

FOUNTAIN COUNTY ZONING ORDINANCE
ARTICLE __: SUBDIVISION CONTROL

SECTION __.01 PURPOSE

These Subdivision Regulations are adopted to promote the public health, safety, and general welfare of Fountain County by ensuring the orderly development of land, the adequate provision of public facilities, and the preservation of rural character, while exempting immediate family transfers from most regulatory burdens except basic health and safety requirements.

SECTION __.02 DEFINITIONS

A. Subdivision – The division of a tract or parcel of land into two (2) or more lots, tracts, or parcels for the purpose of transfer of ownership or building development, whether immediate or future.

B. Immediate Family Subdivision – A subdivision where all resulting lots are conveyed to persons related to the owner by blood, marriage, or legal adoption within the first degree of consanguinity (parent, child, spouse) or second degree (grandparent, grandchild, sibling).

C. Commercial Subdivision – Any subdivision that is not an Immediate Family Subdivision and that involves:

1. The purchase or acquisition of a parent tract by a person or entity (other than the original owner's immediate family) with the intent of dividing the tract into smaller portions for the purpose of constructing and selling or leasing residential dwellings; or
2. The division of a parent tract into three (3) or more lots within any five-year period, unless all lots are conveyed exclusively to immediate family members.

Evidence of commercial intent includes, but is not limited to, marketing materials, financing arrangements, development agreements, or recorded plats referencing multiple residential building sites for sale.

D. Advisory Planning Commission (APC) – The Fountain County Advisory Planning Commission or its designee.

E. Board of Zoning Appeals (BZA) – The Fountain County Board of Zoning Appeals.

SECTION __.03 EXEMPTIONS FOR IMMEDIATE FAMILY SUBDIVISIONS

A. Immediate Family Subdivisions are exempt from all requirements of this Article except:

1. Compliance with applicable building setbacks established in the Fountain County Zoning Ordinance;
2. Floodplain development permits required by the State of Indiana; and
3. On-site sewage system (septic) permits issued by the Fountain County Health Department.

B. To qualify for the exemption, the grantor shall file an affidavit with the Fountain County Recorder at the time of recording the deed(s) attesting that the grantee(s) meet the definition of Immediate Family and that no commercial subdivision is intended. False statements in the

affidavit shall void the exemption and subject the parties to full compliance with these regulations, plus applicable penalties.

SECTION __.04 MINIMUM LOT SIZE

No lot created by subdivision (whether exempt or non-exempt) shall be less than three (3) acres in area, exclusive of road right-of-way, unless a variance is granted by the Board of Zoning Appeals.

SECTION __.05 COMMERCIAL SUBDIVISION AS SPECIAL USE

A. A Commercial Subdivision constitutes a **Special Use** in all zoning districts where residential development is permitted and shall require Special Use approval from the Board of Zoning Appeals (BZA) prior to any plat recording or lot conveyance.

B. The Special Use application for a Commercial Subdivision shall be filed concurrently with the subdivision application to the APC.

SECTION __.06 COMMERCIAL SUBDIVISION PROCEDURE

A. Trigger – Any proposed Commercial Subdivision shall require:

1. Special Use approval by the BZA; and
2. Subdivision approval by the APC.

B. Pre-Application Conference – The owner and/or developer shall schedule a pre-application conference with APC staff to determine applicability of these regulations and to outline submittal requirements.

C. Initial Public Meeting (Pre-BZA) –

1. Prior to the BZA Special Use hearing, the APC shall hold a **public meeting** with the owner and/or developer (or their authorized representative) present.

2. This public meeting shall be scheduled and held **at least twenty (20) business days** prior to the scheduled BZA Special Use hearing.

3. Public Notification for Initial Public Meeting:

a. Notice shall be published in a newspaper of general circulation in Fountain County at least fifteen (15) days prior to the meeting.

b. Written notice shall be mailed via first-class mail at least fifteen (15) days prior to the meeting to all owners of real property (per the most recent tax rolls) located within one (1) mile of the exterior boundary of the subject property.

c. The owner and/or developer shall bear all costs of publication and mailing. Proof of mailing (certified mail receipts or affidavit of mailing) shall be submitted to the APC at least five (5) days prior to the meeting.

D. BZA Special Use Hearing – Following the initial public meeting, the BZA shall conduct a public hearing on the Special Use application in accordance with its rules of procedure and Indiana Code.

E. Final APC Public Hearing and Decision –

1. Only after BZA approval of the Special Use shall the APC hold a second public hearing to consider the Commercial Subdivision application and render a final decision.
2. Public Notification for Final APC Hearing: Same requirements as subsection (C)(3) above shall apply.
3. The APC may approve, approve with conditions, or deny the subdivision based on the review criteria in subsection (G) below and consistency with the approved Special Use.

F. Cost Responsibility – The owner and/or developer shall reimburse Fountain County for all direct costs associated with both the APC and BZA review processes, including but not limited to staff time, legal counsel fees, engineering review, recording fees, and any third-party consultant expenses. Separate cost escrow deposits shall be required at the time of application to the APC and BZA, in amounts set by each body.

G. Review Criteria – In addition to BZA Special Use standards, the APC shall evaluate the proposed Commercial Subdivision for:

1. Minimum lot size (Section __.04);
2. Road access and traffic impacts;
3. Availability of utilities and drainage;
4. Environmental constraints (wetlands, steep slopes, prime farmland);
5. Compatibility with surrounding land uses; and
6. Conformance with the Fountain County Comprehensive Plan.

H. Decision and Validity –

1. APC approval shall be valid for two (2) years from the date of final approval, after which a new application is required.
2. No plat shall be recorded, and no building permits issued, until both BZA Special Use approval and APC subdivision approval are granted and all conditions satisfied.

SECTION __.07 PLAT REQUIREMENTS

Approved Commercial Subdivisions shall submit a final plat meeting all requirements of the Indiana Code and Fountain County Subdivision Control Ordinance prior to recording. The plat shall reference both the BZA Special Use approval and APC subdivision approval.

SECTION __.08 ENFORCEMENT AND PENALTIES

Violation of this Article shall be subject to the enforcement provisions and penalties set forth in Article __ of the Fountain County Zoning Ordinance, including stop-work orders, fines, and injunctions.

SECTION __.09 SEVERABILITY

If any provision of this Article is held invalid, the remainder shall continue in full force and effect.

Adopted by the Fountain County Commissioners this ____ day of _____, 2025.