

**ALLEN COUNTY CODE TITLE 2
GENERAL PLANNING**

**ARTICLE 7
DRAIN CONSTRUCTION REIMBURSEMENT FEES**

2-7-1 Chapter 1: Definitions

2-7-1-1

Affected Land: Land within a watershed that is affected by the reconstruction, replacement or improvement of a drain.

2-7-1-2

Owner: The owner of any interest in land.

2-7-1-3

Drain: A mutual, open regulated or rural drain as those terms are defined in I.C. 36-9-27-2.

2-7-1-4

Original Developer: A Developer whose development necessitates the construction, replacement or improvement of a drain and who pays the cost for such construction, replacement or improvement.

2-7-1-5

Subsequent Developer: A Developer whose development is located within the affected land which has been previously determined by the Allen County Surveyor to be future benefited land as defined by this Ordinance, and whose development is constructed after the original developer's development.

2-7-1-6

Development: The process of acquiring land primarily for residential, commercial, or industrial construction with a resulting land use change excluding the construction of one single or double family residential dwelling on the entire parcel of land

2-7-1-7

Future Benefited Land: Affected land which the Allen County Surveyor determines will be potentially benefited by the original developer's construction, replacement, or improvement of the drain if such land is subsequently developed.

2-7-1-8

Single or Double Family Residential Dwelling: A residential structure that:

- (a) Was designed and built for occupancy by not more than two (2) separate families; and
- (b) Contains not more than two (2) separate living quarters.

2-7-2 Chapter 2: Drainage Fee Requirements

2-7-2-1

Whenever an original developer constructs a development that causes increased drainage flow on the drain servicing the affected land and thereby necessitates the construction, replacement, or improvement of a drain so that it can adequately drain the affected land, the original developer shall pay for the entire cost of constructing, replacing or improving that drain.

2-7-2-2

At the time the original developer constructs, replaces or improves a drain, the Allen County Surveyor shall determine which areas located within the affected land are capable of being developed at a later time, and shall set forth a report identifying the future benefited land, if any is determined to exist.

2-7-2-3

The Allen County Surveyor shall insure that a drain constructed, replaced or improved by an original developer has sufficient capacity to support future benefited lands based upon current accepted design standards.

2-7-2-4

At such later time as a subsequent developer constructs a development within the affected land, previously determined by the Allen County surveyor to be a future benefited land, the subsequent developer shall pay to the original developer its pro rata share for the construction, replacement, or improvement cost originally borne by the original developer. This pro rata share shall be determined by the Allen County Surveyor by calculating the acreage of the subsequent development as compared to the acreage of the

entire affected land. A subsequent developer shall pay its pro rata share to the original developer prior to obtaining approval of its development plan.

2-7-2-5

Any owner who purchases land identified by the Allen County Surveyor as future benefited land that is purchased and constructs a single or double family residential dwelling shall pay to the original developer a minimum fee based on five (5) acres of land, regardless of how many acres the owner actually owns and occupies.

2-7-2-6

If land occupied by a single or double family residential dwelling is subsequently put to a different residential dwelling is subsequently put to a different residential, commercial or industrial use, the owner or subsequent developer of that land shall pay to the original developer the pro rata share based on the entire acreage of land owned, less a credit for the minimum fee already paid, at such time as the owner changes the land use.

2-7-3 Chapter 3: Enforcement and Penalties

2-7-3-1

Any person violating any provision of this ordinance may be fined up to and including \$1,000.00 per day for each day the violation is allowed to occur.

2-7-3-2

An original developer may enforce this Ordinance in any court of competent jurisdiction upon a showing that a subsequent developer has begun construction of a development and has not yet paid his pro rata share of the construction, replacement or improvement cost.

This ordinance approved by the Board of Commissioners of the County of Allen this 4th day of June, 1996.