

# Chapter 9: Permits, Certificates, and Procedures

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# 9 9.1 Permit and Application Types

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## **9.1 PERMIT AND APPLICATION TYPES**

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- A. PERMIT AND CERTIFICATE APPLICATIONS REQUIRED. Lebanon requires that an application and fee be submitted for the following types of permits and certificates:
1. Grading / Land Disturbance Permit
  2. Improvement Location Permit
    - a. A building permit may also be required in addition to Improvement Location Permits in order to meet the Lebanon Building Code. Building Permits will not be issued until an Improvement Location Permit has been acquired, meeting all requirements outlined in this section. Building Permits are issued by the Lebanon Planning Department.
  3. Permit for Industrial Use
  4. Conditional Use Permit
  5. Sign Permit
  6. Fence Permit
  7. Home Occupation Permit
  8. Demolition Permit
  9. Temporary Vendor Permit
  10. Certificate of Occupancy
  11. Certificate of Compliance with Safety Codes
- B. PETITION APPLICATIONS REQUIRED. Lebanon requires that an application and fee be submitted for the following types of petitions:
1. Zoning Map Amendment (“Rezoning”)
  2. Development Standards Variance,
  2. Conditional Use,
  3. Administrative Appeal,
  4. Subdivision Control Waiver, and
  5. Planned Unit Development (subject to the requirements of [Chapter 5: Planned Unit Development](#)).
- C. APPLICATION MATERIALS. All applications may be obtained from the Planning and Building Department Offices. Fees shall be paid to the City of Lebanon at the time all petition applications are submitted and at the

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time all permits are issued.

1. Application Forms. All applications shall be made on forms provided by the Planning and Building Department. All applicants shall submit original applications that are completed in their entirety in ink or typed.
2. Copies of Materials. All applicants shall submit copies of applications and necessary plans and attachments as required by the adopted policies of the Planning and Zoning Administrator and the applicable Rules and Procedures of the Plan Commission and Board of Zoning Appeals.
3. Scheduling. All applications shall be assigned reference and/or docket numbers by the Administrator.
  - a. Petition Applications. Petition applications shall be scheduled by the Administrator or his/her designee for the appropriate public hearings based on the completeness of the application consistent with the requirements of this Article and the appropriate adopted Calendars of Filing and Meeting Dates for the Board of Zoning Appeals and/or Plan Commission.
  - b. Order of Action Taken. Action shall be taken on all applications in the order in which they were received.

### **9.2 GRADING/LAND DISTURBANCE PERMIT**

- A. INTENT. To eliminate any non-allowable discharges to the Lebanon Municipal Utility System that may impact water quality, and to ensure compliance with Technical Assistance Committee Review and Plan Commission approval.
- B. REQUIRED. Any development that disturbs more than one (1) acre of land is required to obtain a Grading/Land Disturbance Permit.
- C. EXEMPTIONS. No site development permit is required for the following activities:
  1. Any emergency activity that is immediately necessary for the protection of life, property or natural resources.
  2. Agricultural land management activities (except where the clearing of the land, forest or other agriculture activity results in activities other than further agriculture or forest use).
  3. Additions or modifications to existing detached single-family dwellings.
  4. Developments that do not disturb more than one acre of land use.

# 9 9.2 Grading/Land Disturbance Permit

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This exemption may not be applied for contiguous properties that may have been subdivided and/or are attributed to multiple separate owners. This exemption does not apply to any discharge of sediment or other form of water pollution that may leave a small site.

## **9.3 IMPROVEMENT LOCATION PERMIT**

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See Also:

City of Lebanon  
Building Code

### A. REQUIRED

1. Within the Jurisdiction of the Lebanon City Plan Commission, no structure, improvement, or use of land may be altered, changed, placed, removed, erected, or located on platted or unplatted lands unless the structure, improvement, or use, and its location conform to this ordinance and an Improvement Location Permit for such structure, improvement, or use has been obtained from the Administrator by the owner of the property or his agent.
2. The Administrator shall only issue an improvement location permit when the proposed structure, improvement, or use, and its location have met all the applicable requirements of this ordinance and other relevant City Ordinances.
3. An Improvement Location Permit must be obtained for any of the actions listed below. A single Improvement Location Permit may be issued for a combination of these actions, if they occur together. The Administrator shall determine if the application requires review by the Technical Assistance Committee.
  - a. New development, after rezoning or plat approval
  - b. Adding or subtracting dwelling units or leased space in multifamily or commercial structures
  - c. Any use that exceeds one hundred twenty (120) square feet in area and/or has a permanent foundation (including structures other than buildings such as towers and antennas)
  - d. Any temporary use of land or temporary structure
  - e. Swimming pools with a depth greater than thirty (30) inches (in-ground pools shall be required to obtain a permit, above ground pools less than fifteen (15) feet in diameter shall not be required to obtain a permit, but shall comply with this ordinance)
  - f. Additions to all structures
  - g. Changes of use
  - h. Conditional uses (See [Section 9.5 Conditional Use Permit](#))

## 9.3 Improvement Location Permit 9

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- i. Placement or replacement of manufactured or mobile homes
- j. Parking lot construction or alteration
- k. Removal of required trees and plants within buffer yards and landscaping areas required by this ordinance
- l. Mineral extraction
- m. Telecommunication towers, buildings, and antenna
- n. Any exterior construction that adds to or alters the height of an existing structure

B. EXEMPTIONS. No Improvement Location Permit shall be required for the types of improvements listed below. However, any such improvement shall comply with any applicable requirements of this ordinance and any other adopted standards of the City of Lebanon.

- 1. Routine maintenance, repair, or interior non-structural remodeling of existing buildings not involving any change of use, additional lot coverage, or increase in structure size.
- 2. Essential services (public utilities, etc.), as defined in [Chapter 11: Definitions](#).
- 3. Lot and yard improvements such as fences, drives, sidewalks, patios, decks, retaining walls, play equipment, gazebos less than two hundred (200) square feet in area, above ground pools less than thirty (30) inches in depth and fifteen (15) feet in diameter, and landscaping.
- 4. Signs as specified in sign exemptions, [Subsection 7.7\(C\)](#).
- 5. Mini-barns and storage containers that are portable and less than two hundred (200) square feet or less in area.

C. COMPLETION TIME

- 1. An Improvement Location Permit shall lapse and become null and void if the work or use authorized by said permit is not commenced within six (6) months of the date that the permit was issued. All work authorized by the permit shall be completed within twenty-four (24) months from the date that the permit was issued.
- 2. At the discretion of the Administrator and with good cause shown, the Administrator may extend the work completion time.
- 3. Conditional Uses receiving Improvement Location Permits are exempt from these requirements. For limits on Conditional Uses, see [Section 9.5 Conditional Use Permit](#).

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## 9.3 Improvement Location Permit

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- D. SEWAGE DISPOSAL. An application for an Improvement Location Permit for any Use shall not be approved until it has been ascertained by the Administrator that the proposed use and minimum lot size and width meets the minimum standards for a sewage disposal system as required by the Boone County Health Department and the Lebanon Board of Works and Safety and as otherwise required by this ordinance.
- E. CONSTRUCTION ACCORDING TO PERMITS AND PERMIT APPLICATION. Improvement Location Permits issued on the basis of plans and applications only authorize the use, arrangement, and construction set forth in such approved plans and applications. Current approved plans and the permit shall remain on the construction site. Any other use, arrangement, or construction not authorized shall be deemed a violation of this ordinance and subject to the provisions of [Chapter 10: Enforcement and Penalties](#).
- F. SPECIAL FLOOD HAZARD AREAS (SFHA)

See Also:

City of Lebanon  
Ordinance on Flood  
Hazards (97-1)

- 1. Applications for improvement location permits in the SFHA shall meet all the specifications set forth in City Ordinance 97-1 "Ordinance on Flood Hazards", as amended.
  - a. Upon submittal of an application for an improvement location permit, the Administrator shall determine if the property is located within a floodway, floodway fringe, or within a floodplain where the limits of the floodway and floodway fringe have not yet been determined (Zone "A").
  - b. If the property is found to be located in a floodway, the applicant shall forward the improvement location permit application and pertinent plans and specifications to the Indiana Department of Natural Resources (IDNR) for a permit for construction in a floodway according to I.C. 14-28-1. Upon receipt of such a permit from IDNR, the Administrator may issue an improvement location permit, provided however, that such improvement location permit may not be less restrictive than the permit issued by IDNR.
  - c. If the property is found to be in the floodway fringe, the applicant must meet all of the provisions set forth in Sections 7 and 8 of Ordinance 97-1, as amended. Once the Administrator is satisfied that such requirements have been met, he may issue an improvement location permit according to the provisions of City Ordinance 97-1, as amended.
  - d. If the property is located in a floodplain where the limits of the floodway and floodway fringe have not yet been determined (Zone "A"), and the drainage area upstream is greater than one square mile, the applicant shall forward the improvement location permit

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application and pertinent plans and specifications to the Indiana Department of Natural Resources (IDNR).

Upon either the receipt of a permit for construction in the floodway from IDNR or a letter of recommendation from IDNR citing the 100-year flood elevation and the recommended Flood Protection Grade, the Administrator may issue an improvement location permit, provided however, that such improvement location permit may not be less restrictive than the conditions issued by IDNR, and provided that the provisions of Sections 7 and 8 of City Ordinance 97-1, as amended, have been met.

- e. If the property is located in a floodplain where the limits of the floodway and floodway fringe have not yet been determined (Zone "A"), and the drainage area upstream is less than one square mile, the Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodway, floodway fringe and 100-year flood elevation for the site.

Upon receipt, the Administrator may issue the Improvement Location Permit, provided that the provisions of Sections 7 and 8 of City Ordinance 97-1, as amended, have been met.

### **9.4 PERMIT FOR INDUSTRIAL USE**

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- A. APPLICATION. An application for an Improvement Location Permit for an Industrial Use, subject to the provisions of [Section 9.3 Improvement Location Permit](#) shall be required in addition to Development Plan review.
  1. The Administrator may take ten (10) days in which to study the application, during which time he may consult with appropriate technical consultants. If after the ten (10) day period, the Administrator has not required any additional information or stated any objection in writing, the Administrator shall issue the Improvement Location Permit.
  2. The application may be approved with modifications if the Board of Zoning Appeals determines that the required determination in writing may be made only if certain conditions are applied to the application. The Board may make reasonable conditions related to the required determination in writing, part of its approval and/or accept written commitments from the applicant.

### **9.5 CONDITIONAL USE PERMIT**

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- A. GENERAL PROVISIONS. In no case shall conditional uses be authorized without the approval of the Board of Zoning Appeals (BZA). Further, no

# 9 9.5 Conditional Use Permit

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decisions on previous applications shall serve to set a precedent for any other application before the BZA.

## B. PROCEDURES

1. Application (General). The applicant shall submit a conditional use application, affidavit and consent of property owner (if the owner is someone other than the applicant), a copy of the deed for the property involved, the required filing fee, and required supporting information. Other supporting information shall include, but not be limited to, the following:
  - a. Site Plan. A site plan shall be signed and dated, and clearly show the entire layout of the property and all features relevant to the conditional use request.
  - b. Statement of Intent. A statement of intent to the Board of Zoning Appeals describing the details of the conditional use request including, but not limited to:
    - 1) The ways in which the conditional use shall comply with the applicable development standards of this ordinance,
    - 2) The ways in which the conditional use shall be consistent with the required determination in writing, and
    - 3) Any written commitments being made by the applicant.
2. Application (Light and Heavy Manufacturing). An application for a Conditional Use for all new Light and Heavy Manufacturing Uses shall be filed with the City of Lebanon Planning and Building Department by at least one (1) owner or agent of the owner of the property for which such Conditional Use is proposed. At a minimum, the application shall contain the following information
  - a. Name, address, and phone number of applicant;
  - b. Letter of authorization from owner of property if the applicant is not owner;
  - c. Legal description of the property;
  - d. Description of Existing Use;
  - e. Zoning district;
  - f. Description of proposed Conditional Use
  - g. A plan of the proposed site for the conditional use showing the location of all buildings, parking and loading areas, utilities, signs, yards, and such other information as the Board may require to



determine if the proposed Conditional Use meets the intent and requirements of this Ordinance.

See Also:

Sign exemptions,  
[Subsection 7.7\(C\)](#)

- h. A narrative statement evaluating the effects on adjoining property, the effect of such elements as noise, glare, odor, fumes, and vibration on adjoining property; a discussion of the general compatibility with adjacent and other properties in the district; and the relationship of the proposed use to the comprehensive plan.
- i. Such other information as may be required by the Board of Zoning Appeals; and
- j. A fee as established by the Ordinance.

- 3. Notification. Notification for the scheduled public hearing regarding the conditional use request shall be completed consistent with [Section 9.15 Notice of Public Hearing](#) and the Rules and Procedures of the Board of Zoning Appeals.
- 4. Public Hearing. The BZA will then, in a public hearing scheduled consistent with the adopted Calendar of Filing and Meeting Dates, review the conditional use application and required supporting information.
  - a. Representation, testimony, procedures, and decisions shall be as stated in the BZA Rules of Procedure, as amended.

### C. GENERAL STANDARDS APPLICABLE TO ALL CONDITIONAL USES

- 1. General. In addition to the special requirements for permitted Conditional Uses as specified in Chapter 9, the Board of Zoning Appeals shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence showing that the use at the proposed location:
  - a. Is in fact a permitted Conditional Use as listed in each use district and appears in the Chapter 4 Use Matrix for the zoning involved;
  - b. Will be harmonious with and in accordance with the general objectives, or with any specific objective of the City's Comprehensive Plan and Unified Development Ordinance;
  - c. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;

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## 9.6 Sign Permit

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- d. Will not be hazardous or disturbing to existing or future neighboring uses;
- e. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;
- f. Will not create excessive additional requirements at public costs for public facilities and services and will not be detrimental to the economic welfare of the community;
- g. Will not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.
- h. Will have vehicular approaches to the property, which shall be so designed as not to create an interface with traffic on surrounding public thoroughfares; and
- i. Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.

### **9.6 SIGN PERMIT**

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- A. **APPLICABILITY.** The following procedure applies to Sign Permits. Refer to [Section 7.7 Sign Regulations](#) for standards for permanent and temporary signs.
- B. **EXEMPTIONS.** No sign shall be constructed, replaced, erected, or modified within the City limits of Lebanon without first obtaining a sign permit, provided, however, that the following shall be exempt from permitting requirements:
  - 1. Ordinary maintenance and repair to existing signs, provided that such work does not affect the structure to a degree greater than fifty percent (50%) of the current replacement cost, exclusive of the structural support of the sign.
  - 2. Change of copy on signs listing current or future programs and events taking place on the premises.
  - 3. Seasonal decorations and displays, provided they conform to the provisions of [Section 7.7 Sign Regulations](#).

4. Real estate signs, provided they conform to the provisions of [Section 7.7 Sign Regulations](#).
  5. Street signs erected by a subdivider or by the municipality for the purpose of street identification.
  6. Public information signs installed by the City or other governmental agency.
  7. Rotation, repainting, and posting of copy.
- C. APPLICATION. Application for sign permits shall be made through the Administrator and shall include a site plan that includes the following information:
1. Clear and legible drawings with descriptions showing the location of the sign that is the subject of the permit, as well as the location of the building, structure or land on which the sign is to be located.
  2. An indication of all existing and anticipated signs on the same property and for the same business use.
  3. The proposed location of the sign in relation to the face of the building or the lot lines of the property on which it is to be located (including the locations of easements), whichever is applicable.
  4. The dimensions of the sign, and where applicable, the dimensions of the wall surface of the building to which it is to be attached.
  5. The dimensions of the sign's structural members.
  6. Mounting details.
  7. Description of sign materials and colors.
  8. Type of illumination.
  9. The owner shall agree to maintain the sign by repainting peeled surfaces and replacing inoperative components; and to remove the sign when the use of the property has been terminated. Should he fail to maintain the sign as outlined above, the City shall cause the sign to be removed at the owner's expense after having given the owner of the sign thirty (30) days written notice to do so.
  10. Other applicable information as the Administrator may require under the provisions of this section.
  11. A sign permit fee shall accompany the application for a permit and

See Also:

[Section 7.14 Fence and Wall Standards](#)

# 9 9.9 Demolition Permit

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shall be paid in accordance with the fee schedule in effect at the time of application.

- D. PROCEDURE. The zoning administrator shall review an application for a sign permit for compliance with this chapter and issue such permit or reject such application in writing within ten (10) working days of its receipt. Failure of the Administrator to take such actions shall constitute approval of the sign permit.
- E. EFFECT OF SIGN PERMIT ISSUANCE. A sign permit issued under the provisions of this section shall not be deemed to constitute permission or authorization to maintain an unlawful sign nor shall it be deemed as a defense in an action to remove an unlawful sign.
- F. EXPIRATION. A sign permit shall become null and void if work has not been started within thirty (30) days of the date the permit is issued or completed within ninety (90) days of the date the permit is issued, provided, however, that when a sign permit is issued in connection with a building permit for the site on which the sign is to be located, the sign permit shall not run concurrent with the building permit. If the sign has not been erected upon expiration of the permit, the holder of a sign permit may apply through the Administrator for a three (3) month extension on the permit within ten (10) working days of the expiration date. A sign permit shall be renewed only once, after which time the permit shall be null and void.
- G. INSPECTION
  - a. The Administrator or his appointed official shall have the right of entry in order to inspect all signs for compliance with the provisions of local codes and ordinances.
  - b. When any sign becomes insecure, in danger of falling, or otherwise unsafe, the Administrator shall send written notice to the owner of the sign to remove or repair the sign. If said sign is not so removed or repaired within thirty (30) working days, the City shall cause the sign to be removed at the expense of the owner of the sign.

## **9.7 FENCE PERMIT**

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- A. APPLICATION REQUIREMENTS. Application for a Fence Permit shall be made to the Planning and Building Department, and shall contain, or have attached thereto, the following information:
  - 1. The name, address and telephone number of the applicant.
  - 2. The location of the lot(s) or boundaries of the property including easements, on which the fence is proposed to be constructed.

3. The proposed location of the fence.
  4. The type of material and height of the proposed fence.
  5. Such other information as the Administrator shall require to show full compliance with this ordinance and any other City ordinance.
- B. FENCES BUILT ON PROPERTY LINES. The Administrator shall require a "Consent to Fence Location" to be signed by all affected adjoining property owners if the applicant proposes to erect a fence on a property line.
- C. APPEAL. Any denial of a Fence Permit by the Administrator may be appealed to the BZA.
- D. FEE. The fee for a Fence Permit shall be as prescribed in the Fee Ordinance and is payable upon receipt of permit.

### **9.8 HOME OCCUPATION PERMIT**

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- A. APPLICATION REQUIREMENTS. Application for a Home Occupation Permit shall be made to the Planning and Building Department. One (1) Home Occupation Permit shall be required for each home occupation within the residence, and shall contain, at a minimum, the following information:
1. The name, address and telephone number of the applicant.
  2. The location and address of the lot(s).
  3. Such other information as the Administrator shall require to show full compliance with this ordinance and any other City ordinance.
- B. COMPLIANCE. Home Occupation Permits are subject to review for compliance with [Section 7.12 Home Occupation Standards](#). Should a violation of this ordinance occur, the permit is subject to revocation.

### **9.9 DEMOLITION PERMIT**

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- A. REQUIRED. A demolition permit is required for any demolition or partial demolition of any building or structure within the City of Lebanon.
- B. APPLICATION. Application for a Demolition Permit shall be made to the Planning and Building Department, and shall contain, at a minimum, the following information:
1. The owner's complete name, present mailing address and phone number.
  2. The contractor's complete name, present mailing address, and phone

# 9 9.11 Certificate of Occupancy

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number.

3. A site plan, to scale, indicating all property lines, utility lines, buildings and structures on the site with emphasis on each building or structure to be demolished.
  4. A copy of a written release from all utility companies stating that such utilities to the building or structures being demolished have been properly terminated.
  5. A copy of inspections made regarding safe demolition.
  6. A copy of all written notices to the owner(s) of the properties adjoining the projected demolition site.
- C. APPROVAL. Demolition Permit approval must come from the Planning and Building Department and the Lebanon Fire Department.
- D. EXPIRATION. The Demolition permit shall expire if work has not commenced within or is suspended for a period of six (6) months from the issue date.

## **9.10 TEMPORARY VENDOR PERMIT**

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- A. REQUIRED. All temporary vendors shall not conduct business without first obtaining a Temporary Vendor Permit.
1. Exemptions. Children's lemonade stands and roadside farm stands on private residential property are not required to obtain a Temporary Vendor Permit.
    - a. Roadside sales stands are limited to fresh or canned produce, jams and other edible products grown by the property owner.
- B. APPLICATION. Application for a Temporary Vendor Permit shall be made to the Planning and Building Department, and shall contain, at a minimum, the following information:
1. The name, address, and telephone number of the individual or organization applying for the permit. If not applied for by an organization, a permit will be required for each vending operation.
  2. The location and address where the temporary vending operation will be located.
  3. The type of merchandise being sold.
  4. If applied for by an organization, the approximate number of vendors.
  5. The hours of operation and the duration/recurring nature of the

See Also:

City of Lebanon  
Building Code

## 9.12 Certificate of Compliance with Safety Codes 9

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vending operation.

### C. TEMPORARY SIGNS

1. Each temporary vending operation, whether applied for by an organization or by an individual, may be allowed up to one (1) temporary sign, no more than sixteen (16) square feet in size, to be removed when the vending operation is not conducting business. The allowance for a temporary sign expires with the Temporary Vendor Permit.

## **9.11 CERTIFICATE OF OCCUPANCY**

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### A. CERTIFICATE REQUIRED

1. No land shall be occupied or used, no change shall be made in the use of land, except as provided in this ordinance, nor shall there be any change in the use of any building in whole or in part, for any purpose whatsoever, until a Certificate of Occupancy is issued by the Administrator. The Certificate of Occupancy shall state that the building and use comply with all of the provisions of this ordinance applicable to the building or premises or the use in the district in which it is to be located.
2. When the improvement covered by the Improvement Location Permit has been completed in substantial conformity with the site plan or development plan submitted in the application pursuant to [Section 9.17 Development Plan](#), a Certificate of Occupancy shall then be issued.

B. INSPECTION. Upon the completion of the work approved through an Improvement Location Permit, the permit holder shall contact the Planning and Building Department and schedule a final inspection to verify the installation of improvements consistent with the requirements of this ordinance.

C. TEMPORARY CERTIFICATES. A temporary Certificate of Occupancy may be issued by the Administrator after application has been made for completed portions of a development which has been approved as a Conditional Use, provided that a Certificate of Occupancy is required upon completion of the total development.

D. APPLIED FOR COINCIDENTALLY. A Certificate of Occupancy shall be issued within ten (10) days after notification by the applicant thereof that the lawful erection, reconstruction or structural alteration of such building or other improvement of the land has been completed.

## 9 9.13 Text Amendments, Zoning Map Changes, Rezones

- E. RECORD OF CERTIFICATES. A record of all Certificates of Occupancy shall be kept on file in the office of the Administrator, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building or land affected.
- F. EXCAVATION. No Improvement Location Permit shall be issued for the excavation for, or the erection, reconstruction or structural alteration of any Building before application has been made and Site or Development Plan approved.
- G. COMPLETION TIME. The work or use authorized by any Improvement Location Permit must be commenced within six (6) months of the date of issuance of such permit, otherwise the same shall lapse and become null and void. All work so authorized shall be completed within twenty-four (24) months from the issuance of the Improvement Location Permit. At the Administrator's discretion and with good cause shown, the Administrator may extend the work completion time.

### **9.12 CERTIFICATE OF COMPLIANCE WITH SAFETY CODES**

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- A. CERTIFICATE REQUIRED. No change of tenant or use within the NB, CB, or Downtown Overlay Districts shall be allowed without a Certificate of Compliance with Safety Codes ("Certificate of Compliance"). The Certificate of Compliance will enable the City Planning Department to determine compliance with building, fire, plumbing, electric, or other applicable City Codes. This Certificate is required for all existing development, new construction, alterations, expansions, and conversions whether owner- or renter-occupied.
- B. PRE-EXISTING USES. The initial Certificate of Compliance for subject properties shall be obtained within twelve (12) months of the adoption of this ordinance.
- C. LIVING AREA. Each single- and multifamily dwelling unit shall have separate and individual kitchen and bathroom facilities unless as specified in [Section 7.21 Specific Use Standards](#) for Bed and Breakfast establishments.
- D. EXEMPTIONS. Single- or two-family residences that are intended to remain only as single- or two-family use are exempt and not required to obtain a Certificate of Compliance.

### **9.13 TEXT AMENDMENTS, ZONING MAP CHANGES, REZONES**

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- A. **PURPOSE.** The purpose of this section is to provide standards and procedures for making amendments to the text of this ordinance and the Official Zoning Map that are of general significance or application. This amendment process is not intended to relieve particular hardships nor to confer special privileges or rights upon any person, but only to make adjustments necessary in light of changed conditions or changes in public policy.
- B. **AUTHORITY.** The text of this ordinance and the Official Zoning Map incorporated by reference into this Unified Development Ordinance may be amended as necessary by the passage of a petition duly adopted by Common Council in accordance with IC 36-7-4-602 and with the procedures set forth herein.
- C. **PLANNED UNIT DEVELOPMENT (PUD) ZONING.** Refer to [Chapter 5: Planned Unit Development](#) of this ordinance.
- D. **PARTIES ENTITLED TO INITIATE AMENDMENTS**
1. The Common Council or the Plan Commission may, as necessary, initiate a proposal to amend, supplement or change the text of this ordinance and the Official Zoning Map. The Administrator shall serve as the representative of the applicant for such proposals.
  2. Petitions, duly signed by the owners of fifty percent (50%) or more of the area involved, may be used to initiate a proposal to amend or change the Official Zoning Map.
  3. Any proposed ordinance for the amendment, supplement, change or repeal of the zoning ordinance not originating from petition of the Plan Commission shall be referred to the Plan Commission for consideration and report before any final action is taken by the Common Council.
- E. **STANDARDS FOR AMENDMENTS.** In making their determination of whether to adopt or deny, or to adopt some modification of the Plan Commission's recommendation, the Common Council should consider, among other factors, the following:
1. Whether the proposed amendment is consistent with the goals, objectives, and policies of the Comprehensive Plan, as adopted and amended as necessary by the Common Council.
  2. Whether the proposed amendment is compatible with current conditions and the overall character of existing development in the immediate vicinity of the subject property.
  3. Whether the proposed amendment is the most desirable use for which the land in the subject property is adapted.

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## 9.13 Text Amendments, Zoning Map Changes, Rezones

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4. Whether the proposed amendment will have an adverse effect on the value of properties throughout the jurisdiction.
  5. Whether the proposed amendment reflects responsible standards for development and growth.
- F. PROCEDURE FOR REVIEW AND DECISION. A proposal to amend the text of the Unified Development Ordinance or to amend the Official Zoning Map shall be processed in accordance with the Plan Commission Rules of Procedure and as set forth below:
1. Application, Affidavit, and Consent. The applicant shall submit a rezoning application, affidavit and consent of property owner (if the owner is someone other than the applicant), to the Lebanon Plan Commission and/or Common Council, a copy of the deed for the property involved, the required filing fee, and required supporting information. Supporting information shall include, but not be limited to the following:
    - a. Site Plan. A conceptual site plan showing all features relevant to the application Section 9.16 Site Plan.
    - b. Vicinity Map. A vicinity map showing the use and zoning of all properties within 500 feet of the property subject to the rezoning request.
    - c. Letter of Intent. A letter of intent to the Plan Commission stating the reasons for the rezoning, including a detailed description of any proposed development for which the rezoning is sought. The letter should include any written commitments Section 9.14 Written Commitments being made by the applicant.
    - d. Fiscal Impact Analysis. A Fiscal Impact Analysis shall be required for rezones of property proposing fifty (50) or more residential units.
  2. Notification. Notification for the scheduled Plan Commission public hearing regarding the rezoning request shall be completed consistent with the requirements of Section 9.15 Notice of Public Hearing and the Rules of Procedures of the Plan Commission.
  3. Plan Commission Public Hearing. The Plan Commission will then, in a public hearing review the rezoning application and required supportive information.
    - a. Representation. The applicant and/or any representative of the applicant must be present at the public hearing to present the application and address any questions the Plan Commission might

have.

4. Testimony. The Plan Commission shall consider a report from the Administrator and testimony from the applicant, remonstrators, the public, and interested parties at the hearing.
5. Procedures. The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the requirements of the Rules of Procedures of the Plan Commission.
6. Possible Plan Commission Action. The Plan Commission shall either forward the application to the Common Council with a favorable recommendation, an unfavorable recommendation, or no recommendation; or continue the request.
  - a. Favorable Recommendation. The application shall be forwarded with a favorable recommendation if, by a majority vote of the Plan Commission, it is found to be consistent with the decision criteria of Subsection 9.13(G). The recommendation may include commitments requested by the Plan Commission.
  - b. Unfavorable Recommendation. The application shall be forwarded with an unfavorable recommendation if, by a majority vote of the Plan Commission, it is determined by the Plan Commission to be inconsistent with the decision criteria of Subsection 9.13(G).
  - c. No Recommendation. The application may be forwarded with no recommendation if, by a majority vote of the Plan Commission, it is determined that the application includes aspects that the Plan Commission is not able to evaluate.
  - d. Continued. The application may be continued by the Plan Commission based on a request by the Administrator, applicant, remonstrator, or interested party; an indecisive vote, or a determination by the Plan Commission that additional information is required prior to action being taken on the request.
    - 1) Additional legal notice shall not be required unless specified by the Plan Commission.
    - 2) The continuing of all applications shall be consistent with the adopted Rules of Procedures of the Plan Commission.
7. Certification to the Common Council. The Plan Commission shall certify its recommendation by resolution to the Common Council within ten (10) business days of its determination (per IC 36-7-4-608). The Plan

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## 9.15 Notice of Public Hearing

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Commission staff shall forward to the Common Council appropriate copies of the Plan Commission resolution, the original application and all supporting information, any staff reports regarding the application, and an ordinance for the Council's consideration.

8. Common Council Action. The Council will review the rezoning application and the materials forwarded from the Plan Commission. The Council may then take action on the application.
  - a. Notification. The Council shall provide notification of action on the ordinance consistent with Indiana State Code.
  - b. Possible Action. The Council may either approve or deny the ordinance. If the Council fails to act within the ninety (90) days of the ordinances' certification to the Council, the ordinance shall become effective or be defeated with the provisions of IC 36-7-4-608. The Common Council may also seek modifications or additions to any written commitments as per Section 9.14 Written Commitments.

- G. DECISION CRITERIA. In reviewing the rezoning application, the Plan Commission and Common Council shall consider the following:
1. Comprehensive Plan. The Lebanon Comprehensive Plan and any other applicable, adopted planning studies or reports;
  2. Current Conditions. The current conditions and the character of current structures and uses in each district;
  3. Desired Use. The most desirable use for which the land in each district is adapted;
  4. Property Values. The conservation of property values throughout Lebanon's planning jurisdiction; and
  5. Responsible Growth. Responsible growth and development.

### **9.14 WRITTEN COMMITMENTS**

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- A. GENERAL PROVISIONS. The applicant in any rezoning application may make written commitments regarding the characteristics of the proposed future use of, or the resolution of outstanding issues in existence on, the subject property consistent with IC 36-7-4-615.
- B. ORIGIN OF COMMITMENTS. Written commitments may be proposed by the applicant as an element of the initial submittal of application materials, or in response to any modifications requested by the Plan Commission or Common Council.

- C. CONSIDERATION OF COMMITMENTS. All commitments shall be considered by the Plan Commission and the Common Council in the review of the application.
1. Commitments shall be included as an element of the rezoning ordinance prepared by the Plan Commission following action taken at the public hearing.
  2. Any deletion, addition, or alteration of the written commitments proposed by the Council shall be referred back to the Plan Commission for consideration and included in a revised or affirmed recommendation regarding the application or may amend the written commitments and incorporate said written commitments within the rezoning ordinance.
- D. DOCUMENTING OF COMMITMENTS. Following final action being taken on the rezoning application, the rezoning ordinance, with any written commitments included, shall be recorded in the office of the Boone County Recorder by the applicant and shall not be considered effective until so recorded. A copy of any recorded commitments shall be provided to the Administrator at the time of application for any Improvement Location Permit. No Improvement Location Permit shall be issued for a permit application that does not comply with the written commitments.
- E. ENFORCEMENT OF COMMITMENTS. The written commitments shall be considered part of the rezoning ordinance binding on the subject property.
1. The written commitments shall be binding on the owner of the subject property, any subsequent owners of the subject property, and any person or entity that acquires an interest in the subject property or portion thereof.
  2. The written commitments shall be enforceable by the Plan Commission or Common Council consistent with the adopted provisions for the enforcement of any other aspect of this ordinance, as described in [Chapter 10: Enforcement and Penalties](#).
  3. The written commitments may be modified only through the Zoning Map Amendment process described by this chapter.

### **9.15 NOTICE OF PUBLIC HEARING**

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- A. REQUIRED. For all public hearings, the notice shall be provided to the

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## 9.17 Development Plan

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public consistent with the requirements of this chapter and the Rules of Procedures of the Board of Zoning Appeals and Plan Commission. Required public notice shall include the following:

1. Legal Notice. The applicant shall prepare and pay for a legal notice consistent with the requirements of IC 5-3-1 for publication in the local newspaper. The legal notice shall appear in the newspaper no less than one (1) time at least ten (10) days prior to the public hearing, not including the date of the hearing. Legal notices shall include each of the following:
  - a. Property Location. The general location of the subject property, including its common address and a legal description of the included land,
  - b. Available Plans. That the project plans are available for examination at the office of the Lebanon Plan Commission,
  - c. Hearing Information. That a public hearing will be held, giving the date, place, and hour of the hearing, and
  - d. Written Comments. That written comments on the application will be accepted prior to the public hearing and may be submitted to the Administrator.
  - e. Docket Number. The applicant shall not place legal notice in any newspaper without first receiving a docket number for the case being heard.
2. Notice to Interested Parties. The applicant shall prepare and distribute written notice of the application to all interested parties. The written notice shall be distributed at least ten (10) days prior to the public hearing, not including the date of the hearing. In no instances shall streets, alleys, streams, or other features be considered boundaries for precluding notification.
  - a. Notice Information. The notice shall contain the same information as the legal notice that is published in the newspaper as outlined in Subsection 9.15(A)(1).
  - b. Responsibility. The distribution and cost of the notice shall be the responsibility of the applicant.
  - c. Notification Requirements. Notification shall be provided to owners of all parcels of land within three hundred (300) feet of the perimeter boundaries of the subject property. The most current list of property owners can be obtained from the Boone County Recorder's Office. For the purposes of notification, where any adjacent parcels of land are owned by the applicant(s), subject

property shall be deemed to include adjacent land owned by the applicants.

- d. Notification Certification. A copy of the materials provided to each property owner, the completed Certificate of Mailing and/or delivery forms, and a completed Affidavit of Notice certifying the correctness of the mailing list shall be provided to the Administrator by the applicant a minimum of two (2) business days prior to the date of the public hearing.

### **9.16 SITE PLAN**

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- A. **SITE PLAN**. Where required by this ordinance, site plans shall be drawn to scale and shall show the following items:
  1. Legal or site description of the real estate involved.
  2. Location and size of all buildings and structures.
  3. Width and Length of all entrances and exits to and from said real estate.
  4. All adjacent and adjoining roads or highways.
  5. Lot number, where applicable.
  6. Actual shape and dimensions of the Lot to be built upon.
  7. Front, side and rear yard line.
  8. All easements.
  9. Number of families or housekeeping units or square footage of business uses, which ever is applicable, that the Building is designed to accommodate and such other information in regard to the lot and neighboring lots and their use as may be necessary to determine and provide for the enforcement of the provisions of this ordinance.
  10. Arrangement of service areas, planting areas, and parking areas, where applicable.

### **9.17 DEVELOPMENT PLAN**

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- A. **AUTHORITY OF THE PLAN COMMISSION TO REVIEW DEVELOPMENT PLANS**. The Lebanon Plan Commission is hereby authorized to review and make findings on all development plans that are required by this ordinance.
- B. **DEVELOPMENT PLANS REQUIRED**. Development plan approval shall be required for those projects as listed below and in [Chapter 4: Zoning](#)

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## 9.17 Development Plan

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Districts and Table 4.1: Use Matrix. Improvement Location Permits and Building Permits shall not be issued until the conditions and requirements of this ordinance have been met. Single-family development of three (3) lots or fewer are exempt from this requirement. Development Plans shall be provided for:

1. All uses within the MF, MH, CB, NB, PBC, PBO, PBI, ID, and IN Districts
2. Public and Semi-Public Uses
3. All uses within the Thoroughfare Overlay District
4. All Uses within the Interstate Overlay District
5. All uses within the Downtown Overlay District
6. Wireless Communication Facilities

### C. APPLICATION PROCEDURE

1. Preliminary Meeting. The applicant shall submit a Development Plan application to the Planning and Zoning Administrator to schedule a preliminary meeting with staff to provide the applicant with guidance as to the development plan process.
2. Information to Include. All sheets shall contain the following information:
  - a. The proposed name by which the project shall be legally and commonly known;
  - b. Date of survey, scale, and north point;
  - c. All lots or outlots intended for sale or lease shall be designated with boundary lines and numbered or labeled for identification purposes;
  - d. Private parks, common areas, or excluded parcels shall be designated as such and clearly labeled on the plans;
  - e. Such other information as may be deemed necessary for proper review of the development plan by the Administrator, or Plan Commission; and
  - f. All necessary reference points tying the subject property to the appropriate section corners.
  - g. Each sheet shall be sealed and signed by the professional preparing the drawings.
  - h. All sheets shall be tied to state plane coordinates for horizontal and vertical controls. All sheets shall include utility lines, infrastructure,



and site lighting on all sheets.

3. Development Plan Format. All development plans shall be submitted under the seal and signature of a Professional Engineer or Registered Land Surveyor licensed to practice in the State of Indiana. All sheets shall be 24" x 36" size drawn to scale at a minimum 1"=50' and a maximum 1"=10' with the exception of the maps on Sheet One, unless otherwise approved by the Zoning Administrator. All final plans shall be submitted in conformance with the established procedures of the Planning Department. Development plans submitted for review shall observe the following format:
  - a. Title Sheet. The following information shall be submitted as part of Sheet One:
    - 1) Full legal description with sufficient reference to section corners and boundary map of the subject project, including appropriate benchmark references;
    - 2) Name of the Project;
    - 3) Name and address of the owner, developer, and person who prepared the plans;
    - 4) Total acreage within the project and the number of residential dwelling units or the gross square footage of nonresidential buildings, whichever is applicable;
    - 5) Existing zoning of the subject land and all adjacent lands;
    - 6) Boundary lines of adjacent tracts of land, showing owners of record;
    - 7) A key or vicinity map at a scale of one inch equals four hundred feet or less, showing the boundaries of the proposed project and covering the general area within which it is to be located;
    - 8) A statement of the proposed uses, stating the type and size of residential and nonresidential buildings, and the type of business, commercial or industry, so as to reveal the effect of the project on traffic, fire hazards, or congestion of population;
    - 9) Proposed covenants, restrictions, by-laws, or articles of incorporation affecting property owners and/or homeowners associations; and
    - 10) Statement of proposed starting and completion dates for the project, including any proposed phasing and sequencing.

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## 9.17 Development Plan

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- b. Existing Site Conditions. The following information shall be submitted as part of Sheet Two:
- 1) Location, widths, and type of construction of all existing streets, street names, alleys, or other public ways and easements, street classifications as per the Thoroughfare Plan, railroad and utility rights-of-way or easements, parks, wooded areas, cemeteries, watercourses, drainage ditches, designated wetlands, low areas subject to flooding, permanent buildings, bridges, and other data considered pertinent by the commission or the administrator for the subject land, and within three hundred (300) feet of the proposed project;
  - 2) Existing water mains, fire hydrants, storm sewers, sanitary sewers, culverts, bridges, and other utility structures or facilities within, adjacent to, or serving the subject land, including pipe sizes, grades, and exact locations, as can best be obtained from public or private records;
  - 3) Existing contours based in United States Geological Survey (USGS) datum with intervals of not more than five (5) feet where the slope is greater than ten percent (10%) and not more than two (2) feet where the slope is less than ten percent (10%). Elevations shall be based on sea level datum; and
  - 4) The water elevation at the date of the survey of lakes, streams, or designated wetlands within the project or affecting it, as well as the approximate high and low water elevation of such lakes, streams, or designated wetlands. The plan shall also show the contour line of the regulatory flood (100-year flood) elevation and the contour line for the floodway fringe and floodway boundary. All elevations shall be based on sea level datum.
- c. Proposed Site Conditions. The following information shall be submitted as part of Sheet Three:
- 1) Location, widths, and type of construction of all existing and proposed streets, street names, alleys, or other public ways and easements, railroad and utility rights-of-way or easements, parks, wooded areas, cemeteries, watercourses, drainage ditches, designated wetlands, low areas subject to flooding, permanent buildings, bridges, and other data considered pertinent by the commission or the administrator for the subject land, and within three hundred (300) feet of

- the proposed project;
- 2) Existing and proposed water mains, fire hydrants, storm sewers, sanitary sewers, culverts, bridges, and other utility structures or facilities within, adjacent to, or serving the subject land, including pipe sizes, grades, and exact locations, as can best be obtained from public or private records;
  - 3) Building setback lines, showing dimensions;
  - 4) Full description and details, including engineering calculations, for provision of storm water drainage plans and facilities, including basin mapping. The standard for drainage detention is that the run-off rate of a 100-year post-development event cannot exceed the rate for a 10-year pre-development event;
  - 5) Internal and perimeter sidewalk system/pedestrian circulation plan; and
  - 6) Proposed contours with intervals of not more than five (5) feet where the slope is greater than ten percent (10%) and not more than two (2) feet where the slope is less than ten percent (10%). The plan shall also show the contour line for the floodway fringe and floodway boundary.
  - 7) Show the location and detail plans for all trash dumpsters.
- d. Erosion Control Plan. The following information shall be submitted as part of Sheet Four:
- 1) Location, widths, and type of construction of all existing and proposed streets, street names, alleys, or other public ways and easements, railroad and utility rights-of-way or easements, parks, wooded areas, cemeteries, watercourses, drainage ditches, designated wetlands, low areas subject to flooding, permanent buildings, bridges, and other data considered pertinent by the commission or the administrator for the subject land, and within three hundred (300) feet of the proposed project;
  - 2) Proposed contours with intervals of not more than five (5) feet where the slope is greater than ten percent (10%) and not more than two (2) feet where the slope is less than ten percent (10%).
  - 3) Details of terrain and area drainage, including the identity and location of watercourses, intermittent and perennial streams, receiving waters, and springs, and the total acreage of land that will be disturbed.

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## 9.17 Development Plan

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- 4) The direction of drainage flow and the approximate grade of all existing or proposed streets.
- 5) Detailed plans and locations of all surface and subsurface drainage devices, walls, dams, sediment basins, storage reservoirs, and other protective devices to be constructed with, or as part of, the proposed project, together with a map showing drainage area, the complete drainage network, including outfall lines and natural drainage ways which may be affected by the proposed development, and the estimated runoff of the area served by the drains.
- 6) A description of the methods to be employed in disposing of soil and other material that is removed from the grading site, including the location of the disposal site.
- 7) Measures for soil erosion and sediment control which must meet or exceed the methods and standards adopted by the Indiana Department of Natural Resources and/or set forth in the Indiana Handbook For Erosion Control in Developing Areas and which must comply with the design principles, performance standards, and requirements set forth for the City of Lebanon in the Stormwater Ordinance, adopted November 13, 2006, as amended.
- 8) A schedule of the sequence of installation of planned erosion and sediment control measures as related to the progress of the project, including the total area of soil surface that is to be disturbed during each stage, the anticipated starting and completion dates, and a schedule for the maintenance of such measures.
- 9) Include the following notes on the sheet:
  - a) "All erosion control practices shall be in accordance with the Indiana Department of Natural Resources (IDNR) "Indiana Handbook For Erosion Control In Developing Areas" dated October 1992 and the NRCS "Field Office Technical Guide."
  - b) The Planning and Zoning Administrator or his/her designee has the right to require additional erosion control measures in the field as conditions warrant.
- 10) Copies of the letter of intent and response from the Indiana Department of Environmental Management (IDEM) office for Rule 5 compliance, when required.

- 11) Any other information reasonably required by the commission or administrator to properly evaluate the plan.
- e. Grading Plan. The following information shall be submitted:
- 1) Major drainage swales and percents of slope;
  - 2) Pad grades;
  - 3) Street grades;
    - a) Centerline and curb if street is bituminous pavement with concrete curb. Centerline only if streets are concrete and placed with electronic control. (Maximum 50 foot spacing)
    - b) All sag and crest points
  - 4) Paved swales if any, at 50 foot intervals;
  - 5) Lake or pond, if applicable; and
  - 6) Locations of sidewalk ramps.
- f. Plan And Profiles. The following information shall be submitted:
- 1) Sanitary Sewers:
    - a) Invert elevations and percents of slope;
    - b) Top of casting elevations;
    - c) Lateral locations based on distances along main from manholes;
    - d) Locations of each manhole or structure (to make sure they are sufficiently within designated easements to permit future excavation to system if needed); and
    - e) Designate any material change from design plans. Where plans show any alternatives, indicate alternative actually used.
  - 2) Storm Sewers:
    - a) Invert elevations and percents of slope;
    - b) Top of casting elevations;
    - c) Location of pipe and structures (to make sure they are within designated easements); and
    - d) Designate any material change from design plans. Where plans show any alternatives, indicate alternate actually

# 9 9.17 Development Plan

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used.

- 3) Streets:
  - a) Grades;
  - b) All low and high points;
  - c) All percents of slope;
  - d) Any deviation of alignment; and
  - e) Grades and dimensions on acceleration and deceleration lanes if applicable.
- g. Landscape Plan. A landscape plan prepared to the standards specified in Section 7.8 Landscaping.
- h. Master Sign Plan. A sign plan prepared to the standards specified in Section 7.7 Sign Regulations.
- i. Lighting Plan. A photometric plan prepared to the standards as specified in Section 7.15 Exterior Lighting Standards.
- j. Plat-like Dedication Sheet, If Necessary. The following information shall be submitted for easements and rights-of-way if deemed necessary by the Plan Commission or its authorized designee:
  - 1) Parcels of land proposed to be dedicated or reserved for public use, or reserved for common use of all property owners within the project, with the proposed conditions and maintenance requirements, if any, shall be designated as such and clearly labeled on the plans;
  - 2) Radii, internal angles, points of curvature; tangent bearings and lengths of all arcs, chord, and chord bearings; and
  - 3) Accurate location of all survey monuments erected, corners and other points established in the field in their proper places.
- k. Other Required Submittals. The Applicant shall be required to submit written documentation of the following, when applicable:
  - 1) Utility encroachment approvals;
  - 2) Lebanon Stormwater Board approval;
  - 3) Boone County Drainage Board approval;
  - 4) Other local, state, and federal approvals, including other City boards, commissions, or departments;

- 5) Inspection and testing agreements with the Board of Works and Safety;
- 6) Outside reviews as required by the City; and
- 7) Easements and rights-of-ways not on a plat-like document shall be submitted in the form prescribed by the Board of Public Works and Safety and include both a full legal description and a drawing exhibit.

### D. TECHNICAL ASSISTANCE COMMITTEE (TAC) REVIEW

1. The applicant shall refer to the application packet to determine the procedures regarding Technical Assistance Committee.
2. The applicant shall refer to the Schedule of Meeting Dates to determine the filing deadline for any given meeting of the TAC.
3. Incomplete submittals may result in the application's being held off the TAC agenda to allow the petitioner time to complete the submittal.
4. The petitioner or his/her representative should be present at the TAC meeting to address and discuss comments and concerns posed by the committee members. Failure to appear may result in the application's being continued to the TAC agenda for the following month.
5. Revisions: Following TAC review, the petitioner shall submit the required number of complete sets that respond to the TAC's comments and concerns. Final revised plans shall be submitted at least ten (10) working days prior to moving on to the next phase or the issuance of applicable permits. All final plans shall include digital files in the necessary format to meet the city's computer system requirements.

### E. REJECTION STATEMENT. The Administrator may reject any submittal for the following reasons:

1. Incomplete application;
2. The drawing set or supporting documents not complete nor stapled;  
or
3. Poor legibility.

### F. DEVIATION FROM THE APPROVED DEVELOPMENT PLAN

1. If the installation of the elements on the development plan materially deviate from the approved development plan (as determined by the Administrator, the site plan shall be resubmitted to the Plan Commission for a new development plan approval in accordance with the procedures and requirements for Development Plan approval. For the purposes of this section, material deviation is one that:

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## 9.18 Subdivision Control Procedures - General

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- a. Adds, removes, or reconfigures an internal street or relocates an access point;
  - b. Affects a condition of development plan approval that was established by the Commission during the development plan approval stage;
  - c. Reduces the area devoted to open spaces or buffer landscaping;
  - d. Would require a waiver of the requirements and standards of these regulations or would negate the basis for a modification that was granted; or
  - e. Involves the enlargement of a nonresidential building footprint on the site due to future additions that are more than 10 percent (10%) of the gross floor area or 5,000 square feet, whichever is less.
2. Minor changes that do not constitute material deviation shall be reviewed and approved by the Administrator staff.
- G. FINANCIAL ASSURANCES. The City of Lebanon reserves the right to require financial assurances to guarantee construction according to plans of all public improvements proposed in a development plan and for certain private improvements, including but not limited to, site grading, drainage improvements, erosion control, sanitary sewers, private streets, landscaping and buffering, or other improvements which may directly impact adjacent properties or the health, safety, or welfare of the general public. Such assurances of performance shall be in an amount and form as prescribed by the City. Maintenance bonds shall be required for public improvements. Public improvements shall be dedicated within two years of the date of Plan Commission approval unless time extensions are granted by the City. If public improvements are not dedicated within two (2) years, the City may take any action deemed necessary to insure completion to a point of dedication.
- H. RECORD DRAWINGS AND CERTIFICATE OF COMPLETION AND COMPLIANCE. The developer or owner shall cause record drawings to be prepared and submitted to the Administrator for all streets, drainage ditches and facilities, utility pipes and structures, and finished grade elevations for the project. Said record drawings shall be filed with the Administrator prior to the release of any performance assurances. The recorded drawings/plans shall be accompanied by a Certificate of Completion and Compliance properly executed in the form prescribed by the commission by the licensed engineer, or surveyor preparing the development plan and/or record drawings. Record drawings, including the approved final plat shall be submitted on the forms specified by the Plan Commission.



## 9.18 Subdivision Control Procedures - General 9

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1. General Requirements. Plans are to contain a certification statement that the improvements have been installed in reasonable compliance with the original design plans with respect to horizontal locations and grades and any deviations of locations, grade or material used are shown in these record drawings. Said certification is to be sealed and signed.

### I. EXPIRATION DEADLINES

1. Approval of development plans shall expire two years from the date of Plan Commission approval if necessary land improvements have not been completed. The Plan Commission, at its discretion, may grant extensions for a period up to two (2) years.
2. Bonded improvements must be completed within two years of issuance of development plan approval.
3. Request for extension must be submitted in writing stating the justification for the extension.

## **9.18 SUBDIVISION CONTROL PROCEDURES - GENERAL**

- A. **PURPOSE & INTENT.** The purpose of this section is to guide the applicant through the proper procedures in order to subdivide land and obtain Plat approval in accordance with Indiana Code.
- B. **PLAT APPROVAL AUTHORITY.** The Plan Commission shall have exclusive control over the approval of plats and replats of land within the corporate limits of the City of Lebanon. The Plan Commission shall address and approve Administrative Subdivisions, Minor Subdivisions, and Major Subdivisions of land. The Plan Commission may delegate approval of minor plats, secondary plats, and administrative subdivisions to the Plat Committee.
- C. **ADOPTION AND JURISDICTION.** The Plan Commission hereby recommends to the Common Council this ordinance containing provisions for subdivision control, which ordinance shall be adopted, amended, or repealed in the same manner as other sections of the Unified Development Ordinance.
- D. **CONDOMINIUMS.** The Subdivision Control Ordinance does not apply to Condominiums regulated by IC 32-25.
- E. **PLAT COMMITTEE ESTABLISHED.** The Plan Commission may establish a Plat Committee to review and decide petitions for minor plats, secondary plats, and administrative subdivisions.
  1. Membership. Committee membership shall be divided into two classes.

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## 9.19 Subdivision Control Procedures - Major Subdivisions

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- a. Official Members. Official members shall consist of three or five members. One of the members shall be a staff member representing the City of Lebanon, and the remaining members shall be members of the Plan Commission who are not otherwise employed by the City, its subdivisions or instrumentalities.
  - b. Ex-officio Members. Ex-officio members shall be the Technical Assistance Committee (TAC).
2. Appointment. Each member shall be appointed by the Plan Commission for one year.
  3. Removal. The commission may remove a member from the committee upon mailing written reasons for removal to the member.
  4. Decisions. The committee may take action only upon a majority vote. In the event of any uncertainty as to compliance or classification of any subdivision, the Plat Committee shall forward such subdivision to the Plan Commission for consideration.
  5. Voting. Only official members of the Plat Committee shall be entitled to vote on matters requiring official action by the Plat Committee.
  6. Meetings. The Plat Committee shall meet at least as often as once each calendar month but not more than once per calendar week.
- F. IMPROVEMENT CREDIT PROCEDURE FOR IMPROVEMENTS INVOLVING BENEFITS TO OTHERS. Improvements set forth in Article 8 of this ordinance which are required to be installed by the subdivider and are of a public utility nature, may provide benefits to other properties in the vicinity of the land to be subdivided. Upon the installation of such improvements which cross or adjoin other properties and can be used by such properties, the subdivider and the City may by contract agree that upon the connection or use of the installation made by the subdivider by another within a period of ten (10) years following their installation, the new user(s) shall pay a fee to the City in an amount agreed upon by the subdivider and the City, the amount of such fee to be credited to and paid to the subdivider.
- G. APPLICATIONS
1. The applicant (Subdivider) shall submit a written application for approval of the Overall Primary Plat to the Administrator. Subsequent to the approval of the Overall Primary Plat, an applicant shall submit an application for a Secondary Plat. Such applications shall be prepared on the forms provided by the Administrator and accompanied by the information, requirements and plans set forth in accordance with the requirements of this ordinance.
  2. The applications shall be accompanied by a check or money order

made payable to the City of Lebanon in an amount determined by the schedule of fees, available in the office of the City Clerk-Treasurer.

3. No part of any filing fees shall be returnable to the applicant.
4. For applications requiring review by the Technical Assistance Committee, the required application forms and fees shall be submitted prior to scheduling a meeting with the Committee.

### **9.19 SUBDIVISION CONTROL PROCEDURES - MAJOR SUBDIVISIONS**

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- A. CONCEPT PLAN. Major subdivisions require primary plat approval by the Plan Commission. Before filing a plat for a major subdivision, applicants are required to present a Concept Plan for the subdivision to the Technical Assistance Committee (TAC) for informal discussion.
  1. Prior to submitting an application for a Primary Plat, the subdivider shall first meet with City staff to acquaint the subdivider with applicable plans and ordinances.
  2. The Concept Plan review is intended only for the above purposes; neither the developer nor the City is bound by any decision made during this review.
  3. All materials required by this section shall be submitted to the Planning and Building Department in accordance with established procedures available in the office.
  4. The Concept Plan should be drawn to scale and should include the following:
    - a. A legal description of the property.
    - b. A location map, showing the parent tract and including any lots previously subdivided from it.
    - c. The location of all existing property lines, existing easements, and existing watercourses; location, width and names of existing platted streets within or adjacent to the tract; and names of adjoining property owners within five hundred (500) feet of the boundary of the proposed subdivision.
    - d. Locations of existing utilities within the tract and immediately adjacent thereto.
    - e. Existing natural features and topographic or geologic constraints and intent to preserve or incorporate these features into the final plan.

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## 9.19 Subdivision Control Procedures - Major Subdivisions

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- f. Approximate location and widths of proposed streets.
  - g. Preliminary proposals for connection with existing water and sewer systems; preliminary provisions for collecting and discharging surface water drainage.
  - h. Approximate location and area of all parcels of land to be set aside for park or playground use or other public use or for the use of the property owners in the proposed subdivision.
5. The Plan Commission may consider the failure to present a Concept Plan to staff prior to the submission and review of the Overall Primary Plat as an improper form or an incomplete application.

### B. PRIMARY PLAT

1. Submittal. The subdivider shall provide an Overall Primary Plat of the Subdivision, the design of which shall be in conformance to the Comprehensive Plan, the Thoroughfare Plan, the Unified Development Ordinance, these subdivision regulations, and other City Ordinances not in conflict with these regulations. Further, the intent of the Primary Plat section is to ensure that the statutory requirements established in the Indiana Code for the subdivision of land are met.
2. Preparation. The Overall Primary Plat shall be prepared by a Professional Engineer or Land Surveyor licensed in the State of Indiana and drawn according to the specifications set forth as follows.
3. Plans and Specifications. The Primary Plat shall have the following sheets and information.
  - a. Title Sheet:
    - 1) Proposed name of the subdivision, followed by the words: "Overall Primary Plat".
    - 2) A site location map showing the location of highways, local/county roads, rural routes, utilities, legal drains, flood plains, private drain tile, open drains, watershed boundaries, and any other physical features that may have a bearing on proposed development (i.e.: swamp, steep escarpments, woods, etc.)
    - 3) Names and addresses of the owner of the land, the subdivider, planner, architect, engineer, land surveyor or other persons who prepared the plan.
    - 4) Property owners and existing land use of adjacent land.
    - 5) An index of sheets contained in the set.

b. Topographic Conditions:

- 1) Contours at vertical intervals of two (2) feet or less if the slope of the site is less than ten percent (10%) and at vertical intervals of five (5) feet if the general slope of the site is ten percent (10%) or greater.
- 2) Tract boundary lines showing dimensions, bearings, angles, and references to section, township and range lines.
- 3) Plot and profile of existing drainage, drainage channels, underground facilities, wooded areas, power transmission poles and lines, and any other significant items shall be shown.
- 4) The location and size of all existing utilities.
- 5) All subdivision plats containing lands identified on the official Flood Emergency Management Agency (FEMA) Maps (as amended), or determined by the Indiana Department of Natural Resources to be flood-prone areas shall have the elevation of the one hundred year flood listed thereon.

c. Plan Layout Sheet:

- 1) Streets and rights-of-way on and adjoining the site of the proposed subdivision, with street names, sidewalks and other pertinent data.
- 2) The layout of lots, showing dimensions and numbers and square foot area of each lot. Block number, distances, radii and chords shall also be shown.
- 3) Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes.
- 4) Building setback or front yard lines.
- 5) Easements: Locations, widths and purposes.
- 6) The "Plan Layout Sheet" may be incorporated into the "Topographic Sheet" provided such incorporation does not result in a drawing which is illegible.

d. Utility Layout Sheet:

- 1) A drawing showing the locations of the proposed sanitary sewers with connections to the main sewer system, lift stations, if any, and other appurtenances, if any.

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## 9.19 Subdivision Control Procedures - Major Subdivisions

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- 2) A drawing showing the location of a public or quasi-public source of water supply.
- 3) A drawing showing the proposed method of drainage:
  - a) If storm sewers or similar type of system is used, show connection to main system, or method of disposition into stream, retention reservoir, etc.; distance to stream outlet; lift stations, if any; man holes, if any; inlets; junction boxes; and other necessary appurtenances.
  - b) If surface drainage is planned, show the following where applicable: location and type of roadside swales, grassed waterways, water courses, and open ditches; roll curb and gutter sections; location and approximate size of road culverts; location and typical cross-section of grades, swales, waterways, roadside ditches, and/or open ditches; approximate depth and grades of above mentioned surface drainage; and necessary profiles, cross-sections, and other information to the adequacy of the outlet drain or detention reservoir.
- 4) Written statement concerning the location and approximate size or capacity of utilities to be installed.
- e. Supplementary Information:
  - 1) Phasing plan for any subdivision that is to occur in stages, along with a proposed schedule for the phasing.
  - 2) Written statement of the proposed use of lots, stating type of residential buildings with number of proposed dwelling units or type of business or industry, so as to reveal the effect of the development on traffic, fire hazards or congestion of population.
  - 3) Proposed covenants and restrictions.
  - 4) Elevations or renderings of typical product to be constructed in the subdivision.
  - 5) A National Cooperative Soil Survey Map from the Subdivision Administrator or the local Soil and Water Conservation District showing the soil limitations based upon the intended usage of the subdivision.
  - 6) Included in the application shall be a conservation plan detailing the management of the soil, the water management plan for both surface and subsurface drainage, and the method

or methods used in controlling erosion and sedimentation before, during, and following construction, i.e.: temporary seeding, siltation basins, mechanical erosion devices, and other similar means that meet the Boone County Soil and Water Conservation guidelines for urban development. (See Section 4 for more information.)

See Also:

[Section 9.14 Written Commitments](#)

- 7) A written statement or letter from INDOT, the County Highway Department, or City Street Department concerning rights-of-way, road improvements, roadside improvements, roadside drainage, entrances, culvert pipes, and other infrastructure improvements that impact this proposal.
  - 8) If legal drain is involved, a letter or written statement of approval from the Lebanon Stormwater Board concerning easements, rights-of-way, permits, etc.
  - 9) If floodway is involved, a letter or written statement from the Indiana Department of Natural Resources, Division of Water concerning construction in floodway, including flood plain high water marks, etc.
  - 10) A drawing or written statement which shows or explains other features or conditions which would impact the subdivision.
  - 11) A Fiscal Impact Analysis shall be prepared for all residential subdivisions with fifty (50) or more lots.
4. Primary Plat Review And Approval
- a. The Subdivider shall submit the required items listed above in accordance with the procedures and time frame set forth in the Primary Plat Application and the Plan Commission Rules of Procedure. The submittal shall be complete prior to being placed on any agenda. The Primary Plat shall be reviewed with regard to the standards for the current zoning of the property and not any anticipated zoning. The process should not run concurrently with the rezoning for the subject parcel
  - b. Staff will then put the project on the agenda for a regularly scheduled meeting with the Technical Assistance Committee (TAC) for the review of the Overall Primary Plat. The purpose of the TAC review is to ensure technical conformity with the Lebanon Unified Development Ordinance.
  - c. After the Primary Plat has been reviewed and the applicant has responded satisfactorily to the comments made by the TAC, the Subdivision Administrator shall place the Application for Primary

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## 9.19 Subdivision Control Procedures - Major Subdivisions

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Plat Approval on the agenda for the next regularly scheduled meeting of the Plan Commission.

- d. The applicant shall publish a notice of the time and place of the hearing and the location of the proposed plat, in accordance with [Section 9.15 Notice of Public Hearing](#), and the Plan Commission Rules of Procedure. The cost of the publication of the notice of public hearing shall be met by the applicant.
- e. The hearing shall be conducted in accordance with the Rules of Procedure. The Plan Commission shall review the application and shall study the "Overall Primary Plat" to determine if it conforms to the minimum standards and requirements as outlined in this ordinance. The Plan Commission shall also consider
  - 1) The written statement and supportive material submitted by the petitioner;
  - 2) The testimony of the petitioner;
  - 3) Relevant evidence presented by other persons;
  - 4) The Comprehensive Plan;
  - 5) The Lebanon Construction Standards Manual
  - 6) All information presented by the members of the Technical Advisory Committee;
  - 7) The Planning and Zoning Administrator's report; and
  - 8) Such other additional information as may be required by the Plan Commission to evaluate the petition.
- f. The Plan Commission shall prepare findings of fact and:
  - a. Approve the petition;
  - b. Approve the petition with conditions and/or commitments;
  - c. Deny the petition.
  - d. Continue the petition to a definite future meeting date.
- g. Commitments. In conjunction with the approval of a Primary Plat, the Plan Commission may permit or require the applicant to make written commitments concerning the use or development of the parcel.
- h. Conditions of Approval. In conjunction with the approval of a Primary Plat, the Plan Commission may impose conditions of approval concerning the use or development of the parcel that



will, in its judgment, substantially secure the objectives of these ordinances.

- i. Upon denying an application, the Commission will not review the Overall Primary Plat until it is re-submitted, which cannot be done for a minimum of six (6) months.
- j. The approval of the "Overall Primary Plat" by the Commission does not constitute approval of any or all of the subdivision, but is merely an authorization to proceed with preparation of a secondary plat.
- j. Revisions. Following Plan Commission approval, the petitioner shall submit revised copies of the plans that address the comments and concerns of the Plan Commission and that are in conformance with the established procedures of the Planning and Building Department.
- k. An approval of the Overall Primary Plat shall be effective for a period of twelve (12) months unless, upon request of the applicant, the Commission grants an extension of time. The application for a Secondary Plat shall be submitted to the Commission, and if it is not received within the specified period, all previous actions by the Commission with respect to the plat shall be deemed to be null and void.

### C. SECONDARY PLAT

1. Purpose. The following section provides guidelines for the submittal of a Secondary Plat of a Subdivision to ensure that the statutory requirements established in the Indiana Code for the subdivision of land are met. The applicant shall submit an application for approval of the Secondary Plat, engineering plans and specifications, and other required information to the Planning and Zoning Administrator.
2. Phases. The Secondary Plat may include all or any phase of an approved Overall Primary Plat. The applicant shall provide a description of the phase of the approved Overall Primary Plat intended to be filed for record, including a phasing plan for the progressive development of the remaining area contained in the approved Overall Primary Plat.
3. Review. Upon receipt of a complete application, the Administrator shall review the application for technical conformity with the standards in this ordinance and then:
  - a. Assign the Secondary Plat or Replat to the Plat Committee for approval; or
  - b. Assign the Secondary Plat or Replat to the Plan Commission for approval.

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## 9.19 Subdivision Control Procedures - Major Subdivisions

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4. Preparation and Contents. The Secondary Plat submittal shall contain the information as set forth in Section 9.17 Development Plan of this chapter. In addition, the submittal shall include:
  - a. A statement of the estimated amount of money sufficient to complete the improvements and installations by the subdivider and attested to by a Registered Land Surveyor or a Registered Professional Engineer.
  - b. Lot numbers and dimensions, and lot area in square feet.
  - c. Plans and specifications for the improvements required in this ordinance.
  - d. Restrictions of all types which will run with the land and become covenants in the deeds for lots.
  - e. Deed of dedication of streets and other public property.
  - f. Certificate of Primary Plat approval by the Commission, as provided by the Planning and Building Department.
  - g. Certificate of approval by the Lebanon Board of Public Works and Safety for improvements in subdivisions (when applicable).
  - h. Certificate of approval by the Lebanon Utilities Service Board for improvements in Subdivision (when applicable).
5. Secondary Plat Approval
  - a. Required Changes. The Secondary Plat will have incorporated all changes or modifications required by the Commission, General Manager of the Lebanon Utilities, Health Officer, Boone County Soil and Water Conservation District, and County Surveyor; otherwise it shall conform to the Overall Primary Plat as approved by the Commission, and it may constitute only that portion of the Primary Plat which the subdivider proposed to record and develop at the time, provided that such portion conforms with all requirements of this ordinance and meets the approval of the Commission.
  - b. Time For Filing. The Secondary Plat shall be filed not later than twelve (12) months after the date of approval of the Overall Primary Plat, otherwise it will be considered void unless an extension is requested by the developer and granted by the Commission in writing.
  - c. Application. Fifteen (15) days before the Commission's next regularly scheduled meeting, the subdivider shall submit to the Subdivision Administrator an application for approval of the "Secondary Plat" of the subdivision, together with four (4) copies

of all material outlined above, as requested by the Commission. Also, the original drawing, with signatures, and eight (8) page-size (8 ½ x 11) prints of the "Secondary Plat" shall accompany this material.

- d. Examination, Approval By The Subdivision Administrator. The Secondary Plat shall be considered officially filed after it is examined by the Subdivision Administrator and is found to be in full compliance with the formal provisions of this ordinance. To register his approval of said plat, the Subdivision Administrator shall sign and date an approval statement on the Plat.
- e. Financial Guarantees
  - 1) Guarantees that all required improvements will be constructed according to approved plans shall be a prerequisite to the filing of a Secondary Plat for recording in the Office of the Recorder of Boone County. Approval of a Secondary Plat shall be subject to the improvements being constructed and accepted for dedication or the appropriate financial guarantee being posted with the board of Public Works and Safety before recording. Copies of these agreements shall be on file at the City Clerk-Treasurer's office.
  - 2) Required Notice From Board Of Public Works And Safety. When the Secondary Plat is submitted to the Subdivision Administrator, it shall be accompanied by a notice from the Lebanon Board of Works and Safety, stating that there has been filed with and approved by that body, one of the following:
    - a) A certificate signed by an inspector from the Planning Department, stating that he has inspected the improvements and installations for the subdivision required for its approval, during and after their construction and installation; and stating that they have been made or installed in accordance with the approved specification; and that a three (3) year maintenance bond has been provided for any improvements and installations required by this ordinance, as is executed to the City of Lebanon. The said maintenance bond shall:
      - (1) Run to and be in favor of the City of Lebanon, Indiana.
      - (2) Be in a penal sum of not less than \$25,000 per mile of streets in the subdivision to assure and

## 9 9.19 Subdivision Control Procedures - Major Subdivisions

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guarantee the maintenance of all improvements and installations during such three (3) year period, including, but not limited to the following: streets to minimum City of Lebanon specifications, sanitary sewers, storm sewers and water lines, lift stations, pumps, motors, connections and main lines installed in the subdivision, sidewalks, shoulders, side slopes and ditches, street signs, street lights, and fire hydrants; provided that the Lebanon Board of Works and Safety may reduce the penal sum set forth herein for good cause if the intent of the Maintenance Bond provision is preserved, and

- (3) Include an amount for maintenance other than for streets set forth above which shall be set by the Commission, but in no event shall the penal sum of such maintenance bond covering additional installations be less than twenty-five percent (25%) of the total cost of all of the improvements and installations in the subdivision proposed for Secondary Plat approval, and
  - (4) Commence upon approval of the Secondary Plat.
- b) A financial guarantee which shall:
- (1) Run to the City of Lebanon.
  - (2) Be in an amount equal to one hundred twenty-five percent (125%) of the cost of the improvements as specified in the subdivision improvement agreement.
  - (3) Be with surety satisfactory to the Commission.
  - (4) Specify the time for the completion of the improvements and installations, which shall be within two (2) years from the date of such bond.
- c) Specify that upon completion, but prior to acceptance by the Lebanon Board of Public Works and Safety of any streets, a three (3) year maintenance bond or other suitable agreement acceptable to the Lebanon Board of Public Works and Safety covering such street improvements, and for all other improvements and installations in the subdivision which shall run to the Lebanon Board of Public Works and Safety, will be provided by the subdivider or contractor of such street improvements to be effective as of the date of acceptance by the Lebanon Board of

Public Works and Safety. This maintenance bond or other suitable agreement or financial guarantee shall satisfy the requirements set forth for a three (3) year maintenance bond.

- (1) The developer may furnish in lieu of the above and the foregoing maintenance bond, bonds with his subcontractors which comply with all of the requirements of the above and foregoing section.
- (2) Release Of Financial Guarantees. The financial guarantee referred to above shall not be released until the following has been received: a certificate stating that said engineer or surveyor has inspected the improvements and installations guaranteed by the bond during and after their construction and that they have been made and installed in accordance with the approved specifications. Such certificate shall have been filed with the Subdivision Administrator and the Lebanon Board of Public Works and Safety; and shall have been signed by a registered professional engineer or registered land surveyor, who has been approved by the Lebanon Board of Public Works and Safety.
- 3) Upon the acceptance of all streets in the subdivision by the Lebanon Board of Public Works and Safety, and upon the subsequent authorization of the Lebanon Board of Public Works and Safety for the acceptance of the other improvements and installations covered by the maintenance bond, the three (3) year maintenance bond or other suitable agreement or financial guarantee may be released and the surety discharged of further obligation for all time.
- 4) Bond Funds. Any funds received from the bond required by these regulations shall be used only for the purpose of making the improvements, installations or repair for which said guarantees were provided, in accordance with the standards, specifications and requirements of these regulations.
- f. Completion Affidavit. Upon the acceptance of said improvements and installations by the Lebanon Board of Works and Safety, the applicant shall obtain a completion affidavit stating that the required improvements and installations have been installed in compliance with the specifications of this ordinance, and have been accepted for public maintenance; said completion affidavit

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## 9.20 Subdivision Control Procedures - Minor Subdivisions

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shall be filed with the Commission. (See Appendix)

- g. Approval. Within a reasonable time, not to exceeding sixty-five (65) days after application for approval of the Secondary Plat, the Administrator or his/her designee shall approve or disapprove the Secondary Plat. The Administrator may choose to refer the Secondary Plat approval request to the Plan Commission. If approved the plat shall be stamped and signed by the Administrator. The plat may then be filed for recording in the Office of the Recorder of Boone County, as required by law within six (6) months. If the plat is disapproved the Administrator shall set forth in writing the reason for such disapproval in its own records and provide the applicant with a copy. The applicant may refile after a period of one year, but he must show a substantial change to the disapproved subdivision, as determined by the Plan Commission.

### **9.20 SUBDIVISION CONTROL PROCEDURES - MINOR SUBDIVISIONS**

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- A. GENERAL. Subdivisions meeting the following conditions of eligibility may be considered as "Minor Subdivision", and with replats, shall be considered under the provisions of this subsection. Minor subdivisions may receive primary and secondary approval by the Plat Committee. The Subdivision Administrator's decision may be appealed to the Plan Commission.
- B. CONDITIONS OF ELIGIBILITY. Before determining that a subdivision is eligible to be considered under this section, the Subdivision Administrator shall find that all of the following criteria are satisfied:
  1. Division From Parent Tract. The subdivision will not result in the creation of more than three (3) lots from a parent tract, whether at the same time or over the course of time. , shall be considered under minor subdivision review. Any subdivision which would result in a cumulative total of three (3) or more lots in addition to the original parent tract shall be considered a major subdivision, regardless of whether the three lots are created through one subdivision or several subdivisions over time.
  2. Orderly Development. The subdivision will not impede orderly development of land or the provision of public services and improvements.
    - a. The subdivision will not interfere with the implementation of the Comprehensive Plan.

- b. The subdivision will not interfere with the provision of streets to provide access to adjoining or nearby property in the event that such property is developed in the future.
3. Utilities And Drainage. All parcels in the subdivision will have adequate utilities and drainage.
  - a. All lots shall be served by a sanitary sewer. Any subdivision of land which requires the extension of existing sewers shall be considered as a major subdivision.
  - b. All lots shall be served by a public or quasi-public water system. Any subdivision of land which requires the extension of existing water shall be considered as a major subdivision.
  - c. All lots shall be provided with drainage improvements in compliance with the Lebanon Stormwater Control Ordinance, as amended.
4. Access. All parcels in the subdivision and adjacent land will have adequate ingress and egress without the construction of any new streets or substantial improvement to existing streets.
  - a. All lots will have legal access to a platted private street or to a public street which has been accepted for maintenance, or has been continuously maintained for a period of ten (10) years immediately preceding the filing of the subdivision, by a public agency regularly having responsibility for such maintenance. Such public street shall also have a hard surface suitable for vehicular traffic which complies with the Thoroughfare Plan.
  - b. Frontage on limited access streets on which driveways cannot open shall not constitute legal access.
  - c. If by reason of topography, natural or man-made features, or other conditions relating to the property requested for subdivision, better access can be provided through construction of a new street, the petition shall be considered as a major subdivision.
  - d. All lots will have driveway locations which will provide for adequate sight distance and will be properly spaced according to City standards.
  - e. Land adjacent to the property involved in the subdivision shall also have adequate access according to the criteria contained in this subsection.
5. Suitability. All lots in the subdivision will provide suitable building sites for the purpose for which the land is to be used. Land suitability shall be determined by the criteria contained in [Section 8.2 General](#)

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## 9.20 Subdivision Control Procedures - Minor Subdivisions

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Provisions for All Subdivisions of this ordinance.

6. Endangerment. The subdivision will not be detrimental to nor endanger the public, health, safety, or general welfare.
  7. WAIVERS. The Subdivision shall not require any waivers.
- C. CONCEPT PLAN. Submittal of a Concept Plan for a minor subdivision is optional. The Concept Plan review process serves as an introduction to the subdivision process and subdivision regulations for the applicant. Refer to Section 9.19 Subdivision Control Procedures - Major Subdivisions for the Concept Plan procedure.
- D. PRIMARY PLAT APPROVAL
1. Application. Application shall be made to the Subdivision Administrator on the appropriate forms, accompanied by the required filing fee. The subdivision administrator will then determine whether or not the subdivision qualifies for minor subdivision approval or whether it must be filed as a major subdivision.
  2. Minor Subdivision. All subdivisions of land meeting the definition of "Subdivision, Minor," in Chapter 11: Definitions of this ordinance and verified by the Administrator may be submitted to the Plat Committee or the Plan Commission for primary approval as specified in this section.
  3. Required Submission Materials. All requests for primary plat approval of a minor subdivision shall be accompanied by the materials required as set forth in Subsection 9.19(B) of this ordinance.
  4. Supporting Material. The following supporting material, in accordance with Subsection 9.19(B), shall be submitted with the primary plat:
    - a. The names and addresses of all adjacent land owners, keyed to a map.
    - b. A map showing all significant topographical and other features, including water bodies, existing buildings, alleys, streets, or other information which will aid in the location of the property for site visits.
    - c. Evidence that a sewerage permit can be obtained from the City Utilities Department and evidence that water service is available to all building lots in the subdivision.
    - d. Documentation sufficient to show that all applicable design standards of this ordinance are met by the proposed subdivision.
    - e. Erosion control plan, if necessary.



- f. Drainage report, if necessary.
  - g. Any covenants or other restrictions which will run with the land included in the subdivision.
  - h. If any lot in a minor subdivision is to receive its access from a State highway, evidence that a driveway permit can be issued by the Indiana Department of Transportation shall be submitted.
5. Findings and Decision. Upon review of all the materials by the Plat Committee, the Plat Committee shall make written findings of whether the Primary Plat meets the standards of this ordinance and shall approve the petition; approve the petition with conditions and / or commitments; deny the petition; or continue the petition to a definite future meeting.
6. Revisions. Following Plat Committee approval, the applicant shall submit revisions in conformance with the established procedures of the Planning and Building Department.
7. Length Of Approval. Primary approval of a minor subdivision shall be valid for three hundred sixty-five (365) days, unless an extension is granted by the Plat Committee or Commission. If secondary approval is not granted before the expiration of three hundred sixty-five (365) days, the primary approval shall be null and void.

### E. SECONDARY PLAT APPROVAL

1. General. After all conditions of primary approval have been met, the applicant may request secondary approval from the Administrator or Plat Committee. The Administrator may choose to refer the plat approval request to the Plan Commission.
2. Required Submission Materials. All requests for secondary approval shall be accompanied by the materials listed in this section.
- a. Secondary Plat. An original drawing prepared in accordance with the standards set forth in Subsection 9.19(C) and all information required above, as approved by the Plan Commission or Plat Committee.
  - b. Supporting Material. Documentation sufficient to show that all conditions of primary approval by the Commission or Plat Committee have been met.
3. Length Of Approval. Secondary approval of a minor subdivision shall be valid for a period of one year from the date of such approval. If the subdivision is not recorded before the expiration of one year, it shall become null and void.

# 9 9.21 Administrative Subdivisions

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## **9.21 ADMINISTRATIVE SUBDIVISIONS**

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- A. GENERAL. Administrative subdivisions are subject only to the agreement of the Plat Committee that such subdivision is within one of the categories included in the definition of "Subdivision, Administrative," in [Chapter 11: Definitions](#) of this chapter. Replats which meet the conditions of administrative subdivisions also may be considered under the terms of this Article.
- B. FILING FEES. A request for review of a subdivision shall be accompanied by the filing fee established by the Plan Commission.
- C. SUBMISSION MATERIALS. The following materials shall be submitted by an applicant for approval of an administrative subdivision:
1. Application signed by the owner(s) of record of all property involved in the subdivision.
  2. A drawing drawn to a scale of fifty (50) feet to one (1) inch, or one hundred (100) feet to one (1) inch and on sheets not to exceed twenty-four (24) inches by thirty-six (36) inches; however, if the resulting drawing would be over thirty-six (36) inches in the shortest dimension, then a scale as recommended by the Subdivision Administrator may be used. Such drawing shall show the property involved in this subdivision, indicating the area of each lot or parcel in acres (for parcels larger than 20,000 sq.ft.) or square feet and indicating the configuration of the property and any easements thereon before and after the proposed administrative subdivision.
  3. Required approval certificates.
  4. For removal of interior lot lines, a legal description of the property and the new lot number(s).
  5. For removal of platted easements, signed and notarized letters of approval of the proposed action by all utilities having an interest in such easements, and in the case of drainage easements, any neighboring property owners affected by such easements. A notation shall be placed on the plat indicating that the easement has been vacated.
  6. For changes in the notations on a previously approved plat, an explanation of the reason(s) for the changes. If the Plat Committee finds that such changes have a significant effect on the subdivision as previously approved, the Plat Committee shall require such changes to be decided by the Plan Commission.
  7. For division of land into cemetery plots, a plat of the cemetery showing the layout of the cemetery, including private drives, parking

areas, and the sizes of burial lots. Such plat shall comply with the requirements of Indiana Code, 23-14-8 and any amendments thereto.

8. For divisions by court decree, a copy of the decree showing by legal description how the land is to be divided.
9. Sale or exchange of tracts between adjoining land owners:
  - a. For sale or exchange of adjoining land where one or more of the affected parcels is platted, a legal description and indication on the drawing of the tract to be divided and the tract to be added and certification by a registered land surveyor that monuments have been or will be set to indicate the relocated property lines. If the land involved in the subdivision has not been monumented, no monumentation is required.
  - b. For sale or exchange of adjoining unplatted land, a legal description and indication on the drawing of the tract to be divided and the tract to be added.
  - c. For subdivision where the purpose is to resolve a boundary dispute or to establish a mutually agreed upon boundary line, an affidavit signed by all affected property owners stating the purpose of the subdivision.
  - d. At the time that an administrative subdivision as defined in [Chapter 11: Definitions](#) is submitted for secondary approval, the submission shall include quitclaim or warranty deed(s) containing the legal description for each parcel of property for which ownership is transferred within and by said Administrative Subdivision.
10. For corrections of legal descriptions, an affidavit signed by the affected owners stating that the description was in error, and a corrected legal description. Such correction shall be recorded, and an appropriate notation shall be placed upon the previously recorded plat.
11. For dedication or granting of easements for purposes other than access, a legal description. Such easements shall be recorded, and an appropriate notation shall be placed on the recorded plat.
12. For dedication of right-of-way or access easements, a legal description and a plat showing the parcels and the location of the right-of-way or easement. In addition, for right-of-way dedication, certification by a registered land surveyor that monuments will be set indicating the relocated property lines.
13. For division of a building site containing an existing dwelling from an agricultural tract, evidence that the dwelling has been on the site for at least ten (10) years, and a survey by a registered land surveyor

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## 9.21 Administrative Subdivisions

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meeting the minimum standards for surveys and preparation of plats, contained in [Section 8.6 Standards for Surveys and Preparation of Plats](#).

### D. REVIEW PROCEDURE FOR ADMINISTRATIVE SUBDIVISIONS

1. Discussions With Staff. Prior to submitting any of the materials required by this section, the applicant or his/her representative is encouraged to discuss with the Subdivision Administrator the nature of the land division being proposed. Based upon the information provided at this conference, the Subdivision Administrator will provide the applicant with a preliminary opinion as to whether the proposed subdivision qualifies as an administrative subdivision, and if not, which application and review procedure applies to that type of subdivision. Failure to hold this conference and/or to provide complete and accurate information to City Staff at this stage may cause delays in formal consideration of the subdivision.
2. Application And Fees. An application for approval of an administrative subdivision shall be filed with the Planning and Building Department together with all required materials. The fee, as set by the Plan Commission, shall be paid at the time of filing.
3. Plat Committee. The Plat Committee has been assigned by the Plan Commission to review and decide administrative subdivision petitions. In the event of any uncertainty as to compliance or classification of any subdivision, the Plat Committee shall forward such subdivision to the Plan Commission for consideration.
4. Review. The Plat Committee shall review the plat for compliance with the Subdivision Control Ordinance for the City of Lebanon. The Subdivision Administrator may review the application for compliance with this section, and provide a recommendation to the Plat Committee.
5. Site Visit. Plat Committee members, city officials, staff or their representatives, at their discretion, may visit the site at any time during the review process.
6. Consultation. Plat Committee members, city officials, staff, or their representatives shall consult with any other persons and agencies necessary to make an accurate determination of the compliance of the application with the terms of this section.
7. Action. Action by the Plat Committee on an administrative subdivision shall be by a majority vote.

## 9.23 Development Standards Variance 9

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8. Public Notification. Approval may be granted to an administrative subdivision by the Plat Committee without public notice and hearing. Within ten (10) days after approval by the Plat Committee, the Subdivision Administrator shall provide due notice by mail to adjacent property owners and the petitioner(s). Such notice shall include a notification of the right to appeal the Plat Committee's decision.
9. Comment Period. Adjacent property owners and the petitioner(s) shall have a ten (10) day comment period from the date the notice is mailed, within which any notice of appeal must be filed with the Subdivision Administrator.
10. Appeal. Appeal shall be governed in accordance with the following section:
  - a. Plat Committee Decision. Any final decision of the Plat Committee may be appealed to the Plan Commission. The notice of final decision shall contain the date of mailing thereon. Appeal may be initiated by the applicant, or any property owner affected by such final decision. The appeal shall be directed to the Plan Commission, and shall be filed with the Subdivision Administrator. If the expiration of the ten (10) day comment period occurs on a Saturday, Sunday or recognized City of Lebanon holiday, then such expiration date shall be extended to include the next business day thereafter following.
  - b. Public Hearing. Appeal of the Plat Committee final decision shall be heard by the Plan Commission at a regularly scheduled public hearing, or in accordance with commission rules at a special meeting of the Plan Commission. Said hearing shall take place within forty-five (45) days after the filing of an Appeal with the Subdivision Administrator, and the Plan Commission shall render its written final decision within fifteen (15) days after such hearing. With the consent of the applicant and the Plan Commission, said hearing day may be extended.
  - c. Plan Commission Decision. A final decision of the Plan Commission may be appealed to the Circuit Court or Superior Court of Boone County, Indiana. Said appeal shall be through a Petition for Writ of Certiorari filed with the clerk of the appropriate court within thirty (30) days after the date of such final decision. Said petition shall in all respects conform to Indiana Law.
11. Approval Certificate. The Chairman and Secretary of the Plat Committee are authorized to sign the approved administrative plat.
12. Length Of Approval For Administrative Subdivisions

See Also:

[Section 2.4 Board of Zoning Appeals](#)

# 9

## 9.23 Development Standards Variance

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- a. The approved administrative subdivision shall be recorded in the Boone County Recorder's Office within 120 days of certification by the Plat Committee. Any such subdivision and certification not recorded within that period shall become null and void.
- b. The approved administrative subdivision and any deed as required by this Article shall be recorded concurrently in the Boone County Recorder's Office within 120 days of certification by the Plat Committee. Any such subdivision, deed(s) and certification not recorded within that period shall become null and void.

### **9.22 AS-BUILT PLANS/ RECORD DRAWINGS**

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- A. SUBMISSION OF PLANS. After completion of all public improvements such as streets, drainage ditches, structures and facilities, utility pipes and the like, but prior to their acceptance by the City of Lebanon Board of Works and Safety, the applicant shall provide the Administrator with a set of record drawings including one digital copy of the drawings, in a format as specified by the City. The record shall show the actual locations and specifications of all improvements installed in the subdivision. These As-Built plans shall be accompanied by a certificate of Compliance and Completion, sealed and signed, prescribed and certified as correct by a land surveyor or engineer licensed in Indiana.
- B. ACCEPTANCE OF PUBLIC IMPROVEMENTS. Upon completion of construction, the applicant may file a written request to the City of Lebanon Board of Works and Safety for acceptance of all public improvements. Absolutely no public improvements shall be accepted by the City of Lebanon without prior submission of As-Built Plans.
- C. PENALTIES AND FINES. Failure to provide correct As-Built Plans to the City shall result in penalties and fines as described in [Chapter 10: Enforcement and Penalties](#).
- D. APPROVAL FORMS. All agreements, bonds, and certificates of approval required by this ordinance shall be submitted on the forms found at the City of Lebanon Planning and Building Department offices or on the City's website.

### **9.23 DEVELOPMENT STANDARDS VARIANCE**

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- A. PROCEDURE. In no case shall any variance to the terms of this ordinance be authorized without the approval of the Board of Zoning Appeals (BZA). Further, no decisions on previous applications shall serve to set a precedent for any other application before the BZA. The following procedure shall

apply to all variance applications:

1. Application. The applicant shall submit a variance application, affidavit and consent of property owner (if the owner is someone other than the applicant), a copy of the deed for the property involved, the required filing fee, and required supporting information. Supporting information shall include, but not be limited to, the following:
  - a. Site Plan. A site plan shall be signed and dated. The site plan shall be drawn to scale and/or fully dimensioned to the satisfaction of the Planning Director and clearly show the entire layout of the property with all features relevant to the variance request.
  - b. Statement of Intent. A statement of intent to the Board of Zoning Appeals describing the details of the variance being requested and stating how the request is consistent with the required findings of fact. The statement should include any written commitments being made by the applicant.
2. Notification. Notification for the scheduled public hearing regarding the variance request shall be completed consistent with [Section 9.15 Notice of Public Hearing](#) and the Rules of Procedure of the Board of Zoning Appeals.
3. Public Hearing. The BZA will then, in a public hearing, review the variance application and required supporting information.
  - a. Representation. The applicant and any representative of the applicant must be present at the public hearing to present the petition and address the required findings of fact.
  - b. Testimony. The Board shall consider a report from the Planning and Zoning Administrator and testimony from the applicant, remonstrators, the public, and interested parties at the hearing.
  - c. Procedures. The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the Rules of Procedure of the Board.
  - d. Possible Action. The BZA may approve, approve with conditions, deny, or continue the application in accordance with IC 36-7-4-918.4.
    - 1) Approval. The application shall be approved if a determination in writing is made consistent with the decision criteria listed in [Subsection 9.23\(A\)\(4\)](#).
    - 2) Approval with Modifications. The application shall be approved with modifications if the Board of Zoning Appeals

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## 9.24 Subdivision Control Waiver

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determines that the requirements of [Subsection 9.23\(A\)\(4\)](#) may be met if certain conditions are applied to the application. The Board may make reasonable conditions related to the required decision criteria in [Subsection 9.23\(A\)\(4\)](#) below, part of its approval and/or accept written commitments from the applicant.

- 3) Denial. The application shall be denied if a determination in writing consistent with the decision criteria listed in [Subsection 9.23\(A\)\(4\)](#) is not met. Applications that are denied shall not be eligible for consideration again by the Board for a period of 12 months from the date of denial.
- 4) Continued. The application may be continued by the Board based on a request by the Administrator, applicant, remonstrator, or interested party; an indecisive vote; or a determination by the Board that additional information is required prior to action being taken on the request.
  - a) Additional legal notice shall not be required unless specified by the Board of Zoning Appeals.
  - b) The continuing of all applications shall be consistent with the adopted Rules of Procedure of the Board of Zoning Appeals.
4. Decision Criteria. In taking action on all variance requests, the Board shall use the following decision criteria, consistent with the requirements of the Indiana Code.
  - a. Development Standards Variance. The Board may grant a variance from the development standards of this ordinance (such as height, bulk, area) if, after a public hearing, it makes a determination in writing (consistent with IC 36-7-4-918.5), that the following requirements will be met:
    - 1) General Welfare. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.
    - 2) Adjacent Property. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
    - 3) Practical Difficulty. The strict application of the terms of this ordinance will result in a practical difficulty in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on,



economic gain.

5. Conditions. The Board may impose such reasonable conditions upon its approval as it deems necessary to find that the decision criteria for approval have been met.
6. Commitments. The Board may require the owner of the property to make written commitments concerning the use or development of the property as specified under IC 36-7-4-921. Such commitments shall be recorded in the Boone County Recorder's Office. A copy of the recorded commitments shall be provided to the Planning and Zoning Administrator for inclusion in the petition file at the time of application for an Improvement Location Permit. No Improvement Location Permit shall be issued for a permit application which does not comply with the recorded commitments.
7. Limitations. The following limitations shall apply to the execution of a variance approval:
  - a. Development Standards Variance. A development standards variance granted by the Board and executed in a timely manner as described in this Article shall run with the parcel until the property conforms with Ordinance as written.

### **9.24 SUBDIVISION CONTROL WAIVER**

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- A. AUTHORITY. The Plan Commission may, in its discretion, authorize and approve Subdivision and Overlay District Waivers from the requirements and standards as specified in [Chapter 6: Overlay Districts](#) and [Chapter 8: Subdivision of Land](#) of the Unified Development Ordinance.
- B. APPLICATION
  1. At the time of filing a subdivision application, consistent with this ordinance, the applicant must submit a detailed written statement documenting all waivers requested as part of the application and reasons for the waiver request(s) consistent with the decision criteria outlined in [Subsection 9.23\(A\)\(4\)](#). The waiver requests may be modified and added to by the applicant at any time prior to public notice of the subdivision request being provided.
  2. The Applicant shall describe the requested waivers and shall submit proposed findings of fact in support of each requested modification. The Applicant shall bear the burden of establishing a sufficient factual basis for each requested modification.
  3. The applicant may be asked to submit additional information as required

# 9 9.24 Subdivision Control Waiver

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to evaluate the application.

4. The Planning and Building Department and the Technical Assistance Committee shall review the application and supporting documents for conformity with the Unified Development Ordinance.

See Also:

[Section 10.4  
Citation for Written  
Commitment  
Violations](#)

- C. PLAN COMMISSION. Upon completing the review, the requested waiver (s) shall be heard at the Plan Commission in conjunction with the Primary Plat.
  1. Responsibility. The petitioner shall be responsible for publishing and mailing public notice, and returning proof of mailed published notice pursuant to the Plan Commission Rules of Procedure and [Section 9.15 Notice of Public Hearing](#) of this ordinance.
  2. Limitations. Only those waivers specifically described in the public notice may be considered by the Plan Commission.
  3. Conditions. Waivers may only be granted in a public hearing, and shall be considered at the time of the Primary Plat review by the Commission. The Commission may make reasonable conditions an element of any waiver approval.
  4. Granting Of Waivers. The commission may grant such waivers to the requirements and standards of this ordinance as will not be contrary to the public interest, where owing to extraordinary conditions, fully demonstrated by the applicant on the basis of facts presented, strict compliance with the provisions of this ordinance would result in unnecessary hardship or misuse of property.
  5. Criteria For Waivers. In the exercise of its authority under this section, the Plan Commission shall grant waivers only upon finding all of the following:
    - a. The waiver will not be detrimental to the public health, safety, or general welfare.
    - b. The waiver will not adversely affect adjacent property.
    - c. The waiver is justified because of exceptional topographic or other physical conditions unique to the property involved and is not to correct mere inconvenience or financial disadvantage.
    - d. The waiver is consistent with the intent of this and other applicable ordinances and the Comprehensive Plan.
    - e. The condition necessitating the waiver was not created by the owner or applicant.
    - f. The waiver will not conflict with the powers and duties of the Board of Zoning Appeals as defined by this ordinance.

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- g. The practical difficulties cannot be overcome through reasonable design alternatives.

#### D. DECISION

1. The Plan Commission shall:
  - a. Approve the petition;
  - b. Approve the petition with conditions and/or commitments;
  - c. Deny the petition; or
  - d. Continue the petition to a definite future meeting date.
2. In approving waivers, the Commission may impose such conditions as will, in its judgment, substantially secure the objectives of these regulations.
3. With respect to each requested waiver and each imposed condition, the Commission shall prepare and approve written findings of fact. Such findings shall address each of the conclusory findings set forth in Subsection (A) above and shall cite the specific facts that support each of the conclusory findings and that support each of the imposed conditions.
4. The Commission's decision to grant or deny a modification or to impose a condition is discretionary.

#### E. COMMITMENTS

1. Acceptance. In conjunction with the approval of a Subdivision Waiver, the Plan Commission may permit or require the petitioner to make written commitments concerning the use or development of the parcel.
2. Signing. The petitioner and the President of the Plan Commission shall sign the commitment instrument.
3. Recording. The petitioner shall record the commitment instrument in the Boone County Recorder's office within thirty (30) days of the approval of the Subdivision Waiver. The petitioner shall deliver a copy of the recorded commitment instrument to the Planning and Building Department before submitting a Secondary Plat application. Any conditions imposed by the Commission as part of the waiver approval shall be included in writing on the recorded plat of the subdivision.
4. Enforcement. Commitments are enforceable by the City of Lebanon.

- F. **MODIFICATION OR TERMINATION.** A commitment made under this section may be modified or terminated only by a decision of the Plan Commission made at a public hearing.

