

## **CHAPTER 850**

### **SUBDIVISIONS: GENERAL PROVISIONS**

#### **850-1. Title**

These regulations (Monroe County Code Chapters 850 through 860) shall be known and may be cited as the "Monroe County Subdivision Control Ordinance" and are generally referred to herein as "the Subdivision Control Ordinance," "the ordinance" or "these regulations."

#### **850-2. Policy**

The following policies shall guide the interpretation, administration and enforcement of the Subdivision Control Ordinance.

- (A) The subdivision of land, the subsequent development of the subdivided land and the public and private facilities and improvements proposed to serve the subdivided land shall be considered subject to the Comprehensive Plan and related policies (e.g., those embodied in the County Zoning Ordinance) and to all relevant County implementation programs (e.g., the Capital Budget, Official Map, Thoroughfare Plan, Zoning Ordinance, Drainage Ordinance, Housing Code and Building Code) for the orderly and efficient development of the County.
- (B) Land shall not be subdivided if doing so would result in unreasonable peril from flood, fire or other menace. Land shall not be subdivided until adequate access to necessary public facilities and improvements is demonstrated and until provisions have been made for drainage, water, sewerage and other necessary public improvements (e.g., schools, parks, recreation facilities, and transportation facilities) adequate for serving the subdivision. Private wells and sewage disposal systems may be used in lieu of public water and sewage disposal systems if otherwise permitted by the Monroe County Code and if approved by the State and/or County Health Department.

#### **850-3. Purpose of Regulations**

The purpose of these regulations shall be:

- (A) To protect and provide for the public health, safety, and general welfare of the County.
- (B) To guide the future development and renewal of the County in accordance with the Comprehensive Plan and related policies, objectives and implementation programs.
- (C) To provide for the safety, comfort, and soundness of the built environment and related open spaces.
- (D) To protect the compatibility, character, economic stability and orderliness of all development through reasonable design standards.
- (E) To guide public and private policy and action to ensure that adequate public and private facilities will be provided, in an efficient manner, in conjunction with new

development, to promote an aesthetically pleasing and beneficial interrelationship between land uses, and to promote the conservation of natural resources (e.g., natural beauty, woodlands, open spaces, energy and areas subject to environmental constraints, both during and after development).

- (F) To provide proper land boundary records, i.e.:
- (1) to provide for the survey, documentation, and permanent monumentation of land boundaries and property;
  - (2) to provide for the identification of property; and,
  - (3) to provide public access to land boundary records.

The Subdivision Control Ordinance shall be interpreted, administered and enforced in a manner that is consistent with the foregoing purposes.

**850-4. Authority and Jurisdiction**

These regulations, enacted pursuant to the Indiana home rule and planning enabling legislation (Indiana Code § 36-1-3-4 and the § 36-7-4-700 series, as amended), authorize the Monroe County Plan Commission to grant and revoke certain permits, to review and approve or disapprove construction plans and agreements, drainage and erosion control plans and other such plans and to review and approve or disapprove plats for the subdivision of land throughout the County Jurisdictional Area. This authority extends to the development or resubdivision of undeveloped portions of presently recorded plats within said area.

**850-5. Enactment and Amendment**

- (A) These subdivision regulations are hereby adopted so that land may be subdivided in accordance with the foregoing purposes and policies. The Commission shall not have the authority to approve any subdivision which does not comply with these regulations.
- (B) When necessary to further the purposes and policies of these regulations, the County may from time to time amend these regulations. Public hearings on all proposed amendments shall be held by the Commission and/or County in the manner prescribed by law.

**850-6. Interpretation, Conflict and Separability**

- (A) In their interpretation and application, these regulations shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.
- (B) These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. Where the conditions imposed by, or pursuant to, these regulations are different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, statute or other provision of law, the provisions which are more restrictive and which impose higher/greater standards shall control.

- (C) The provisions of this ordinance are separable. If any part or provision of these regulations or the application thereof to any persons or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The County hereby declares that it would have enacted the remainder of these regulations even without any such part, provision or application.
- (D) With respect to the subdivision of land within the zoning jurisdiction of another unit of government, the zoning laws of the other unit shall apply.

**850-7. Computation of Time**

Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday or legal holiday, that day shall be excluded. When the period of time prescribed is less than seven (7) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded.

**850-8. Saving Provision**

These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the County under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the County except as shall be expressly provided for in these regulations.

**850-9. Repealer**

Upon the adoption of these regulations according to law, the subdivision provisions of the Zoning Ordinance of Monroe County, adopted August 29, 1986, as amended, is hereby repealed, except for such sections expressly herein retained.

**850-10. Conditions**

Regulation of the subdivision of land and the attachment of reasonable conditions to land subdivision is an exercise of valid police power delegated by the state to this County. The Developer has the duty of compliance with reasonable conditions laid down by the Commission for design, dedication, improvement, and restrictive use of the land in order to conform to the physical and economical development of the County and to the safety and general welfare of the future lot owners in the subdivision and of the County at large. The failure to comply with such conditions may be cause for denial of the permits and approvals prescribed by these regulations and by the Zoning Ordinance and shall, if such failure occurs after final approval, constitute a violation of the Subdivision Control Ordinance.

**850-11. Vacation and Resubdivision of Plats**

- (A) Any recorded plat or part of any recorded plat may be vacated only in accordance with I.C. 36-7-3, as amended.

- (B) The resubdivision or amendment of any part of a recorded subdivision plat shall be subject to approval by the Commission in accordance with the procedures, rules and regulations for subdivisions in addition to the procedures, rules and regulations specified for plat vacations in I.C. 36-7-3.
- (C) Whenever a parcel of land is subdivided and the subdivision plat shows one or more lots which could be resubdivided in accordance with these regulations and there are indications that such lots will eventually be resubdivided into smaller building sites, the Commission may require that such parcel of land allow for the future opening of streets and the ultimate extension of adjacent streets. The establishment of easements which would allow for the future opening and extension of such streets may be made a condition of plat approval.

**850-12.**

**Modifications: Conditions and Procedure**

- (A) The Commission may authorize and approve modifications from the requirements and standards of these regulations (including the waiver of standards or regulations) upon finding that:
  - (1) practical difficulties have been demonstrated;
  - (2) the requested modifications would not, in any way, contravene the provisions of the Zoning Ordinance, the Comprehensive Plan or the Official Map of the County;
  - (3) granting the modifications would not be detrimental to the public safety, health, or welfare and would not adversely affect the delivery of governmental services (e.g., water, sewer, fire protection, etc.);
  - (4) granting the modifications would neither substantially alter the essential character of the neighborhood nor result in substantial injury to other nearby properties;
  - (5) the conditions of the parcel that give rise to the practical difficulties are unique to the parcel and are not applicable generally to other nearby properties;
  - (6) granting the requested modifications would not contravene the policies and purposes of these regulations;
  - (7) the requested modifications are necessary to ensure that substantial justice is done and represent the minimum modifications necessary to ensure that substantial justice is done;
  - (8) the practical difficulties were not created by the Developer, Owner, Subdivider or Applicant; and,
  - (9) the practical difficulties cannot be overcome through reasonable design alternatives.
- (B) In approving modifications, the Commission may impose such conditions as will, in its judgment, substantially secure the objectives of these regulations.

- (C) With respect to each requested modification 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.
- (D) Applications for modifications shall be submitted to the Commission, in writing, as a part of the preliminary plat application. On the application, the Applicant shall describe the requested modifications 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.
- (E) The Commission's decision to grant or deny a modification or to impose a condition is discretionary.

**850-13.**

**Enforcement**

- (A) It shall be the duty of the Administrator to enforce these regulations on behalf of the Commission and to bring any violations of or lack of compliance with these regulations to the attention of the Commission Attorney. Upon the direction of the Commission or upon a reasonable belief that an ordinance violation has occurred, the Commission Attorney may file a complaint against the alleged violator.
- (B) No Owner, or agent of the Owner, of any parcel of land located in a proposed subdivision shall transfer or sell any such parcel before a plat of such subdivision has been approved by the Commission, in accordance with the provisions of these regulations, and filed with the County Recorder.
- (C) The division of any lot or any parcel of land into a subdivision, as defined in this ordinance, for the purpose of sale, or transfer, or lease resulting in the creation of one or more new building sites shall not be permitted, unless accomplished in the manner prescribed by these regulations.
- (D) No Improvement Location Permit, Land Use Certificate or Building Permit required under the Monroe County Building Code, the Zoning Ordinance or this ordinance shall be issued for any property subject to this ordinance until the provisions of this ordinance have been complied with.
- (E) No road shall be laid out or constructed unless it is consistent with the Monroe County Thoroughfare Plan and/or has been approved by the Commission as part of a subdivision.

**850-14.**

**Violations, Penalties and Restraining Provisions**

- (A) Any person who violates a provision of this ordinance or any conditions imposed pursuant to this ordinance, shall be guilty of a Class C ordinance violation and shall be subject to a civil penalty of not more than three hundred dollars (\$300.00) for each violation. Each day any such violation is committed or permitted to continue constitutes an additional, discrete ordinance violation.
- (B) Any land within the County Jurisdictional Area subdivided in violation of the terms of this ordinance after the effective date hereof, is hereby declared to be a common

nuisance, which may be restrained, enjoined or abated in any appropriate action or proceeding.

- (C) The Commission may institute an injunction suit requesting that an individual or governmental unit be directed to remove a structure erected in violation of this ordinance, or to make the same comply with its terms.
- (D) The Commission may institute a suit for mandatory injunction requesting an individual or governmental unit be directed, where such individual or governmental unit has violated any provisions of this ordinance, to comply with the provisions of this ordinance.
- (E) If the Commission is successful in its enforcement action, the respondent shall bear the costs incurred by the Commission in the enforcement of this ordinance.

**850-15. Form of Certificates, Notations, Applications and Findings**

The Department shall establish the form of all certificates, notations, applications and findings required or permitted by these regulations. All such forms must be approved by the Commission and must be consistent with these regulations (see Chapter 860).

**850-16. Appeals**

- (A) Any final decision of the Plat Committee, the County Engineer, the Administrator or the Director made under these regulations may be appealed to the Commission. The notice of final decision shall contain the date of mailing thereon. An appeal may be initiated by the Applicant or by any property owner whose individual legal or property rights have been substantially and specifically injured by the final decision. The appeal shall be directed to the Commission and filed with the Director. An appeal must be made within ten (10) days of the date of mailing of the notice of final decision to the Applicant or property owner.
- (B) An appeal of a final decision by the Plat Committee, County Engineer, Administrator or Director shall be heard by the Commission within forty-five (45) days after the filing of an Appeal Application with the Director, and the Commission shall render its written final decision on the application within fifteen (15) days after its hearing. By agreement of the Commission and the appellant, the hearing may be continued from day to day.
- (C) A final decision of the Commission may be appealed to the Monroe Circuit Court through a petition for writ of certiorari in the manner prescribed by the Indiana Code and relevant decisional law.

**850-17. Fees**

- (A) Applications and petitions filed pursuant to the provisions of this Ordinance shall be accompanied by the filing fees specified by Plan Commission rule and posted in the Plan Commission Office.
- (B) No part of any filing fee shall be returnable to the applicant except by order of the Plan Commission or of a court of competent jurisdiction. All fees shall be payable to the Monroe County Plan Commission, and shall be deposited according to procedures established by the County Auditor.

- (C) Government agencies shall be exempt from paying fees for improvement location permits, land use certificates, or any other permit prescribed by these regulations.
- (D) An applicant or petitioner may request a waiver of the fee requirement pursuant to and in accordance with Monroe County Code Section 270-17.

**[end of chapter]**

## CHAPTER 852

### SUBDIVISIONS: DEFINITIONS

#### 852-1. Usage

- (A) Unless otherwise specifically provided, or unless clearly required by the context:
- (1) words and phrases that are defined in this chapter shall be given their defined meaning when used in this chapter;
  - (2) words and phrases that are not defined in this chapter but that are defined in the Zoning Ordinance or in the Monroe County Code shall be given their defined meanings when used in this chapter;
  - (3) technical words and phrases that are not defined in this chapter, or in the Zoning Ordinance, or in the Monroe County Code, but that have established and appropriate meanings in law shall be given such meanings when used in this chapter;
  - (4) words and phrases that are not otherwise specifically defined shall be taken in their plain, ordinary and usual sense.
- (B) Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the plural number include the singular; the word "herein" means "in these regulations;" the word "regulations" means "these regulations."
- (C) A "person" includes a governmental entity, a corporation, a partnership, and an incorporated association of persons such as a club as well as an individual; "shall" is always mandatory; "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."

#### 852-2. Definitions

**Access Easement.** A private way which provides access to lots, tracts or parcels of land and which meets the minimum standards set for in these regulations.

**Accessory Building or Structure:** A subordinate building or structure customarily incidental to and located on the same lot with the principal building.

**Administrator.** The officer appointed by and/or delegated the responsibility for the administration of these regulations by the Commission. This term shall be construed to include those planning staff members working under the direction of the Director pursuant to and in accordance with Monroe County Code Chapter 824.

**Advisory Plan Commission.** A plan Commission serving a single local government jurisdiction established as defined under the Indiana Code § 36-7-4-102, as amended.

**Agency.** See Public Agency.



**Alley.** A public or private right-of-way primarily designed to provide secondary access to the side or rear of those properties which have principal frontage and/or access on a street.

**Applicant.** The owner of the land proposed to be subdivided or the Owner's agent or the Owner's legal representative or a person who owns a subordinate interest in the land and who has the Owner's consent to apply for a subdivision of the land.

**Arterial.** Either a Primary Arterial, Secondary Arterial, or Interstate as defined in this section.

**Block.** A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, or boundary lines of municipalities.

**Board of County Commissioners.** The duly elected Board of Commissioners of the County of Monroe, Indiana, referred to herein as "County" so as not to be confused with the Monroe County Advisory Plan Commission which is referred to herein as "Commission."

**Buffer Landscaping.** Any trees, shrubs, walls, fences, berms, or related landscaping features installed and maintained as required by these regulations or by the Zoning Ordinance for the purpose of providing a lot or area with sound and/or visual privacy from adjoining or nearby properties or public rights-of-way. (See Screening also).

**Buildable Area.** A designated area of a lot that is compact in form and necessary for the safe construction or placement of structures and associated utility infrastructure.

**Building.** Any roofed structure built for the support, shelter, or enclosure of persons or property. Any portion of a structure that is completely separated from other portions of the structure by a division wall without openings shall be deemed to be a separate building.

**Building Area.** See Lot Coverage.

**Building Code.** The County ordinance or group of ordinances that establish and control the standards for constructing buildings, utilities, mechanical equipment and all forms of structures and permanent installations and related matters, within the County, also referred to herein as the "County Building Code."

**Building Line.** The line that establishes the minimum permitted distance on a lot between the front-most portion of any building or structure and the street right-of-way line. (See Yard, Front; Frontage).

**Building Permit.** A certificate issued by the building permit official of a governing body that permits a person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure within the governing body's jurisdiction, or cause the same to be done.

**Building Permit Official.** The local government official authorized to issue building permits.

**Canopy Tree.** A tree that would occupy the upper canopy of a forest in a natural ecological situation. Canopy trees are often referred to as shade trees (examples include, without limitation, beech, hickory, oak, maple and tulip poplar).

**Capital Improvements Program.** A proposed schedule of all future, major County capital improvements projects listed in order of construction priority together with cost estimates and

the anticipated means of financing each project. All projects that require the expenditure of public funds, over and above the annual local government's operating expenses, for the purchase, construction, or replacement of the more durable, longer lived physical assets for the community shall be considered as major projects.

**Cemetery.** Land used for the burial of the dead and dedicated for cemetery purposes, including columbaria, crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

**Checkpoint Agency.** A public agency or organization that is called upon by the Commission to provide expert counsel with regard to a specific aspect of community development or that is required by law to give its assent before subdivision may take place (e.g., without limitation, Indiana Department of Transportation, Federal Emergency Management Agency, Army Corps of Engineers, Public Service Commission, Indiana Stream Pollution Control Board, Indiana Department of Natural Resources, Indiana State Board of Health, Monroe County Board of Health, Monroe County Drainage Board, etc.).

**Collector Street.** A major collector or a minor collector as defined in this section.

**Commercial or Industrial Subdivision.** Any subdivision of land which involves land that is zoned or intended to be used for commercial, industrial or multifamily purposes as defined in these regulations and/or in Zoning Ordinance.

**Commission.** The Monroe County Advisory Plan Commission and/or a delegate of the Monroe County Advisory Plan Commission, unless the context indicates to the contrary.

**Commission Attorney.** The licensed attorney designated by the Commission to furnish legal assistance for the administration of this ordinance.

**Compliance Cost.** The actual and/or opportunity costs of complying with a provision of the Subdivision Control Ordinance under typical, Monroe County land development conditions.

**Comprehensive Plan.** The inclusive physical, social, and economic plans and policies in graphic and verbal statement forms for the development of the County prepared and adopted by the Commission pursuant to the State Acts, and including any part of such plan and/or policies separately adopted and any amendment to such plan and/or policies, or parts thereof.

**Condominium.** The division of building(s) and the related land into horizontal property interests meeting the requirements of condominiums as prescribed by Indiana Code § 32-1-6-1 through 31.

**Conservation Easement.** An easement which restricts the use and/or guarantees preservation and/or maintenance of existing vegetation and/or other natural features within environmentally sensitive portions of the site.

**Construction Plan(s).** The maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed for the subdivision in accordance with the requirements of this ordinance as a condition of plat approval.

**County Attorney.** The licensed attorney designated by the County to furnish legal assistance for the administration of these regulations in lieu of the Commission having its own attorney.

**County Auditor.** The County official empowered to examine and settle all accounts and demands that are chargeable against the County and not otherwise provided for by statute.

**County Building Code.** See Building Code.

**County Drainage Board.** The Monroe County Drainage Board.

**County Engineer.** The person designated by the County to furnish engineering assistance in the administration of these regulations.

**County Health Officer.** See Health Officer.

**County Housing Code.** See Housing Code.

**County Jurisdictional Area** means the areas of Monroe County, Indiana, in which the County exercises planning and zoning jurisdiction, namely: all unincorporated areas of Monroe County, Indiana, that are not under the jurisdiction of another duly established plan commission; any area of Monroe County, Indiana, that was incorporated after August 29, 1986 and whose governing body has not adopted a zoning ordinance; and, any area of Monroe County, Indiana, made subject to the County's planning and jurisdiction by way of interlocal agreement. NOTE: Pursuant to I.C. 36-7-4-1104b), the planning and zoning ordinances of Indiana political subdivisions may not regulate or restrict the use of property that is owned by the state or by any state agency.

**County Recorder.** The County official empowered to record and file subdivision plats.

**County Surveyor.** The County official empowered to keep and maintain the legal survey record book and the corner record book.

**Covenant.** See restrictive covenant.

**Cul-de-loop.** A cul-de-sac with a center or island that is intended to be used for parking or open space purposes.

**Cul-de-sac.** A local street with only one (1) outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement including public safety vehicles. These dead-end roads are intended to serve only adjacent property owners.

**Department.** The Monroe County Planning Department and the staff thereof.

**Designated Officials.** Those officials of the Commission designated in the Subdivision Control Ordinance as required signatories of the certificate.

**Developer.** The fee simple owner of land proposed to be developed, or the fee owner's agent or the fee owner's representative, or a person who owns a subordinate interest in the land and who has the fee owner's consent to develop the land.

**Director.** The individual who is appointed by the Plan Commission to perform the duties set forth in Monroe County Code Chapter 824.

**Drainage Swale.** A natural or constructed waterway, usually broad and shallow, covered with erosion-resistant grasses, used to conduct surface water from a field, diversion or other site feature.

**Drainage System.** Any combination of surface and/or subsurface drainage components fulfilling the drainage requirements of these regulations.

**Drives, Private.** Vehicular streets and driveways, paved or unpaved, which are wholly within private property except where they intersect with other streets within public rights-of-way.

**Driveway.** An access to a public road for one residence or one tract of land.

**Driveway, Shared.** A single access to a public road shared by two tracts of land.

**Dwelling.** A structure or portion thereof that is used exclusively for human habitation.

**Dwelling, Attached.** A dwelling unit that is attached to another dwelling unit by any means.

**Dwelling, Detached.** A dwelling unit that is not attached to any other dwelling unit by any means and that is surrounded by open space or yards.

**Dwelling, Multifamily.** A building containing three or more dwelling units.

**Dwelling, Two-Family.** A building on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

**Dwelling Unit.** One or more rooms, designed, occupied or intended for occupancy as a separate living quarter, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household (see Housing Unit).

**Easement.** A right of use over designated portions of the property of another for a clearly specified purpose.

**Environmental Constraints.** Features, natural resources, or land characteristics that are sensitive to improvements and may require conservation measures or the application of creative development techniques to prevent degradation of the environment, or may require limited development, or in certain instances may preclude development.

**Erosion Control Handbook.** The Indiana Construction Site Erosion Control Handbook or any other erosion control handbook designated by County ordinance or by official action of the Commission.

**Escrow.** A deposit of cash with the Commission in lieu of an amount required and still in force on a performance or maintenance bond. Such escrow funds shall be held by the County Auditor.

**Exempt Divisions.** See definition of Subdivision.

**Family.** A group of individuals, not necessarily related by blood, marriage, adoption or guardianship, living together in a dwelling unit as a single housekeeping unit under a

common housekeeping management plan based on an intentionally structured relationship providing organization and stability.

**Feasibility Report.** A written report prepared by a registered professional engineer or a registered land surveyor pertaining to the suitability of the site for various types of water and sewage disposal systems; for drainage retention or detention; and the subsoil conditions for various methods of street construction.

**Final Plat.** The map, drawing, or plan, described in this ordinance, of a subdivision (including any accompanying material submitted to the Commission for final approval) which, if approved and signed by the designated officials, may be submitted to the County Recorder for recording.

**Final Plat Approval or Final Approval.** Commission approval of a final plat of a subdivision the construction of which has been completed or secured by a performance bond and financial guaranty.

**Financial Institution.** Any bank, trust company, corporate fiduciary, building and loan association, credit union, savings bank, bank of discount and deposit or industrial loan and investment company organized or reorganized under the laws of the State of Indiana.

**Flag Lot.** A lot with two distinct parts:

1. The flag, which is the only building site; and is located behind another lot; and
2. The pole, which connects the flag to the street; provides the only street frontage for the lot; and at any point is less than the minimum lot width for the zone.

**Flood Hazard Areas.** Those lands within the County Jurisdictional Area which are subject to inundation by the regulatory flood.

**Floodplain** means the channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the fringe districts.

**Flood Protection Grade.** The elevation of the lowest point around the perimeter of a building at which flood waters may enter the interior of the building.

**Floodway.** See Regulatory Floodway.

**Floodway Fringe or Fringe** is those portions of the floodplain lying outside the floodway.

**Foundation.** The supporting member of a wall or structure.

**Frontage.** That side of a lot abutting on a street, watercourse or lake and ordinarily regarded as the front of the lot. Lots shall not be considered to front on stub ends of streets and in the case of corner and through lots will be considered to front on both intersecting streets. Multiple frontage lots will be considered to front on each street, watercourse or lake.

**Frontage Street.** A service road, usually parallel to a highway, designed to reduce the number of driveways that intersect the highway.

**Governing Body.** The body of the relevant local government having the power to adopt ordinances.

**Grade.** The slope of a street or other public way specified in percentage (%) terms.

**Grading.** The stripping, cutting, filling, spreading or stockpiling of soil, sand, gravel or stone or any combination or mixture thereof on a tract, parcel or lot.

**Hardship or Unnecessary Hardship.** Significant economic injury that: (1) arises from the strict application of the Subdivision Control Ordinance to the conditions of a particular, existing parcel of property; (2) effectively deprives the parcel owner of all reasonable economic use of the parcel; and (3) is clearly more significant than compliance cost or practical difficulties.

**Health Department and County Health Officer.** The Monroe County Health Department and the person(s) designated by the County to administer the state and local health regulations within the County.

**Height, Building.** The vertical distance from the average grade level adjoining the building: to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and, to the average height between the eaves and the ridge for gable, hip and gambrel roofs.

**Highway, Limited Access.** A principal arterial that connects centers of population and economic activity with the state or federal highway system. A freeway, or expressway, providing for through traffic, in respect to which owners or occupants of abutting property or lands and other persons have no legal right to access to or from the same, except at such points and in such manner as may be determined by the public authority having jurisdiction over such a highway.

**Housing Code.** The County ordinance that controls the continuing safety and healthfulness of buildings for human occupation within the County's jurisdiction. Also referred to herein as the "County Housing Code."

**Housing Unit.** A room or group of rooms used by one or more individuals living separately from others in the building, with direct access to the outside or to a public hall and containing separate bathroom and kitchen facilities (see dwelling unit).

**Improvements.** See Lot Improvements or Public Improvements.

**Indiana Code.** The Burns Indiana Statutes Code Edition, which codifies all Indiana statutes for reference purposes. The latest edition with any amending supplements must be referred to for the laws "now" in force and applicable. (Usually abbreviated as I.C. herein).

**Individual Sewage Disposal System.** A septic tank, seepage tile sewage disposal system, or any other approved sewage treatment device approved by the Health Department to serve the disposal needs of one single-family residential dwelling. An individual sewage disposal system is a private sewage disposal system.

**Interested Parties.** Those persons identified in the Plan Commission Rules of Procedure who are to be notified by mail of a public hearing, or other action, on a proposed division of land.

**Intermittent Stream.** A surface watercourse which flows typically only after significant precipitation events or during a particular season; and which evidences a discernable stream bed. The term intermittent stream does not encompass man-made drainage ways or natural swales which lack a discernable stream bed.

**Interstate.** The highest type of primary arterial highway, with full access control, high design speeds, and a high level of driver comfort and safety. Interstate roads are at least four lanes wide with a median in rural areas. Access control is exercised to give preference to through traffic by providing access connections with selected public roads only and by prohibiting crossings at grade or direct private driveway connections.

**Land Disturbing Activity.** Any man-made change of the land surface including the removal of vegetative cover, the removal of trees and filling or grading, but not including agricultural land uses such as planting, growing, cultivating and harvesting crops, growing and tending gardens and minor landscaping modifications.

**Land Divider.** The owner of a parcel of land to be further divided pursuant to the exempt division regulations.

**Landscaping Features.** See Buffer Landscaping, Screening and Canopy and Understory Trees.

**Legal Access.** A platted access easement or the minimum required frontage on a street.

**Legal Description.** A description recognized by law which definitely describes real property by reference to government surveys, coordinate systems or recorded maps; a description which is sufficient to locate property without oral testimony.

**Legal Drain.** Any drainage system consisting of an open drain, a tiled drain, or any combination of the two, that is under the jurisdiction of the County Drainage Board as provided by I.C. 36-9-27, as amended.

**Location Map.** A map showing the location of the property proposed to be subdivided. Such a map shall show the closest cross streets in all directions.

**Local Street.** A street intended to provide access to other streets from individual properties and to provide right-of-way beneath it for sewer, water, and storm drainage pipes.

**Lot.** A tract, plot, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or of building development.

**Lot Area.** The area of horizontal plane bounded by the vertical planes through front, side and rear lot lines.

**Lot, Corner.** A lot situated at the intersection of two (2) streets. A corner lot has a front yard on each abutting street.

**Lot Corner Marker.** An iron or steel dowel at least thirty (30) inches long and 5/8 inch in diameter set at the vertices of each angle in a lot boundary line.

**Lot Coverage.** The percentage of the lot area that is covered by the building or structure, including covered porches or decks and accessory buildings or structures but excluding open courts, terraces or decks. (See Floor Area and Open Space).

**Lot Depth.** The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line. The lot depth of a multiple frontage lot may be determined from any of its front lot lines.

**Lot Improvement.** Any building, structure, work of art, or other object, or improvement of the land on which such objects are situated that constitute a physical betterment of real property.

**Lot Line, Front.** The lot line abutting a street, watercourse or lake. Corner lots and through lots have at least two front lot lines, multiple frontage lots may have more than two front lot lines.

**Lot Line, Rear.** The lot line that is opposite to and most distant from the front property line. In the case of a triangular or irregularly shaped lot, the rear property line shall be assumed to be a line not less than ten (10) feet long, lying within the lot and parallel to the front property line at a maximum distance from the front lot line. If the front property line is a curved line, then the rear property line shall be assumed to be a line not less than ten (10) feet long, lying within the lot and parallel to a line tangent to the front property line at its midpoint. A lot may have more than one rear lot line.

**Lot Line, Side.** Any boundary of a lot that is not a front or rear lot line.

**Lot, Multiple Frontage.** A lot with frontage at two or more locations.

**Lot of Record.** A lot which was created by subdivision, the plat of which has been approved as required by applicable County, City, and State law and recorded in the Office of the Monroe County Recorder; or a parcel of land, the bounds of which have been legally established by a separate deed and duly recorded in the Office of the Monroe County Recorder. "*Legally established*" means not in violation of any County, City, or State subdivision regulations existing at the time the lot was established by deed. Also, a parcel described by a single deed containing more than one (1) metes and bounds description shall be one (1) lot of record unless the parcels described by such separate descriptions have, in the past, been lawfully-established, separate parcels of record.

**Lot, Out.** That portion of land of a plat which is usually located adjacent to a street or frontage road and not dedicated to serving the needs of the primary development for an additional and separate building or buildings in the development.

**Lot, Reverse Frontage.** A through lot that is not accessible from one of the parallel or non-intersecting streets upon which it fronts.

**Lot, Substandard.** A parcel of land that has less than the minimum area or minimum dimensions required in the zone in which the lot is located.

**Lot, Through.** A lot having frontage on two parallel or approximately parallel streets or on a street and a watercourse or lake. A through lot has a front yard on each abutting street, watercourse or lake.

**Lot Width.** The horizontal distance between the side lot lines measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building line. The width of a multiple frontage lot shall be determined at all of its building lines.

**Major Collector.** Facilities that are designed to convey vehicles safely and quickly to the arterial road system. They serve minor population centers and neighborhood traffic generators that are not feasibly served by the arterials.



**Major Street.** A collector or arterial street.

**Major Street or Thoroughfare Plan.** See Official Map.

**Map.** A representation of the earth's surface, or any part thereof, in signs and symbols, on a plane surface, at an established scale, with a method or orientation indicated.

**Master Plan.** See Comprehensive Plan.

**Minor Collector.** Facilities that are designed to convey vehicles to major collector or arterial streets.

**Monument.** A physical structure which marks the location of a corner or other survey point.

**Multiple-Family Subdivision.** A subdivision intended to be the site of more than one multi-family dwelling.

**Municipal Sewage Disposal System.** See Public Sewage Disposal System.

**Municipal Water System.** See Public Water System.

**Off-Site.** Any premises not located within the area of the property to be subdivided, whether or not in the same ownership of the Applicant.

**Official Map.** The map or maps established by the County pursuant to law showing the existing and proposed streets, highways, parks, drainage systems, and set-back lines theretofore laid out, adopted and established by law, and any amendments or additions thereto adopted by the County or additions thereto resulting from the approval of subdivision plats by the Commission and the subsequent filing of such approved plats.

**Official Master Plan.** See Comprehensive Plan.

**Open Space.** Total horizontal area of all portions of the lot not covered by buildings, structures, streets, parking areas or paved walkways.

**Ordinance.** Any legislative action, however denominated, of a local government which has the force of law.

**Original Parent Parcel.** The lot prior to the utilization of the sliding scale option subdivision method.

**Owner.** Any person listed in the records of the County Auditor and/or County Recorder as having title to land sought to be subdivided under these regulations. For purposes of these regulations, any land which is involved in a contract purchase may be subdivided only if both the contract purchaser and the contract seller sign the application for such subdivision.

**Parcel.** A part or portion of land having a legal description formally set forth in a conveyance instrument (e.g., a deed) together with the boundaries thereof, in order to make possible its easy identification.

**Parent Parcel Remainder.** The largest lot created under the sliding scale option subdivision method.

**Parent Tract.** The land from which the new lot or tract of land is being taken as recorded in the County Recorder's Office on the date of adoption of these regulations.

**Perimeter Street.** Any existing street to which the parcel of land to be subdivided abuts on only one side.

**Person.** An individual, firm, limited liability company, corporation, association, fiduciary or governmental entity.

**Plan Commission.** See Commission.

**Plat.** A map, drawing or plan indicating the subdivision or resubdivision of land which is filed or intended to be filed with the Commission for approval under these regulations and with the County Recorder for recording.

**Plat Committee.** The Monroe County Plat Committee, appointed by the Commission (see Rules of Procedure), may hear subdivision proposals which do not involve the opening of new public ways and that comply in all other respects with these regulations and with the Zoning Ordinance.

**Practical Difficulties.** Significant economic injury that: (1) arises from the strict application of the Subdivision Control Ordinance to the conditions of a particular, existing parcel of property; (2) is not as significant as the injury associated with hardship, that is, it does not deprive the parcel owner of all reasonable economic use of the parcel; yet, (3) is clearly more significant than compliance cost.

**Preliminary Approval.** An approval (or approval with conditions imposed) granted to a subdivision by the Commission after having determined in a public hearing that the preliminary plat of the subdivision complies with the standards prescribed in this ordinance.

**Preliminary Plat.** The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the Commission for approval.

**Primary Arterial.** A street intended to move through-traffic to and from such major attractions as central business districts, regional shopping centers, colleges and/or universities, military installations, major industrial areas, and similar traffic generators within the County; and/or as a route for traffic between communities; a major thoroughfare.

**Principal Building.** A building or structure or, where the context so indicates, a group of buildings or structures, in which the principal use of a lot or parcel is conducted.

**Principal Use.** The main use of land or structures as distinguished from a subordinate or accessory use.

**Private Sewage Disposal System.** Any sewage disposal system not constructed, installed, maintained, operated and owned by a municipality, a taxing district or a corporation or organization possessing a "Certificate of Territorial Authority" issued by the Indiana Utilities Regulatory Commission and established for that purpose. A private sewage disposal system is typically an individual sewage disposal system that may be either a subsurface septic system or mound septic system that is surface constructed of material brought to the site.

**Private Water System.** Any plumbing system for providing potable water to a lot or parcel of property that is not constructed, installed, maintained, operated and owned by a municipality, a taxing district or a corporation or organization possessing a "Certificate of Territorial Authority" issued by the Indiana Utilities Regulatory Commission and established for that purpose. A private water system is typically a well drilled to serve a single lot.

**Property Line.** The boundaries of a lot of record excluding any right-of-way.

**Public Agency.** An agency or government department acting under the aegis of and representing an elected or appointed council, commission, or other policy-making or advisory body of federal, state or local government to whom it is responsible.

**Public Improvement.** Any drainage facility, street, thoroughfare, highway, parkway, sidewalk, pedestrian or bike-way, tree, lawn, off-street parking area, lot improvement, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

**Public Sewage Disposal System.** Any sewage disposal system constructed, installed, maintained, operated, owned or defined as a public sewage disposal system by a municipality, taxing district or a corporation or organization possessing a "Certificate of Territorial Authority" issued by the Indiana Utilities Regulatory Commission and established for that purpose.

**Public Water System.** Any water system that is constructed, installed, maintained, operated, owned or defined as a public water system by a municipality, taxing district or a corporation or organization possessing a "Certificate of Territorial Authority" issued by the Indiana Utilities Regulatory Commission and established for that purpose.

**Rear Yard.** A yard, as defined herein, encompassing the horizontal space between the nearest foundation of a building to a rear lot line and that rear lot line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the rear lot line.

**Registered Land Surveyor.** A land surveyor properly licensed and registered or, through reciprocity, permitted to practice in the State of Indiana.

**Registered Professional Engineer.** An engineer properly licensed and registered in the State of Indiana or, through reciprocity, permitted to practice in the State of Indiana.

**Regulatory flood** means the flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in Chapter 808-2(B) of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

**Regulatory Flood Elevation.** The maximum elevation, as established by the Indiana Department of Natural Resources, reached by the Regulatory Flood at the locations in question relevant to approval of a given subdivision.

**Regulatory Floodway.** The channel of a river or stream and those portions of the Flood Plains adjoining the channel which are reasonably required to efficiently carry and discharge

the peak flow of the Regulatory Flood of any river or stream as shown on the Flood Insurance Rate Map Maps of Monroe County, Indiana, as prepared by the Federal Emergency Management Agency and dated August 2, 1995.

**Required Improvements.** The public improvements, lot improvements and/or landscaping features required by these regulations, by primary approval and by the subdivision improvement agreement.

**Restrictive Covenant.** Limitations of various kinds on the usage of lots or parcels of land within a subdivision which are proposed by the Subdivider, and, in the case of public health, safety and welfare, by the Commission, and that are recorded with the plat and run with the land.

**Resubdivision or Plat Amendment.** A change in a map of an approved or recorded subdivision plat which affects any street layout on such map or area reserved thereon for public use, or any lot line, or setback; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

**Right-of-way.** A strip of land (other than an easement) occupied or intended to be occupied by a street, pedestrian-way, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, special landscaping, drainage swale or for another special use. The usage of the term "right-of-way" for land platting and zoning purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, screening or special landscaping, or any other use involving maintenance by a public agency shall be dedicated to public use by the Subdivider on whose plat such right-of-way is established.

**Riparian Conservancy Areas (RCA).** An area of Low-lying lands along watercourses subject to flooding or overflowing during storm periods, whether or not included in areas for dedication, shall be preserved and retained in their natural state as drainage ways unless modifications are deemed necessary by the Drainage Board to improve drainage. Such land or lands subject to periodic flooding shall not be included in the computations for determining compliance with the lot area requirements set forth or incorporated in these regulations.

**Road(s).** See Street(s).

**Roadway.** The portion of the street right-of-way that is surfaced and available for vehicular movement. Roadway width shall be measured between the edges of the curbs which are furthest from the street pavement.

**Rural Area.** An area that may not be classified as an urban area.

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

**Same Ownership.** Ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations, in which a stockholder, partner, or associate, or a

member of his family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

**Screening.** Landscaping or a fence, wall or similar structure, or combination thereof, designed and established to shelter, protect or hide one use or property from another, possibly incompatible, use or property.

**Secondary Arterial.** A street intended to collect and distribute traffic in a manner similar to primary arterials, except that they are designed to carry traffic from collector streets to the system of primary arterials and typically service minor traffic generating areas such as community-commercial areas, primary and secondary educational plants, hospitals, major recreational areas, churches and offices.

**Secretary.** The secretary of the Commission, who shall be the Director unless the Commission takes official action to designate another person to act as secretary.

**Sectionalizing or Phasing.** A process whereby an Applicant seeks final plat approval on only a portion of a plat which has been granted preliminary approval.

**Section Corner.** A corner established as part of the United States Public Land Survey System used for horizontal control in describing land.

**Setback.** A line parallel to and equidistant from the relevant lot line (front, back, side) between which no buildings or structures (some exceptions) may be erected as prescribed in the County Zoning Ordinance.

**Sewage.** The water-carried waste derived from ordinary living processes, including, but not limited to, human excreta and waste water derived from water closets, urinals, laundries, sinks, utensil and clothes washing machines, bathing facilities or similar facilities or appliances.

**Sewage Disposal System.** Any arrangement of devices and structures used for receiving, treating, disposing or storing of sewage.

**Side Lot Lines.** Any lines separating two lots other than front or rear lot lines.

**Single Housekeeping Unit.** A single housekeeping unit may exist where the occupants of the unit enjoy common use and access to all living and eating areas, bathrooms, and food preparation and serving areas.

**Sliding Scale Option Small Lot-** In the AG/RR, CR and FR zoning districts, individual small lots ranging in size from two and a half (2.5) to five (5) acres which can only be created through the Sliding Scale Option Subdivision Option.

**Soil Survey.** The National Cooperative Soil Survey Project by the United States Department of Agriculture, Soil Conservation Service (now Natural Resources Conservation Service) in cooperation with Purdue University.

**Special Landscaping.** Areas of tree planting, shrubs, or other landscape features serving a public purpose and maintained by the County. (See also Buffer Landscaping and Screening).

**Spite Strip.** An unbuildable, usually narrow, strip of land situated between a property line and a proposed road or street right-of-way, the primary purpose of which is to prohibit access to the street or right-of-way from the adjacent property.

**State Acts.** Such legislative acts of the State of Indiana as they affect these regulations.

**State Plane Coordinates System.** A system of plane coordinates, based on the Transverse Mercator Projection for the Western Zone of Indiana, established by the United States Coast and Geodetic Survey for the State of Indiana.

**Street.** An improved land right-of-way that provides the principal means of access to abutting property.

**Street, Dead-end.** A street or a portion of a street with only one (1) vehicular-traffic outlet and no turnaround at the terminal end.

**Streets, Classification.** For the purpose of providing for the development of the streets, highways, and rights-of-way in the County, and for their future improvement, reconstruction, realignment, and necessary widening, including provision for curbs and sidewalks, each existing street, highway, and right-of-way, and those located on approved and filed plats, has been or will be designated on the Official Map of the County or Thoroughfare Plan and classified therein. The classification of each street, highway, and right-of-way is based upon its location in the County, its present and estimated future traffic volumes and its relative importance and function as specified in the County Comprehensive Plan and/or its Thoroughfare Plan component. The required improvements shall be measured as set forth for each street classification on the Official Map.

**Street, Non-dedicated.** Any street that is intended for private uses, that is not a maintenance responsibility of the County and that meets the minimum design and construction standards set forth or incorporated in these regulations.

**Street Right-of-Way Width.** The width of the street right-of-way measured at right angles to the center line of the street.

**Structure.** Anything constructed or erected that requires location on or in the ground or is attached to something having a location on or in the ground.

**Subdivider.** Any person who, having a proprietary interest in land, causes it, directly or indirectly, to be divided into a subdivision.

**Subdivision.** The division of a lot of record into two (2) or more lots, parcels, sites, units, plats, or interests for the purpose of offer, sale, lease, allocation, distribution, transfer, hold for investment or development, either on the installment plan or upon any and all other plans, terms, and conditions, including re-subdivision. Subdivision includes the division or development of land zoned for residential and nonresidential uses, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat, or other recorded instrument.

**Subdivision, Administrative.** A subdivision of land that is specifically exempted from the preliminary and final plat approval procedures and requirements of the Subdivision Control Ordinance. An administrative subdivision must be one of the following types of division:

**(A)** ~~A division of land into two (2) or more tracts of which all tracts are at least~~

~~five (5) acres in size;~~ (Repealed by Ordinance 2015-02)

- (B) A division of land for the transfer of a tract or tracts to correct errors in an existing legal description, provided that no additional building sites other than for accessory buildings are created by the division;
- (C) A division of land pursuant to an allocation of land in the settlement of a decedent's estate or a court decree for the distribution of property;
- (D) A division of land for federal, state or local government to acquire street right-of-way;
- (E) A division of land for the transfer of a tract or tracts between adjoining lots provided that no additional principal use building sites are created by the division. The lots so created hereunder shall have only one principal use building site each. (See Principal Building); and,
- (F) A division of land into cemetery plots for the purpose of burial of corpses.

**Subdivision Agent.** Any person who represents or acts for or on behalf of a Subdivider or Developer in selling, leasing, or developing, or offering to sell, lease, or develop any interest, lot, parcel, unit, site, or plat in a subdivision, except an attorney-at-law whose representation of another person consists solely of rendering legal services, and who is not involved in developing, marketing or selling real property in the subdivision.

**Subdivision Improvement Agreement.** A document which establishes the contractual relationship between the Developer of a subdivision and the County for the completion and maintenance of the required improvements in accordance with these regulations.

**Subdivision, Major.** Any division of land including but not limited to subdivisions of five (5) or more lots, or any size subdivision requiring any new street or extension of the local governmental facilities, or the creation of any public improvements.

**Subdivision, Minor.** Any subdivision containing not more than four (4) lots in which all lots have at least 50 feet of frontage on an existing street that is an improved right-of-way maintained by the County (or other local government) or access by a 50' access easement, and not involving:

- 1) any new street,
- 2) the extension of municipal facilities for non-residential use,
- 3) the creation of any public improvements other than sidewalk or street trees, and
- 4) conflict with the Comprehensive Plan, Official Zone Map, Zoning Ordinance, or this ordinance.

**Subdivision, Nonresidential.** A subdivision intended for nonresidential use.

**Subdivision Review Committee.** A committee established by the Commission to provide technical services to the Commission in the administration of these regulations.

**Subdivision, Sliding Scale Option.** In the AG/RR, CR and FR zoning districts, an optional method of subdivision which establishes a parent parcel remainder and up to three (3) sliding scale small lots.

**Subsurface Drainage.** A system of pipes, tiles, conduits or tubing installed beneath the ground surface used to collect ground water from individual parcels, lots or building footings.

**Surface Drainage.** A system by which the storm water runoff is conducted to an outlet. The term encompasses the proper grading of parking lots, streets, driveways, yards, etc., so that storm water runoff is removed without ponding and flows to a drainage swale, open ditch or storm sewer.

**Temporary Improvement.** Improvements built and maintained by a Subdivider during construction of the subdivision and intended to be replaced by a permanent improvement prior to release of the performance bond, or turnaround improvements at the ends of stub streets intended to be replaced when the adjoining area is developed and the through street connection made.

**Topographic Plat.** A plat drawing with contour lines (delineating elevation) superimposed over the subdivision lot and street layout that indicates existing and proposed contours and other site features, such as structures, drainage ways, proposed changes in drainage features, etc.

**Thoroughfare Plan.** See Official Map.

**Understory Tree.** A tree that would occupy the understory of a forest in a natural ecological situation and that is typically referred to as an ornamental tree (e.g., without limitation, red bud, hazel, holly and dogwood).

**Unnecessary Hardship.** See Hardship.

**Urban Area.** An area subject to utility services as shown on the Urban Services Boundary Map or an area within six hundred sixty (660) feet of utility service facilities as shown on the Urban Services Boundary Map.

**Urban Services Boundary.** The boundary of a region within which public sewer services are generally available.

**Vulnerable Land.** Natural features where human activities degrade characteristics of the feature resulting in harm to the feature whether it is fauna, flora, or human life. Vulnerable Land includes floodplains, karst, steep slopes, riparian areas, wetlands, poor soils, threatened species habitat, critical water supply watersheds as well as potential and existing reservoirs. Vulnerable Land also includes land for which there is a public expectation of a long-term sustainable use for a specific purpose. This category of Vulnerable Land includes historic sites, public open spaces, potential reservoirs to assure our potable water supply, our best agricultural and forest land, drainage ways, mineral resources, and transportation corridors.

**Yard.** A space on the same lot with a principal building, such space being open, unoccupied and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings are expressly permitted.

**Yard, Front.** A yard as defined herein, encompassing the horizontal space between the nearest foundation of a building to the right-of-way line and that right-of-way line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the right-of-way line.



**Zoning Ordinance.** The County ordinance setting forth the regulations controlling the use of land in the County Jurisdictional Area, also referred to as the "Monroe County Zoning Ordinance," or any other relevant zoning ordinance.

**[end of chapter]**

## CHAPTER 854

### SUBDIVISIONS: APPLICATION AND APPROVAL PROCEDURES

#### 854-1. Plat Approval Procedure

The procedures for the approval of a plat for a subdivision of land within the County Jurisdictional Area are prescribed in this chapter. A person desiring such approval shall submit a written application in the manner prescribed by this chapter.

#### 854-2. Authority to Record

The plat for a subdivision of land in the County Jurisdictional Area may not be presented to the County Auditor for transfer and may neither be presented to the County Recorder nor recorded until it has been approved by the Commission in accordance with the procedures prescribed in this Chapter.

#### 854-3. Classification of Land Divisions

All land to be divided shall be classified by the Administrator as one of the following three (3) main types of land division (see definition of subdivision): major subdivision; minor subdivision; or administrative subdivision. Each subdivision type is subject to the Improvement, Reservation, and Design Standards of Chapter 856 of the Subdivision Control Ordinance as outlined in the table below. Other standards from the Zoning Ordinance may also be applicable depending on the specific characteristics of the subdivision (e.g., subdivision location in the Lake Monroe Watershed).

##### Applicable standards of Chapter 856

	<u>Subdivision type</u>		
	Administrative / Final Plat Amendments	Minor / Sliding Scale Option	Major
<b>Applicable standards from Chapter 856</b>	1-5, 8-10, 24-25, 34-35, 44	1-11, 21, 24-25, 27, 29- 30, 32-44	All

#### 854-4. Predesign Conference Requirement, Purpose and Objective

- (A) Prior to submitting an application under this chapter, the Applicant shall participate in at least one (1) predesign conference with the Administrator.
- (B) The purpose of the predesign conference is twofold: first, to provide the Applicant with an opportunity to discuss the regulatory viability of a subdivision proposal with the Administrator, in general terms in an informal setting, before expending significant development resources; and second, to provide the Administrator with an opportunity to facilitate the subdivision process by sharing information and planning experience with the Applicant.

- (C) The objectives of the predesign conference shall be to:
- (1) discuss the Applicant's subdivision proposal ("proposal");
  - (2) discuss requirements concerning the general layout of streets and lots as they relate to the proposal;
  - (3) discuss requirements concerning storm water drainage and flood control as they relate to the proposal;
  - (4) discuss requirements concerning the availability of water and sewage disposal as they relate to the proposal;
  - (5) discuss the provision of governmental services (e.g., police, fire, and schools, etc.) as they relate to the proposal;
  - (6) discuss special concerns relating to the proposal site (e.g., site access, neighboring land uses, development trends, etc.);
  - (7) discuss development alternatives;
  - (8) classify the proposed subdivision;
  - (9) discuss the Department and Subdivision Control Ordinance procedures as they relate to the proposal;
  - (10) discuss the role of checkpoint agencies and identify the relevant checkpoint agencies;
  - (11) discuss other planning issues raised during the conference; and,
  - (12) identify the individual who will represent the Applicant during the review and approval process and through whom all correspondence with the Department will be directed.

**854-5.**

**Predesign Conference Procedure**

- (A) The Applicant shall contact the Administrator to schedule a predesign conference.
- (B) Upon contacting the Administrator and scheduling the predesign conference, the Applicant shall provide the following information to the Administrator:
- (1) the location and acreage of the proposed subdivision;
  - (2) the number of proposed subdivision lots;
  - (3) the Applicant's name, telephone number and mailing address; and,
  - (4) the Owner's name.

The provision of additional information by the Applicant may contribute to the success of the predesign conference.

- (C) Within five (5) business days following the predesign conference, the Administrator shall prepare a brief written summary of the conference and mail a copy of the summary to the Applicant at the address provided by the Applicant. The Administrator's summary reflects the results of a general and informal discussion. Thus, the contents of the summary may not be deemed to be binding on the Commission and/or a waiver of subdivision procedures and standards.

854-6.

**Preliminary Approval Requirement, Purpose and Objectives**

- (A) Any Applicant who desires to record a major or minor subdivision must apply for and obtain preliminary approval from the Commission.
- (B) The purpose of preliminary approval is to determine whether a proposed preliminary subdivision plat complies with all relevant development requirements set forth, or incorporated, in these regulations, and to identify the relevant development standards with which the proposal does not comply, if any.
- (C) The objectives of preliminary approval are to:
- (1) approve, approve with conditions or deny a proposed preliminary plat;
  - (2) approve, approve with conditions or deny requested modifications;
  - (3) approve, approve with conditions or deny a plan for sectionalizing (phasing) final approval;
  - (4) establish the estimated cost of the required improvements;
  - (5) authorize the commission president to approve and sign the subdivision improvement agreement on behalf of the Commission;
  - (6) adopt written findings of fact; and,
  - (7) determine the approving authority for the final plat.

854-7.

**Preliminary Approval Procedure**

- (A) Following receipt of the Administrator's predesign conference report, the Subdivider may apply for preliminary approval. An application for preliminary approval shall:
- (1) be made on the forms available at the office of the Commission and be signed by the Owner of the property to be subdivided;
  - (2) be presented to the Administrator in duplicate;
  - (3) be accompanied by the original and two (2) copies of the preliminary plat as described in Section 860-1(B) together with the supporting materials required by Section 860-1(C); and,
  - (4) be accompanied by the fee established by the Commission.
- (B) Within thirty (30) days after receiving a complete application, the Administrator shall schedule and announce the date, time and location of the Commission's hearing on the application. At the time the hearing is scheduled, the Administrator shall provide

the Applicant with written notice of the hearing date, time and location. The Administrator shall be responsible for determining whether an application is complete and shall promptly notify the Applicant, in writing, if the application is determined to be incomplete. The Commission shall, by rule, prescribe the procedures for setting hearing dates and for the conduct of its hearings.

- (C) Prior to the Commission's hearing on the application, the Department, the Plat Committee and the County Drainage Board shall review the application for compliance with these regulations. Following such review and prior to the commencement of the hearing, the Administrator shall prepare and provide the Commission and the applicant with a written summary of foregoing reviews and of the Department's recommendation on the application. However, the failure to provide the applicant with such a written summary and any defect with respect to the Administrator's attempt to provide the applicant with such a written summary, shall not affect the validity of any action taken by the Administrator or the Plan Commission with respect to the application.
- (D) The Commission, and its representatives, at its discretion, may visit the site of the proposed subdivision at any reasonable time during the review process.
- (E) Notice of the Commission's hearing on the Applicant's application for preliminary approval shall be published in two (2) local newspapers of general circulation at least ten (10) days prior to the hearing, in accordance with I.C. 5-3-1, at the Applicant's expense. Prior to the hearing, the Applicant shall provide the Commission with publisher's affidavits showing that the hearing notices were published as required. Alternatively, by rule, the Commission may authorize the Department to publish the notice and may adjust the application fee to cover publication costs.
- (F) At least ten (10) days prior to the Commission's hearing on the Applicant's application, the Applicant, in the manner prescribed in the Commission's Rules of Procedure, shall notify all interested parties, and shall notify the appropriate school corporation and fire department, of the public hearing by certified mail. Prior to the hearing, the Applicant shall provide the Commission with an affidavit which affirms that the required notices were mailed and with certified mail receipts demonstrating that the required notices were delivered or returned as undeliverable. If the Applicant fails to provide the Commission with such affidavit and receipts prior to the hearing, the Applicant's application shall be continued.
- (G) The Commission shall conduct a public hearing on the Applicant's application in the manner prescribed by the Commission's Rules of Procedure.
- (H) Following the Commission's hearing on the Applicant's application, the Commission shall take the following action on the Applicant's application:
  - (1) approve, approve with conditions or deny the preliminary plat based on the plat's compliance with the improvement, reservation and design standards of Chapter 856 and all other relevant procedures and requirements of these regulations;
  - (2) approve, approve with conditions or deny requested modifications in the manner prescribed by Section 850-12;
  - (3) approve, approve with conditions or deny a plan for sectionalizing (phasing) final approval in the manner prescribed by Section 854-12;

- (4) if preliminary approval is granted, establish the estimated completion cost of the required improvements (itemized by type of improvement and by phase) based on the recommendations of the County Engineer and the Planning Department; and,
  - (5) if preliminary approval is granted and the Applicant desires to complete the required improvements prior to final plat approval, authorize the Commission President to execute the subdivision improvement agreement on behalf of the Commission, in the manner prescribed by the Commission's Rules of Procedure.
- (I) The Commission shall make written findings of fact in support of its decision during or before the following month's Commission meeting. For purposes of review, the Commission's decision shall be deemed to have been made on the date that the written findings are approved by the Commission. The Administrator shall provide the Applicant with a copy of the Commission's written findings within ten (10) days of the Commission's approval of the findings.
  - (J) If the Commission approves the Applicant's application for preliminary approval, the President or the Secretary of the Commission shall sign the preliminary approval certificate.
  - (K) Unless extended, preliminary approval shall be effective for a period of two (2) years ("preliminary approval period") after the date of preliminary approval (including conditional approval), at the end of which time final approval of the subdivision must have been obtained by the Applicant and certified by the Designated Officials. Any plats not receiving final approval within the period of time set forth herein shall be null and void, and the Applicant shall be required to resubmit a new application for subdivision approval subject to the zoning restrictions and subdivision regulations in effect at the time of resubmission. Upon the request of an Applicant and upon a finding that the Applicant has been unable to prepare the proposed development for final approval despite due diligence, the Commission may extend the preliminary approval period for one two (2) year period beyond the expiration date of the original preliminary approval period, without further notice and public hearing, or for a longer period of time upon notice to interested parties and hearing.
  - (L) If the Commission denies the Applicant's application, the Applicant, or the Applicant's heirs, successors or assigns, may not refile the application unless the Administrator determines that the circumstances have changed so as to defeat the basis of the Commission's denial (e.g., relevant portions of the Zoning and/or Subdivision Control Ordinances have been amended or the proposed preliminary plat has been amended to address the deficiencies identified in the Commission's findings).

**854-8.**

**Subdivision Improvement Agreement Requirement, Purpose and Objective**

- (A) The Applicant must obtain subdivision improvement agreement approval from the Commission before commencing the construction or installation of the required improvements.
- (B) The purpose and objective of subdivision improvement agreement approval is to establish a written understanding, in contract form, regarding the nature, extent and completion of the required improvements before the Applicant contracts for or commences the construction or installation of the required improvements, so that:

- (1) compliance with primary approval and these regulations may be promoted;
- (2) the Commission and the County may share information and public improvement experience with the Applicant;
- (3) the activities of the Applicant, governmental service providers and utility service providers may be coordinated; and,
- (4) the unnecessary expenditure of development resources, both public and private, may be avoided.

**854-9.**

**Subdivision Improvement Agreement Approval Procedure**

- (A) Following preliminary approval and prior to or contemporaneous with the submission of the plat for final approval, the Applicant shall, by letter, request subdivision improvement agreement approval from the Commission. The Applicant's letter shall be accompanied by three (3) sets of detailed construction plans as described in Section 860-2 and a proposed form of subdivision improvement agreement as described in Section 860-3.
- (B) Within fifteen (15) working days of receipt, the Administrator and the County Engineer shall review the subdivision improvement agreement and the construction plans for compliance with these regulations and preliminary approval, in the manner prescribed by the Commission's Rules of Procedure. Following their review, the Administrator and the County Engineer shall each prepare a written report, with recommendations, on the agreement and plans and shall provide the Applicant and the Commission with a copy of their reports.
- (C) Upon a finding by the Commission that the subdivision improvement agreement and the construction plans comply with these regulations and preliminary approval, the President of the Commission shall execute the agreement on behalf of the Commission and the Administrator shall stamp the plans "Approved" and return one (1) set to the Applicant.
- (D) Prior to the approval and execution of the subdivision improvement agreement and the stamping of the construction plans:
  - (1) the Applicant may not commence the construction or installation of the required improvements: and,
  - (2) the Administrator may neither approve building or improvement location permits for the required improvements nor grant final approval of the plat, or any section thereof.
- (E) The installation of the required improvements shall be inspected by the County Engineer. Such inspections are required in all instances regardless of whether the work is performed before or after final approval. Failure to request or to procure the inspection of the work performed before final approval may be cause for denial of final approval.

#### **854-10. Final Approval Requirement, Purpose and Objectives**

- (A)** Any Applicant who desires to record a major or minor subdivision must apply for and obtain final approval from the Commission.
- (B)** The purpose of final approval is to authorize the creation, recordation and sale of subdivision lots that comply with these regulations, with preliminary approval and with the subdivision improvement agreement.
- (C)** The objectives of final approval are to:
  - (1)** approve or deny the final plat;
  - (2)** approve or deny the subdivision improvement agreement and construction plans, if necessary;
  - (3)** approve or reject the performance bond and financial guaranty, where required; and,
  - (4)** approve or reject the maintenance bond and financial guaranty, where required.

#### **854-11. Final Approval Procedure**

- (A)** Following preliminary submittal, preliminary approval or conditional preliminary approval, the Applicant, if wishing to proceed with the subdivision, shall file with the Administrator a request for final approval. The application shall:
  - (1)** be made on the forms available at the office of the Commission;
  - (2)** be accompanied by eight (8) copies of the final plat, as described in Section 860-4(B), together with the supporting materials required by Section 860-4(B), showing the entire subdivision, or section thereof which derives access from an existing state, county, or municipal street;
  - (3)** be accompanied by a maintenance bond and the Applicant's certificate, signed by the Applicant's engineer and/or land surveyor (as determined by the Administrator), that the required improvements have been completed and dedicated or be accompanied by the performance bond and financial guaranty in the manner prescribed by Chapter 858 of these regulations; and,
  - (4)** be accompanied by any restrictive covenants in a form approved by the Commission, where they have been proposed by the Subdivider or required by the Commission.

The Administrator shall be responsible for determining whether the final approval application is complete and shall promptly notify the Applicant, in writing, if the application is determined to be incomplete.

- (B)** The Commission shall approve or disapprove the final plat and make written findings in support of its decision. In order to be recorded, a final plat must be found by the Commission to be in conformance with these regulations, with preliminary approval and with the subdivision improvement agreement.



**(C)** If the final subdivision plat materially deviates from the approved preliminary plat, the subdivision shall be resubmitted to the Commission for a new preliminary approval in accordance with the procedures and requirements for preliminary approval. For purposes of this section, a material deviation is one that:

- (1)** increases the number of subdivision lots;
- (2)** adds, removes or reconfigures an internal subdivision street or relocates a subdivision access point;
- (3)** affects a condition of preliminary plat approval that was established by the Commission during the preliminary plat approval stage;
- (4)** reduces the area devoted to open spaces or buffer landscaping; or,
- (5)** would require a waiver of the requirements and standards of these regulations or would negate the basis for a modification that was granted;

The following changes to an approved preliminary plat may be incorporated into the final plat, or, if the final plat has already been approved and/or recorded, shall require only a final plat amendment:

- (6)** a minor increase or decrease in the area of the subdivision, as determined by the Administrator;
- (7)** an addition, removal, or reconfiguration of an easement within the subdivision; or
- (8)** a removal or reconfiguration of an internal lot line of the subdivision.

Changes to an approved preliminary plat not specifically described above shall require that a new preliminary plat be submitted to the Commission for new preliminary approval in accordance with the procedures and requirements of 854-7.

By rule or by motion, the Commission may delegate its authority to grant final approval to the Secretary or to the plat committee in those cases where the final plat does not materially deviate from preliminary plat approval.

- (D)** Final approval may not be granted within thirty-one (31) days of preliminary approval.
- (E)** Subdivisions involving public improvements or dedication of land to the public require action by the Board of County Commissioners. The improvements must be installed in accordance with the approved construction plans or the assurances for completion and maintenance of the improvements (see Chapter 858 of these regulations) must be provided to the County and the subdivision improvement agreement fully executed before the County may sign the final plat. The Administrator will place the subdivision on the Board of County Commissioners' public meeting agenda when the improvements are completed or when the assurances and the executed agreement are provided.
- (F)** After the Commission has granted final approval and after the County has accepted any public dedications, improvements, and/or assurances of performance and maintenance, the Commission's seal shall be affixed to the final

plat and the Secretary or, in the absence of the Secretary, the President shall sign the certificate of final approval.

- (G) It shall be the responsibility of the Subdivider to file the approved final plat with the County Recorder within thirty (30) days of the date of execution of the certificate of final approval. Failure of the Subdivider to file the plat, as herein provided, within thirty (30) days shall constitute a violation of this ordinance.

#### **854-12. Sectionalizing (Phasing) Major Subdivisions**

The Subdivider may seek final approval of a portion or section of the preliminary plat [see Section 854-6(C) (3)]. The Commission may impose such conditions upon the filing of applications for final approval of the sections as it deems necessary to assure the orderly development of the subdivision (e.g., sequential lot numbering). The Commission may require that the performance bond and financial guaranty be in such amount as will be commensurate with the section or sections of the plat for which approval is sought and may defer the remaining required performance bond (or other assurance) principal amount until the remaining sections of the plat are offered for filing. Such sections must contain at least twenty (20) lots or ten percent (10%) of the total number of lots contained in the approved preliminary plat, whichever is less. The approval of all remaining sections not filed with the Administrator shall automatically expire four (4) years from the date of preliminary approval, unless the preliminary approval period has been extended [see Section 854-7(K)].

#### **854-13. Alternate Procedure for Minor Subdivisions**

The following alternate procedure for the administration of minor subdivision applications may not be used until it has been adopted by rule of the Commission.

- (A) For subdivisions classified by the Administrator as minor subdivisions, the Applicant may choose to seek approval under the procedures of this section in lieu of those specified by Section 854-7.
- (B) Following receipt of the Administrator's predesign conference report, the Subdivider may apply for approval. An application for approval shall consist of:
  - (1) eight (8) copies of the plat as described in Section 860-9(A);
  - (2) the supporting materials required by Section 860-1 (C) (3), (12), (16), (17), and (18). A copy of a County Highway Department driveway permit or application for each lot to be accessed by a County road shall be substituted for a State Highway driveway permit where appropriate;
  - (3) the fee established by the Commission.
- (C) Within ten (10) days of receipt of a complete application, the Administrator shall:
  - (1) review the Applicant's application for technical conformity with these regulations;
  - (2) prepare a report and recommendation, including recommended conditions of approval;

- (3) schedule a Plat Committee review of the application. The review shall take place within twenty (20) business days of the Administrator's receipt of the complete application. The Administrator shall be responsible for determining whether the application is complete and shall promptly notify the Applicant, in writing, if the application is determined to be incomplete. The Plat Committee must provide notice of its review at least forty-eight (48) hours prior to the date and time scheduled for the review, in accordance with I.C. 5-14-1.5;
  - (4) forward a copy of the application and the report to the Plat Committee; and,
  - (5) provide the Applicant with a copy of the report and notify the Applicant of the date, time and place of Plat Committee review;
- (D) The Plat Committee shall review the Applicant's application for compliance with these regulations. The Plat Committee may continue its review from time to time, as it deems necessary. The Plat Committee may approve the application, approve the application with conditions or deny the application. However, if the Plat Committee determines that the application and plat comply with these regulations, it shall grant preliminary approval.
  - (E) Upon approval, the Administrator shall sign a certificate of preliminary approval for the Applicant's plat;
  - (F) Within five (5) days of making its decision, the Plat Committee shall prepare written findings of fact in support of its decision. For purposes of review, the Plat Committee's decision shall be deemed to have been made on the date of its adoption of the findings;
  - (G) Within ten (10) days after the Plat Committee's decision on the Applicant's application, the Administrator, in the manner prescribed in the Commission's Rules of Procedure, shall notify interested parties, by certified mail, of their right to appeal the Plat Committee's decision;
  - (H) In order to appeal a decision of the Plat Committee, the Applicant or appellant must file a notice of appeal that includes reference to the specific portions of the Monroe County Subdivision Control Ordinance or specific findings that the appellant believes the subdivision fails to comply with, with the Administrator within ten (10) days after a copy of the Plat Committee's decision and findings are mailed to the interested party. The appeal of a decision of the Plat Committee may be taken only to the Commission;
  - (I) Upon the filing of a notice of appeal, the Applicant's application for preliminary approval shall be subject to the procedures of Section 854-7(B) through (L) as if it were a new application.
  - (J) The Applicant's proposed subdivision shall be subject to the following procedures and requirements for final approval:
    - (1) The Administrator shall disapprove or grant final approval of the minor subdivision petition and make written findings in support of the decision. In order to be recorded, the plat must be found by the Administrator to be in conformance with these regulations and with the preliminary or Plat

Committee approval. Final Minor Subdivision plats shall comply with Section 860-9 (B).

- (2) Final approval may not be granted until the period to file a Notice of Appeal has passed without such an appeal being filed.
- (3) After the Administrator has granted final approval, the Commission's seal shall be affixed to the plat.
- (4) It shall be the responsibility of the subdivider to file the approved plat with the County Recorder within thirty (30) days of the date of final approval. Failure of the Subdivider to file the plat, as herein provided, shall constitute a violation of this ordinance.
- (5) The Subdivider, upon recording, shall provide the Planning Department with one copy of the recorded plat.

#### **854-14. Administrative Subdivision Procedure**

- (A) Administrative subdivisions are not subject to the subdivision procedures of these regulations beyond the classification and predesign conference requirement and the procedures and requirements set forth or cited in this section. However, administrative subdivisions are subject to the development standards set forth in the Zoning and Subdivision Control Ordinances (e.g., height, bulk, area, density, and overlay regulations). And, all lots created through the administrative subdivision process must comply with such development standards in order to be developed or improved (except individual cemetery plots). Furthermore, subdivisions that would result in the amendment of a recorded subdivision plat are subject to the procedures and regulations for subdivision plat amendment and/or vacation and are not eligible for administrative subdivision. Excepting Type C, D and F administrative subdivisions, the administrative subdivision procedures may not be used to render a conforming lot nonconforming or to increase a nonconformity. However, the procedures may be used to reduce the nonconformity of a nonconforming lot.
- (B) In order for a land division to be considered an administrative subdivision, the information prescribed for the applicable type of division under Section 860-5 shall be submitted to the Director. The Director shall be responsible for determining whether the submissions required by these regulations have been made and whether the proposed subdivision qualifies for administrative subdivision approval under these regulations.
- (C) Before the deed of a parcel that is created through the administrative subdivision procedure may be initially recorded with the Monroe County Recorder, the Director, or a designee of the Director, shall place a notation on the deed to the effect that the parcel was created through the administrative subdivision procedure. The notation shall be signed and dated by the Director or the Director's designee.
- (D) In addition to definitional requirements, a land division qualifying as a type E administrative subdivision (see Monroe County Code Section 802-1 definition of "subdivision") shall be shown as meeting the following condition: if the parcel has road frontage on a public road, the Land Divider shall dedicate to the public real property of a width sufficient to meet one-half (1/2) of the required right-of-way indicated on the County Thoroughfare Plan or Official Map and of a length along that public road equal to the length of that parcel along the roadway.

**[end of chapter]**

## CHAPTER 856

### SUBDIVISIONS: IMPROVEMENT, RESERVATION AND DESIGN STANDARDS

#### 856-1. General Improvement Requirements

- (A) In addition to the requirements established herein, all subdivision plats shall comply with the following laws:
- (1) all applicable State statutory provisions;
  - (2) the County Zoning Ordinance and all other applicable County ordinances, regulations, rules and orders;
  - (3) the Comprehensive Plan, Official Map or Thoroughfare Plan, Park and Recreation Master Plan, and the Capital Improvements Program of the County including all streets, drainage systems, and parks shown on the Official Map or Comprehensive Plan as adopted;
  - (4) the special requirements of these regulations and any rules or orders of the Health Department and/or appropriate state agencies;
  - (5) the rules and regulations of the Indiana Department of Transportation ("INDOT") if the subdivision or any lot contained therein abut a state highway or state frontage road;
  - (6) any highway and drainage standards and regulations adopted by the County and all boards, commissions, agencies, and officials of the County; and
  - (7) all pertinent standards contained within still valid planning guides published by the Plan Commission.

The above notwithstanding, the minimum design and development standards and requirements expressly set forth in the following sections of this Chapter, or incorporated in the following sections of the this Chapter from the Zoning Ordinance, supercede, are controlling, and take precedence over the design and development standards, requirements, maps, tables, objectives, goals, policies, and/or recommendations set forth in the Comprehensive Land Use Plan. Subdivision proposals that comply with the minimum standards and requirements expressly set forth, or incorporated from the Zoning Ordinance, in the following sections of this Chapter, shall be deemed to fully comply with the design and development standards and requirements relevant to subdivision approval. The Comprehensive Plan may not be used to impose design and development standards and requirements that differ from the minimum standards and requirements set forth or incorporated in the following sections of this Chapter.

- (B) Plat approval may be denied based on a finding, supported by record evidence that the implementation of the proposal would result in demonstrable, significant, non-speculative injury to the public health, safety, and welfare.

**856-2. Self-Imposed Restrictions**

If the Owner places or commits to place restrictions on any portion of the land contained in the subdivision which are greater than those required by the Zoning Ordinance or by these regulations, the Commission may require that such restrictions reference thereto be indicated on the subdivision plat, or the Commission may require that restrictive covenants be recorded with the County Recorder, in a form approved by the Commission, and that an appropriate reference to the covenants be indicated on the subdivision plat.

**856-3. Plats Straddling Jurisdictional Boundaries**

Whenever access to the subdivision is required across land which is located in another jurisdiction, the Commission may request assurance from the County Attorney that such access is legally established and from the County Engineer that the access road is adequately improved, or that a performance bond has been duly executed and is sufficient in amount to assure the construction of the access road. Lot lines shall be laid out so as not to cross boundary lines between different planning and zoning jurisdictions.

**856-4. Boundary Improvements**

The Subdivider, under the supervision of a registered land surveyor, shall have monuments set in accordance with the provisions of 865 IAC 1-12-18. They shall be set following final lot grading but prior to the issuance of any Building Permit.

**856-5. Character of the Land**

Land which the Commission finds to be unsuitable for subdivision or development because of flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements, environmental constraints or other features which might reasonably be harmful to the safety, health, and general welfare of the present or future inhabitants of the subdivision and/or surrounding areas, shall not be subdivided or developed unless adequate methods are formulated by the Developer and approved by the Commission to solve the problems created by the unsuitable land conditions. Such land shall be set aside for such uses permitted by the Zoning Ordinance as shall not involve any such danger.

**856-6. Subdivision Name**

The proposed name of the subdivision shall not duplicate, or too closely approximate phonetically, the name or any other subdivision in the area covered by these regulations. The Commission shall have final authority to designate the name of the subdivision which shall be determined at the time of primary approval.

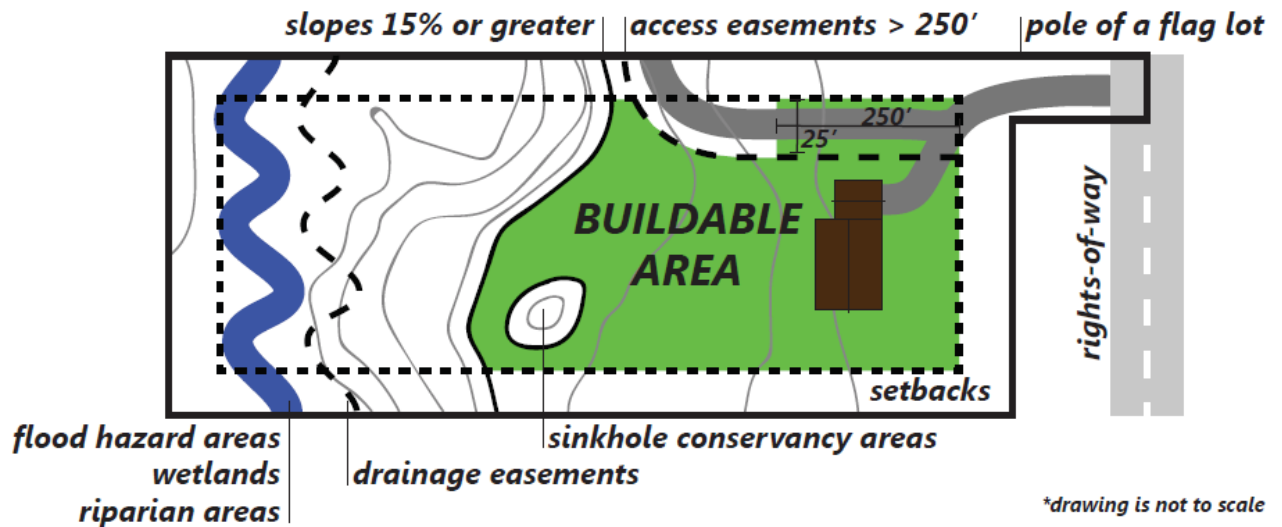
**856-7. Lots: Buildable Area**

Any lot shall include a buildable area. The following shall not be included in buildable area:

- Special Flood Hazard Area as specified in Chapter 808;
- Wetlands as specified in Chapter 801;
- Slopes 15% or greater as specified in Chapter 825 Area 2 Regulations;
- Sinkhole Conservancy Areas as specified in Chapter 829;
- Drainage Easements as specified in Chapter 856;
- Riparian Conservancy Areas as specified in Chapter 801;
- Rights-of-way as specified in Chapter 801;
- Easements for access and in excess of 250 feet in length and 25 foot in width;
- Pole of a flag lot as specified in Chapter 801; and,
- Setbacks as specified by Ordinance.

Any subdivision of land for agricultural or conservation purposes not involving any new street or access easement or any non-agricultural structures shall be exempted from the buildable area requirement and the minimum lot size requirement. Land subdivided for agricultural or conservation purposes must include the use restriction that shall be recorded on the Final Plat and incorporated as a Recorded Commitment referenced on any deed conveying the land.

**Figure 56-1**





**856-8.**

**Lots: Dimensions**

Lot dimensions shall comply with the minimum standards in the Zoning Ordinance. Where lots are more than double the minimum required lot area for the zoning district, the Commission may require that such lots be arranged so as to allow further subdivision and the opening of future streets where they would be necessary to serve all such potential lots in compliance with the Zoning Ordinance and these regulations. In general, side lot lines shall be at right angles to the street lines (or radial to curving street lines) unless a modification of this rule is approved by the Commission. Dimensions of corner lots shall be large enough to allow for erection of buildings, observing the minimum front yard setback from both streets and observing the minimum side yard setback from the other property lines. Depth and width of properties reserved or laid out for business, commercial, or industrial purposes shall be adequate to provide for all pertinent Zoning Ordinance requirements.

**856-9.**

**Lots: Reverse Frontage Lots and Access to Lots**

(A) Lots must have private drive or driveway access.

(B) Reverse frontage lots shall be avoided except where necessary to provide for the separation of residential development from the traffic on arterial and collector streets or to overcome specific disadvantages of topography and orientation affecting the subdivision lots.

(C) In general, reverse frontage lots shall not derive access from an arterial or a collector street. Where driveway access from an arterial or collector street may be the only possible access for several adjoining lots, the Commission may require that such lots be served by a shared access drive or frontage street in order to limit possible traffic hazards from multiple access to the arterial or collector street.

(D) Driveways shall be designed to avoid requiring vehicles to back into traffic on arterial or collector streets, and this provision shall not be waived.

**856-10.**

**Lots: Soil Preservation, Grading and Site Preparation**

(A) Only temporary certificates of occupancy may be issued unless final grading has been completed in accordance with the approved construction plans and the lot precovered with top soil having a minimum depth of at least (6) inches which shall contain no particles over two (2) inches in diameter over the entire area of the lot, except that portion covered by buildings or included in streets, or where the grade has not been changed or natural vegetation seriously damaged. Topsoil shall not be removed from residential lots or used as spoil, but shall be redistributed so as to provide at least six (6) inches of cover between the sidewalks and curbs, and shall be stabilized by seeding or planting.

(B) Lots shall be laid out so as to provide positive drainage away from all buildings and individual lot drainage shall be coordinated with the general storm water drainage pattern for the area. Drainage shall be designed so as to avoid the accumulation of storm water on any one or more lots from adjacent lots, except as authorized by a Commission approved erosion and/or drainage control plan. It shall be the responsibility of the lot owner to maintain the lot grade, as it applies to drainage, as provided for in the approved construction plans.

(C) Within one (1) week of a land disturbing activity, all lots that have been altered by the land disturbing activity shall be temporarily seeded in the manner prescribed by Practices 3.11 or 3.13 of the Indiana Handbook for Erosion Control in Developing Areas. No land use certificate or certificate of occupancy shall be issued until resspreading of soil has been completed and permanent seeding of the lots has been

completed in the manner prescribed by Practices 3.12 or 3.13 of the Indiana Handbook for Erosion Control in Developing Areas. Sod may be used to comply with any requirement of seeding set forth herein.

- (D) No cut trees, timber, debris, earth, rocks, stones, soil, junk, rubbish, or other waste material of any kind shall be buried in any land, or left or deposited on any lot or street at the time of occupancy within a subdivision, nor shall such materials be left or deposited in any area of the subdivision at the time of expiration of the performance bond or dedication of public improvements, whichever is sooner.
- (E) Each Subdivider and/or Developer shall be required to furnish and install fences wherever deemed necessary by the Commission to address a hazardous condition. The fences shall be constructed in accordance with the relevant Indiana Department of Transportation Standard Specifications, as determined by the County Engineer, and shall be noted as to height and material on the final plat. No certificate of occupancy shall be issued until said fence improvements have been duly installed.
- (F) If a tract being subdivided contains a water body, or portion thereof, lot lines shall be so drawn as to distribute the entire ownership of the water body among the fees of adjacent lots. The Commission may approve an alternative allocation of interests whereby the ownership of and responsibility for safe maintenance of the water body is so placed that it will not become a local government responsibility. No part of the minimum area of a lot required under the Zoning Ordinance may be satisfied by land which is under water. Where a watercourse separates the buildable area of a lot from the street from which it has access, provisions shall be made for installation of a culvert or other structure, of a design approved by the County Engineer.
- (G) The performance bond authorized by Section 858-2 shall include an amount to guarantee completion of all requirements contained in this section including, but not limited to, soil preservation, final grading, lot drainage, lawn-grass seeding, removal of debris and waste, fencing, and all other lot improvements required by the Commission. Whether a building permit, land use permit or certificate of occupancy has been issued, at the expiration of the performance bond, the County may enforce the provisions of the bond where compliance with the provisions of this section or any other applicable law, ordinance, or regulation has not occurred.

**856-11. Streets: Frontage on Improved Streets**

No subdivision shall be approved unless the area to be subdivided shall have frontage on and/or access from an existing street or highway that is shown on the Official Map or that is listed on the State or County Highway Inventory or from a street shown upon a plat approved by the Commission and recorded in the office of the County Recorder. Existing streets or highways must be suitably improved as required by these regulations or be secured by a performance bond required under these regulations, with the width and right-of-way required by these regulations or as indicated on the Official Map or Thoroughfare Plan. Whenever the area to be subdivided is to use an existing street frontage, the street shall be suitably improved as herein provided and may be required to provide a minimum of two (2) points of ingress and egress for any new development.

**856-12. Streets: Grading and Improvement**

Streets shall be graded and improved in accordance with the construction and design standards and specifications set forth or incorporated in these regulations. All street grading and improvement shall comply with the subdivision improvement agreement and may not be commenced until an improvement location permit has been obtained in the manner prescribed by the Zoning Ordinance.

**856-13.**

**Streets: Topography and Arrangement**

- (A) All streets shall be arranged so as to maximize the number of possible building sites at, or above, the grades of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and sharp curves shall be avoided. Specific design standards are set forth or incorporated in Section 856-22 of these regulations.
- (B) All streets shall be properly integrated with the existing and proposed system of thoroughfares and dedicated rights-of-way as established on the Official Map or Thoroughfare Plan, and/or Comprehensive Plan.
- (C) All arterial and collector streets shall be properly related to specific traffic generators such as industries, business districts, schools, churches, and shopping centers, to population densities and to the pattern of existing and proposed land uses.
- (D) Local streets shall be laid out to conform as much as possible to the topography, to discourage use by through traffic, to permit efficient drainage and utility systems, and to require the minimum number of streets and points of ingress and egress necessary to provide convenient and safe access to the property.
- (E) Cul-de-loops are prohibited unless their use would result in a more desirable layout and relate better to the existing topography than other street designs.
- (F) Proposed streets shall, where appropriate, be extended to the boundary lines of the tract to be subdivided unless this is prevented by topography or other physical conditions, or unless in the opinion of the Plan Commission such extension(s) is/are not necessary or desirable for the coordination of the layout of the subdivision under consideration with the existing street layout or for the most advantageous future development of adjacent tracts (see Section 856-21(A) below).
- (G) In business and industrial developments, the streets and other access ways shall be planned in connection with the grouping of buildings, location of rail facilities, and the provision of alleys, truck loading and maneuvering areas, walkways, bikeways, and parking areas so as to minimize conflict of movement between the various types of vehicular and pedestrian traffic.

**856-14.**

**Streets: Blocks**

- (A) The dimensions and shapes of blocks shall be sufficient for two (2) tiers of lots. Exceptions shall be permitted in blocks adjacent to arterial streets, collector streets, rail roads, waterways and property lines.
- (B) The dimensions and shapes of blocks shall be appropriate for the locality and the type of development contemplated.
  - 1. Blocks in residential areas served by local roads, shall not exceed one thousand three hundred and twenty (1,320) feet nor be less than two (2) lots.
  - 2. Blocks along arterial and collector streets shall not be less than one thousand three hundred and twenty (1,320) feet in length.
- (C) Access easements not less than ten (10) feet wide to accommodate utilities, drainage facilities, or bike or pedestrian traffic, may be required through the center of blocks more than eight hundred (800) feet long or at other appropriate locations and at the ends of cul-de-sacs, where deemed essential to provide for circulation or

access to schools, playgrounds, shopping centers, transportation, or other community facilities.

- (D) Blocks designed for industrial uses shall be of dimensions determined to be suitable for the intended use.

**856-15. Streets: Access to Collector Streets**

Lots in single family residential subdivisions shall not derive access from collector streets. Lots at the corners of intersections of local and collector streets shall have driveway access to the local street only and not to the collector street. In multifamily residential areas, primary entrances to group parking lots shall have access only to collector streets. All access drives and all improvements related to such drives shall be designed and constructed in accordance with the Monroe County Driveway Ordinance (see Monroe County Code Chapter 755). Additionally, all shared driveways shall conform to the design standards illustrated in Appendix 856-2 to these regulations.

**856-16. Streets: Access to Arterial Streets**

Where a subdivision borders on or contains an existing or proposed arterial street, the Commission may require that access to it be limited by one of the following means:

- (A) with respect to reverse frontage lots; no access shall be provided from the arterial street and buffer landscaping shall be provided within a landscape easement along the arterial street;
- (B) a series of cul-de-sacs entered from, and designed generally to be at right angles to a local street that is at some distance from and parallel to the arterial street, with no access onto the arterial street;
- (C) a marginal access or service road separated from the arterial street by buffer landscaping; and,
- (D) all access drives and all improvements related to such drives shall be designed and constructed in accordance with the Monroe County Driveway Ordinance (see Monroe County Code Chapter 755). Additionally, all shared driveways shall conform to the design standards illustrated in Appendix 856-2 to these regulations.
- (E) Proposed subdivisions that would derive direct access from State Road 37 shall not be approved. This requirement shall not be waived.

**856-17. Streets: Names**

The preliminary plat, as submitted, shall indicate names of proposed streets. As part of preliminary plat review, the Administrator shall refer to proposed street names to the local postmaster for comment regarding duplication of names and possible confusion. The Administrator shall prepare a recommendation for the Commission regarding the proposed street names and/or revisions to the proposed street names. Names shall be sufficiently different in sound and in spelling from other street names in the County or other nearby areas so as to avoid confusion. A street which is, or is planned as, a continuation of an existing street shall bear the same name. The Commission shall be responsible for approving the names of subdivision streets.

**856-18. Streets: Regulatory Signs**

The Applicant shall provide and install a street identification sign at every street intersection within the subdivision and the Applicant shall provide and install all traffic control signs within the subdivision as required by the County Engineer. All signs required under this section shall be inspected and must be approved by the County Engineer before the performance bond authorized by Section 858-2 of these regulations may be released. All such signs shall conform to the Indiana Manual on Uniform Traffic Control Devices as to form, color, size, message, arrangement and placement.

**856-19. Streets: Lights**

Street lights may be required in urbanized areas. If the Subdivider intends or is required to install street lights within the County street right-of-way, the location and installation of such lights shall not in anyway interfere with the County's use of the right-of-way as determined by the County Engineer. The Subdivider shall be responsible for the design, installment, location, maintenance and operation of such street lights unless such responsibility is assigned to and accepted by a homeowners' association or other entity.

**856-20. Streets: Spite Strips**

The creation of spite strips shall not be permitted.

**856-21. Streets: Construction of Streets**

(A) The arrangement of streets shall provide for the continuation of streets between adjacent subdivisions or other properties when continuation is necessary for the convenient movement of traffic, for effective emergency services, for efficient provision of utilities, and where continuation is in accordance with the Comprehensive Plan.

1. In the event temporary dead-end streets are necessary to provide for the future continuation of subdivision streets, the temporary dead-end streets, with the notation on the subdivision plat that land outside the normal street right-of-way shall revert to abutters whenever the street is continued.
2. Temporary turnarounds must be provided at the ends of temporary dead-end streets. The length of temporary dead-end streets may be limited in accordance with the design standards in these regulations.

(B) Where a street does not extend beyond the boundary of the subdivision and its continuation is not required for access to adjoining property.

1. Its terminus shall normally not be nearer to such boundary than fifty (50) feet.
2. Dedication of an appropriate easement to accommodate drainage facilities, pedestrian and bicycle traffic, or utilities shall be provided.
3. A cul-de-sac turnaround shall be provided at the end of a permanent dead-end street in accordance with the standards and specifications set forth or incorporated in these regulations.

(C) All streets shall be constructed in the manner prescribed by the Indiana Department of Transportation Standards and Specifications Manual. This requirement shall not be waived for any street or access easement, either privately or publicly maintained, that will be used to derive access by five (5) or more existing or created lots. The constructed street must serve all existing and created lots. If a private drive is to be

used by four (4) existing or created lots or less, easements shall be dedicated per section 856-42(C) and this drive does not have to be constructed to County Highway standards.

**856-22. Streets: Design Standards Requirement**

- (A) In order to provide for streets of suitable location, width, and improvement to accommodate prospective traffic and afford satisfactory access for police, fire-fighting, snow removal, sanitation, and street maintenance equipment, and to coordinate street location in order to achieve a convenient system and avoid undue hardships to adjoining properties, the design standards for streets, set forth in these regulations, the most recent editions of the Indiana Department of Highways Road Design Manual, Bridge Design Manual, and A Policy on Geometric Design of Highways and Street, published by the American Association of State Highway and Transportation Officials, are hereby required. The use of any other procedure, equipment, or material which is found, by the County Engineer, to produce an acceptable end product, may be approved by the Board of County Commissioners upon request.
- (B) Streets shall be classified by the Board of Commissioners in accordance with the Monroe County Thoroughfare Plan.
- (C) Approved street cross-section drawings are set forth in Appendix 856-1 to these regulations.

**856-23. Streets: Surfacing and Improvements**

After sewer and water utilities have been installed by the Developer, the Applicant shall construct curbs and gutters and shall surface or cause the roadways to be surfaced to the widths prescribed in these regulations. Said surfacing shall be of such character as is suitable for the expected traffic and in harmony with similar improvements in the surrounding areas. Types of pavement shall be as determined by the County Engineer. Adequate provision shall be made for culverts, drains, and bridges. All street pavement, shoulders, drainage improvements and structures, curbs, turn-arounds, and sidewalks shall conform to all construction standards and specifications adopted set forth or incorporated in these regulations and shall be incorporated into the construction plans required under Section 854-9 of these regulations.

**856-24. Streets: Excess Right-of-way**

Right-of-way widths in excess of the standards designed in these regulations shall be required whenever, due to topography, additional width is necessary to provide for adequate and stable earth slopes. Such slopes shall not be in excess of three to one (3:1) or two to one (2:1) near drainage structures that exceed nine feet and eleven inches in length (9'11").

**856-25. Streets: Railroads and Limited Access Highways**

Railroad rights-of-way and limited access highways where so located as to affect the subdivision of adjoining lands shall be treated as follows:

- (A) In residential districts a buffer strip at least 25 feet in depth in addition to the normal depth of the lot required in the district shall be provided adjacent to the railroad right-of-way or limited access highway. This strip shall be part of the platted lots and shall be designated on the plat: "This strip is reserved for screening. The placement of structures hereon, other than earth berms, walls, fences and other landscape screening devices approved by the Commission, is prohibited."

- (B) In districts zoned for business, commercial, or industrial uses, the nearest street extending parallel or approximately parallel to a railroad shall, wherever practical, be at a sufficient distance therefrom to ensure a suitable depth for commercial or industrial sites.
- (C) Streets parallel to a railroad when intersecting a street which crosses the railroad at grade shall, to the extent practicable, be at a distance of at least 150 feet from the railroad right-of-way. Such distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of appropriate approach gradients.

856-26.

**Streets: Intersections**

- (A) Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two (2) new streets at an angle of less than seventy-five (75) degrees shall not be acceptable. An oblique street should be approximately at right angles for at least one hundred (100) feet therefrom. No more than two (2) streets shall intersect at any one point.
- (B) Proposed new intersections along one side of an existing street shall, wherever practicable, coincide with any existing intersection on the opposite side of such street. Street jogs with center-line offsets of less than 150 feet shall not be permitted. Where a local street is proposed to intersect with an arterial street, the alignment of the streets shall be mandatory. Intersections of arterials shall be at least eight hundred (800) feet apart.
- (C) Minimum curb radius at the intersection of two (2) local streets shall be at least twenty-five (25) feet. Minimum curb radius at an intersection involving a collector street or an arterial street shall be at least forty (40) feet. Alley intersections and abrupt changes in street alignment within a block shall have the corners designed in accordance with standard engineering practice to permit safe vehicular movement.
- (D) Intersections shall be designed with a flat grade wherever practical. In hilly or rolling areas, at the approach to an intersection a leveling area shall be provided having not greater than a two percent (2%) grade at a distance of sixty (60) feet, measured from the nearest right-of-way line of the intersecting street.
- (E) Where any street intersection will involve earth banks or existing vegetation inside any lot corner that would create a traffic hazard by limiting visibility, the Developer shall cut such ground and/or vegetation (including trimming trees) in connection with the grading of the public right-of-way to the extent deemed necessary by the County Engineer to provide an adequate sight distance.

856-27.

**Streets: Bridges of Primary Benefit to the Applicant**

Bridges of primary benefit to the Applicant, as determined by the Commission, shall be constructed at the full expense of the Applicant without reimbursement from the County. The sharing of expense for the construction of bridges not of primary benefit to the Applicant, as determined by the Commission, will be fixed by special agreement between the County and the Applicant.

856-28.

**Streets: Dedications and Reservations**

- (A) Street systems in new subdivisions shall be laid out so as to avoid new perimeter half-streets. Where an existing half-street is adjacent to a new subdivision, the

supplemental half of the street shall be dedicated by the Subdivider. The Commission may authorize a new perimeter street where the Subdivider improves and dedicates the entire required right-of-way width within his own subdivision's boundaries.

- (B) Where a subdivision borders an existing narrow street or when the Comprehensive Plan, Official Map, Thoroughfare Plan, or zoning setback regulations indicate plans for realignment or widening of a street that would require use of some of the land in the subdivision, the Applicant shall be required to improve and dedicate such streets at his own expense. Such frontage streets and other streets on which subdivision lots front shall be improved and dedicated by the Applicant at his own expense to the full width required by these subdivision regulations. Land reserved and/or used for any street purposes may not be used to satisfy the minimum yard setback or lot area requirements of the Zoning Ordinance.

**856-29. Drainage: System Requirement and Incorporated Standards and Specifications**

The Commission shall not approve a subdivision plat which does not make adequate provision for the safe and efficient disposal of storm and/or flood water runoff. The storm water and/or flood water drainage system shall be separate and independent of any sanitary sewer system and shall be designed and completed in the manner prescribed by: Monroe County Code Chapter 761 (Storm Drainage Control); Monroe County Code Chapter 808 (Flood Damage Prevention); Indiana Department of Transportation Road Design Manual; Indiana Department of Transportation Bridge Design Manual; A Policy on Geometric Design of Highways and Streets (AASHTO); and, all relevant Indiana Code and Indiana Administrative Code Sections. Storm sewers, where required, shall be designed by the Rational Method, or other methods as approved by the Commission and the County Drainage Board, and a copy of the design computations shall be submitted along with the plans. (The "Rational Method" is described in Chapter 3 of the County Storm Drainage Manual by Christopher B. Burke, Project for Indiana Counties and Cities, School of Civil Engineering, Purdue University, West Lafayette, July 1994 or any subsequent version, which manual is incorporated herein and is hereinafter referred to as Drainage Manual). Inlets shall be provided so that surface water is not carried across or around any intersection, nor for a distance of more than 600 feet in the gutter or when the encroachment of storm water into the street disrupts traffic. When calculations indicate that curb capacities are exceeded at a point, no further allowance shall be made for flow beyond that point and catch basins or inlets shall be used to intercept flow at that point. Surface water drainage patterns shall be shown for each and every lot and block.

**856-30. Drainage: Nature of System**

The Applicant may be required by the Commission to carry away by pipe or open ditch any spring or surface water that may exist, either previous to, or as result of the subdivision. Such drainage facilities shall be located within the street right-of-way where feasible, or in perpetual, unobstructed easements of appropriate width, and shall be designed, approved and constructed in accordance with the standards and specifications set forth or incorporated in these regulations.

**856-31. Drainage: Accessibility to Public Storm Sewer**

- (A) The Subdivider shall install storm sewer facilities throughout the subdivision:
- (1) if a public storm sewer is reasonably assessable, as determined by the County Engineer;



- (2) if the subdivision lots average fifteen thousand square feet (15,000) or less in area and the subdivision is located in an urban area; or,
- (3) if the subdivision is located in an industrial or a business district.

If a public storm sewer is not reasonably accessible, as determined by the County Engineer, the Subdivider shall make other provisions for the safe and efficient disposal of storm water.

- (B) All required storm water facilities and disposal measures shall be completed in accordance with the standards and specifications set forth or incorporated in these regulations and must be inspected and approved by the County Engineer and/or the County Drainage Board.

**856-32. Drainage: Accommodation of Upstream Drainage**

A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The County Engineer shall determine the necessary size of the facility, based on the standards and specifications set forth or incorporated in these regulations, assuming conditions of maximum potential watershed development permitted by the Zoning Ordinance.

**856-33. Drainage: Effect on Downstream Drainage**

The County Engineer shall determine the effect of each proposed subdivision on existing drainage facilities outside the area of the subdivision. County drainage studies together with such other studies as may be available and appropriate, shall serve as a guide to needed improvements. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the Commission may withhold secondary approval of the subdivision until provision (such as a storage facility) has been made for the improvement of said potential condition.

**856-34. Drainage: Floodway Areas**

- (A) If a subdivision is proposed within the Floodplain, then Floodways shall be preserved and shall not be diminished in capacity by filling or obstruction. No building site may be located within the Floodway.
- (B) Any new subdivision proposing sole access subject to flooding for substantial periods of time that impede the ability of emergency and public services to adequately serve created lots is prohibited, and this requirement shall not be waived.

**856-35. Drainage: Floodway Fringe and Floodplain Areas**

Where a subdivision is proposed within an area of the Floodplain designated as a Floodway Fringe, or in an area for which Floodway and Floodway Fringe designations have not been made, the Commission may approve such subdivision provided that:

- all streets are elevated sufficiently to be above the Regulatory Flood elevation;
- all lots, or portions thereof, for residential usage have a Flood Protection Grade two (2) feet above the regulatory Flood elevation;
- where provided, water and sanitary sewer facilities are constructed to eliminate contamination of or by, flood water; and,
- approval to fill the area from the Indiana Natural Resources Commission and a LOMR from FEMA have been obtained in writing.

Lands below the Regulatory Flood elevation shall not be used for computing the area requirement for any lot.

**856-36. Drainage: Recording of Plats in the Floodplain**

All final plats having within their boundaries areas whose elevation is below that of the Regulatory Flood Elevation shall show and label the Regulatory Flood Boundary and elevation, as of the date the final plat is drawn, on the final plat for recording.

**856-37. Drainage: Dedication of Drainage Easement**

- (A) Where a subdivision is traversed by a drainage course, drainage way, channel, or stream, a storm water easement a drainage right-of-way shall be provided, granted or dedicated to the county conforming substantially to the lines of such watercourse, and of such width and construction or both as will be adequate for the purpose of both drainage and maintenance of the right-of-way. Wherever possible, it is desirable that the drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume of flow.
- (B) Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within street rights-of-way, perpetual unobstructed easements at least twenty (20) feet in width for such drainage facilities shall be provided across property outside the right-of-way lines and with satisfactory access to the street. Easements shall be indicated on the plat. Drainage easements shall be carried from the street to a natural watercourse or other drainage facilities.
- (C) The Applicant shall dedicate, either in fee or by drainage or conservation, easement land on both sides of existing watercourses of a width to be determined by the Commission and, in the case of legal drains, the County Drainage Board.
- (D) Low-lying lands along watercourses subject to flooding or overflowing during storm periods, whether or not included in areas for dedication, shall be preserved and retained in their natural state as drainage ways unless modifications are deemed necessary by the Drainage Board to improve drainage. Such land or lands subject to periodic flooding shall not be included in the computations for determining compliance with the lot area requirements set forth or incorporated in these regulations (see Section 856-8).

**856-38. Water Supply System**

- (A) If access to a public water system is available, a complete water main supply system that connects to the public water system shall be installed to the specifications of the water utility which will serve the subdivision and/or with all other applicable Indiana statutes, rules, regulations, orders and specifications. The water system shall include any required hydrants.
- (B) If access to a public water system is not available, the Subdivider shall require on each lot, as a condition of sale, the installation of a private water system in accordance with all minimum standards and requirements of the Indiana State Board of Health or other State or County agency.
- (C) All water systems installed to serve the subdivision or any lot thereon must be inspected and approved by the officially designated State, County or municipal agency or by the water utility concerned.

- (D) If sufficient water flow is available, fire hydrants shall be provided at the intervals recommended by the local fire department. Generally, hydrant spacing may range from 350 to 600 feet depending on the nature of the area being served.
- (E) If the subdivided area is planned or scheduled to be served by a public or community water system in the future, the Commission may require the Applicant to provide facilities for future connection.

**856-39.**

**Sewage Disposal System**

- (A) For Major Subdivisions, a complete sanitary sewer system that connects to a public sewage disposal system shall be installed for all lots in the subdivision to the specifications of the sewage disposal utility which will serve the subdivision and/or with all other applicable Indiana statutes, rules, regulations, orders and specifications. This provision may not be waived by the Plan Commission. Major subdivisions with lot sizes equal to or greater than ten (10) acres are not required to be connected to a public sewer system.
- (B) For Minor Subdivisions, a complete sanitary sewer system that connects to a public sewage disposal system shall be installed for all lots in the subdivision to the specifications of the sewage disposal utility which will serve the subdivision and/or with all other applicable Indiana statutes, rules, regulations, orders and specifications. This provision may not be waived by the Plan Commission. However, this provision does not apply to a subdivision where all lots are ten (10) acres or more in area or a Sliding Scale Option subdivision under Chapter 862.
- (C) All sewage disposal systems installed to serve the subdivision or any lot thereon must be inspected and approved by the officially designated State, County or municipal agency and by any water utility concerned.
- (D) If access to a public sewage disposal system is not required and private sewage disposal systems are proposed, minimum lot areas shall conform to the requirements of the Zoning Ordinance or of any other County ordinance establishing lot areas for private sewerage disposal systems. The Subdivider shall require on each lot, as a condition of sale, the installation of a private sewage disposal system in accordance with all minimum standards and requirements of the Indiana State Board of Health or other State or County agency.
- (E) Sanitary sewers shall be located within street or alley rights-of-way unless topography dictates otherwise. When located in easements on private property, access shall be provided to the sewage disposal utility.
- (F) All lots must have access to a public sewage disposal system or contain 1 septic site per dwelling unit approved by the Monroe County Health Department. Otherwise, the deed will be marked "no residential dwelling permitted" to allow for the division of land for agricultural purposes only. If a finger system is in use, the lot must contain a location for another septic site.

**856-40.**

**Sidewalks**

- (A) Sidewalks shall be included within the dedicated, unpaved portions of the rights-of-way on both sides of all streets when any of the following are applicable:
  - (1) the proposed subdivision has road frontage or the streets will connect with an existing or proposed subdivision or business development that has sidewalks, or;

- (2) a proposed major subdivision will be located within an area that is subject to the Business and Industrial Overlay as defined in Chapter 802 of the Zoning Ordinance, or;
  - (3) the proposed subdivision is within the Urban Service boundary as shown in the comprehensive plan, or;
  - (4) the proposed subdivision is within a designated growth area in one of the Rural Communities as identified by the Comprehensive Plan, or;
  - (5) the proposed subdivision has frontage on a street that provides direct access to destinations such as schools, recreational facilities, etc.  
OR  
a proposed subdivision is within 1 mile radius of destinations such as schools, recreational facilities, etc., or;
  - (6) a proposed subdivision will result in the creation of at least five lots where any of the lots in the proposed subdivision are less than 2.5 acres in size.
- (B) Additionally, the Plan Commission may approve an alternate circulation plan, outside of the right-of-way, if sidewalk and/or access easement (for sidewalks, bikepaths, public access, private access, etc.) locations are clearly identified on the plat. This alternative circulation network may be constructed with an alternative material, approved by the County Highway Engineer that does not comply with Sections C - G of this section.
- (C) Concrete curbs, with ramped access, are required for all streets where sidewalks are required.
- (D) A grassed or landscaped median strip at least two (2) feet wide shall separate all sidewalks from adjacent curbs. The median strip shall be improved in accordance with these regulations. This requirement may be waived if the sidewalk widths specified below are increased by two (2) feet and a concrete barrier curb is used.
- (E) In order to facilitate pedestrian access from the street to schools, parks, playgrounds, or other nearby streets, the Commission may require perpetual unobstructed easements at least twenty (20) feet in width. Such easements shall be indicated on both the preliminary and final plats.
- (F) For residential subdivisions, sidewalks shall be constructed to the following widths:
- (1) four (4) feet for local streets;
  - (2) five (5) feet for collector streets; and,
  - (3) five (5) feet for arterial streets.

For non-residential subdivisions, sidewalks shall be constructed to a width of five (5) feet.

- (G) All sidewalks shall be reinforced with steel and shall be designed and completed in accordance with Americans with Disabilities Act standards and in accordance with the Indiana Department of Transportation Road Design Manual.

**856-41.**

**Utilities**

All utilities, including but not limited to gas, sewer, electric power, telephone and CATV shall be located underground throughout the subdivision.

Existing utility lines located above ground on public roads, rights-of-way or in easements serving other property are exempt from this provision.

Existing utility lines servicing residential and residential accessory structures shall be removed and placed underground unless waived.

Waivers from these provisions for existing utility lines may be granted subject to the waiver modifications in Chapter 850-12, Sections A through D, excluding sections 5, 8, and 9. Waivers may be granted via the following process:

1. for Subdivisions of more than 4 Lots by the Plan Commission
2. for Subdivisions of 4 Lots or Less by the Plat Committee

All utility lines and other facilities existing and proposed throughout the subdivision shall be shown on the preliminary plat. Underground service connections to the street property line of each platted lot shall be installed at the Subdivider's expense. At the discretion of the Commission, the requirement for service connections to each lot may be waived in the case of adjoining lots that are to be retained in single ownership and that are to be developed for the same primary use.

**856-42.**

**Easements**

- (A) Easements centered on front lot lines shall be provided for utilities (private and municipal), unless rights-of-way are sufficient for that purpose. Such easements shall be at least twenty (20) feet wide. Proper coordination shall be established between the Subdivider and the applicable utility companies for the coordination of utility easements with those established in adjoining properties.
- (B) Where topographical or other conditions are such as to make impractical the inclusion of utilities within front lot line easements or rights-of-way, perpetual unobstructed easements at least twenty (20) feet in width shall be provided along side lot lines with satisfactory access to the road or front lot lines. All easements shall be indicated on preliminary and final plats.
- (C) Easements for privately maintained streets established to provide access to publicly maintained streets shall have a minimum width based on the number of existing or created lots utilizing the privately maintained street, as follows:
  1. four existing or created lots or less, a minimum width of 25 feet shall be required.
  2. five or more existing or created lots, a minimum width of 50 feet shall be required.

This requirement shall not be waived.

**Preservation of Natural Features and Amenities**

- (A) In the design of the subdivision, the preservation of existing features which would add value to the type of intended development or to the County as a whole, such as trees, watercourses falls, beaches, historic spots, and similar irreplaceable assets, shall be encouraged. No trees shall be removed from any proposed subdivision site nor any change of grade of the land affected until preliminary approval has been granted. All trees on the plat which are required to be retained shall be preserved, and all trees, where needed, shall be welled and protected against change of grade. The preliminary plat shall show the number and location of existing trees 11" in diameter or greater (measured 4.5 feet above finish grade) located in areas where any land disturbing activity is proposed, as required by these regulations, and shall further indicate all those marked for retention.
- (B) As a requirement of final approval, the applicant shall plant and/or preserve trees on the property or the subdivision in accordance with the following:
- (1) Street trees shall be planted or preserved within five (5) feet of the right-of-way of the street or streets within and abutting the subdivision, or at the discretion of the Plan Commission and the County Engineer, within the right-of-way of such streets. One tree shall be planted or preserved for every forty (40) feet of frontage along each street. Such trees shall be planted or preserved when any of the following are applicable:
- a. the proposed subdivision will connect with an existing or proposed subdivision or business development that has street trees, or has adjoining road frontage to a street that has street trees, or;
  - b. a proposed major subdivision will be located within an area that is subject to the Business and Industrial Overlay as defined in Chapter 802 of the Zoning Ordinance, or;
  - c. the proposed subdivision is within the Urban Service boundary as shown in the comprehensive plan, or;
  - d. the proposed subdivision is within a designated growth area in one of the Rural Communities as identified by the Comprehensive Plan, or
  - e. a proposed subdivision will result in the creation of at least five lots where any of the lots in the proposed subdivision are less than 2.5 acres in size.
- (2) Trees shall be planted or preserved on each proposed lot of a subdivision outside of the right-of-way in a location selected by the Subdivider. The number of trees planted or preserved shall be equivalent to one (1) tree for every forty (40) feet of frontage for the proposed lot. Such trees shall be planted or preserved for any subdivision not identified in 856-43 B (1) a-e, excluding any parcels created using the Administrative Subdivision procedure.
- (C) The location and quantity of all planted or preserved trees shall be shown on the preliminary plat.

**Nonresidential Subdivisions**

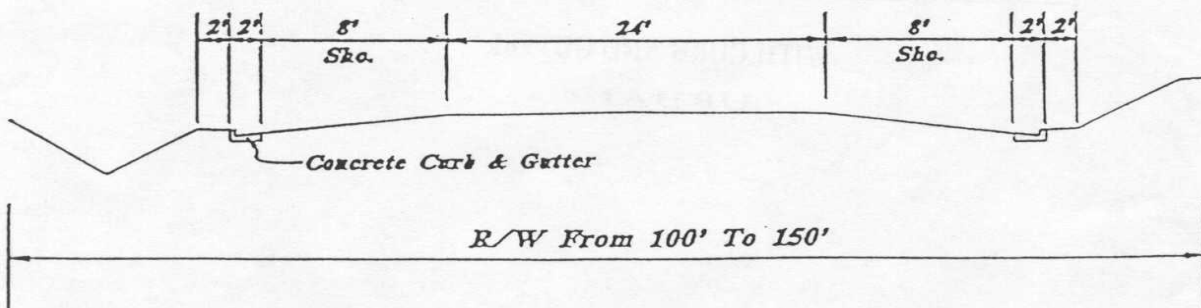
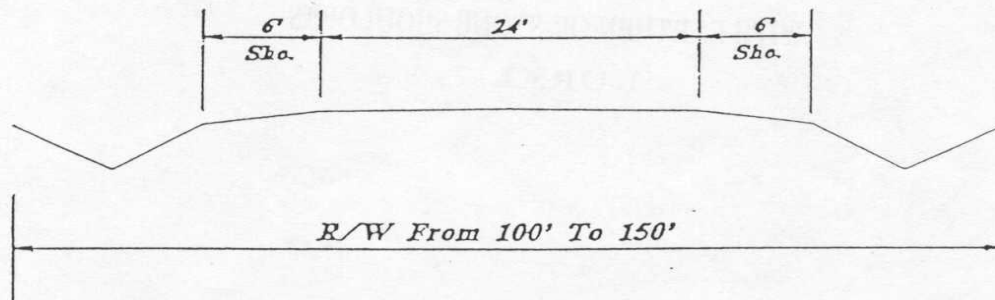
- (A) If a proposed subdivision includes land that is zoned for commercial or industrial purposes, the layout of the subdivision with respect to such land shall meet such special provisions as the Commission finds appropriate and requires. A nonresidential subdivision shall also be subject to all the requirements set forth in the Zoning Ordinance. A nonresidential subdivision shall be subject to all the requirements of these regulations as well as such additional standards required by the Commission and shall conform to the proposed land use and standards established in the Comprehensive Plan, Official Map, and Zoning Ordinance. All shopping centers and other nonresidential subdivisions or buildings for leasehold shall be subject to the relevant provisions of this ordinance.
- (B) In addition to the principles and standards in these regulations which are appropriate to the planning of all subdivisions, the Applicant shall demonstrate to the satisfaction of the commission that the street, parcel, and block pattern proposed are appropriate for the uses anticipated and adequately take into account other uses in the vicinity. The following principles and standards shall be observed.
- (1) Proposed commercial or industrial parcels shall be suitable in minimum area and dimensions to the types of industrial development anticipated. Proposals for sectionalizing the subdivision must be made clear in a statement on the preliminary plat which is satisfactory to the Commission.
  - (2) Street rights-of-way and pavement construction shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon.
  - (3) Special requirements may be imposed by the Commission upon recommendation of the County with respect to street, curb, gutter, and sidewalk design and construction.
  - (4) Special requirements may be imposed by the Commission with respect to the installation of public utilities, including water, sewer, and storm water drainage and preprocessing of sewage. Special requirements may also be imposed regarding the storage and disposal of toxic materials.
  - (5) Every effort shall be made to protect adjacent residential areas from potential nuisance from a proposed commercial or industrial subdivision, including the provision of extra depth in parcels backing onto existing or potential residential development and provision of a permanently landscaped buffer strip where necessary.
  - (6) Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas.

Appendix 856-1

Street Cross-Section Drawings

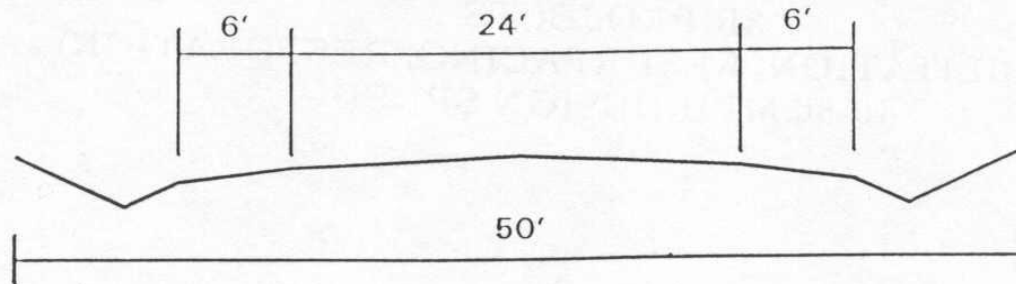
CROSS-SECTIONS FOR  
MAJOR/MINOR COLLECTORS

3R PROJECTS  
(REHABILITATION, RESURFACING, RESTORATION)  
40-50 MPH DESIGN SPEED

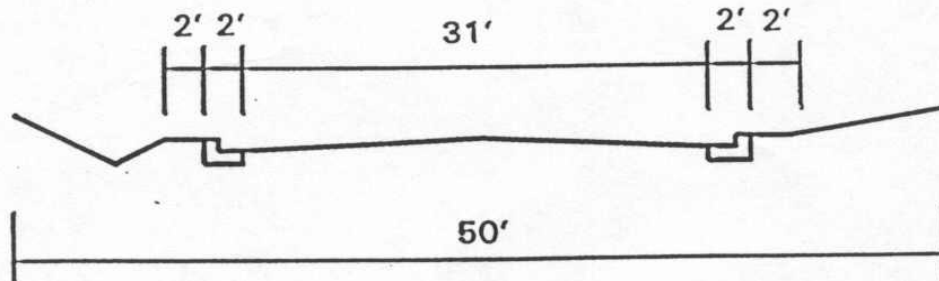




# CROSS-SECTION FOR LOCAL STREETS



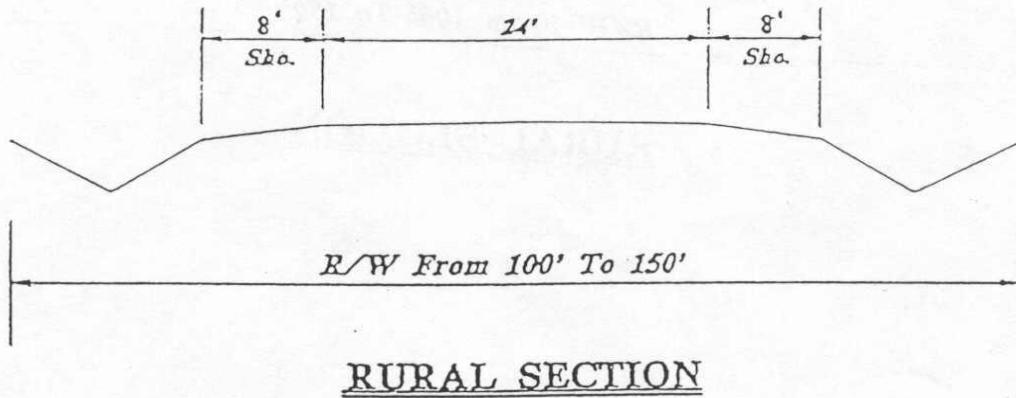
WITH EARTHEN OR STONE SHOULDERS  
RURAL



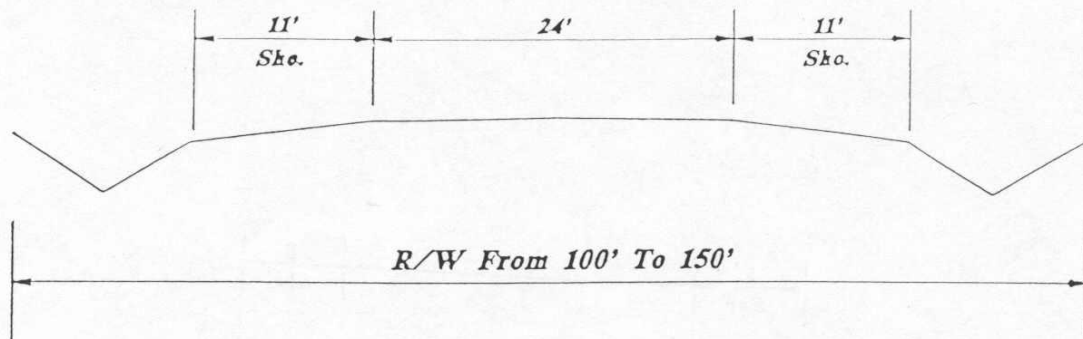
WITH CURB AND GUTTER  
URBAN

CROSS-SECTIONS FOR  
MAJOR/MINOR COLLECTORS

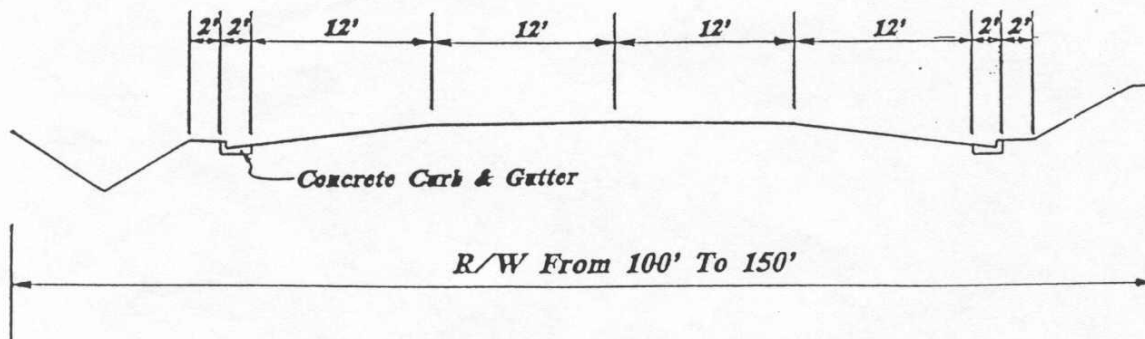
CONSTRUCTION ON NEW ALIGNMENT  
50-55 MPH DESIGN SPEED



*Cross-Sections for  
Minor Arterial*



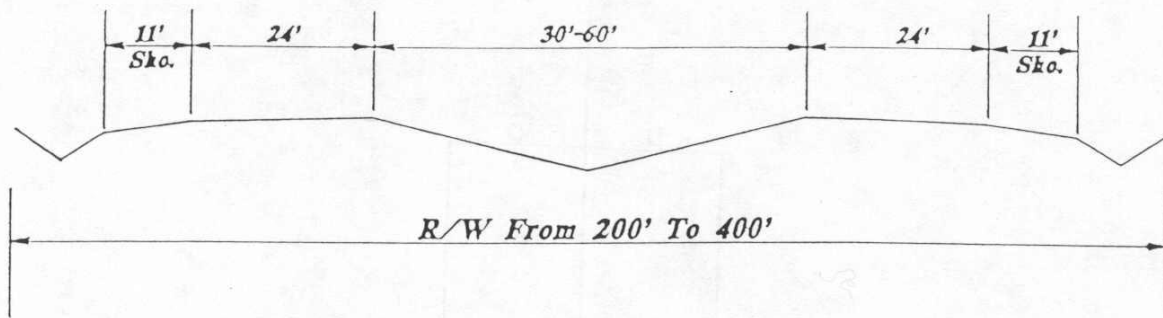
RURAL SECTION



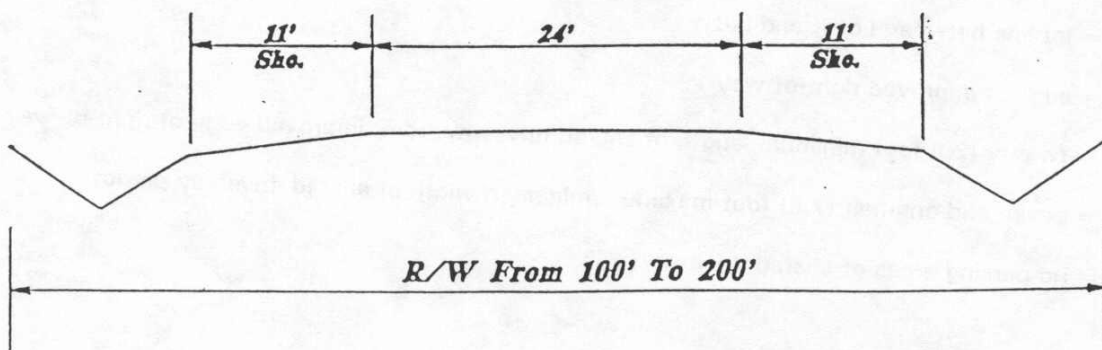
URBAN SECTION

## *Cross-Sections for Principal Arterials*

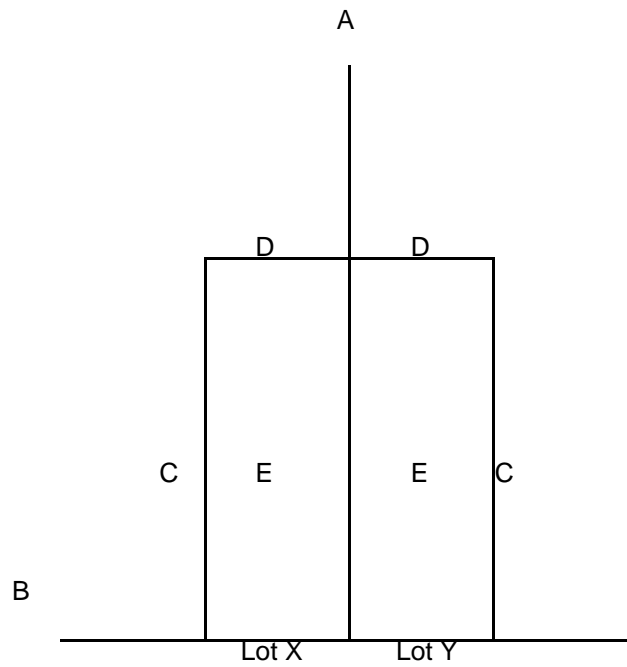
### *1. 4 - Lane Section*



### *2. 2 - Lane Section*



**Appendix 856-2**  
**Shared Driveway Drawing**



**Legend:**

A = lot line between Lot X and Lot Y

B = edge of improved right-of-way

C = twenty (20) foot minimum length of shared driveway from improved edge of right-of-way

D = seven and one-half (7.5) foot maximum/minimum width of shared driveway per lot

E = no-parking areas of shared driveway

**[end of chapter]**

## CHAPTER 858

### SUBDIVISIONS: ASSURANCES FOR COMPLETION AND MAINTENANCE OF IMPROVEMENTS

#### **858-1. Completion Requirement**

Before the Commission may consider a plat for final approval, the Subdivider shall be required to:

- (A) complete the required improvements in the manner prescribed by these regulations, by preliminary approval, and by the subdivision improvement agreement;
- (B) dedicate the public rights-of-way and other public improvements to the County, free and clear of all liens and encumbrances; and,
- (C) provide the County with a maintenance bond that complies with Section 858-9.

#### **858-2. Performance Bond Alternative to Completion Requirement**

- (A) The Commission may consider a plat for final approval before the requirements of Section 858-1 have been satisfied if, and only if, the Subdivider posts a performance bond ("performance bond") to ensure that the required improvements are completed and/or dedicated in the manner prescribed by these regulations, by preliminary approval, and by the subdivision improvement agreement.
- (B) The performance bond shall be in the amount of one hundred and ten percent (110%) of the estimated completion cost of the required improvements as set forth in the preliminary approval. However, the Commission may accept a performance bond in a reduced amount if the Commission finds, based on written evidence submitted by the Subdivider, that:
  - (1) the amount by which the performance bond is reduced relates exclusively to the completion cost of the required utility facilities as set forth in the preliminary approval;
  - (2) the Subdivider has entered into written agreements for the completion of the required utility facilities and for the provision of utility services to the subdivision lots; and,
  - (3) the written evidence provides satisfactory assurances that the required utility facilities will be completed in accordance with these regulations, with preliminary approval, and with the subdivision improvement agreement.
- (C) The period within which the required improvements must be completed ("performance period") shall be specified by the Commission as a condition of final plat approval, shall be incorporated in the performance bond as a material and essential term and shall not exceed two years from the date of final plat approval.
- (D) The Commission may amend the performance bond to extend the performance period for an additional one (1) year period upon a finding that the Subdivider has been unable to complete the required improvements despite due diligence. A request for a performance period extension must be submitted to the Commission by

the Subdivider at least four (4) months prior to the expiration date of the original performance period. As a condition precedent of such performance bond amendment, at least one (1) month prior to the expiration date of the original performance period, the Subdivider shall secure the amended performance bond in accordance with these regulations and shall submit the secured, amended performance bond to the Commission.

- (E) The performance bond shall name the Commission and/or the County as obligees, shall comply with all statutory requirements and shall be satisfactory to the Commission Attorney and/or County Attorney as to form (see Section 860-6), sufficiency and manner of execution as set forth in these regulations.

**858-3. Financial Guaranty**

A performance bond authorized or required by these regulations shall be secured by either an irrevocable letter of credit or a cashier's check in the amount of the performance bond. The beneficiary of such financial guaranty shall be the Commission and/or the County (guarantee). The financial guaranty shall be issued by a financial institution (guarantor) that maintains an office within sixty (60) miles of Monroe County, Indiana, at which the financial guaranty may be presented for payment. Letters of credit submitted pursuant to this chapter shall comply with Section 860-8. Cashier's checks submitted pursuant to this chapter shall be held by the County Treasurer until the performance bond is released or reduced as provided in these regulations.

**858-4. Governmental Units**

In lieu of a letter of credit or cashier's check, governmental units, to which these regulations apply, may secure their performance bonds by filing a certified resolution or ordinance with the Commission. The resolution or ordinance must have been adopted by the unit's fiscal body and must affirm the unit's obligation and financial ability to complete the required improvements.

**858-5. Temporary Public Improvements**

The Subdivider, at the Subdivider's expense, shall complete, shall maintain and shall remove all temporary public improvements required by these regulations, by preliminary approval and by the subdivision improvement agreement in the manner prescribed by these regulations, by preliminary approval and by the subdivision improvement agreement. The schedule for the completion, maintenance and removal of temporary improvements shall be incorporated in the subdivision improvement agreement as a material and essential term. The amount of the performance bond shall be adjusted to reflect the cost of the temporary improvements.

**858-6. Cost of Public Improvements**

All required improvements shall be made by the Subdivider, at the Subdivider's expense, without reimbursement by the County, unless the County expressly agrees to share in the cost of the required improvements.

**858-7. Failure to Complete Improvements**

- (A) If a performance bond has not been posted and the required improvements have not been completed in the manner prescribed by these regulations, by preliminary

approval and by the subdivision improvement agreement prior to the expiration of preliminary approval, preliminary approval shall lapse, and shall be null and void, regardless of partial improvement completion.

- (B) If a performance bond has been posted and the required improvements are not completed in accordance with the terms of the performance bond, the Commission may declare the performance bond to be in default and authorize the calling of the performance bond and financial guaranty and the completion of the required improvements under the supervision of the County Engineer.

**858-8.**

**Release or Reduction of Performance Bond and Financial Guaranty**

- (A) The Commission may release or reduce the performance bond and financial guaranty, but only if:
  - (1) the Subdivider applies to the Commission, in writing, for the release or reduction of the performance bond and financial guaranty and provides the Commission with a certificate, signed by the Subdivider's engineer, stating that all required improvements, or a portion of such improvements in the case of a reduction, have been completed in the manner prescribed by these regulations, by preliminary approval and by the subdivision improvement agreement. The certification of the Subdivider's engineer shall be accompanied by detailed "as-built" plans of the required improvements. Such as-built plans must be prepared and signed by the Subdivider's engineer;
  - (2) the County Engineer reviews the as-built plans and the subdivision site and reports to the Commission, in writing, that all required improvements, or a portion of such improvements in the case of a reduction, have been completed in the manner prescribed by these regulations, by preliminary approval and by the subdivision improvement agreement;
  - (3) the Subdivider provides the Commission with written assurances, in the form of affidavits, releases or waivers of liens from all contractors, subcontractors and materialmen, that liens will not be filed against the dedicated land and/or improvements after they are accepted; and,
  - (4) the Subdivider provides the Commission with the maintenance bond required by Section 858-9.
- (B) A performance bond and surety may be reduced only upon the acceptance of the required improvements, and only by the amount that corresponds to the cost of the improvements that are accepted as set forth in the preliminary approval. Furthermore, a performance bond and financial guaranty may be reduced only one (1) time. The reduction may be approved only after at least fifty percent (50%) of the required improvements have been completed and accepted. However, in no event may the performance bond be reduced to less than ten percent (10%) of the original performance bond amount or ten thousand dollars (\$10,000.00), whichever is greater, until all required improvements for the subdivision or the approved subdivision section have been completed and accepted.
- (C) The costs incurred by the Commission and/or the County in connection with a request for performance bond and financial guaranty reduction or release (for example, without limitation, engineering inspection fees, legal fees, etc.) shall be



borne by the Subdivider, regardless of whether the request is ultimately granted. No performance bond and surety shall be released or reduced until such costs have been paid by the Subdivider.

- (D) The Commission may, by rule, authorize the Director to reduce or release performance bonds and, by rule, may establish the procedures by which the Director may reduce or release such bonds.

**858-9. Maintenance of Public Improvements**

- (A) The Subdivider shall be required to maintain the required improvements and to provide for snow and ice removal on streets and sidewalks until the County accepts the required improvements.
- (B) Prior to the County's acceptance of the required improvements and prior to the release of the performance bond and financial guaranty, the Subdivider shall be required to post a maintenance bond with the Commission to ensure the satisfactory condition of the required improvements. The maintenance bond shall be in the amount of ten percent (10%) of the cost of all public improvements as approved by the Commission or two thousand five hundred dollars (\$2,500.00), whichever is greater, and may not be reduced prior to release. The maintenance bond shall name the Commission and/or the County as obligees, shall comply with all statutory requirements and shall be satisfactory to the Commission Attorney and/or County Attorney as to form (see Section 860-7), sufficiency and manner of execution as set forth in these regulations. The maintenance bond shall be secured in the manner prescribed by Section 858-3 for a minimum period of two (2) years following the date on which the County accepts the public improvements covered by the maintenance bond.

**858-10. Issuance of Permits**

No building permit or improvement location permit shall be issued for a subdivision lot until the Subdivider has completed all of the required improvements, excepting sidewalks and the final pavement coat, for the subdivision or for the approved subdivision section in which the lot is located and until such required improvements have been accepted by the County.

**858-11. Acceptance of Dedication Offers**

The Commission's approval of a subdivision plat shall not be deemed to constitute or imply the County's acceptance of any street, easement, park or other public improvement shown on the plat. The Commission may require that the plat be endorsed with appropriate notes to that effect. The County may accept the dedication of such public improvements by appropriate official action.

**[end of chapter]**

## CHAPTER 860

### SUBDIVISIONS: DOCUMENT SPECIFICATIONS

860-1.

#### Preliminary Plat

- (A) The preliminary plat shall be prepared by a licensed land surveyor at an appropriate scale as determined in consultation with the Department. To determine the appropriate scale, the Applicant and the Department shall consider topography, environmental constraints, number of lots and the size (area) of the proposed subdivision. The plat shall be prepared in pen and the sheets shall be numbered in sequence, if more than one (1) sheet is used.
- (B) The preliminary plat shall show the following:
- (1) the date of the plat, legend, notes, approximate true North point and graphic scale;
  - (2) the names, addresses, telephone numbers, seal and registration numbers of the professionals responsible for the design of the proposed subdivision, the design of the proposed public improvements, the property survey, and the preparation of the preliminary plat and supporting materials;
  - (3) the written legal description, civil township, section, parent tract plat number, address (if any) and parcel boundary lines (with dimensions, bearings, curve data and references to section, township and range lines or corners) of the property to be subdivided;
  - (4) the name of the proposed subdivision (including the word "Subdivision") followed by the term "Preliminary Plat;"
  - (5) the locations, approximate dimensions (to the nearest one tenth of a foot), lot numbers, curve data and approximate acreage (to the nearest one-hundredth of an acre) of all proposed and/or existing subdivision lots;
  - (6) a table showing the front, side and rear yard setback requirements.
  - (7) the accurate location of all existing and platted streets intersecting or abutting the boundaries of the property to be subdivided;
  - (8) the source of the Owner's title to the property to be subdivided as shown by the last entry in the records of the County Recorder;
  - (9) the accurate locations and dimensions of easements and any property to be dedicated to the public or reserved for public, semipublic or community use;
  - (10) with respect to existing and proposed rights-of-way and streets within the proposed subdivision site:
    - (a) street rights-of-way as established by the Thoroughfare Plan;
    - (b) names;

- (c) classifications (local, collector, arterial) in parentheses following the name;
  - (d) width;
  - (e) approximate gradient; and,
  - (f) type and width of pavement, including curbs, sidewalks, crosswalks and other relevant information shown in a cross-section, scale drawing;
  - (g) curve notes for all curves along all property and right-of-way lines and right-of-way center lines;
- (11) the existing and proposed topographic contours of the property to be subdivided shown at intervals of no greater than five feet for areas containing land with twelve percent (12%) slope or greater, and at intervals of two feet for areas containing land with less than twelve percent (12%) slope;
  - (12) the flood plain boundaries, if applicable, indicating the classification of each flood plain area;
  - (13) the location, size, elevation, capacity and other appropriate description of all existing or proposed permanent and significant features, either natural or man-made, including but not limited to trees, watercourses, falls, beaches, historic places, rock formations, streets, sewers, drains, water bodies, swamps or other wetlands, railroads, transmission towers, existing structures, County ditches, legal drains, water mains, culverts, utility lines, fire hydrants, drainage structures, and water elevations (including approximate high-water and low-water elevations) of adjoining lakes, rivers and streams at the date of the survey (by reference to the U.S.G.S datum plane); the approximate size and capacity of utilities may be presented in a note on the plat.
  - (14) the delineation of the phases, if any, of the development, indicating the lots and improvements to be included in each phase;
  - (15) the proposed use of any lot (e.g., single-family, duplex, multi-family);
  - (16) all applicable certificates and notations;
  - (17) any other factors significantly affecting the property to be subdivided;
  - (18) the names, addresses and telephone numbers of all applicants and subdividers;
  - (19) the names and Deed Record of all interested parties, as defined in Section 852-2;
  - (20) zoning classifications of the property included in the subdivision and of the adjacent properties; and,

- (21) delineation on a USGS base map (at an appropriate scale) of the perimeter of the proposed subdivision, the drainage area in which the subdivision is located, the location of drainage courses and surface water flow within the drainage area, and roads.
      - (22) The delineation of the buildable area for each lot intended for development.
- (C) An Applicant for preliminary approval shall submit the following supporting material with the preliminary plat:
  - (1) an erosion control plan;
  - (2) a sewage disposal plan;
  - (3) a drainage plan for review by the Monroe County Drainage Board;
  - (4) specifications for any required improvements to existing County or State roads;
  - (5) for any improvements or systems which are to be owned and/or maintained by the property owners in the subdivision, a plan for establishing such ownership and for providing and financing such maintenance. Documents and/or plans submitted under this section are subject to determination by the Commission that they are adequate to ensure that the County will not be held responsible in the future for such maintenance.
  - (6) proof of septic permit approval
    - (a) for each lot in the proposed subdivision to be served by a subsurface private sewage disposal system, the Applicant must provide a septic permit from the County Health Department indicating that such a system could be safely installed and maintained on the lot and detailing any conditions to be placed upon such installation and maintenance. The Commission may require that said conditions be recorded as part of the approved subdivision;
    - (b) for each lot in the proposed subdivision to be served by a mound private sewage disposal system, the Applicant must provide either a septic permit from the County Health Department indicating that such a system could be safely installed and maintained on the lot and detailing any conditions to be placed upon such installation and maintenance or a letter from the County Health Department stating that a suitable site for such a system has been located as a result of a site evaluation and soil analysis. This letter will serve as a conditional permit for the preliminary plat phase and final plat phases if it is conditional only on approval by the Monroe County Health Department of design plans prepared by a professional engineer. If any other conditions are placed upon the letter by the Monroe County Health Department, the letter will serve as a conditional permit for the preliminary phase only and the Applicant must provide a septic permit from the County Health Department for the mound system at the time of the final plat submittal;

- (c) for proposed subdivisions in which individual lots are served by private sewage disposal systems, lots 10 acres or greater in size that will not be developed do not require proof of septic permit approval;
- (7) if the subdivision is to be served by a public sewage disposal system, the Applicant must provide evidence that such system has both the actual and the legal capacity and capability to serve the specified number of lots in the proposed subdivision and the Applicant must provide a letter signed by the president and secretary of the sewage disposal utility which will serve the proposed subdivision that affirms that the system has the foregoing capacity and capability;
- (8) if the development is to be served by a municipal sewage disposal system, the Applicant must provide evidence that such system has both the actual and the legal capacity and capability to serve the specified number of lots in the development and the Applicant must provide a letter signed by the municipality or the municipal agency responsible for the operation and maintenance of the sewage facility which affirms that the system has the foregoing capacity and capability;
- (9) a list specifically citing any requirements of the Subdivision Control Ordinance for which modifications are requested and a statement of the specific facts which the Applicant would offer in support of the requests.
- (10) if lots are to be dedicated or reserved for schools, parks, playgrounds or other public or community purposes, a letter of approval and acceptance from the entity that will be responsible for maintaining the dedicated lots;
- (11) documentation sufficient to show that all relevant requirements and design standards set forth in Chapter 856 are met; and,
- (12) if any lot or road in a major subdivision is to receive access from or intersect with a state highway, a copy of the driveway permit or approval letter issued by the Indiana Department of Transportation shall be submitted.
- (13) for each lot in the proposed subdivision to be served by a private water system, the applicant must provide evidence that such a system could be safely installed and maintained on the lot and detailing any conditions to be placed upon such installation and maintenance. The Commission may require that said conditions be recorded as part of the approved subdivision;
- (14) if the subdivision is to be served by a public water system, the applicant must provide evidence that such system has both the actual and the legal capacity and capability to serve the specified number of lots in the proposed subdivision and the applicant must provide a letter signed by the president and secretary of the water utility which will serve the proposed subdivision that affirms that the system has the foregoing capacity and capability;
- (15) the names and addresses of all interested parties, as defined in Section 852-2;
- (16) the recorded deed or land contract for the proposed subdivision site;

- (17) the Auditor's plat map of the proposed subdivision site; and,
- (18) an eight and one-half (8 1/2) inch by eleven (11) inch reduced copy of the preliminary plat.

(D) The applicant may, and is encouraged to, submit proposed findings of fact.

**860-2.**

**Construction Plans**

General Construction Plans shall be prepared for all required improvements. Plans shall be drawn at a scale of no more than one (1) inch equals fifty (50) feet, and map sheets shall be of the same size as the preliminary plat. The following shall be shown:

- (A) Profiles showing existing and proposed elevation lines of all streets. Where a proposed street intersects an existing street or streets, the elevation along the center line of the existing street or streets within one hundred (100) feet of the intersection, shall be shown. Radii of all curves, lengths of tangents, and central angles on all streets;
- (B) The Commission may require that cross-sections of all proposed streets be shown on a line at right angles to the center line of the street, at one hundred foot stations and/or at all points where the elevation or pitch of the street changes significantly, as determined by the County Engineer;
- (C) Plans and profiles showing the locations and typical cross-section of street pavements including curbs and gutter, sidewalks, drainage easements, servitude, rights-of-way, manholes, and catch basins; the locations of street trees, street lighting standards, and street signs; the location, size, and invert elevations of existing and proposed sanitary sewers, storm water drains, and fire hydrants, showing connection to any existing or proposed utility systems; and exact location and size of all water, gas, or other underground utilities or structures;
- (D) Location, size, elevation, and other appropriate description of any existing facilities or utilities, including, but not limited to, existing streets, sewers, drains, water mains, easements, water bodies, streams, flood plains, and other pertinent features such as wetlands, railroads, buildings, features noted on the Official Map or Comprehensive Plan at the point of connection to proposed facilities and utilities within the subdivision. The water elevations of adjoining lakes or streams at the date of the survey, and the approximate high- and low-water elevations of such lakes or streams. All elevations shall be referred to the U.S.G.S. datum plane. If the subdivision borders a lake, river, or stream, the distances and bearings of a meander line established not less than twenty (20) feet back from the ordinary high-water mark of such waterways;
- (E) Topographic contours at the same scale as the preliminary plat;
- (F) All specifications and references required by the County's construction standards and specifications, including an erosion control and site-grading plan for the entire subdivision;
- (G) Certification of approval; and,

- (H) Title, name, address, signature, registration number and seal of the professional engineer and/or surveyor, and date, including revision dates.

**860-3. Subdivision Improvement Agreement**

A subdivision improvement agreement shall be a written agreement between the Subdivider and the County which shall:

- (A) identify all required improvements;
- (B) incorporate the construction plans;
- (C) set forth the terms and conditions under which the required improvements are to be completed, including the improvement completion schedule;
- (D) set forth the terms and conditions under which the required temporary improvements are to be completed, including the improvement completion schedule;
- (E) incorporate a performance bond and financial guaranty, where required; and,
- (F) be signed by the Subdivider and/or Owner and the president of the Commission.

**860-4. Final Subdivision Plat**

- (A) The final subdivision plat shall be presented in permanent, black ink directly onto reproducible matte-finish film, at least four (4) mil thick, at an appropriate scale (as determined by the Administrator) on eighteen (18) inch by twenty-four (24) inch sheets. Adhesive film of any kind is prohibited on the final plat. All required signatures and seals shall be original on the final plat to be recorded.
- (B) The final subdivision plat shall contain:
  - (1) or be accompanied by sufficient information to show that all conditions of preliminary approval and of the subdivision improvement agreement have been met and shall show the information required by Section 860-1(B), parts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10a, 10b, 10c, 10d, 10g, 12, 16, 18, 20 and 22 of these regulations and by 865 IAC 1-12-13 for retracement or record document survey plats and shall show the location of any existing or proposed septic sites for each lot;
  - (2) the property address number, as assigned by the Department, for each lot;
  - (3) a notation of any self-imposed restrictions that are not addressed in part (6) below;
  - (4) the location of all monuments erected, corners, and other points established in the field shall be shown and noted in their places on the plat. The legend for metal monuments shall indicate the kind of metal, the diameter and length of the monuments;

- (5) or be accompanied by construction plans and proposed subdivision improvement agreement, if applicable, unless the same have already been approved by the Commission;
  - (6) a reference to the Miscellaneous Record Book and Page at which the covenants are recorded in the County Recorder's Office;
  - (7) surveyor's certificate and seal;
  - (8) engineer's certificate and seal, if applicable;
  - (9) deed of dedication of public improvements and/or right-of-way and a certificate of acceptance of public improvements that is subject to all required performance or maintenance bonds;
  - (10) Commission's certificate;
  - (11) notary certificate;
  - (12) shall be accompanied by an eight and one-half (8 1/2) inch by eleven (11) inch reduced copy of the final plat; and,
  - (13) a site map, at an appropriate scale, which illustrates the location of the proposed subdivision in regards to surrounding thoroughfares and other points of information.
- (C) The final subdivision plat shall be prepared by a land surveyor licensed by the State of Indiana.
- (D) The preliminary plat may be used as the final subdivision plat if it meets these requirements and is revised in accordance with the Commission's approval.
- (E) All numbers appearing on the plat shall be in arabic style and all letters and/or words shall be in Roman print in the English language.
- (F) If the Applicant submitted a letter at the preliminary plat phase of the subdivision process from the County Health Department which served as a conditional permit for a mound septic system, and if such letter was not acceptable for the final plat phase as outlined in Section 860-1(C)(6), then the Applicant must provide, at final plat submittal, a septic permit from the County Health Department indicating that such a system could be safely installed and maintained on the lot and detailing any conditions to be placed upon such installation and maintenance. The Commission may require that said conditions be recorded as part of the approved subdivision.



**860-5.**

**Administrative Subdivisions**

The following information must be provided in order for the Director to determine whether a proposed subdivision may be approved as a type "A," "B," "C," "D," "E," or "F" administrative subdivision:

- ~~(A)~~ for type "A" administrative subdivisions, a metes and bounds legal description of the administrative subdivision and the land from which it is being divided, including not more than one exception or addition, a plat, drawn to scale, showing dedicated right-of-way and lot design and a copy of the Auditor's plat map;  
(Repealed by Ordinance 2015-02)
- (B) for type "B" administrative subdivisions, the old legal and new legal descriptions and a copy of the Auditor's plat map;
- (C) for type "C" administrative subdivisions, a copy of the court decree showing by legal description how the land is to be divided;
- (D) for type "D" administrative subdivisions, a legal description and plat, drawn to scale, showing the parcel and the location of the street right-of-way;
- (E) for type "E" administrative subdivisions, a legal description, including not more than one exception or addition, a plat, drawn to scale, showing the tract to be divided and the tract(s) to be added to and a copy of the Auditor's plat map; and,
- (F) for type "F" administrative subdivisions, a plat, drawn to scale, of the cemetery showing the layout of the private drives, parking areas, and size of burial lots.

**860-6.**

**Performance Bond**

Any performance bond submitted pursuant to these regulations shall be in substantially the same form as set forth in Appendix 860-1 to these regulations.

**860-7.**

**Maintenance Bond**

Any maintenance bond submitted pursuant to these regulations shall be in substantially the same form as set forth in Appendix 860-2 to these regulations.

**860-8.**

**Letter of Credit**

Any letter of credit submitted pursuant to these regulations shall be in substantially the same form as set forth in Appendix 860-3 to these regulations.

**860-9**

**Minor Subdivision Plat**

- (A) The preliminary Minor Subdivision plat shall comply with 860-1(A-B) with the following exceptions:

  - (1) With respect to 860-1(B)(10), only subsections a-c for existing roads need to be shown
  - (2) Proposed contours per 860-1(B)(11) are required only if grading is proposed
  - (3) 860-1(B)(13) need be met only where applicable
  - (4) The plat need not comply with 860-1(B)(14).

(B) The final Minor Subdivision plat shall comply with Section 860-4(A-B) with the following exceptions:

- (1) Subsections 860-4(B) (3), (6), and (9) shall not apply.
- (2) The plat shall show the name of the subdivision (including the word "Subdivision") followed by the term "Final Plat."

Final Minor Subdivision plats shall also contain the following notation: "This parcel was created through the Minor Subdivision procedure and approved by the Monroe County Plan Commission on (date of Plan Commission approval)."

#### **860-10 Sliding Scale Option Subdivision Plat**

(A) The preliminary Sliding Scale Option Subdivision plat shall comply with 860-1(A-B) with the following exceptions:

- (1) With respect to 860-1(B)(10), only subsections a-c for existing roads need to be shown
- (2) Proposed contours per 860-1(B)(11) are required only if grading is proposed
- (3) 860-1(B)(13) need be met only where applicable
- (4) The plat need not comply with 860-1(B) (14).

(B) The final Sliding Scale Option Subdivision plat shall comply with Section 860-4(A-B) with the following exceptions:

- (1) Subsections 860-4(B) (3), (6), and (9) shall not apply.
- (2) The plat shall show the name of the subdivision (including the word "Subdivision") followed by the term "Final Plat."

The designated Parent Parcel Remainder shall not be further subdivided for a period of twenty-five (25) years from the date of recording of the Final Plat. This Restriction shall be recorded on the Final Plat and incorporated as a Recorded Commitment (which states the day, year and month in which the Parent Parcel Remainder becomes eligible for further subdivision) referenced on any deed conveying the Parent Parcel Remainder.

## APPENDIX 860-1

### PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: That (name of Subdivider) (hereinafter "Principal") is indebted and firmly bound unto the Monroe County Plan Commission/Monroe County, Indiana (collectively "County") for the use and benefit of the County and of all future lot owners within that certain subdivision known as (name of subdivision) in the penal sum of (amount of performance bond) good and lawful money of the United State of America, for securing the performance (completion) of the required improvements and works, as hereinafter set forth, and for the payment of which sum well and truly to be made to the undersigned do hereby bind themselves, their heirs, executors, administrators, successors and assigns, firmly by these presents, and in support thereof represent, acknowledge and agree as follows:

#### Recitals

1. (name and address of Principal).
2. The Principal has submitted a final plat of (name of subdivision) ("the subdivision"), a subdivision located in (section, township and range numbers) of Monroe County, Indiana. Said final plat was prepared by (name and address of surveyor), and is dated (date of subdivision).
3. The approval of the Monroe County Plan Commission is a condition precedent to the right of the Principal to have the final plat of the subdivision recorded and the permits issued for construction on the site.
4. The Monroe County Plan Commission will not approve the final plat of the subdivision for recordation or for the issuance of necessary permits until all required improvements are completed and installed in accordance with the Monroe County Subdivision Control Ordinance, primary approval of the subdivision and the Subdivision Improvement Agreement between the County and the Principal, dated (date of agreement), or until a satisfactory performance bond with sufficient financial guaranty is furnished.
5. It is the desire of the Principal to have the final plat of the subdivision recorded and the necessary building and improvement location permits issued so as to provide for the orderly development and transfer of property, and to have said permits issued prior to the actual completion the required improvements.
6. It is estimated that the cost of completing all improvements is (estimated cost of required improvements).
7. Pursuant to the procedures followed by the Monroe County Plan Commission, it is permissible for the Principal, in lieu of the completion of the required improvements prior to recording the final plat and issuance of the necessary permits, to execute a bond with good and sufficient financial guaranty in an amount equal to one hundred and ten percent (110%) of the estimated cost of completion of the required improvements, providing that the required improvements will be constructed.
8. To secure the completion of the required improvements and to induce the Monroe County Plan Commission and Monroe County, Indiana, to allow the recording of the final plat of the subdivision and the issuance of building and improvement location permits for the site prior to completion of the required improvements, the Principal provides this Performance Bond and (irrevocable letter of credit or cashier's check) issued by (name of financial institution), the proceeds of which are payable to Monroe County, Indiana, and/or the Monroe County Plan Commission in an amount equal to (amount of performance bond).

9. The Monroe County Plan Commission and Monroe County, Indiana, are willing to authorize the recording of the final plat of the subdivision and the issuance of the necessary building and improvement location permits for the site upon the execution of this bond by the Principal and upon the provision of the financial guaranty (letter of credit or cashier's check), understanding that this bond is subject to the condition that the Principal will, according to the improvement completion schedule attached hereto and incorporated herein, complete the construction and/or installation of all required improvements, as herein set forth, and obtain their inspection, approval and acceptance of the Monroe County Plan Commission and Monroe County, Indiana.

NOW THEREFORE,

In the event the principal shall, on or before (final date shown on the improvement completion schedule for the completion of the required improvements), fully comply with all the terms hereof, and shall construct, install and complete all of the required improvements, as hereinabove enumerated, and as are shown on the approved final plat of the subdivision prepared by (name of surveyor), which final plat was reviewed and approved by the Monroe County Plan Commission, and which final plat was reviewed and approved by the Monroe County Highway Department and the Monroe County Health Department and as also stated herein, which installation and completion shall be in accordance with the regulations of Monroe County, Indiana, and also in accordance with the regulations and requirements of the Monroe County Plan Commission, and in accordance with all conditions established by the Monroe County Plan Commission as set forth in the minutes of its meetings, and in accordance with the Subdivision Improvement Agreement between the County and the Principal, dated (date of agreement), and do all of said work in a proper and workmanlike manner to the satisfaction of the Monroe County Engineer, then this obligation shall be void. In the event that any of the required improvements are not completed on or before (final date shown on the improvement completion schedule for the completion of the required improvements) and in accordance with each of the aforesaid rules, regulations and requirements, then the entire penal sum of (amount of the bond) shall be forfeited and paid to the Monroe County Plan Commission and/or to Monroe County, Indiana, by the Principal and/or Guarantor as liquidated damages for such default. The Monroe County Plan Commission and/or Monroe County, Indiana, shall then use the said funds to pay for completion of the required improvements, refunding any unused portion of said funds. Action by Monroe County, Indiana, and/or Monroe County Plan Commission through the Monroe County Attorney, or other designee, in calling on or presenting the financial guaranty to pay (amount needed to complete the required improvements) pursuant to the terms of this Performance Bond shall not be deemed a release of Principal for any liability hereunder.

The Principal acknowledges that it is liable for all obligations under this Performance Bond.

Witness my hand this (date)

(signature of the Principal)

Notary's Certificate

## **APPENDIX 860-2**

## MAINTENANCE BOND

KNOW ALL MEN BY THESE PRESENTS: That (name of Subdivider) (hereinafter "Principal") is indebted and firmly bound unto the Monroe County Plan Commission/Monroe County, Indiana (collectively "County") for the use and benefit of all future lot owners within that certain subdivision known as (name of subdivision) in the penal sum of (amount of maintenance bond) good and lawful money of the United State of America, for securing the maintenance of the required improvements and works, as hereinafter set forth, and for the payment of which sum well and truly to be made to the undersigned do hereby bind themselves, their heirs, executors, administrators, successors and assigns, firmly by these presents, and in support thereof represent, acknowledge and agree as follows:

### Recitals

1. (name and address of Principal).
2. The Principal has submitted a final plat of (name of subdivision), a subdivision located in (section, township and range numbers) of Monroe County, Indiana. Said final plat was prepared by (name and address of surveyor), and is dated (date of subdivision).
3. The Monroe County Plan Commission has approved the final plat and the plat has been recorded in the Recorder's Office of Monroe County, Indiana.
4. All required improvements to the (name of subdivision), as set forth in the Subdivision Improvement Agreement between the County and the Principal, dated (date of Subdivision Improvement Agreement) have been fully completed and the Monroe County Plan Commission and/or Monroe County, Indiana, on (date of conditional acceptance), conditionally accepted the required improvements subject to the execution of this bond so as to insure the maintenance of the required improvements as prescribed by the Subdivision Improvement Agreement.
5. Maintenance bond amount is established as follows: (amount of bond) for (description of improvement to be maintained).
6. To secure the release of Performance Bond, Principal provides this Maintenance Bond and an irrevocable letter of credit or certified check issued by (name of financial institution), the proceeds of which are payable to Monroe County, Indiana and/or the Monroe County Plan Commission in an amount equal to (amount of maintenance bond for the above described improvement).

NOW THEREFORE,

If principal shall, for a period of \_\_\_\_ year(s) from date of acceptance by the Monroe County Plan Commission and/or by Monroe County, Indiana, fully maintain all improvements above described in (name of subdivision), Final Plat, in the condition in which such improvements existed at the time of conditional acceptance by the Monroe County Plan Commission and/or Monroe County, Indiana, then this obligation shall be void. In the event that any of the required improvements and works are not maintained for \_\_\_\_ year(s) in the same condition which they existed at the time of conditional acceptance by the Monroe County Plan Commission, the entire penal sum of (amount of maintenance bond) with respect to the above-described improvement shall be forfeited and paid to the Monroe County Plan Commission and Monroe County, Indiana, by the Principal as liquidated damages for such default. The Monroe County Plan Commission and/or Monroe County, Indiana, shall the use said funds to pay for completion of the required maintenance, refunding any unused portion of said funds. Action by the Monroe County Plan Commission and/or Monroe County, Indiana, through the Monroe County Attorney, or other designee, in calling on the letter of credit to pay (amount called) pursuant to the terms of this Maintenance Bond shall not be deemed a release of Principal for any liability hereunder.

The Principal acknowledges that it is liable for all obligations under this Maintenance Bond.

Witness my hand this (date).

(signature of Principal)

Notary's Certificate

### APPENDIX 860-3

(Performance or Maintenance) Bond

LETTER OF CREDIT NO. \_\_\_\_\_

To: Monroe County Plan Commission/Monroe County, Indiana ("County")  
c/o Director  
Monroe County Plan Commission  
Courthouse, Room 306  
Bloomington, Indiana 47404

Gentlemen:

(name of financial institution), hereby opens its irrevocable credit in favor of (name of Subdivider) hereinafter referred to as "Subdivider" with their principal place of business being (address of financial institution) for the benefit of the County in the following manner and on the following terms:

1. Subdivider is required by Contract and Agreement for the (completion/maintenance) of (describe required improvements) to serve (name of subdivision).
2. The extent of this Letter of Credit shall be (amount of performance/maintenance bond).
3. This Letter of Credit may be called by your drafts drawn on site at our main office in (address of financial institution), and accompanied by the following documents and instruments:
  - a. Original Letter of Credit.
  - b. Signed statement from and authorized official of the County certifying that (name of Subdivider) has failed to (complete/maintain) the required improvements in the manner set forth in the (performance/maintenance) bond agreement between the County and the Subdivider, dated (date of bond) and relating to the (name of subdivision).
4. After acceptance of the required improvements by the County, the extent of this Letter of Credit may be reduced: the reduction to be included in the acceptance notification. A written copy of the acceptance will be forwarded to (name of financial institution).

This LETTER OF CREDIT expires no later than (expiration date), unless a prior claim by the County is made.

## APPENDIX 860-4

### Dedication of Public Rights-of-Way

Owner/Developer:

\_\_\_\_\_, owner of the real estate shown and described herein, does hereby certify, layoff and plat lots numbered \_\_\_\_\_ through \_\_\_\_\_ to be known as \_\_\_\_\_.  
Right-of-Way not heretofore dedicated are hereby dedicated to Monroe County, Indiana.

In accordance with this plat and certification, this plat shall be known as \_\_\_\_\_.

\_\_\_\_\_ is to be subject to the provisions of the Declaration of the Covenants, Conditions, and Restrictions of \_\_\_\_\_ (if provided) recorded as instrument no. \_\_\_\_\_ in Miscellaneous Record \_\_\_\_\_, pages \_\_\_\_\_ in the Office of the Recorder of Monroe County, Indiana.

There are building setbacks on the Plat upon which no structures may be erected or maintained.

Witness my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Date)

**[end of chapter]**



## CHAPTER 862

### Sliding Scale Option Subdivision

#### 862-1 Purpose and Intent

The purpose of the Sliding Scale Option subdivision is to accommodate development and redevelopment of areas designated in the Monroe County Comprehensive Plan as Farm and Forest and Rural Residential. The Sliding Scale Option is well-suited for owners who wish to subdivide their property for economic opportunity while ensuring restrictions on successive applications of the subdivision opportunities for the property. In general the Sliding Scale Option regulations seek to:

- Preserve large areas of sparse and low residential density for the planning horizon of the Comprehensive Plan; and,
- Protect and enhance Vulnerable Lands in rural areas.

The Sliding Scale Option when implemented in conjunction with the traditional development standards set forth in the Agriculture / Rural Reserve (AG/RR), Conservation Residential (CR) and Forest Reserve (FR) zoning districts will serve to:

- Support and sustain the agricultural use and productivity of the Monroe County;
- Preserve large tracts capable of supporting farming, forestry or agricultural related production and to preserve the open road rural landscape appearance of Monroe County;
- Preserve the opportunity for individuals to experience and sustain rural lifestyles in sparsely populated areas of Monroe County; and,
- Provide opportunity to create some residential lots to accommodate family expansion and limited development needs while limiting development to the fewest lots possible to maintain the low density, rural-oriented growth that is consistent with the County's physical constraints as described in the Comprehensive Plan.

Use of the Sliding Scale Option for development activity in the areas under the zoning designation AG/RR, CR and FR is optional. At the time of filing the applicant must elect either the traditional subdivision method or the Sliding Scale Option subdivision.

#### 862-2 Definitions of Terms

**Original Parent Parcel.** The lot prior to the utilization of the Sliding Scale Option subdivision method.

**Parent Parcel Remainder.** The largest lot created under the Sliding Scale Option subdivision method.

**Sliding Scale Option Small Lot.** In the AG/RR, CR and FR zoning districts, individual small lots ranging in size from two and a half (2.5) to less than 45% of Original Parent Parcel size which are through the Sliding Scale Option Subdivision.

**Subdivision, Sliding Scale Option.** In the AG/RR, CR and FR zoning districts, an optional method of subdivision which establishes a parent parcel remainder and up to three (3) sliding scale small lots.

### **862-3 Applicable Sliding Scale Zoning Districts**

The Sliding Scale Option Subdivision is permitted in the following zoning districts:

- Agriculture/Rural Reserve (AG/RR) District
- Conservation Residential (CR) District
- Forest Reserve (FR) District

### **862-4 General Development Standards in Sliding Scale Option**

The Sliding Scale Option provides an alternate lot size and density distribution from the traditional development standards set forth in Chapter 804 of this ordinance to allow for the creation of smaller lots while retaining larger lots of undeveloped and/or vulnerable land as well as large residential or agricultural parcel uses. Under the Sliding Scale Option, the allowance for small lot development is based upon the size of the Original Parent Parcel.

#### **(A) General design considerations for Sliding Scale Option :**

- (1) The designated Parent Parcel Remainder shall not be further subdivided for a period of twenty-five (25) years from the date of recording of the Final Plat unless connected to a public sewage disposal system or further subdivision of the property is authorized by ordinance. This Restriction shall be recorded on the Final Plat and incorporated as a Recorded Commitment (which states the day, year and month in which the Parent Parcel Remainder becomes eligible for further subdivision) referenced on any deed conveying the Parent Parcel Remainder.
- (2) Lots not utilizing a shared driveway must be accessible from a Monroe County or INDOT road or from a hard-surface road designed by a professional engineer to meet current Monroe County subdivision street requirements.
- (3) Any lots created by the sliding scale option subdivision method must meet all other ordinance requirements including but not limited to: driveway requirements, slope restrictions, karst restriction requirements as well as other restrictions on vulnerable land forms and all other factors which may impact health, safety and the public welfare.
- (4) All lots must contain 1 septic site per dwelling unit approved by the Monroe County Health Department. Otherwise, the deed will be marked "no residential dwelling permitted" to allow for the division of land for agricultural purposes only. If a finger system is in use, the lot must contain a location for another septic site.
- (5) Subdivisions on roads less than 18 feet in width shall be prohibited, unless waived pursuant to Chapter 850-12.
- (6) Any lots intended for residential use created by the sliding scale option subdivision method shall include 1 acre of buildable area. This provision may only be waived for proposed lots including pre-existing residential structures.

**(B) Forest Reserve (FR) Specific Development Standards**

The following standards apply to the original parent parcel and the number and design of small and parent parcel remainder lots allowed to be created under the Sliding Scale Option subdivision method:

**(1) Sliding Scale Option Development Standards for Small Lots**

Original Parent Parcel Size	Total Number of Lots Permitted*
Less than 10 acres	1 ( existing ), No additional small lot permitted
10 to 20 acres	2 ( 1 additional small lot )
20 to 30 acres	3 ( 2 additional small lots )
30 acres or greater	4 ( 3 additional small lots )

*\*Subject Buildable Area Determination*

**(2) Sliding Scale Option Height, Bulk, Area, Density Standards for Small Lots**

<b>Minimum Lot Size</b>	2.5 acres	
<b>Maximum Lot Size</b>	Up to 45% of the Original Parent Parcel	
<b>Minimum Lot Width*</b>	200'	
<b>Maximum Lot Coverage**</b>	10,000 s.f.	
<b>Minimum Setbacks:</b>	<b>Front</b>	60' from Right of Way for Public Road in Current Thoroughfare Plan, or;  50' if no direct frontage on a road
	<b>Side</b>	50', 15' for residential structures and residential accessory structures
	<b>Rear</b>	50', 35' for residential structures and residential accessory structures
<b>Maximum Height</b>	40', principal use residential structures  30', residential accessory structures	

*\* Measured from any one side lot line to another, measured at the building line parallel to the right of way frontage (note: frontage requirements may be waived if designated for conservation or agricultural purposes).*

*\*\* Excluding agricultural buildings and buildings or structures that contain less than 120 s.f. of floor area and that are not built on permanent foundations*

**(3) Sliding Scale Option Development Standards for Parent Parcel Remainder**

<b>Minimum Lot Size</b>	55% of the Original Parent Parcel	
<b>Minimum Lot Width*</b>	200'	
<b>Maximum Lot Coverage**</b>	15,000 s.f.	
<b>Minimum Setbacks:</b>	<b>Front</b>	60' from Right of Way for Public Road in Current Thoroughfare Plan, or;  50' if no direct frontage on a road
	<b>Side</b>	50', 15' for residential structures and residential accessory structures
	<b>Rear</b>	50', 35' for residential structures and residential accessory structures
<b>Maximum Height</b>	40', principal use residential structures  30', residential accessory structures	

*\* Measured from any one side lot line to another, measured at the building line parallel to the right of way frontage (note: frontage requirements may be waived if designated for conservation or agricultural purposes).*

*\*\* Excluding agricultural buildings and buildings or structures that contain less than 120 s.f. of floor area and that are not built on permanent foundations*

**(C) Agriculture / Rural Reserve (AG/RR) and Conservation Residential (CR) Specific Development Standards**

The following standards apply to the original parent parcel and the number and design of small and parent parcel remainder lots allowed to be created under the Sliding Scale Option subdivision method:

**(1) Sliding Scale Option Development Standards for Small Lots**

<b>Original Parent Parcel Size</b>	<b>Total Number of Lots Permitted*</b>
Less than 10 acres	1 ( existing ), No additional small lot permitted
10 to 20 acres	2 ( 1 additional small lot )
20 to 30 acres	3 ( 2 additional small lots )
30 acres or greater	4 ( 3 additional small lots )

*\*Subject Buildable Area Determination*

**(2) Sliding Scale Option Height, Bulk, Area, Density Standards for Small Lots**

<b>Minimum Lot Size</b>	2.5 acres	
<b>Maximum Lot Size</b>	up to 45% of the Original Parent Parcel	
<b>Minimum Lot Width*</b>	200'	
<b>Maximum Lot Coverage**</b>	10,000 s.f.	
<b>Minimum Setbacks:</b>	<b>Front</b>	60' from Right of Way for Public Road in Current Thoroughfare Plan, or;  50' if no direct frontage on a road
	<b>Side</b>	50', 15' for residential structures and residential accessory structures
	<b>Rear</b>	50', 35' for residential structures and residential accessory structures
<b>Maximum Height</b>	40', principal use residential structures  30', residential accessory structures	

*\* Measured from any one side lot line to another, measured at the building line parallel to the right of way frontage (note: frontage requirements may be waived if designated for conservation or agricultural purposes).*

*\*\* Excluding agricultural buildings and buildings or structures that contain less than 120 s.f. of floor area and that are not built on permanent foundations*

**(3) Sliding Scale Option Development Standards for Parent Parcel Remainder**

<b>Minimum Lot Size</b>	55% of the original Parent Parcel	
<b>Minimum Lot Width*</b>	200'	
<b>Maximum Lot Coverage**</b>	15,000 s.f.	
<b>Minimum Setbacks</b>	<b>Front</b>	60' from Right of Way for Public Road in Current Thoroughfare Plan, or;  50' if no direct frontage on a road
	<b>Side</b>	50', 15' for residential structures and residential accessory structures
	<b>Rear</b>	50', 35' for residential structures and residential accessory structures
<b>Maximum Height</b>	40', principal use residential structures  30', residential accessory structures	

***\* Measured from any one side lot line to another, measured at the building line parallel to the right of way frontage (note: frontage requirements may be waived if designated for conservation or agricultural purposes).***

***\*\* Excluding agricultural buildings and buildings or structures that contain less than 120 s.f. of floor area and that are not built on permanent foundations***



**862-5**            **Permitted Land Uses**

All land use definitions as defined by Chapter 802-5 are applicable to this chapter. All permitted and conditional uses shall retain their status unless otherwise designated by the Plan Commission and County Commissioners.

**862-6**            **Authority**

The action of Monroe County, Indiana in the adoption of this option is authorized under Indiana Code § 36-1-3-4 and Indiana Code § 36-7-4-1, et seq., as amended.

This option is adopted as one of the instruments of implementation of the public purposes and objectives of the adopted Monroe County Comprehensive Land Use Plan. This option is declared to be in accord with these plans, to the extent required by Indiana Code § 36-1-3-4 and Indiana Code § 36-7-4-1, et seq., as amended.

**(End of chapter)**