of reasonable gradient. Grid street patterns are preferred.

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3. Certain proposed streets, where appropriate, shall be extended to the boundary of the tract to be subdivided to provide for normal circulation of traffic within the vicinity, particularly to connect to existing streets. *(Amended October 2, 2001 by Ordinance # 2001-15 )*.
  4. Wherever there exists a dedicated or platted portion of a street or alley next to the proposed subdivision, the extension of the street or alley within the proposed subdivision shall be platted at least at the same right-of-way width as the existing street or alley, if said right-of-way width is not less than the required width specified in §152.05.2(a)(10) of this Ordinance. *(Amended October 2, 2001 by Ordinance # 2001-15 )*.
  5. Widths of arterial and collector streets shall conform to the widths specified in the DeKalb County thoroughfare plan.
  6. The minimum right-of-way of cul-de-sacs shall stop in a circular right-of-way, with a minimum diameter of one-hundred (100) feet, or other arrangement for the turning of all vehicles conveniently within the right-of-way.
  7. Streets and access ways, in business and industrial developments, shall be planned to provide access to buildings and traffic flow.
1. **Intersections** – The centerline of streets should intersect as nearly at right angles as possible.
    1. At intersections of streets and alleys, property line corners shall be rounded by arcs of at least twenty (20) feet radii, or by chords of such arcs.
    2. At intersections of streets, the property line corners shall be rounded by arcs with radii of not less than twenty (20) feet, or by chords of such arcs.
    3. If the smaller angle of the intersection of two (2) streets is less than sixty (60) degrees, the radius of the arc at the intersection of property lines shall be increased as deemed by the Commission.
    4. Intersections of more than two (2) streets at one point are prohibited.
  2. **Special Standards** – Where parkways or special types of streets are involved, the Commission may apply special standards to be followed in the design of such parkways or streets.

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Where the proposed subdivision contains, or is next to a railroad right-of-way, or a highway designated as a "limited access highway" provisions shall be made for a marginal access street, or a parallel street at a distance acceptable for the appropriate use of the land between the highway and/or railroad and such streets.

3. **Visibility** – Horizontal visibility on curved streets and vertical visibility on all streets must be maintained along the centerlines as follows –

a.	Arterial streets	500 feet
b.	Collector streets	300 feet
c.	Local streets	150 feet

4. **Curvature** – Curvature measured along the centerline shall have a minimum radius as follows –

a.	Arterial streets	500 feet
b.	Collector streets	300 feet
c.	Local streets	150 feet

5. **Reversed Curves** – Between reversed curves on arterial streets, there shall be a tangent of not less than one-hundred (100) feet, and not less than forty (40) feet on collector and residential streets.

6. **Grades** – Maximum grades for streets shall be as follows –

1.	Arterial street	No greater than six (6) percent
2.	Collector and local streets.	No greater than ten (10) percent
3.	The minimum grade of any street gutter shall not be less than 0.4 percent.	

7. **Minimum Right-of-Way and Pavement Widths** – Subdivision streets and alleys shall be designed according to the following minimum requirements for right-of-way and pavement widths –

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Category	Right-of-Way Minimum Width, In Feet	Pavement Minimum Width, In Feet, Back-of-Curb to Back-of Curb
Local Street	60	36
Collector Street	65	42
Arterial Street	75	45
Alley	20	12

*(Amended October 2, 2001 by Ordinance # 2001-15 ).*

- j. **Utilities in Rights-of-Ways** – Utility lines serving lots within a plat shall be located within street rights-of-way unless otherwise allowed by the Commission by rule.
- k. **Extending Existing Streets** – Proposed streets that are extensions of, or are in alignment with, existing streets shall bear the same name as that borne by the existing street.

Whenever a dedicated or platted portion of a street, alley or easement exists next to a proposed subdivision, the continuation of the street, alley or easement right-of-way at the prescribed width, shall be platted within the subdivision unless the Commission deems such continuation unnecessary.

- l. **Alleys** – Alleys may be allowed in nonresidential plats. Alleys shall not be permitted in residential plats except where justified by unusual circumstances and allowed by the Commission by rule. *(Amended October 2, 2001 by Ordinance # 2001-15 ).*
- m. **Street Dedications and Reservations** – All subdivision streets may be dedicated to public use. The Commission may consider allowing private streets if the developer can provide evidence that a private street is the only feasible solution. Such private streets may be authorized if they are constructed according to the standards prescribed by this Ordinance, and that adequate covenant provisions are made for direct responsibility and control by the property owners involved for the perpetual operation, liability and maintenance of the private streets at no expense to the City of Garrett.
- n. **Buffers Next to Railroads and Industries** – A buffer strip, at least twenty-five (25) feet in deep, shall be provided next to any railroad right-of-way. This strip shall be provided in addition to the normal lot depth

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required for the relevant zoning district by the Garrett zoning regulations. The strip shall be part of the platted lots and shall be designated on a primary plat as follows –

- "This strip is reserved for screening. The placement of structures hereon, other than earth berms, walls, fences and other landscape screening, as approved, is prohibited."
- o. **Construction Access Road** – A construction access road shall be indicated on the plat and constructed prior to the issuance of an Improvement Location Permit for the first dwelling within the plat.

The construction access road serves to insure that other public streets related to adjacent developments that have been dedicated to the City of Garrett are not subject to adverse wear during the construction process. Said access road shall be designed to minimize the developer's use of previously dedicated paved streets.

If it is necessary to use dedicated paved streets, an appropriate bond to compensate for any damage to said streets as a result of the construction activity shall be determined by the Board of Public Works & Safety before approval of the subdivision. *(Amended June 28, 2005 by Ordinance # 2005-12).*

### § 152.05.3 Blocks

- a. Blocks may not exceed seven-hundred (700) feet in block frontage length, unless unusual circumstances justify greater length. *(Amended October 2, 2001 by Ordinance # 2001-15 ).*
- b. RESERVED FOR FUTURE USE. *(Amended October 2, 2001 by Ordinance # 2001-15).*
- c. The Commission may require, in blocks over seven-hundred (700) feet in length, a public walk connecting adjacent streets or other public areas. Such walk shall have a minimum ten (10) foot wide right-of-way, and shall be reserved for use by pedestrians only.

### § 152.05.4 Lots

- a. All lots shall abut on a street or place.

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- b. Side lines of lots shall be at approximately right angles (90°) to straight streets and approximately on radial lines on curved streets. Some variation from this rule is permissible, but only side lines of 60° angles or more are permitted. Square or rectangular lots are preferred. *(Amended October 2, 2001 by Ordinance # 2001-15).*

For lot with side lines with less than 90° angles, the front lot line cannot be less than 70% in width than the width of the building setback line.  
*(Amended October 2, 2001 by Ordinance # 2001-15).*

- c. Double frontage lots are not permitted, except where such lots are located between arterial and local streets. Such lots shall face on an interior street. A planting strip or screen, at least twenty (20) feet in width, shall be planted along the back of the lot.

The minimum widths and areas for lots within a new subdivision plat are as follows -

Zoning District	Minimum Lot Width, in Feet	Minimum Lot Size, in Square Feet
RC	100	12,000
RS	85	10,000
RI	70	7,500
RT	70	7,500
RU	70	7,500

*(Amended October 2, 2001 by Ordinance # 2001-15).*

- d. Corner residential lots shall be a minimum 15% wider than the minimum lot width required to provide appropriate setbacks from the abutting intersecting streets. Interior residential lots abutting a corner lot shall be a minimum 10% wider than the minimum lot width to provide a wider side yard next to the corner lot. *(Amended October 2, 2001 by Ordinance # 2001-15).*

**§ 152.05.5 Easements**

- a. Utility easements shall be provided for lots where alley rights-of-ways are not provided. Easements shall have a minimum width of fifteen (15) feet. Easements running along lot lines shall be divided evenly by such lines. All affected private and public utility companies shall be consulted during the

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plat review process to ensure proper utility placement.

No structures (including fences, sheds or playground equipment) are to be constructed or placed within any easements, either drainage or utility. This requirement shall be a part of the restrictive covenants for a plat. *(Amended October 2, 2001 by Ordinance # 2001-15).*

**§ 152.05.6 Building Setback Lines**

- a. Building setback lines for each lot shall be noted as required by the Garrett Zoning Regulations.
- b. Dwellings units shall be placed in such a way that the longest part of the unit is parallel with the adjoining street. (EXAMPLE – with a dwelling unit 45' x 30' in size, the 45' length would be parallel with the adjoining street. The elevation of this length facing the street contains the front door. *(Amended October 2, 2001 by Ordinance # 2001-15).*

**§ 152.05.7 Public Uses / Recreation Space**

- a. Land shall be reserved within a plat for public uses, parks, playgrounds or other recreation purposes. Such land shall be reserved at the following ratio –
  - 0.01 acre per dwelling unit, or .25 acre, whichever is greater.

(EXAMPLE – 100 dwelling units would require 1 acre of recreation space; 50 dwelling units require .5 acre of recreation space. Twenty-four dwelling units would require a minimum total .25 acre of recreation space).

Land shall be reserved for recreation purposes shall be marked as follows –

"Reserved for Park and/or Recreation Purposes"

shall front on, and be accessible from, a public street, and shall be separated by fencing and made accessible from a public street.

- b. Stormwater detention areas shall not be used, in whole or part, for public use / recreation areas. *(Amended October 2, 2001 by Ordinance # 2001-15).*

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### CHAPTER 152.06 STANDARDS OF IMPROVEMENTS

#### § 152.06.1 General

- a. The secondary plat shall conform to the following standards of improvements. Improvements shall be installed under the supervision of an inspector whose qualifications meet the approval of the City of Garrett Board of Public Works and Safety. Inspection costs shall be borne by the developer.

#### § 152.06.2 Monuments and Markers

- a. Monuments and markers shall be placed so that the center of the bar or marked point shall coincide exactly with the intersection lines to be marked, and shall be set so that the top of the monument or marker is level with the finished grade.
- b. Monuments shall be set –
  1. At the intersection of all lines forming angles in the boundary of the subdivision.
  2. At the intersection of street rights-of-way and property lines.
- c. Markers shall be set –
  1. At the beginning and ending of all curves along street property lines.
  2. At all points where lot lines intersect curves either front or rear.
  3. At all angles in property lines of lots.
  4. At all other corners or boundary angles not established by a monument.
- d. Monuments shall be of stone or concrete, with minimum dimensions of four (4) inches by thirty-six (36) inches, and shall be set vertically in place. They shall be marked on top with a brass plug, or iron or copper dowel, at least three-eighths (3/8) inch thick, set flush with the top of the monument, deeply scored with a cross. Markers shall consist of iron pipes or steel bars at least thirty-six (36) inches long, and not less than five-eighths (5/8) inch in diameter.

#### § 152.06.3 Streets

- a. Streets (and alleys, where provided) shall be completed to the grades shown on the plans, profiles and cross sections provided by the developer and

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approved by the Commission. Streets shall be designed and constructed according to the Infrastructure Design Specifications approved by the City of Garrett Board of Public Works & Safety. *(Amended June 28, 2005 by Ordinance # 2005-12).*

- b. Streets shall be graded, surfaced and improved to the dimensions required by the cross-sections, and the work shall be performed as prescribed by the latest revised edition of the "Standard Specifications," or other governing regulations, issued by the Indiana Department of Transportation. Said edition is available for review in the Garrett Planning Department.

All streets within a plat are to be top-coated within one (1) year of secondary plat approval. *(Amended October 2, 2001 by Ordinance # 2001-15).*

### § 152.06.4 Traffic Control Devices

- a. **Street Name and Regulatory Signs** – The developer shall install street name signs according to the standards prescribed by the City of Garrett and the "Manual on Uniform Traffic Control Devices of Indiana," as amended.

One sign shall be installed at each intersection showing the name and block number of each intersecting street. Other regulating signs are the responsibility of the City of Garrett. *(Amended October 2, 2001 by Ordinance # 2001-15).*

- b. **Warning Signs and Other Devices** – The City of Garrett shall be responsible for installing all warning signs and other traffic control devices, except where warranted in industrial and commercial areas. The developer may be required to pay the cost of traffic signal installation and interconnection.

### § 152.06.5 Sanitary Sewers

- a. The developer shall install sanitary sewer facilities to serve the individual lots within a subdivision plat.

Sanitary facilities shall be provided within subdivisions as follows –

1. **Municipal Sewer System** – Lots in subdivisions located within the corporate limits of the City of Garrett, shall be connected to the municipal sanitary sewer system. The plans for the subdivision sewer system shall be designed according to municipal specifications and

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approved by the City Engineer and the Plan Commission. Service laterals shall be installed between the street main and the property line before the street is paved.

- b. **Plans** – The developer shall provide plans for the installation of sanitary sewage facilities within a subdivision plat. Such plans shall be prepared by a registered professional, and be approved by State Board of Health, the DeKalb County Health officer, the City engineer and the City Utility Superintendent. The developer shall provide four (4) sets of as-built plans for the sanitary sewer system to the Commission. The Commission may require the developer to submit additional sets as needed.

### § 152.06.6 Storm Sewers and Drainage

- a. **General** – A primary plat shall include provisions for properly draining stormwater runoff. Drainage systems shall be separate and independent of any sanitary sewerage system, and shall be designed according to the methods and specifications prescribed by this Ordinance, and by the Commission by rule.

#### b. Requirements for Storm Sewers –

1. **Inlets** – Inlets shall be provided so that surface water is not carried across or around any intersection, nor for a distance of more than four-hundred (400) feet in any gutter.
2. **Spring-Surface Water** – An applicant may be required to carry away, by pipe or open ditch, any spring or surface water that either existed before, or will result from, plat construction. Such drainage facilities shall be located in the road right-of-way, or in perpetual unobstructed easements of appropriate width. Drain facilities shall be provided under driveways so that the flow of water in ditches is not impeded.
3. **Access to Public Storm Sewers** – Where a public storm sewer is accessible, the applicant shall install storm sewer facilities. If no outlets are within a reasonable distance, the developer shall provide for adequate disposal of storm waters subject to the specifications prescribed by this Ordinance, as amended, or the Commission by rule.

#### c. Drainage Requirements –

1. **Surface Water Drainage Patterns** – Surface water drainage patterns

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shall be shown for each lot and block.

2. **Poor Drainage Areas** – Whenever a primary plat is submitted for an area subject to ponding, the Commission may require the applicant to fill the affected area to a specified elevation, if allowed by state and federal wetland regulations. The Commission may also, upon review, decide that such ground is not suitable for development.
3. **Drainage Easements** – Where a subdivision is traversed by a watercourse, drainage-way, channel or stream, the applicant shall provide a stormwater easement or drainage right-of-way that conforms with the lines of the watercourse. The width and construction of such easements shall conform to the requirements of this Ordinance, as amended, as to the requirements adopted by the Commission by rule, and the statutes of the Indiana County Drainage Board Code (IC 36-9-27-33), as follows –

	<b>Statutory Easement Width</b>
a. County Regulated Drains	75 feet
b. Urban Drains	25 feet

*Easements shall be adequately marked and should be maintained by an open channel with landscaped banks whenever possible.*

*Easements for County-regulated drains shall be approved by the DeKalb County Drainage Board as required under this Ordinance.*

4. **Drainage Provisions** – To allow for the maintenance or reconstruction of any regulated open drain, or of any open drain intended primarily for the conveyance of natural drainage or storm drainage, open drainage easements shall be provided as follows –
  - a. Easements shall not be less than thirty (30) feet in width beyond the top of one bank of any legal open drain, and not less than five (5) feet in width beyond the top of the second bank.
  - b. No open drainage easement shall be less than fifty (50) feet in width or shall be offset other than shown above.
  - c. No trees or permanent structures above grade, including such structures for the use of any private or franchised public utility,

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- shall be permitted in any open drainage easement, and the protective covenants running with the land shall so state.
- d. Structures located below grade, which are used by franchised public utilities, may be permitted within the wider side of an open drainage easement when next to the outer edge of said wide side.
  - e. For any County regulated drain, easements shall be provided as required by the Indiana Drainage Board Code, IC 36-9-27-1 through IC 36-9-27-113.
  - f. **Sump Pumps** – Sump pumps are to be drained to detention ponds within a plat only through drainage swales. Sump pumps cannot be drained to any streets, alleys or public rights-of-ways either within a plat or outside a plat. Sump pumps may be drained directly to storm sewer mains only with the approval of the City of Garrett Board of Public Works and Safety. *(Amended October 2, 2001 by Ordinance # 2001-15).*
  - g. **Swales** – Drainage swales are to be graded along the sides of adjoining lots within a plat. Such swales are to drain either toward the front of a lot to an adjoining street, or to the rear of a lot to a drainage easement. *(Amended June 28, 2005 by Ordinance # 2005-12).*
  - h. **Grade of Lot** – The grade of a lot shall be constructed in such a way that the lowest opening to a dwelling is at or above the minimum elevation designated for the lot in the design specifications. The lot surrounding a dwelling unit is to be graded in such a way that stormwater runs away from the dwelling unit and toward the adjoining swales and drainage easements constructed for the lot. *(Amended June 28, 2005 by Ordinance # 2005-12).*

### § 152.06.7 Water Facilities

- a. **General** – The developer shall extend or create a water supply system that can provide potable water for domestic use and fire protection. The developer shall, where a public water main is accessible, install adequate water facilities, including fire hydrants, subject to state requirements, this Ordinance, as amended, and as required by the Commission by rule. (See the Infrastructure Design Specifications approved by the City of Garrett Board of Public Works & Safety.). *Amended June 28, 2005 by Ordinance # 2005-12.*

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- b. **Water Main Supply System** – The subdivider shall install a complete water main supply system within a subdivision located in the City of Garrett that shall be connected to the City of Garrett water distribution system.
- c. **Plans and Specifications** – The subdivider shall provide plans and specifications for subdivision water supply system to the Commission. Such plans shall be prepared by a registered professional, and be approved by State Board of Health, the DeKalb County Health officer, the City engineer and the City utilities. Water facility plans shall include fire hydrant locations. The installation of water mains and taps within the designated rights-of-way shall be completed before the placement of the surface improvements.

Upon completion of the water supply installation, three (3) sets of the system plans shall be provided to the Commission.

- d. **Fire Hydrants** – Fire hydrants shall be required for all subdivisions and shall be located no more than five-hundred (500) feet apart, and within two-hundred-fifty (250) feet of any structure, and shall be of a design approved by the Commission, the Garrett Water Utilities and the City of Garrett / Keyser Township Fire Department.

The nozzle height of an installed fire hydrant shall not be less than eighteen (18) inches, nor more than twenty-four (24) inches above the grade surrounding the hydrant. Such required height shall be maintained following installation of a hydrant, the installation of other infrastructure within the plat, and the construction of a dwelling on an adjoining lot.

Property owners are responsible for maintaining the nozzle heights of an installed fire hydrant as specified in section (d) above. Any property owner who changes the grade so that it is in violation of section (d) above shall be responsible for bringing the fire hydrant into compliance. Any property owner who has a fire hydrant on their property, which is in violation of the requirements of section (d), shall be ordered to bring said fire hydrant into compliance. If a property owner fails to do so, the City will bring the fire hydrant into compliance and assess the property owner the costs of said remedial action. The expenses incurred by the City of Garrett shall be a lien against the real estate (*Amended by Ordinance #98-19, September 1, 1998*).

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### § 152.06.8 Improvement Credit Procedure

- a. Infrastructure improvements installed by the subdivider within a plat may also benefit other properties in the vicinity. The subdivider and the City may, by contract, agree that upon the connection to, or use of, said improvements by property owners within the vicinity, within a period of ten (10) years following installation, the new user or users shall pay to the City a fee in an amount agreed upon by the subdivider and City. The fee amount shall be credited to the subdivider.

### § 152.06.9 Curbs and Gutters

0. **Installation** – The Commission shall require curbs and gutters to be installed on each side of a street located within a subdivision plat. The plans for curbs and gutters shall be approved by the Commission. Guidelines for curbs and gutters are provided in the Infrastructure Design Specifications approved by the City of Garrett Board of Public Works & Safety. *(Amended June 28, 2005 by Ordinance # 2005-12).*

### § 152.06.10 Sidewalks

- a. The subdivider shall install sidewalks within the plat as follows –
  1. Sidewalks shall be installed on both sides of a street, if the street is located within the Corporate Limits of the City of Garrett.
  2. Sidewalks shall be installed on streets that are proposed to be extensions of streets with existing sidewalks on one or both sides.
  3. Sidewalks are to be installed in front of each lot as dwellings are constructed. All lots within a plat are to have sidewalks installed three (3) years of secondary plat approval. *(Amended October 2, 2001 by Ordinance # 2001-15).*
  4. All sidewalks built in a plat shall be constructed of Portland cement concrete, at least four (4) inches thick, and four (4) feet wide. The edge of a sidewalk next to a property line shall be placed at least one (1) foot from the property line. Guidelines for sidewalk construction are provided in the Infrastructure Design Specifications approved by the City of Garrett Board of Public Works & Safety. *(Amended June 28, 2005 by Ordinance # 2005-12).*

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5. The street grade, for streets where sidewalks are not constructed, shall be completed so that sidewalks may be constructed in the future.
6. **Park Strips** – Park strips shall be located within the public right-of-way, between the curb and the sidewalk, and shall be a minimum six (6) feet in width, measured from back of the relevant curb to the outside edge of the sidewalk. *(Amended 12-3-96 by Ordinance # 96-21).*

**§ 152.06.11 Lighting** *(Amended June 28, 2005 by Ordinance # 2005-12).*

- a. The subdivider shall specify adequate lighting on the plat and install as follows:

The plat shall show streetlights within the public rights-of-way of a number and design, luminosity and height as required by the Garrett Municipal Electric Utility.

Streetlights shall be installed to the connection point by the developer prior to the issuance of the first Improvement Location permit for a dwelling within a plat.

Once installed, the lights shall be dedicated to the City of Garrett. The lights shall then be operated and maintained by the City upon acceptance by the City of Garrett Board of Public Works & Safety.

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**CHAPTER 152.07 COMPLETION, INSPECTION AND  
MAINTENANCE OF IMPROVEMENTS**

**§ 152.07.1 Withholding of a Percentage of Construction Costs  
(Amended 10 -20 -2009 by Ordinance # 2009 -16).**

- a. In order to ensure the proper installation of infrastructure within a subdivision plat, the Commission can require that a developer ensure such installation through one of 2 means, as prescribed by this Chapter.
  1. The Commission may require that the financial institution, from which the developer obtains financing for the plat under consideration, withholds 15% of the estimated construction costs of the infrastructure from the developer in lieu of a performance bond. The Commission shall prescribe, by rule, the proper forms for certifying such withholding.
  2. By posting a performance bond approved by the Board of Works, as prescribed by § 152.07.2.
  3. Funds withheld by either § 152.07.1 or § 152.07.2 cannot be released without the permission of the Garrett Plan Commission.

**§ 152.07.2 Performance Bond  
(Amended 10 -20 -2009 by Ordinance # 2009 -16).**

- a. In lieu of the provisions of § 152.07.1, the applicant shall, upon Commission approval of a primary, and prior to starting construction, post a performance bond securable to the City of Garrett Board of Public Works and Safety in an amount equivalent to one -hundred, twenty -five (125) percent of the estimated cost of completion of the required public improvements. Such bond shall be sufficient to secure to the City of Garrett Board of Public Works and Safety the satisfactory construction and installation of the uncompleted portion of the required public improvements provided by this Ordinance.
- b. A performance bond shall meet the requirements of the Indiana Code, as amended, and shall be satisfactory to the City Attorney as to form, sufficiency and manner of execution.
- c. The Board of Public Works and Safety shall specify the period in which the required public improvements must be completed. Such period shall not exceed two (2) years from the date of secondary plat approval. The Garrett

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Board of Public Works and Safety shall approve the amount of the performance bond.

- d. The Board of Public Works and Safety may, upon proof of difficulty by the developer, grant an extension of one (1) additional year to the date set forth in the bond, if the bond meets all other requirements. The Board of Public Works and Safety may accept, any time during the period of the bond, a substitution of principal or sureties on the bond.

### § 152.07.3 Temporary Public Improvements

- a. The developer shall build and pay for all costs of any temporary public improvements required by the Commission, and shall maintain for the period specified by the Commission. The applicant shall file a separate, suitable bond before construction of any necessary temporary public facility or improvement. Such bond shall insure that said temporary facilities or improvements will be properly constructed, maintained and removed upon project completion.

### § 152.07.4 Cost of Public Improvement

- a. All required public improvements shall be made by the developer at his / her expense without reimbursement by the City of Garrett unless a cost-sharing arrangement is agreed upon by the Garrett Board of Public Works.

### § 152.07.5 Failure to Complete Public Improvements

*(Amended 10 -20 -2009 by Ordinance # 2009 -16).*

- a. **No Performance Bond** – If public improvements for a plat, for which no performance bond has been posted, under the provision of § 152.07.1, are not completed within the period specified by the Commission, such approval shall be deemed invalid.
- b. **Where Bond Has Been Posted** – If a performance bond has been posted, and the required public improvements have not been installed, the Garrett Board of Public Works may declare the bond to be in default and cause all public improvements to be installed, according to secondary plat approval, no matter the extent of the building development at the time the bond is declared to be in default.
- c. **Acceptance of Dedication Offers** – Commission approval of a subdivision plat does not mean that the City of Garrett accepts any street, easement or park shown on the plat. The Commission may require the plat to be

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endorsed with appropriate notes to this effect. The acceptance is of real property only.

**§ 152.07.6 Inspection of Public Improvements**

*(Amended 10 -20 -2009 by Ordinance # 2009 -16).*

- a. If any participating jurisdiction finds, upon inspection, that any of the public improvements have not been constructed according to the approved construction plan, the developer shall be responsible for completing public improvements according to such plans. Where the cost of the public improvements is covered by a performance bond, the applicant, and the bonding company, shall be severally and jointly liable for completing the public improvements according to specifications.
- b. Inspections of the installation of infrastructure within a plat shall be documented by completing the “Testing / Documentation Requirements for New Infrastructure” form provided by the Garrett Planning Department. Inspections and testing shall be conducted according to the requirements of this form. A City -authorized inspector shall be present when infrastructure is tested. The City of Garrett Board of Public Works and Safety will not accept infrastructure proposed for dedication to the City of Garrett, nor release any relevant bonds or other withholding requirements designated by this Ordinance, until said form is properly completed *(Amended by Ordinance #98 -19, September 1, 1998)*.
- c. The City shall authorize a contracted engineer to inspect the installation and testing of infrastructure within a subdivision plat, as follows:
  1. The developer, or his authorized contractor, shall notify the City when installation is complete and testing is to commence. The developer shall pay for the cost of the inspections according to a payment fee approved by the Garrett Plan Commission. *(Amended by Ordinance #98 -19, September 1, 1998)*.
  2. The engineer contracted by the developer shall first certify that the subdivision infrastructure has been installed according to the plans approved by the Plan Commission.
  3. The engineer contracted by the City shall have liability insurance.

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**§ 152.07.7 Release or Reduction of Performance Bond**  
*(Amended 10 -20 -2009 by Ordinance # 2009 -16).*

- a. **Certificate of Satisfactory Completion** – The City of Garrett shall not accept any required public improvements, nor shall the Commission release or reduce a performance bond, until the authorized contracted engineer has submitted a certificate stating that all required public improvements, or a pro rata part a reduction, have been satisfactorily completed. The applicant's engineer or surveyor shall provide the City of Garrett with detailed "as built" construction plans of the public improvements showing location, dimensions, materials and such other information as required by the Commission. Upon such certification, the City of Garrett shall accept the public improvements for maintenance, provided that the requirements of this Ordinance have been met, particularly:
1. § 152.05.7 –Reservation development of public uses / recreation spaces.
  2. § 152.06.3 – Streets to be top-coated within one (1) year of secondary plat approval.
  3. § 152.06.4 – Provision of sanitary sewer system “as-builts” by developer.
  4. § 152.06.7(c) – Provision of water system “as-builts” by developer.
  5. § 152.06.10 – Sidewalks to be installed in front of each lot within three (3) years of secondary plat approval.
  6. § 152.06.6 – Complies with Drainage Plan specified in approved Plat.
- b. **Reduction of Performance Bond** – A performance bond shall be reduced upon actual acceptance of public improvements and then only by the amount originally estimated for the completion of the public improvements.

**§ 152.07.8 Maintenance of Public Improvements / Issuance of Permits**  
*(Amended 10 -20 -2009 by Ordinance # 2009 -16).*

- a. **General Requirements** – The developer shall be required to maintain all public improvements on the individual subdivided lots and, if required, provide for snow removal and traffic control on streets and sidewalks until acceptance of said improvements by the City of Garrett.

The City of Garrett will not issue Improvement Location Permits for individual lots within a subdivision plat until the developer's engineer certifies that the plat has been graded according to the drainage plan specified within the approved plat.

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- b. **Posting of Maintenance Bond** – The developer shall file a maintenance bond with the Commission, before acceptance, in an amount not to exceed ten (10) percent of the cost of all public improvements, and in a form satisfactory to the City Attorney, to assure the satisfactory condition of the required public improvements, for three (3) years after the date of their acceptance by the City of Garrett.

**§ 152.07.9 Deferral or Waiver of Improvements**

- a. **General Conditions** – The Commission may defer or waive, at the time of final approval, subject to appropriate conditions, the provisions of any or all such improvements as, in its judgment, are not requisite in the interest of public health, safety and general welfare, or are inappropriate because of inadequate facilities.
- b. **Assurance for Future Completion** – The Plan Commission may defer construction of any improvement required herein because of incompatible grades, inadequate facilities, or for other reasons. The applicant shall pay his share of the costs of the future improvements to the City of Garrett before signing the final subdivision plat, or the applicant may post a bond ensuring completion of the improvements upon demand of the City of Garrett.

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**CHAPTER 152.09 VARIANCE**

**§ 152.09.1 Variance**

- a. Variance requests submitted by a developer regarding building setbacks, lot sizes, minimum square footage per dwelling, and other zoning-related matters governed by the City of Garrett Zoning Regulations, shall be referred to, and considered by, the Garrett Board of Zoning Appeals in a public hearing per the I.C. 36-7-4-900 Series.
- b. Where the developer can show that a provision of this Ordinance would cause unnecessary hardship if strictly followed, and where, in the opinion of the Garrett BZA, because of topographical or other conditions specific to the proposed subdivision site, a departure from the zoning regulations may be made without destroying the intent of the regulations, the BZA may grant a variance.
- c. The Commission may grant preliminary or secondary plat approval with the condition that the developer applies for, and receives, a variance from the BZA. Any variance granted by the BZA shall be entered in writing in the BZA minutes and forwarded to the Commission. The Zoning Administrator shall not issue an Improvement Location Permit, nor shall any other permits be issued by the City of Garrett before the BZA grants a variance. This conditional approval also applies to plats that must be rezoned to an appropriate residential zoning classification.
- d. If a parcel of land proposed for platting is not zoned for residential development, the developer must apply for, and receive, a use variance from the Garrett BZA; or petition to amend the City of Garrett Zoning Map to rezone the parcel to an appropriate residential zoning designation. A petition to amend the zoning map must be considered in a public hearing held by the Plan Commission. If the Commission gives a favorable recommendation for the amendment, the Council must approve the amendment and adopt an ordinance amending the zoning map before the Commission President and Secretary sign the plat and relevant permits are issued.

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**CHAPTER 152.10 AMENDMENT AND ADOPTION**

**§ 152.10.1 Amendments**

- a. All amendments to this Ordinance shall conform with the Indiana Code 36-7-4-700 Series, as amended.

**§ 152.10.2 Adoption**

- a. This Ordinance shall take effect after passage and approval by the Common Council of the City of Garrett, Indiana.