

ORDINANCE NO. 2025 - 01

AN ORDINANCE OF THE CITY OF TIPTON PROVIDING THAT THE TEXT OF THE SUBDIVISION CONTROL ORDINANCE BE AMENDED

WHEREAS, IC 36-7-4-701(b) provides that the Subdivision Control Ordinance may be amended; and

WHEREAS, the City of Tipton Plan Commission did initiate a process to consider amendments to the Subdivision Control Ordinance as it pertains to the dividing of land, and

WHEREAS, the Plan Commission did in considering the proposal pay reasonable regard to the comprehensive plan, current conditions and character of structures and uses in each district, the most desirable use for which the land in each district is adapted, the conservation of property values throughout the jurisdiction and responsible development and growth, and

WHEREAS, the Plan Commission did hold a public hearing on the matter on January 16, 2025, and

WHEREAS, the Plan Commission did certify to the Common Council of the City of Tipton on January 17, 2025, its favorable recommendation on the amendment proposal.

NOW THEREFORE, BE IT ORDAINED by the Common Council of the City of Tipton, Indiana that:

SECTION 1. The City of Tipton Subdivision Control Ordinance is amended as follows:

SECTION 1. Attachment A of this Ordinance makes additions and changes to the text of the City of Tipton Subdivision Control Ordinance.

SECTION 2. Attachment B of this Ordinance makes changes to the use table in Article 3 of the City of Tipton Zoning Ordinance.

SECTION 3. The Common Council now finds that the above text amendment is consistent with the comprehensive plan, current conditions and character of structures and uses in each district, the most desirable use for which the land in each district is adapted, the conservation of property values throughout the jurisdiction and responsible development and growth.

SECTION 4. This Amendment to the Ordinance shall be in full force and effective upon passage by the Common Council of the City of Tipton and its publications as provided by law.

Passed on the 10 day of FEBRUARY 2025 on the first reading; and

Adopted this 24 day of FEBRUARY 2025 on the second and final reading.

Nathan Kring, Council President

Richard Rippy, Councilman



Ken Ehman, Councilman



Richard Vautaw, Councilman



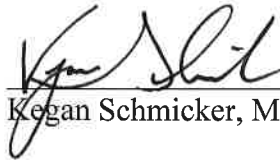
Timothy Richards, Councilman

Presented by me, Tamera L. Clark to the Mayor of the City of Tipton, on the 24 day of
FEBRUARY, 2025 at the hour of 5:46 P.M.



Tamera L. Clark, Clerk-Treasurer

This ordinance is hereby APPROVED by me, Kegan Schmicker, on the 24 day of
FEBRUARY, 2025 at the hour of 5:46 P.M.



Kegan Schmicker, Mayor

Attest:



Tamera L. Clark, Clerk-Treasurer

Prepared by Judith Coker, Tipton Plan Department Executive Director
Reviewed by Matthew B. Quigley, Attorney for the City of Tipton

Attachment A

City of Tipton

Subdivision Control Ordinance

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CITY OF TIPTON

SUBDIVISION CONTROL ORDINANCE

Section 1. Establishment of Control

- 1.1 TITLE: This ordinance may be cited as the City of Tipton Subdivision Control Ordinance.
- 1.2 ENACTMENT: This ordinance is enacted by the City of Tipton Common Council pursuant to the authority granted in I.C. 36-7-4 et seq, and other state statutes, as amended.
- 1.3 ADMINISTRATION: Authority for the administration of these regulations shall be vested in the City of Tipton Plan Commission and its designated officials. No plat or replat of a subdivision of land located within the jurisdiction of the commission shall be filed with the auditor or recorder by the Recorder of Tipton County until it shall have been approved by the commission, and such approval shall have entered in the writing on the plat by the president and secretary of the commission.
- 1.4 DEFINED WORDS: The meaning of certain specific words and terms used in this Subdivision Control Ordinance are as defined in the City of Tipton Zoning Ordinance, ARTICLE TWO, DEFINITIONS.

Section 2. Objectives and Responsibilities of Subdivision Regulation

- 2.1 The regulation of land subdivision and certain other divisions of land is widely recognized as a proper and legitimate method of ensuring sound community growth and of safeguarding the existing and future interests of homeowners, the subdivider, owners of land which has been divided, and the local government. The citizens of the city need the assurance that residential subdivisions and other permitted divisions of land will provide permanent assets to the community which are consistent with sound planning and development practices. This article should be viewed not as an end in itself, but as a tool or technique for shaping of urban land according to the comprehensive zoning development plan of the community.
- 2.2 The planning of the subdivision is the joint responsibility of the subdivider and the plan commission, the former having the prime responsibility for the creation of desirable, stable neighborhoods that become an integral part of the entire city. Subdivision design and utility can enhance or depreciate the character and potentialities of the surrounding areas and stabilize or endanger the individual's investment in a home.
- 2.3 The plan commission has the responsibility of helping the subdivider in the planning of their subdivision, and of informing all subdividers of the minimum standards and requirements on which the city will insist.

Section 3. Application

- 3.1 Any division or subdivision of land not listed under the limited requirement exceptions of Section 5 is subject to the Subdivision Control Regulations. Land may be subdivided in any zoning district, provided that all applicable requirements of the zoning district and other City ordinances are complied with and met. The division or subdivision of land must conform to the applicable regulations in this Subdivision Control Ordinance, all applicable City ordinances, and the standards of the zoning district in which it is proposed.
- 3.2 Classification of Land Divisions: All land to be divided shall be categorized into one (1) of two (2) classes of land division or subdivision, as indicated or defined in this ordinance. These classes are:
 - 3.2.1 subdivisions, and,
 - 3.2.2 limited requirement divisions.
- 3.3 Before any Improvement Location Permit shall be granted for any site or location on land to be subdivided into a subdivision, or to be divided under a limited requirement division, the original owner or subdivider, or the owner's subdivision agent, shall apply for and secure approval for the proposed division or subdivision of the entire parcel (prior to any division thereof) in accordance with the Subdivision Control Ordinance.
- 3.4 VIOLATION & PENALTIES:
 - 3.4.1 Any division or subdivision of land made, performed or completed in violation of this ordinance is hereby declared to be a common nuisance, subject to abatement, injunction or declaratory relief. Any person who violates or fails to comply with any provisions of this ordinance shall be guilty of an ordinance violation and shall be subject to a fine of not less than Three Hundred Dollars (\$300) and not more than the maximum penalty allowed per day, per violation, by Indiana law (I.C. 36-1-3-8(a)(10)(B)), as amended.
 - 3.4.2 No owner or agent of the owner of any parcel of the land located in a proposed division or subdivision of land shall transfer, sell, or convey any part of the parcel before the division of land or the final subdivision plat, whichever applies, has been approved by the Plan Commission, or its designated official, in accordance with the provisions of this ordinance.
 - 3.4.3 The owner of any parcel of land which is divided or subdivided in violation of this ordinance, and any other person who knowingly participates in, assists in, or acts to substantially enable such violation, may each be found guilty of a separate offense and each may suffer the penalties prescribed for violating this ordinance.

Section 4. Multiple Subdividing

- 4.1 Any parcel of land which has been divided more than once within 5 years (as measured from the date of recording with the County Recorder of the first subdivision) and for which a second subdivision is proposed must in its application include a plat of the entire parcel showing all past and proposed subdivisions. If approval is granted by the Commission for the consolidated subdivision plat, the prior subdivisions are to be amended to conform to the new subdivision plat.

Section 5. Exceptions

- 5.1 The following divisions of land are subject to certain limited requirements; however, they are not subject to many other provisions of the subdivision control regulations. Limited requirement divisions are subject to the applicable requirements set forth in: Section 9, items 9.7 (information to be shown on plat drawing) and 9.8 (monuments & markers); Section 12, items A, B, D, F & H (lot requirements); and, Section 15 (setbacks). Limited requirement divisions are intended to be largely unaffected by the development standards and requirements of Sections 6, 7, 8, 9, 10, 11, 13 and 14 of this ordinance. Limited requirement divisions are subject to all other applicable laws, ordinances and regulations.
- 5.2 The division of a single parcel of land, currently used for agricultural (as defined) purposes, into two or more parcels each containing at least 10 acres, provided that, the existing use is for agriculture, with no dwellings, and all parcels shall continue as an agricultural use, with no dwellings. Each resulting parcel shall have direct access onto an existing public street with a minimum of forty (40) feet frontage, or shall be provided such street access through a permanent, recorded access easement which at least forty (40) feet wide, and no new public way is contemplated.
- 5.3 A division of land resulting in two (2) or more parcels of which all individual parcels (including the remaining portion of the original parcel divided) are at least ten (10) acres in size. If the original parcel contains an Existing Single-Family Dwelling, the parcel or lot on which said dwelling is located may be less than ten (10) acres, but not less than one (1) acre in size. All remaining parcels or lots are subject to all rules and requirements of the Subdivision Control Ordinance.
- 5.4 The division of land for purposes of transfer between adjoining landowners in order to: correct errors in an existing legal description; correct survey errors; resolve a boundary line dispute, adverse possession claim or prescriptive easement claim; or to establish a new boundary line between adjoining parcels. Such transfers shall be permitted only between adjoining landowners and all parcels so transferred shall thereafter be used, considered and treated for all purposes as being combined into and made an undivided portion of the adjoining parcel. Accordingly, the parcel so transferred shall not constitute a separate lot nor be separately used as a new principal building site. Where there are existing improvements on any parcel affected by the division, all appropriate minimum setback requirements must be maintained and preserved.

- 5.5 A change or correction in lot lines of a recorded plat which does not increase the density of the recorded development, increase the number of lots, or create non-conforming lots.
- 5.6 An allocation or determination of legal ownership interests by court order or decree, without any actual physical division of the parcel of land, and in which the original legal description or size of the parcel remains unchanged.
- 5.7 A division of land for federal, state or local government to acquire any right-of-way or easement.
- 5.8 A proposed condominium development which is subject to the Indiana Horizontal Property Law as described under IC 32-1-6 (1997).
- 5.9 *Variance.* The Commission in considering and approving a subdivision plat is without the power to vary the development standards of the district, as set forth in the Zoning Ordinance.
- 5.10 If the plat does not conform to the developmental standards of the district in which it is located, it must be denied. A variance to those developmental standards (height, bulk, area) which are established by the Zoning Ordinance and not contained only in the Subdivision Control Ordinance, may only be granted by the Board of Zoning Appeals. If such a developmental standard variance has been granted by the BZA, the Commission shall consider such variance as part of the process of evaluating the various factors in determining whether to grant approval of the subdivision primary or secondary plat.
- 5.11 The Plan Commission may authorize a variance from the terms which are contained solely in this Subdivision Control Ordinance, only if:
 - 1.1. The grant of the variance will not be injurious to the public health, safety, morals and general welfare of the community; AND
 - 1.2. The use or value of the area adjacent to the property included in the proposed plat will not be affected in a substantially adverse manner; AND
 - 1.3. The need for the variance arises from some condition peculiar to the property and such condition is not due to the general conditions of the neighborhood; AND
 - 1.4. The strict application of the terms of the ordinance will constitute an unusual and unnecessary hardship if applied to the property for which the variance is sought (financial hardship alone does not constitute unusual or unnecessary hardship); AND
 - 1.5. The grant of the variance does not interfere substantially with the comprehensive plan.

