

MONROE COUNTY ORDINANCE REVIEW COMMITTEE



November 18, 2020

Virtual: <https://monroecounty-in.zoom.us/j/84961227024?pwd=ZUISOUQweHVTOHVLNmVUaHdxVERjUT09>. If calling in, dial 312-626-6799 and enter the Meeting ID: 849 6122 7024 and Password: 346950 when prompted.

5:30 P.M.

Jacqueline Nester Jelen

From: Jacqueline Nester Jelen
Sent: Friday, November 13, 2020 11:09 AM
To: dave@bsquarebeacon.com; editor@spencereveningworld.com; government@heraldt.com; publicnotice@heraldt.com; erollins@heraldt.com; Commissioners Office; Legal Department; moneill@monroe.lib.in.us; ids@indiana.edu; mediatips@heraldt.com; news@wfhb.org
Cc: Larry Wilson (lwilson@co.monroe.in.us); David Schilling; Bernie Guerrettaz; Julie Thomas; Trohn Enright-Randolph; Geoff McKim; Jerry Pittsford; Rita Bush
Subject: NOTICE OF VIRTUAL MEETING - Ordinance Review Committee - Wednesday, November 18, 2020 at 5:30 pm
Attachments: NOTICE OF MEETING--Wednesday November 18 2020.docx

Hello – Please see below for a notice of public meeting. Let me know if you have any questions. This is not a paid legal notice. Thank you.

NOTICE OF MEETING

Ordinance Review Committee

Please take notice that the Ordinance Review Committee of the Monroe County Plan Commission will meet on Wednesday, November 18, 2020, at 5:30 PM via Zoom (<https://monroecounty-in.zoom.us/j/84961227024?pwd=ZUISOUQweHVTOHVlNmVUaHdxVERjUT09>). If calling in, dial 312-626-6799 and enter the Meeting ID: 849 6122 7024 and Password: 346950 when prompted. The meeting will be held for the following purpose:

1. Review of Module 1 of the County Development Ordinance

This meeting is open to the public. **This is not a public hearing.** The meeting is scheduled for 5:30 PM to 7:00 PM.

Posted this 13th day of November, 2020 at 11:00 AM by Jackie N. Jelen, Assistant Director, Monroe County Planning Department.

For more information, contact:

Jackie Nester Jelen, AICP

Assistant Director
Monroe County Planning Department
501 N. Morton St., Suite 224
Bloomington, IN 47404
jnester@co.monroe.in.us
Phone: (812) 349-2560
Fax: (812) 349-2967



MONROE COUNTY, INDIANA

COUNTY DEVELOPMENT ORDINANCE

MODULE 1 Draft | November 5, 2020



CONTENTS

Basic Provisions.....1

800. General Provisions1

800.1 Title1

800.2 Purpose1

800.3 Prohibited Uses and Acts.....2

800.4 Authority and Jurisdiction2

800.5 Inclusion of and Relationship to Other Ordinances2

800.6 Interpretation, Conflict, and Separability2

800.7 Computation of Time.....3

800.8 Saving Provision3

800.9 Effective Date4

800.10 Amendment.....4

800.11 Conditions4

800.12 Notices4

800.13 Form of Certificates, Notations, Applications, and Findings4

800.14 Transition Rules.....5

800.15 Applicability.....7

Zoning Districts.....8

801. Zoning Districts8

Use Table.....9

802. Use Table.....9

803. Use-Specific Standards.....9

804. Special Uses.....9

804.1 Adult Oriented Businesses9

804.2 Airport9

804.3 Logging9

804.4 Manufactured Home Parks9

804.5 Mobile Home Placement and Occupancy, Temporary.....9

804.6 Wireless Communication Facilities 10

Design Standards.....11

805. Dimensional Standards11

806. General Design Regulations.....11

Development Standards 12

808.	Off-Street Parking and Loading	12
809.	Traffic Study and Access Management Regulations	12
810.	Landscaping.....	12
811.	Open Space.....	12
812.	Environmental Regulations.....	12
813.	Signs	12
814.	Fencing.....	12
815.	Stormwater.....	12

Overlays and Special Districts..... 13

816.	Planned Unit Developments	13
816.1	Development Plan Approval and Modification	13
816.2	Outline Plan Approval and Modification	13
817.	Historic Preservation	13
818.	Environmental Constraints Overlay	13
819.	Watershed Protection Overlay.....	13
820.	Floodplain Overlay.....	13
821.	Karst and Sinkhole Development.....	13
822.	Slope Regulations	13

Subdivision Standards..... 14

824.	General Regulations.....	14
824.1	Policies	14
824.2	Purpose	14
824.3	Authority and Jurisdiction	15
824.4	Enactment.....	15
824.5	Enforcement	15
824.6	Violations, Penalties, and Restraining Provisions	16
825.	Types of Subdivisions.....	17
825.1	Classification of Land Subdivisions.....	17
825.2	Administrative Subdivision	17
825.3	Sliding Scale Subdivision	18
826.	Improvement and Design Standards	23
826.1	General Improvement Requirements	23
826.2	Self-Imposed Restrictions	23

826.3	Plats Straddling Jurisdictional Boundaries.....	24
826.4	Boundary Improvements.....	24
826.5	Character of the Land	24
826.6	Subdivision Name	24
826.7	Lot Design	25
826.8	Streets.....	28
826.9	Drainage.....	35
826.10	Water Supply System	38
826.11	Sewage Disposal System	39
826.12	Sidewalks and Transportation Alternative Facilities.....	40
826.13	Utilities.....	41
826.14	Preservation of Natural Features and Amenities	42
827.	Assurances for Completion and Maintenance of Improvements	44
827.1	Completion of Public Improvements.....	44
827.2	Maintenance of Public Improvements.....	48
827.3	Acceptance of Dedication Offers	48
	Administration.....	49
828.	General Administration Regulations.....	49
828.1	Purpose	49
828.2	Summary Table of Review Bodies.....	49
828.3	Common Review and Application Requirements	50
829.	Review and Advisory Bodies	51
829.1	Board of Commissioners	51
829.2	Advisory Plan Commission.....	52
829.3	Advisory Board of Zoning Appeals	60
829.4	Historic Preservation Board of Review.....	65
829.5	Planning Department	66
830.	Development Processes and Permits.....	69
830.1	Site Plans.....	69
830.2	Conditional Uses	72
830.3	Variances.....	76
830.4	Planned Unit Developments	81
830.5	Permits and Certificates.....	89
830.6	Grading Permits and Erosion Control Plans	91



830.7	Appeals.....	101
831.	Subdivision Procedures	103
831.1	Authority to Record.....	103
831.2	Pre-design Conference	103
831.3	Primary Plat.....	104
831.4	Subdivision Improvement Agreement.....	110
831.5	Final Plat	111
831.6	Major Subdivision Phasing	115
831.7	Minor Subdivision Alternative Process	115
831.8	Vacation and Re-subdivision of Plats.....	118
831.9	Subdivision Modifications	118
831.10	Additional Requirements Applicable to Subdivisions and Planned Unit Developments.....	119
832.	Amendments to the Zoning Map and Text	121
832.1	Authority and Procedures	121
832.2	Application Procedures	121
832.3	Standards for Amendments.....	121
832.4	Comprehensive Land Use Plan Amendment	122
832.5	Effect of Approval of Amendment	122
833.	Nonconformities	123
833.1	Nonconforming Regulations	123
833.2	Nonconforming Uses.....	123
833.3	Nonconforming Structures	124
833.4	Nonconforming Lots	125
833.5	Burden of Establishing Status	125
834.	Violations and Enforcement.....	127
834.1	Violations.....	127
834.2	Penalty.....	127
834.3	Enforcement Procedures	127
834.4	Authorized Remedies for Violations.....	128
Definitions		130
835.	Defined Words.....	130

Basic Provisions

800. GENERAL PROVISIONS

800.1 Title

These regulations (Monroe County Code Chapters 800 through 8XX) and all accompanying maps, which are on file in the Planning Director's office), and all ordinances and regulations supplemental or amendatory thereto, shall be known and may be cited as the "Monroe County Development Ordinance" and are generally referred to herein as the "Zoning Ordinance", the "Development Ordinance", the "Subdivision Ordinance", "this/the ordinance", or "these regulations".

800.2 Purpose

These regulations are hereby adopted in order to:

- A. Promote the orderly, responsible, and beneficial development and use of land within the County Jurisdictional Area.
- B. Promote the public health, safety, morals, comfort, convenience, and general welfare of the County.
- C. Protect the character and stability of residential, institutional, business, industrial, and natural areas.
- D. Minimize or avoid congestion in the public streets and to ensure safe, convenient, and efficient traffic circulation.
- E. Secure adequate light, air, convenience to access, and safety from fire, flood, and other danger, which may include providing adequate open spaces for light, air, and outdoor uses.
- F. Preserve and enhance the scenic beauty, aesthetics, and environmental integrity of the County Jurisdictional Area.
- G. Encourage compatibility between different land uses and to protect the scale and character of existing development from the encroachment of incompatible uses.
- H. Regulate and restrict the location and intensity of use of buildings, structures, and land for trade, residence, and other uses.
- I. Define the powers and duties of administrative officers and bodies as provided herein, and to establish procedures for the implementation and enforcement of these regulations.
- J. Further such other purposes as area stated hereinafter within specific provisions of these regulations.

This ordinance shall be interpreted, administered, and enforced in a manner that is consistent with the foregoing purposes.

CHAPTER 800: GENERAL PROVISIONS

800.3 Prohibited Uses and Acts

800.3 Prohibited Uses and Acts

Except as provided in these regulations, no building, structure, or premises may be used for any purpose other than those permitted in the zoning district in which the building, structure or premises is located. No land or lot area may be reduced, diminished, used, or developed except in accordance with all applicable provisions of these regulations. No building or structure may be altered, erected, constructed, installed, moved, replaced, or maintained except in accordance with all applicable provisions of these regulations.

800.4 Authority and Jurisdiction

These regulations, enacted pursuant to the Indiana home rule and planning enabling legislation (Indiana Code §36-1-3-4, §36-7-4-1, §36-7-2-2, §36-7-3-2¹, as amended), and pursuant to the Monroe County Code and all other applicable authorities and provisions of Indiana statutory and common law, shall apply to all land uses within the County Jurisdictional Area.²

800.5 Inclusion of and Relationship to Other Ordinances

- A. This ordinance shall be interpreted to include any and all other provisions of the Monroe County Code which are necessary for an understanding of this ordinance and the attainment of its purposes. The Board of Commissioners of the County of Monroe, Indiana, intends that all Monroe County Code provisions relating to land use, and all orders, rules, and regulations established pursuant to said provisions, be read as part of a uniform system of Monroe County land use regulation.
- B. All departments, officials and employees of Monroe County, Indiana, that are vested with the duty or authority to issue permits, certificates or approvals, shall conform to the provisions of this ordinance and shall issue no permit, certificate or approval for any use, structure or activity if the same would be in conflict with the provisions of this ordinance. Any permit, certificate or approval issued in conflict with the provisions of this ordinance shall be null and void and, in no event, shall act as a waiver of the standards and requirements of these regulations.

800.6 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.

¹ Added sections

² Revised language

- 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 the higher/greater standards shall control.
- C. Private covenants, restrictions, and/or agreements, whether by deed or other instrument, which impose any requirements or standards different than those established under this ordinance, shall not be construed to modify the provisions of this ordinance or impose any enforcement obligations thereunder upon the Commission, the Board, and the Plan Department staff unless the Commission or the Board had approved or accepted, in writing, and had specifically accepted the responsibility for enforcement of, the terms and conditions of any such private covenant, restriction, or agreement.³
- D. The provisions of this ordinance are separable. If any part or provision of these regulations or the application thereof to any person 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.
- E. With respect to the subdivision of land within the County that falls within the zoning jurisdiction of another unit of government, the zoning laws of the other jurisdiction would apply to the development of that property.

800.7 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 of the specified period of time. 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 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded.

800.8 Saving Provision

These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing planning and zoning 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.

³ New

800.9 Effective Date

The Monroe County Development Ordinance shall become effective on XXXX. All references in this ordinance to the “effective date of this ordinance” or to the “effective date” shall refer to that date unless otherwise stated.⁴

800.10 Amendment

When necessary to further the purposes and policies of this ordinance, 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 and described herein.⁵

800.11 Conditions

The regulation of the subdivision of land and the attachment of reasonable conditions to land subdivision; and the attachment of reasonable conditions to the use and development of land within the County Jurisdictional Area as part of the approval of rezoning petitions, subdivisions, conditional uses, home occupations, temporary uses, variances, outline plans, development plans, plat vacations and amendments, or as otherwise authorized, is an exercise of valid police power delegated to the County by the State. The applicant 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 economic development of the County and to the safety and general welfare of present and future landowners and citizens of the County. The failure to comply with any such conditions may be cause for denial of the permits and approvals prescribed by these regulations and shall constitute a violation of this ordinance.⁶

800.12 Notices

For purposes of this ordinance, if written notice is required to be given to any person, such requirement shall be considered satisfied as of the date of deposit of the written notice in the United States mail, postage pre-paid, addressed to the person or agent thereof, at their last known address or principal place of delivery.

800.13 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.

⁴ Deleted Repealer section and replaced with effective date section

⁵ Relocated from 850-5

⁶ New

800.14 Transition Rules

In determining the applicability of this ordinance with respect to the previously applicable zoning regulations, the following rules shall apply:

- A. When a use lawfully existing on the effective date of this ordinance was classified as a permitted use prior to the effective date of this ordinance, and such use is classified as a "Conditional Use" by this ordinance, such use shall be deemed a lawful nonconforming use. Such use may be granted a conditional use permit in the manner prescribed by Section [830.2](#) of these regulations or, alternatively, may continue subject to the nonconforming use provisions of Chapter [833](#) of these regulations.
- B. When a use lawfully existing as a permitted use on the effective date of this ordinance, or any amendment thereto, no longer classifies such use as a permitted use in the zoning district in which it is located, such use shall be deemed a lawful nonconforming use and shall be subject to the nonconforming use provisions of Chapter [833](#) of these regulations.
- C. Where any building, structure or lot lawfully existing on the effective date of this ordinance does not meet all development standards set forth in this ordinance, or any amendment thereto, such building, structure, or lot shall be deemed lawfully nonconforming and shall be subject to the nonconforming use provisions of Chapter [833](#) of these regulations.
- D. When, before the effective date of this ordinance, a complete application has been filed for an improvement location permit for a building or structure which conforms to all applicable regulations in effect prior to the effective date of this ordinance, the building or structure may be completed in accordance with the plans on the basis of which the application was submitted as long as construction begins within 60 days after the date of permit issuance and on which construction is diligently prosecuted to completion within two years after the date of the permit issuance. Upon completion, said building or structure may be occupied for the use which was specified on the improvement location permit application, provided said use at the time of application was classified as permitted, or if classified as a conditional use, had been approved by the Plan Commission and/or Board of Zoning Appeals. Provided, also, if the use originally intended no longer complies with all requirements of this ordinance such use shall be a lawful nonconforming use subject to the nonconforming use provisions of Chapter [833](#) of these regulations or, alternatively, as a conditional use subject to the conditional use provisions of Section [830.2](#) of these regulations. However, in the event that said application or permit expires or is suspended or revoked in accordance with Section [830.5](#) of these regulations, any new permit application that is submitted after the effective date of this ordinance shall be subject to the regulations in this ordinance.
- E. All variances granted prior to the effective date of this ordinance shall remain in full force and effect subject to the conditions of variance approval. However, such variance shall apply only to the specific variance of use or development standard granted.

CHAPTER 800: GENERAL PROVISIONS

800.14 Transition Rules

- F. All conditional use permits granted prior to the effective date of this ordinance shall remain in full force and effect subject to the conditions of conditional use approval. Expansion or change in use shall require compliance with this ordinance.
- G. An outline plan approved under the previous Zoning Ordinance and shown on the previous zoning maps shall constitute an approved outline plan subject to the standards and conditions of outline plan approval. Subsequent development plans for the site shall comply with the previous Zoning Ordinance provisions concerning development plans or, alternatively, the developer may choose to comply with the development plan provisions of this ordinance, provided that the proposed development plan does not conflict with the standards and conditions applicable to the approved outline plan. A development plan approved under the previous ordinance shall constitute an approved development plan subject to the standards and conditions of development plan approval. Where an outline plan has been approved but has expired, prior to the effective date of this Zoning Ordinance, the outline plan shall be void and may not provide a basis for development plan approval.
- H. A preliminary and/or final plat approved prior to the effective date of this Zoning Ordinance, whether or not yet recorded, shall remain in full force and effect, subject to the standards and conditions of plat approval. Final plats may be recorded as approved in accordance with the Subdivision Control Ordinance. Primary plats shall be entitled to final plat approval subject to the conditions of primary plat approval and subject to the subdivision control ordinance and the Zoning Ordinance provisions that were in effect at the time of preliminary approval. Lots in such subdivisions shall be established in their platted size and configuration as lots of record. All subsequent resubdivision, vacation and/or amendment of such plats shall be made under the provisions of the current comprehensive land use plan, the current subdivision control ordinance, and this Zoning Ordinance. A full and complete application for primary plat approval conforming to all applicable regulations in effect at the time of application shall be entitled to review under the regulations in effect at the time of application with respect to lot size and configuration. Upon approval, lots in such plats shall be established in their platted size and configuration as lots of record.

- I. A primary and/or final plat approved prior to the effective date of this Zoning Ordinance, whether or not yet recorded, shall remain in full force and effect, subject to the standards and conditions of plat approval. Final plats may be recorded as approved in accordance with the Subdivision Control Ordinance. Primary plats shall be entitled to final plat approval subject to the conditions of primary plat approval and subject to the subdivision control ordinance and the Zoning Ordinance provisions that were in effect at the time of primary plat approval. Lots in such subdivisions shall be established in their platted size and configuration as lots of record. All subsequent resubdivision, vacation and/or amendment of such plats shall be made under the provisions of the current comprehensive land use plan, the current subdivision control ordinance, and this Zoning Ordinance. A full and complete application for primary plat approval conforming to all applicable regulations in effect at the time of application shall be entitled to review under the regulations in effect at the time of application with respect to lot size and configuration. Upon approval, lots in such plats shall be established in their platted size and configuration as lots of record.

800.15 Applicability

This County Development Ordinance, unless otherwise noted, shall apply to all public, private, and institutional development, with the exception of road development projects by the Monroe County Highway Department. However, all Monroe County Highway Department road development projects shall remain subject to the provisions of **Chapter 808: Flood Damage Prevention**.

Subdivision Standards

824. GENERAL REGULATIONS⁷

824.1 Policies

The following policies shall guide the interpretation, administration, and enforcement of the following regulations:

- 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 County 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, sewage 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.

824.2 Purpose

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 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.

⁷ Small revisions throughout section required to incorporate the subdivision control ordinance into the CDO including deleting separate references to the different documents and streamlining the text.

- 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, including:
 - 1. To provide for the survey, documentation, and permanent monumentation of land boundaries and property.
 - 2. To provide for the identification of property.
 - 3. To provide public access to land boundary records.

824.3 Authority and Jurisdiction

These regulations, enacted pursuant to the Indiana Home Rule and planning enabling legislation (Indiana Administrative 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.

824.4 Enactment

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.

824.5 Enforcement

- A. It shall be the duty of the Planning Director 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.

CHAPTER 824: GENERAL REGULATIONS^{6F}

824.6 Violations, Penalties, and Restraining Provisions

- 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. The Monroe County Highway Department shall review and approve construction plans prior to issuing an Improvement Location Permit for road construction.⁸

824.6 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 an amount as set forth in the Monroe County Code Chapter 115: Violations and Penalties⁹. 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 structure comply with the provisions of this ordinance.
- 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.

⁸ New reference to Highway Department

⁹ Removed fee amount and replaced with reference to Chapter 115

825. TYPES OF SUBDIVISIONS

825.1 Classification of Land Subdivisions

All land to be divided shall be classified by the Planning Director as one of the following main types of land subdivision: major subdivision, minor subdivision, sliding scale subdivision, or administrative subdivision. Each subdivision type is subject to the Improvement, Reservation, and Design Standards of Chapter [826](#) as outlined in the table below. Other standards from this ordinance may also be applicable depending on the specific characteristics of the subdivision (e.g. subdivisions location in the Lake Monroe Watershed).

Table 825.1: Subdivision Classifications and Applicable Standards		
Subdivision Type	As Determined by the Total Number of Lots Created	Applicable Standards from Chapter 824
Administrative	No new lots created; used to amend lot lines	1-10, 21 ¹⁰ , 24-25, 34-35, 44*
Minor Subdivision	4 lots or less	1-11, 21, 24-25, 27, 29-30, 32-44
Sliding Scale Subdivision	4 lots or less	1-11, 21, 24-25, 27, 29-30, 32-44
Major Subdivision	5 lots or more	All
*Applicable standards also apply to amendments to Final Plats		

825.2 Administrative Subdivision¹¹

A. Applicability

1. In order for a land division to be considered an administrative subdivision, it must maintain legal access to a County Road.
2. The types of administrative subdivisions are as follows:

Table 825.2: Administrative Subdivision Types	
Type 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.
Type 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.
Type D	A division of land for federal, state, or local government to acquire street right-of-way.
Type 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.
Type F	A division of land into cemetery plots for the purpose of burial of corpses.

¹⁰ Adding these requirements would close a current loophole allowing people to not improve access easements to county road standards when there are 5 or more homes that are located off the easement.

¹¹ The applicability criteria for administrative subdivisions have been revised and updated to reflect issues that staff have faced. The criteria are consistent with other Indiana County subdivision standards.

CHAPTER 825: TYPES OF SUBDIVISIONS

825.3 Sliding Scale Subdivision

3. The following actions can occur within an administrative subdivision process:
 - a. The removal of, or relocation of, existing easements on a property. No new easements can be created during the administrative process;
 - b. The changing of notations written on the plat or correction of errors thereon, which may include correcting errors to legal descriptions provided that no additional building lots are created; and
 - c. The aforementioned processes in the table above.
4. No new buildable lot can be created through the administrative subdivision procedure.
5. Excepting Type C, D, and F administrative subdivisions, the administrative subdivision procedure may not be used to render a conforming lot non-conforming or to increase a non-conformity. However, the procedures may be used to reduce a non-conformity of a non-conforming lot.
6. Furthermore, subdivisions that would result in the amendment of a recorded subdivision plat are subject to the procedures and regulations for subdivision plat amendments. Additionally, plat vacation of an administrative subdivision results in no longer being eligible for future administrative subdivision procedures.

B. Procedure

1. Before the deed of a parcel that is created through the administrative subdivision procedure may be initially recorded with the Monroe County Recorder, the Planning 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 Planning Director.
2. If a parcel or tract is created through the administrative subdivision process and 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 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.

825.3 Sliding Scale Subdivision

A. Purpose

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” land uses. 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:

1. Preserve large areas of sparse and low residential density for the planning horizon of the Comprehensive Plan; and
2. Protect and enhance vulnerable lands in rural areas.

B. Intent

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)¹² zoning districts will serve to:

1. Support and sustain the agricultural use and productivity of the Monroe County;
2. Preserve large tracts capable of supporting farming, forestry, or agricultural related production and to preserve the open road rural landscape appearance of Monroe County;
3. Preserve the opportunity for individuals to experience and sustain rural lifestyles in sparsely populated areas of Monroe County; and
4. 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.

C. Optional Use

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.

D. Applicability

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

1. Agricultural/Rural Reserve (AG/RR) District
2. Conservation Residential (CR) District
3. Forest Reserve (FR) District

E. Sliding Scale Development Standards

The Sliding Scale Option provides an alternate lot size and density distribution from the traditional development standards set forth in Chapter 805 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.

¹² Will update these zoning districts during the drafting of the future module

F. General Design Considerations

1. The designated parent parcel remainder shall not be further subdivided for a period of 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 one 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. Any lots intended for residential use created by the Sliding Scale Option subdivision method shall include one acre of buildable area. This provision may only be waived for proposed lots including pre-existing residential structures.

G. 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. Development Standards for Small Lots

Table 825.3: Sliding Scale Standard 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)
<i>*Subject Buildable Area Determination. Acreage is determined by legal survey, not by deed acreage listed.</i>	

2. Dimensional Standards for Small Lots

Table 825.4: Dimensional Standards for Small Lots

Table 825.4: Dimensional Standards for Small Lots			
	"FR" Zone**	"AG/RR" and "CR" Zones	
Minimum Lot Size	N/A	2.5 acres	
Maximum Lot Size	Up to 45 percent of the original parent parcel	Up to 45 percent of the original parent parcel	
Minimum Lot Width at Publicly Maintained Road	200 ft.	200 ft.	
Maximum Lot Coverage*	N/A	10,000 s.f.	
Minimum Setbacks	N/A	Front	60 ft. from right-of-way for public road in current throughfare plan, or 50 ft. if no direct frontage on a road
	N/A	Side	50 ft., 15 ft. for residential structures and residential accessory structures
	N/A	Rear	50 ft., 35 ft. for residential structures and residential accessory structures
Maximum Height	N/A	40 ft., principal use residential structures 30 ft., residential accessory structures	
* 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			
** Dimensional standards that are not applicable here are subject to the standards in Section XXX (Dimensional Standards)			

3. Dimensional Standards for Parent Parcel Remainder

Table 825.5: Dimensional Standards for Parent Parcel Remainder			
	“FR” Zone	“AG/RR” and “CR” Zones	
Minimum Lot Size	55 percent of the original parent parcel	55 percent of the original parent parcel	
Minimum Lot Width at Publicly Maintained Road	N/A	200 ft.	
Maximum Lot Coverage*	N/A	15,000 s.f.	
Minimum Setbacks	N/A	Front	60’ ft. from right-of-way for public road in current throughfare plan, or 50 ft. if no direct frontage on a road
	N/A	Side	50 ft., 15 ft. for residential structures and residential accessory structures
	N/A	Rear	50 ft., 35 ft. for residential structures and residential accessory structures
Maximum Height	N/A	40 ft., principal use residential structures 30 ft., residential accessory structures	
* 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			

H. 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.

I. 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

J. Submittal Requirements

1. The primary plat for the Sliding Scale Option subdivision shall generally comply with the submittal requirements of the primary plat, with exceptions noted. A checklist with a comprehensive list of Sliding Scale Option subdivision plat requirements is available at the Planning Department.
2. The final plat for the Sliding Scale Option subdivision shall generally comply with the submittal requirements of the final plat, with exceptions noted. A checklist with a comprehensive list of Sliding Scale Option subdivision plat requirements is available at the Planning Department.

826. IMPROVEMENT AND DESIGN STANDARDS

826.1 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 purposes;
 2. The applicable regulations contained within this ordinance and all other applicable County ordinances, regulations, rules, and orders;
 3. The Comprehensive Plan, Official Map or Thoroughfare Plan, Transportation Alternatives 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, supersede, 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. 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.

826.2 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 this ordinance, 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.

CHAPTER 826: IMPROVEMENT AND DESIGN STANDARDS

826.3 Plats Straddling Jurisdictional Boundaries

826.3 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 letter of credit 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.

826.4 Boundary Improvements

The subdivider, under the supervision of a registered land surveyor, shall have monuments set in accordance with the provisions of 865 Indiana Administrative Code (IAC) 1-12-18. They shall be set following final lot grading but prior to the issuance of any building permit.

826.5 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 this ordinance as shall not involve any such danger.

826.6 Subdivision Name

The proposed name of the subdivision shall not duplicate, or too closely approximate phonetically, the name of 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.

826.7 Lot Design

A. Buildable Area

Any lot shall include a buildable area. Reference **Table XXX** for the amount of buildable area required for each zoning district¹³. The following shall not be included in buildable area:

1. Special Flood Hazard Area as specified in **Chapter 808**;
2. Wetlands as specified in **Chapter 801**;
3. Slopes 15 percent or greater as specified in **Chapter 825 Area 2** regulations;
4. Sinkhole Conservancy Areas as specified in **Chapter 829**;
5. Drainage Easements as specified in **Chapter 856**;
6. Riparian Conservancy Areas as specified in **Chapter 801**;
7. Rights-of-way as specified in **Chapter 801**;
8. Easements for access and in excess of 250 feet in length and 25 feet in width;
9. Pole of a flag lot as specified in **Chapter 801**; and
10. Setbacks as specified in this 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.

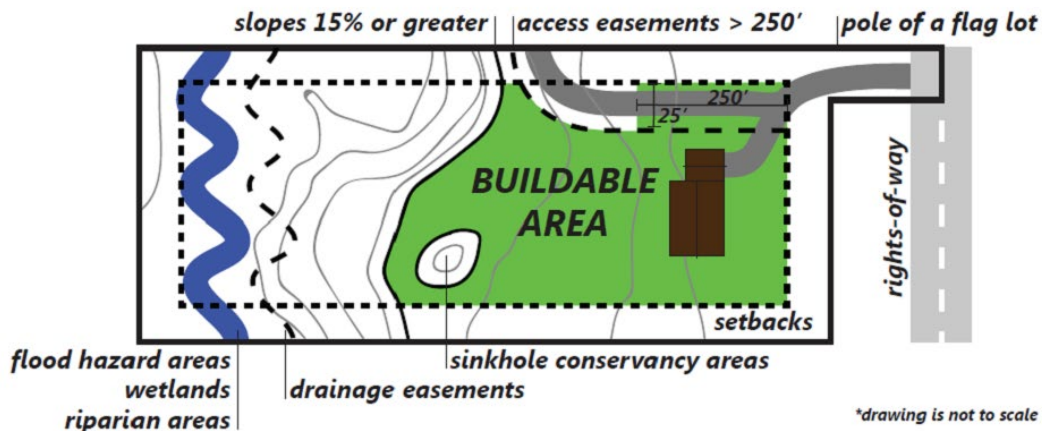


Figure 826-1: Buildable Area Graphic

¹³ New – will fill in the table reference when drafted with the future module

B. Dimensions

Lot dimensions shall comply with the minimum standards as established in Section XXX¹⁴. 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 this ordinance. 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 Plan 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 requirements.

C. Access to Lots

1. Lots must have a private drive or driveway access.
2. Driveways shall be designed to avoid requiring vehicles to back into traffic on arterial or collector streets, and the provision shall not be waived.

D. Reverse Frontage Lots¹⁵

1. 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.
2. 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.

¹⁴ Will fill in this reference to the table when drafted in a future module.

¹⁵ Add graphic of this

E. Site Preparation

1. Only temporary certificates of occupancy may be issued unless final grading has been completed in accordance with the approved construction plans and the lot pre-covered with top soil having a minimum depth of at least six inches which shall contain no particles over two 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 inches of cover between the sidewalks and curbs, and shall be stabilized by seeding or planting.
2. 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.
3. Within one 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.
4. 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.

F. Fencing

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.

G. Water Bodies

1. 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.
2. No part of the minimum area of a lot required under this ordinance may be satisfied by land which is under water.
3. 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.

826.8 Streets

A. Frontage on Improved Streets

1. No subdivision shall be approved unless the area to be subdivided has frontage¹⁶ on 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 letter of credit 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.
2. Whenever the area to be subdivided is to use an existing street frontage, the street shall be suitably improved as herein provided and must be required to provide a minimum of two points of ingress and egress for any new development.
3. Access plans shall be reviewed and approved by the County's Department of Emergency Management to ensure that during construction and after completion there are safe access paths for residents.¹⁷

B. 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 this ordinance.

¹⁶ Removed "and/or access from". Will ensure a frontage requirement when drafting lot dimensional standards to ensure good design standards.

¹⁷ New – confirm that is the correct reviewing department

C. Street Design¹⁸

1. 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.
2. All streets shall comply with the Monroe County Highway Department standards¹⁹.
3. 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.
4. 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. 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 beneficial future transportation connectivity and infrastructure feasibility.
5. In business and industrial developments, the design of the streets and other access ways shall be subject to review by the Monroe County Highway Department, which shall review the internal design including all planned connections and locations of buildings, locations of rail facilities, and the provisions 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 traffic²⁰.

D. Blocks

1. The dimensions and shapes of blocks shall be sufficient for two tiers of lots. Exceptions shall be permitted in blocks adjacent to arterial streets, collector streets, rail roads, waterways, and property lines.
2. The dimensions and shapes of blocks shall be appropriate for the locality and the type of development contemplated.
 - a. Blocks in residential areas served by local roads shall not exceed 1,320 feet nor be less than two lots.
 - b. Blocks along arterial and collector streets shall not be less than 1,320 feet in length.

¹⁸ Deleted "A", "C", "E"

¹⁹ New – Confirm this is what staff intended

²⁰ Revised regulation to reference the highway department

3. Access easements not less than 10 feet wide to accommodate utilities, drainage facilities, or bike or pedestrian traffic, may be required through the center of blocks more than 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.

E. Access to Collector Streets.

1. 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 streets²¹.
2. All access drives and all improvements related to such drives shall be designed and constructed in accordance with the Monroe County Highway Cutting or Alteration regulations (see Monroe County Code Chapter 755)²².

F. 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 means²³:

1. 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 consistent with the buffering requirements of Section XXX²⁴; or
2. A marginal access or service road separated from the arterial street by buffer landscaping consistent with the buffering requirements of Section XXX.

²¹ Will add graphic here

²² Updated reference and removed reference to appendix graphic for shared access drives as relying on Highway Department for those standards, not zoning regulation.

²³ Removed "B" as it is not a design scheme that the County wants to promote. Removed "D" and "E" as they were repetitive standards.

²⁴ If buffering if required, will create a standard for this in the landscaping section, to be drafted in a future module. Will also add graphic here.

G. Names

The primary plat, as submitted, shall indicate names of proposed streets. As part of the primary plat review, the Planning Director shall refer proposed street names to the local postmaster for comment regarding duplication of names and possible confusion. The Planning Director 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.

H. 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 letter of credit, 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.

I. Lights

Streetlights may be required in the urbanized area of the County as identified in the Monroe County Urbanized Area Plan. If the subdivider intends, or is required, to install streetlights within the County street right-of-way, the location and installation of such lights shall not in any way 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 streetlights unless such responsibility is assigned to and accepted by a homeowners' association or other entity.

J. Spite Strips

The creation of spite strips shall not be permitted.

K. Construction of Streets

1. 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 and the Monroe County Throughfare Plan.
 - a. 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.

- ## L. Design Standards Requirement

- ²⁵ Will create graphic

²⁶ Will create graphic

²⁷ Revised standard

M. 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. The types of pavement and adequacy of such shall be determined by and approved by the County Highway Department or County Engineer and be constructed to the design standards referenced in Section **826.8L: Design Standards Requirement**.

N. Excess Right-of-Way

Right-of-way widths in excess of the standards designed in these regulations shall be required whenever is necessary due to extraordinary site constraints such as topography, visibility, or infrastructure requirements. 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.

O. 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:

1. In residential districts a buffer strip at least **25 feet²⁸** 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."
2. 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, which would include the required minimum front and rear yard setback and a buildable area²⁹.
3. 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.

²⁸ Coordinate this with buffer/landscaping requirements in the landscaping section when drafted in future module

²⁹ Add graphic

P. Intersections

1. Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two new streets at an angle of less than 75 degrees shall not be acceptable. An oblique street should be approximately at right angles for at least 100 feet therefrom. No more than two streets shall intersect at any one point.
2. 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 800 feet apart.
3. Minimum curb radius at the intersection of two local streets shall be at least 25 feet. Minimum curb radius at an intersection involving a collector street or an arterial street shall be at least 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.
4. 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 grade at a distance of 60 feet, measured from the nearest right-of-way line of the intersecting street.
5. 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.

Q. 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.

R. Dedications and Reservations

1. 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.

2. 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 their 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 this ordinance.

S. Easements for Privately Maintained Streets

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 lot 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.

826.9 Drainage

A. System Requirement and Incorporated Standards and Specifications

1. 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.
2. 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:
 - a. Monroe County Code Chapter 761 (Storm Water Management);
 - b. Monroe County Code Chapter 808 (Flood Damage Prevention);
 - c. Indiana Department of Transportation Road Design Manual;
 - d. Indiana Department of Transportation Bridge Design Manual;
 - e. A Policy on Geometric Design of Highways and Streets (AASHTO); and,
 - f. all relevant Indiana Code and Indiana Administrative Code Sections.

3. 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).
4. 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.

B. 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.

C. Accessibility to Public Storm Sewer

1. The Subdivider shall install storm sewer facilities throughout the subdivision:
 - a. If a public storm sewer is reasonably accessible, as determined by the County Engineer;
 - b. If the subdivision lots average 15,000 sq. ft. or less in area and the subdivision is located in an urban area; or,
 - c. 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.
2. 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.

D. 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 this ordinance.

E. 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.

F. Floodway Areas

1. 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.
2. 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.

G. Floodway Fringe and Floodplain Areas

When a subdivision is proposed within an area of the floodplain designated as a floodway fringe, or in area for which floodway and floodway fringe designations have not been made, the Commission may approve such subdivision provided that:

1. All streets are elevated sufficiently to be above the regulatory flood elevation;
2. All lots, or portions thereof, for residential usage have a flood protection grade two feet above the regulatory flood elevation. Lands below the regulatory flood elevation shall not be used for computing the area required for any lot³⁰;
3. Where provided, water and sanitary sewer facilities are constructed to eliminate contamination of or by flood water; and
4. Approval to fill the area from the Indiana Natural Resources Commission and a Letter of Map Revision (LOMR) from the Federal Emergency Management Agency (FEMA) have been obtained in writing.

³⁰ Cross reference this section to the dimensional standards section to be drafted in future module

H. Dedication of Drainage Easement

1. 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.
2. 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 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.
3. 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.
4. 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 as set forth in Section [826.7B](#).

826.10 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.

826.11 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 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 10 acres or more in area or a Sliding Scale Option subdivision under Section [825.3](#).
- 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 this ordinance or of any other County ordinance establishing lot areas for private sewage 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. If sanitary sewers need to be located in areas not in the public right-of-way, for topographic or other reasons, they shall be subject to the approval of waiver to be granted by the Plan Commission³¹. When located in easements on private property, access shall be provided to the sewage disposal utility.

³¹ New provision to require a waiver when sanitary sewer is not located in the right-of-way.

CHAPTER 826: IMPROVEMENT AND DESIGN STANDARDS

826.12 Sidewalks and Transportation Alternative Facilities

- F. All lots must have access to a public sewage disposal system or contain one 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.

826.12 Sidewalks and Transportation Alternative Facilities

- A. Sidewalks and paths shall be constructed to be in conformance with the County Engineer standards for materials, construction standards, access, and design, unless specifically exempted or approved otherwise³².
- B. 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 area 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;
 2. The proposed subdivision is within the urbanizing area as shown in the Comprehensive Plan;
 3. The proposed subdivision is within a designated growth area in one of the Rural Communities as identified by the Comprehensive Plan; or
 4. A proposed subdivision will result in the creation of at least five lots.
- C. The applicant may request a waiver from the sidewalk requirement established in Section (A) for one of the following exceptions, of which shall be subject to the approval of the Plan Commission³³.
1. A shared use path that is located on only one side of the street and is a minimum width of 10 feet may be constructed in lieu of sidewalks on both sides of the street in areas that are deemed appropriate and consistent with the design and network recommendations of the Transportation Alternative Plan³⁴.
 2. An alternate circulation plan, outside of the right-of-way, if sidewalk and/or access easement (for sidewalks, bike paths, shared use paths, public access, private access, etc.) locations are clearly identified on the plat. This alternative circulation network may be constructed with an alternative material and width, if approved by the County Engineer, that does not comply with the County’s typical sidewalk construction standards³⁵.

³² New

³³ New

³⁴ New

³⁵ Revised standard to clarify that it is a waiver process

- D. For residential subdivisions, sidewalks shall be constructed to the following minimum³⁶ widths:
 - 1. Four feet for local streets;
 - 2. Five feet for collector streets; and
 - 3. Five feet for arterial streets.
- E. For non-residential subdivisions, sidewalks shall be constructed to a minimum width of five feet.

826.13 Utilities

A. Underground Utilities

- 1. All utilities, including but not limited to gas, sewer, electric power, telephone and CATV shall be located underground throughout the subdivision.
- 2. Existing utility lines located above ground on public roads, rights-of-way or in easements serving other property are exempt from this provision.
- 3. Existing utility lines servicing residential and residential accessory structures shall be removed and placed underground unless waived.
- 4. Waivers from these provisions for existing utility lines may be granted subject to the waiver modifications in Section [831.9](#), Sections (A) - (D), excluding sections (5), (8), and (9). Waivers may be granted via the following process:
 - a. For subdivisions of more than four lots by the Plan Commission.
 - b. For subdivisions of four lots or less by the Plat Committee.

B. Service Connections

All utility lines and other facilities existing and proposed throughout the subdivision shall be shown on the primary 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 individual service connections can be waived if two lots are to be retained in single ownership with a single primary use.

C. Utility Easements

- 1. 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 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.

³⁶ Added minimum to both D and E standards to allow flexibility in sidewalk widths

2. 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 20 feet in width shall be provided along the side lot lines with satisfactory access to the road or front lot lines. All easements shall be indicated on primary and final plats.

826.14 Preservation of Natural Features and Amenities

- A. In the design of the subdivision, existing features which would add value to the type of intended development or to the County as a whole, such as trees, watercourse falls, beaches, historic spots, and similar irreplaceable assets, shall be preserved³⁷.
- B. 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 or a grading permit has been issued³⁸.
- C. 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 primary plat shall show the number and location of existing trees 11 inches 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.
- D. 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 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. New street trees shall be planted in accordance with **Section XXX**³⁹.
 2. Trees shall be planted or preserved on each proposed lot of a subdivision outside of the right-of-way. The number of trees planted or preserved shall be equivalent to one tree for every 40 feet of frontage for the proposed lot. Such trees shall be dispersed throughout the property and shall not be centralized in one specific area. Such trees shall be planted or preserved for any subdivision, except for the following:
 - a. The subdivision is located in an Urbanizing Area, a Rural Community, or a Rural Area as designated in the Comprehensive Plan;
 - b. The proposed subdivision will result in the creation of at least five lots where any of the lots are less than 2.5 acres in size;

³⁷ Revised wording from encouraged to preserve to require the preservation to occur

³⁸ Added the allowance that a grading permit could also allow for trees to be removed

³⁹ Will draft a new street tree section in the landscaping section in future module

- c.** 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,
 - d.** Any parcels created using the administrative subdivision procedure.
 - E.** The location and quantity of all planted or preserved trees shall be shown on the primary plat.

40

⁴⁰ Deleted 856-44: Nonresidential Subdivisions as the information contained within was already addressed elsewhere in the code

Deleted the cross-sections from the code. Will include updated graphics throughout the code as appropriate.

827. ASSURANCES FOR COMPLETION AND MAINTENANCE OF IMPROVEMENTS

827.1 Completion of Public Improvements

A. Requirements to Complete Public Improvements

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

1. Complete the required improvements in the manner prescribed by these regulations, by primary plat approval, and by the subdivision improvement agreement;
2. Dedicate the public rights-of-way and other public improvements to the County, free and clear of all liens and encumbrances;
3. Provide the County with a maintenance letter of credit that complies with Section 858-9.

B. Performance Letter of Credit Alternative to Completion Requirement

1. The final plat shall not be considered by the Commission until all the requirements of Section 827.1A have been satisfied. In the event that site circumstances result in the inability to complete certain public improvements (street trees, sidewalks, and the surface coat of asphalt) prior to the final plat being issued, the subdivider may submit a request to the Commission to post a performance letter of credit⁴¹ ("letter of credit") to ensure that the remaining required improvements are completed and/or dedicated in the manner prescribed by these regulations, by preliminary approval, and by the subdivision improvement agreement.
2. The performance letter of credit shall be in the amount of 110 percent of the estimated completion cost of the remaining improvements for the street trees, sidewalks, and the surface coat of asphalt⁴² as set forth on the primary plat.
3. The subdivider may make a request to the Plan Commission to include additional improvements not listed in sub-section (1) above as part of the performance letter of credit if extraordinary circumstances exist that justify the necessity for final plat approval prior to the completion of the required public improvements.
4. 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 letter of credit as a material and essential term; and shall not exceed two years from the date of final plat approval.

⁴¹ Change bond to letter of credit throughout the code

⁴² This reflects a change from collecting a letter of credit all the required public improvements to just the street trees, sidewalks, and surface coat of asphalt

5. The Commission may amend the performance letter of credit to extend the performance period for an additional one 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 months prior to the expiration date of the original performance period. As a condition precedent of such performance letter of credit amendment, at least two months prior to the expiration date of the original performance period, the subdivider shall secure the amended performance letter of credit in accordance with these regulations and shall submit the secured, amended performance letter of credit to the Commission.
6. The performance letter of credit 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.

C. Financial Guaranty

A performance letter of credit 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 total performance letter of credit. This shall be in the form of one letter or credit of one cashier's check⁴³. 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 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 letter of credit is released or reduced as provided in these regulations.

D. Governmental Units

In lieu of a letter of credit or cashier's check, governmental units, to which these regulations apply, may secure their performance letter of credits 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.

⁴³ New provision as a lot of projects have more than one form of financial guaranty which makes it very hard for the county to track

E. Temporary Public Improvements

The subdivider, at the subdivider's expense, shall complete, shall maintain, and shall remove all temporary public improvements required by the regulations, by the primary plat and the subdivision improvement agreements in the manner prescribed by these regulations, by the primary plat 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 letter of credit shall be adjusted to reflect the cost of the temporary improvements.

F. 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.

G. Failure to Complete Improvements

1. If a performance letter of credit has not been posted and the required improvements have not been completed in the manner prescribed by these regulations, by primary plat approval and by the subdivision improvement agreement prior to the expiration of the primary plat approval, the primary plat approval shall lapse, and shall be null and void, regardless of partial improvement completion.
2. If a performance letter of credit has been posted and the required improvements are not completed in accordance with the terms of the performance letter of credit, the Commission may declare the performance letter of credit to be in default and authorize the calling of the performance letter of credit and financial guaranty and the completion of the required improvements under the supervision of the County Engineer.

H. Release or Reduction of Performance Letter of Credit and Financial Guaranty

1. The Commission may release or reduce the performance letter of credit and financial guaranty, but only if:
 - a. The subdivider applies to the Commission, in writing, for the release or reduction of the performance letter of credit 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 primary plat 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;

- b. The application for a reduction or release must be made at the Planning Department at least 45 days prior to the expiration date of the initial letter of credit⁴⁴;
 - c. The Highway Department 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;
 - d. 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
 - e. The subdivider provides the Commission with the maintenance letter of credit required by **Section XXX(858-9)**.
2. A performance letter of credit 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 letter of credit and financial guaranty may be reduced only one time. The reduction may be approved only after at least 50 percent of the required improvements have been completed and accepted. However, in no event may the performance letter of credit be reduced to less than 10 percent of the original performance letter of credit amount or \$10,000.00, whichever is greater, until all required improvements for the subdivision or the approved subdivision section have been completed and accepted.
 3. The costs incurred by the Commission and/or the County in connection with a request for performance letter of credit 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 letter of credit and surety shall be released or reduced until such costs have been paid by the subdivider.
 4. The Commission may, by rule, authorize the Planning Director to reduce or release performance letter of credits and, by rule, may establish the procedures by which the Planning Director may reduce or release such letter of credits.

⁴⁴ New

CHAPTER 827: ASSURANCES FOR COMPLETION AND MAINTENANCE OF IMPROVEMENTS

827.2 Maintenance of Public Improvements

I. 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, street trees, 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.

827.2 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 letter of credit and financial guaranty, the subdivider shall be required to post a maintenance letter of credit with the Commission to ensure the satisfactory condition of the required improvements. The maintenance letter of credit shall be in the amount of 10 percent of the cost of all public improvements as approved by the Commission or \$2,500.00, whichever is greater, and may not be reduced prior to release. The maintenance letter of credit 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 letter of credit shall be secured in the manner prescribed by [Section 858-3](#) for a minimum period of two years following the date on which the County accepts the public improvements covered by the maintenance letter of credit.

827.3 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.

Administration

828. GENERAL ADMINISTRATION REGULATIONS

828.1 Purpose

The purpose of this Chapter is to identify:

- A. The roles and responsibilities of the various elected and appointed boards and commissions of the County;
- B. The duties of the County in the administration of this ordinance;
- C. The review and procedural requirements that apply to development within the County; and
- D. The procedures and processes established within this ordinance.

828.2 Summary Table of Review Bodies

Table 828.1: Summary Table Of Review Bodies summarizes the review and decision-making responsibilities of the entities that have roles in the procedures set forth in Section **830**: Development Processes and Procedures.

Table 828.1: Summary Table of Review Bodies						
Development Process	Section	Board of Commissioners	Plan Commission	Plat Committee	Board of Zoning Appeals	Planning Department
Site Plans	830.1				A	R-D
Conditional Uses	830.2				H-D	R
Variances	830.3				H-D	R
PUD, Outline Plan	830.4	H-D	H-R			R
PUD, Development Plan	834.4		(D)		A	R-D
Permits and Certificates	830.5				A	R-D
Grading Permits/Erosion Control Plans	830.6				A	R-D
Primary Plat	831.3		D	R		R
Final Plat	831.5	(D)	D			R
Major Subdivision Phasing	831.6		D			R
Minor Subdivision Alternative Process	831.7		A	D		R
Vacation and Re-Subdivision of Plats	831.8		D			R
Zoning Text or Map Amendment	832	H-D	H-R			R
<div> <div> H = Public Hearing Required R = Review and/or Recommendation (D) = Decision is sometimes made </div> <div> D = Decision A = Appeal Body Shaded Box = No Review or Approval Authority </div> </div>						

828.3 Common Review and Application Requirements

A. Public Hearing Requirements

Applications for development approval that require public hearings shall comply with the applicable Indiana Code requirements and the provisions of this ordinance requiring public notification.

B. Authority to File Applications

Unless otherwise specified in this ordinance, development applications may be initiated by:

1. The owner(s) of the property(ies) that is subject of the application;
2. The owner's authorized agent; or,
3. Authorized representatives of Monroe County, Indiana.

C. Fees

1. Fee Requirement and Payment

- a. Applications and petitions filed pursuant to the provisions of this ordinance shall be accompanied by the filing fees specified by the applicable Board or Commission's rules posted in the Planning Department's office.
- b. No part of any filing fee shall be returnable to the applicant except by order of the applicable Board or Commission or of a court of competent jurisdiction.

2. **Exemptions from the Fee Requirement.** Governmental agencies shall be exempt from paying fees for Improvement Location Permits, Land Use Certificates, or any other permit prescribed by these regulations.

3. **Waiver of Fee Requirement.** An applicant or petitioner may request a waiver of the fee requirement pursuant to and in accordance with Monroe County Code Section 270-16.

D. Form of Certificates, Notations, Applications, and Findings

The Planning Department shall establish the form of all checklists, certificates, notations, applications, and findings required or permitted by this ordinance. All such forms must be consistent with these regulations.

829. REVIEW AND ADVISORY BODIES

829.1 Board of Commissioners

A. General Powers of the Board of Commissioners

The Board of Commissioners may:

1. Hear and determine petitions for the vacation of public ways or places in accordance with the procedures and limitations set forth and incorporated in IC 36-7-3;
2. Adopt, amend, and repeal the Comprehensive Plan in accordance with the procedures and limitations set forth and incorporated in the 500 series of IC 36-7-4;
3. Adopt, amend, and repeal this ordinance (text or maps) in accordance with the procedures and limitations set forth and incorporated in the 600 series of IC 36-7-4;
4. Determine the zoning districts in which the subdivision of land may occur and adopt, amend, and repeal an ordinance containing provisions for subdivision control in accordance with the procedures and limitations set forth and incorporated in the 700 series of IC 36-7-4;
5. Determine whether to allow planned unit developments;
6. Establish an Advisory Plan Commission in accordance with the procedures and limitations set forth and incorporated in the 200, 300, and 400 series of IC 36-7-4 and remove and replace the citizen members of the Advisory Plan Commission;
7. Establish an Advisory Board of Zoning Appeals in accordance with the procedures and limitations set forth and incorporated in the 900 series of IC 36-7-4 and appoint, remove, and replace the citizen members of the Advisory Board of Zoning Appeals;
8. Establish an Historical Preservation Board of Review in accordance with the procedures and limitations set forth and incorporated in IC 36-7-4 and IC 36-7-11, and appoint, remove, and replace the citizen members of the Board of Review;
9. Adopt an ordinance imposing an impact fee on new development within the County Jurisdictional Area in accordance with the procedures and limitations set forth and incorporated in the 1300 series of IC 36-7-4;
10. Establish a joint district planning and zoning commission in accordance with the procedures and limitations set forth and incorporated in IC 36-7-5.1; and
11. Exercise all powers of boards of commissioners with respect to planning, zoning, and land use conferred by or reasonably inferred from all laws relating to planning, zoning, and land use.

B. General Duty of the Board of Commissioners

The Board of Commissioners shall give consideration to the general policy and pattern of development set out in the Comprehensive Plan in the:

CHAPTER 829: REVIEW AND ADVISORY BODIES

829.2 Advisory Plan Commission

1. Authorization, acceptance, or construction of water mains, sewers, connections, facilities, or utilities;
2. Authorization, construction, alteration, or abandonment of public ways, public places, public lands, public structures, or public utilities; and
3. Adoption, amendment, or repeal of zoning ordinances (including zone maps), subdivision control ordinances, historic preservation control ordinances, and other land use ordinances.

829.2 Advisory Plan Commission

A. Establishment

The Monroe County Advisory Plan Commission is hereby established in accordance with the Advisory planning law set forth in IC 36-7-4.

B. Membership

1. The Plan Commission shall consist of nine members, as follows:
 - a. One member appointed by the Board of Commissioners from its membership.
 - b. One member appointed by the County Council from its membership.
 - c. The County Surveyor or a qualified deputy appointed by the County Surveyor.
 - d. The County Agricultural Extension Educator.
 - e. Five Citizen members, of whom no more than three may be of the same political party, appointed by the Board of Commissioners.
2. Each appointing authority may appoint an alternate member to act during the absence or disability of a regular appointee of the authority.

C. Qualifications of Citizen Members

1. Each citizen member shall be appointed because of the following:
 - a. The member's knowledge and experience in community affairs;
 - b. The member's awareness of the social, economic, agricultural, and industrial problems of the area; and
 - c. The member's interest in the development and integration of the area.
2. A citizen member may not hold other elective or appointive office in municipal, county, or state government.
3. A citizen member must be resident of the County Planning Jurisdictional Area.

D. Terms of Office

1. The Plan Commission was established by Ordinance 86-19, passed on August 29, 1986, and said Ordinance provided that citizen members be appointed for the following terms:
 - a. One member for a term of one year;
 - b. One member for a term of two years;
 - c. One member for a term of three years; and
 - d. Two members for a term of four years.
2. Citizen members were appointed to the foregoing terms. All subsequent citizen members shall be appointed for a term of four years which term expires on the first Monday of January of the fourth year after the citizen member's appointment.
3. The term of office of a member appointed from the membership of the Board of Commissioners or from the membership of the County Council shall be coextensive with the appointee's membership on the appointing authority, unless the appointing authority appoints, at its first regular meeting in any year, another to serve as its representative.
4. The term of office of an appointee of the County Surveyor shall be for one year but may not exceed the appointing County Surveyor's term of elected office or the appointee's term of employment as a Deputy County Surveyor.
5. A member serves until his successor is appointed and qualified. A member may be reappointed.

E. Removal of Member

The appointing authority may remove a member from the Plan Commission for cause. The appointing authority must mail notice of the removal along with written reasons for the removal, to the member at their residence address. A member who is removed may, within 30 days after receiving notice of the removal, appeal the removal to the Monroe Circuit Court. The Circuit Court may, pending the outcome of the appeal, order the removal or stay the removal of the member.

F. Vacated Membership

If a vacancy occurs among the Plan Commission members who are appointed, then the appointing authority shall appoint a member for the unexpired term of the vacating member. If a vacancy occurs in the office of the County Surveyor, then the County Engineer shall be a member of the Plan Commission during the time the office of the County Surveyor is vacant.

G. Expenses

If the Plan Commission determines that it is necessary or desirable for members or employees to join a professional organization or to attend a conference or interview dealing with planning or related problems, the Plan Commission may pay the applicable membership fees and all actual expenses of the members or employees, subject to County Council appropriation of funds.

H. Conflict of Interest

A Plan Commission member may not participate as a Plan Commission member in a hearing or decision of the Plan Commission concerning a zoning matter in which the member has a direct or indirect financial interest. The Plan Commission shall enter in its records the fact that its member has such a disqualification and the name of the alternate member, if any, that participates in the hearing or decision in place of the regular member. A Plan Commission member directly or personally represent another person in a hearing before the Plan Commission or Board of Commissioners concerning a zoning matter. A Plan Commission member may not receive mileage or compensation under Section (G) above for attendance at a meeting at which the member is disqualified from participation, during any part of the meeting, for having a direct or indirect financial interest in a zoning matter.

I. Official Action

An action of the Plan Commission is not official unless it is authorized, at a regular or special meeting, by a majority of the entire Plan Commission membership or by a majority of the Executive Committee pursuant to Section (R).

J. Chairman and Vice Chairman

At the first regular meeting in each year, the Plan Commission shall elect a chairman and vice chairman from its members. The vice chairman shall act as chairman during the absence or disability of the chairman.⁴⁵

K. Secretary

The Plan Commission may appoint and fix the duties of a secretary, who is not required to be a member of the Plan Commission.

L. Meetings and Records

1. The Plan Commission shall fix the time for holding regular meetings each month or as necessary.
2. Special meetings of the Plan Commission may be called by the chairman or by two members of the Plan Commission upon written request to the secretary. The secretary shall send to all members, at least three days before the special meetings, a written notice fixing the time and place of the meeting. Written notice of a special meeting is not required if:

⁴⁵ Updated terminology to match the state statute

- a. The date, time, and place of a special meeting are fixed in a regular meeting; and
 - b. All members of the Plan Commission are present at that regular meeting.
- 3. All regular and special meetings of the Plan Commission shall be open to the public. The Plan Commission may schedule executive session meetings pursuant to IC 5-14-1.5-1, as amended.

M. Staff and Services

- 1. The Plan Commission shall prescribe the qualifications of, appoint, remove, and fix the compensation of the employees of the Plan Commission, which compensation must conform to the salaries and compensations fixed before that time by the County Council. The Plan Commission shall delegate authority to its employees to perform ministerial acts in all cases except where final action of the commission is necessary.
- 2. The Plan Commission may contract for special or temporary services and any professional counsel.
- 3. The Plan Commission may designate a hearing examiner or a committee of the Plan Commission to conduct any public hearing required to be held by the Plan Commission. Such a hearing must be held upon the same notice and under the same rules as a hearing before the entire Plan Commission, and the examiner or committee shall report findings of fact and recommendations for decision to the Plan Commission. The Plan Commission shall, by rule, provide reasonable opportunity for interested parties to file exceptions to the findings and recommendations, and if any exception is filed in accordance with those rules, the Plan Commission shall render its decision without further hearing.

N. General Powers and Duties.

The Plan Commission shall:

- 1. Supervise, and make rules for the administration of the affairs of the Plan Commission;
- 2. Prescribe uniform rules pertaining to investigations and hearings;
- 3. Record and file all letters of credit and contracts and assume responsibility for the custody and preservation of all papers and documents of the Plan Commission;
- 4. Prepare, publish, and distribute reports, ordinances, and other materials relating to the activities authorized under this chapter;
- 5. Adopt a seal;
- 6. Certify to all official acts;
- 7. Supervise the fiscal affairs of the Plan Commission;

CHAPTER 829: REVIEW AND ADVISORY BODIES

829.2 Advisory Plan Commission

8. Prepare and submit an annual budget in the same manner as other County departments and be limited in all expenditures to the provisions made for the expenditures by the County Council.
9. Sue and be sued collectively by its legal name “Monroe County Plan Commission” with service of process on the president of the Plan Commission.
10. Make recommendations to the Board of Commissioners concerning:
 - a. The adoption of the comprehensive plan, ordinance, and amendments; and,
 - b. Any other matter, within the jurisdiction of the Plan Commission, authorized by the advisory planning law;
11. Render decisions concerning and approve:
 - a. Plats or replats for subdivisions;
 - b. Development plans for residential, commercial, and industrial uses; and,
 - c. Variances to subdivision standards;
12. Assign street numbers to lots and structures and renumber lots and structures, and notify the Circuit Court Clerk or Board of Registration, the Planning Director of the County’s enhanced emergency telephone system, and the United States Postal Service of said numbering or re-numbering no later than the last day of the month following the month in which the action is taken;
13. Name and rename streets, in accordance with the guidelines set forth in Section (U) of this Chapter, and notify the Circuit Court Clerk or Board of Registration, the administration or the County’s enhanced emergency telephone system, and the United States Postal Service of said naming or renaming no later than the last day of the month following the month in which the action is taken; and,
14. Establish a schedule of reasonable fees to defray the administrative costs connected with:
 - a. Processing and hearing administrative appeals and petitions for rezoning, conditional uses, temporary uses, and variances,
 - b. Issuing permits, and
 - c. Other official actions taken under this ordinance.

O. Citizen Committees

1. The Plan Commission, by resolution, may establish advisory committees of citizens interested in problems of planning and zoning. In its resolution establishing such a committee, the Plan Commission shall specify the terms of its members, its purposes, and whether the committee is of perpetual or limited duration. Each advisory committee shall:

- a. Study the subject and problems specified by the Plan Commission and recommend to the commission additional problems in need of study;
 - b. Advise the Plan Commission concerning how the subject and problems relate particularly to different areas and groups in the community; and
 - c. If invited by the Plan Commission to do so, sit with, and participate, without the right to vote, in the deliberations of the commission, when subjects of mutual concern are discussed.
2. A citizen committee shall report only to the Plan Commission and shall make inquiries and reports only on the subject and problems specified by the Plan Commission's resolution establishing the committee.

P. Executive Committee

1. The Plan Commission may establish an executive committee of not less than three nor more than nine persons appointed by the Plan Commission from its membership. The establishment of the executive committee, the naming of its individual members, and the adoption of rules governing its operation requires a two-thirds majority vote of the entire membership of the Plan Commission.
2. A majority of the executive committee may act in the name of the Plan Commission; but if there are any dissenting votes, a person voting in the minority may appeal the decision of the executive committee to the Plan Commission.

Q. Gifts and Grants

The Plan Commission may accept gifts, donations, and grants from private or governmental sources for advisory planning purposes. Any money so accepted shall be deposited with the Monroe County Treasurer, in a special non-reverting Plan Commission fund to be available for expenditures by the Plan Commission for the purposes designated by the source. The Monroe County Auditor shall draw warrants against the special non-reverting fund only on vouchers signed by the chairman and secretary of the Plan Commission.

R. Alternate Procedures

1. The Plan Commission may appoint a hearing officer and may establish an alternate procedure under which the hearing officer may approve or deny variance from the design standards of this ordinance, special uses, and conditional uses from the terms of this ordinance. With respect to such matters, the hearing officer shall have the power of the Board of Zoning Appeals. The hearing officer may be a Board of Zoning Appeals member, a Plan Commission staff member, or any other person. The Plan Commission may appoint more than one hearing officer. A hearing officer serves at the pleasure of the Plan Commission and may be removed by the Plan Commission at any time, without cause.

CHAPTER 829: REVIEW AND ADVISORY BODIES

829.2 Advisory Plan Commission

2. With respect to an alternate procedure, the Plan Commission may adopt rules on the following:
 - a. Limiting the kinds of variance, special use, contingent use, or conditional use petitions that may be filed under the alternate procedure;
 - b. Permitting the hearing officer, in appropriate circumstances, to transfer a petition filed under the alternate procedure to the Board of Zoning Appeals;
 - c. Requiring the creation of minutes and records of the proceedings before the hearing officer and the filing of the minutes and records as public records; and
 - d. Regulating conflicts of interest and communications with the hearing officer, so as to require the same level of conduct required of the Board of Zoning Appeals in the conduct of its business.
3. The Plan Commission staff may file a written objection to a petition for a variance or use if:
 - a. It would be injurious to the public health, safety, morals, and general welfare of the community; or
 - b. The use or value of the area adjacent to the property included would be affected in a substantially adverse manner.
4. If a written objection is filed by the Plan Commission staff, the petition shall:
 - a. Be considered withdrawn; or
 - b. Be transferred to the Board of Zoning Appeals if requested by the petitioner.
5. The Plan Commission staff may indicate that it does not object to the approval of the petition if specified conditions are attached. If the applicant does not accept these conditions, the petition shall:
 - a. Be considered withdrawn; or
 - b. Be transferred to the Board of Zoning Appeals if requested by the petitioner.
6. The hearing officer may impose conditions and may permit or require the owner of a parcel of property to make a written commitment concerning the use or development of that parcel, in the same manner that the Board of Zoning Appeals may impose conditions or require written commitments. If the applicant for the variance or use does not accept these conditions or make the commitment, the petition shall:
 - a. Be considered withdrawn; or
 - b. Be transferred to the Board of Zoning Appeals if requested by the petitioner.
7. The hearing officer may not modify or terminate any commitment made to the hearing officer or to the Board of Zoning Appeals.

8. A decision of a hearing officer under the alternate procedure may not be a basis for judicial review, but it may be appealed to the Board of Zoning Appeals. An interested person who wishes to appeal a decision of a hearing officer under the alternate procedure must file the appeal with the Board of Zoning Appeals within 14 days after the decision is made.

S. Review of Zoning Ordinance

The Plan Commission shall periodically review both the text of the Zoning Ordinance and the Zoning Maps. Such review shall be performed on a regular schedule established by the Plan Commission, but not less frequently than once every two years. Upon review of the text and maps, the Plan Commission shall recommend all appropriate changes to the County Commissioners as proposed amendments to this ordinance.

T. Plat Committee

The Plan Commission may appoint a Plat Committee to hold hearings on and approve plats and replats, on behalf of the Plan Commission, the circumstances prescribed in the Subdivision Standards, Chapter 824. The Plat Committee shall consist of three or five persons, with at least one of the members being a member of the Plan Commission. Each appointment of a member of the plat committee is for a term of one year, but the Plan Commission may remove a member from the plat committee. The Plan Commission must mail notice of the removal, along with written reasons, if any, for the removal, to the member at their residence address. A member who is removed may not appeal the removal to a court or otherwise. The Plat Committee may take action only a majority vote.

U. Naming and Re-Naming Streets

In naming and re-naming streets, the Plan Commission shall be guided by the following policies:

1. Duplicate street names and names that sound alike shall not be allowed;
2. Directional or relative names should not be used (e.g., North Drive, Kirksville Road);
3. A continuous street should not change names when the direction of the street changes;
4. Predominately north-south streets shall have a “N” prefix if north of the center line and an “S” prefix if south of the center line;
5. Predominately east-west streets shall have an “E” prefix if east of the center line and a “W” prefix if west of the center line;
6. The Bloomington Postmaster must be given the opportunity to review and comment on proposed names before their adoption; and

CHAPTER 829: REVIEW AND ADVISORY BODIES

829.3 Advisory Board of Zoning Appeals

7. The Monroe County Highway Engineer and the Monroe County Highway Superintendent must be given the opportunity to review and comment on proposed names before their adoption.

829.3 Advisory Board of Zoning Appeals

A. Establishment

The Monroe County Advisory Board of Zoning Appeals is hereby established in accordance with the Advisory Planning law set forth in Indiana Code Chapter 36-7-4.

B. Membership

1. The Board shall consist of five citizen members as follows:
 - a. Three citizen members appointed by the Board of County Commissioners. One of the Board of Commissioners' appointees must be a member of the Plan Commission. The two other appointees may not be members of the Plan Commission.
 - b. One citizen member appointed by the County Council. The County Council appointee may not be a member of the Plan Commission.
 - c. One citizen member appointed by the Plan Commission. The Plan Commission appointee must be a member of the Plan Commission other than the member appointed by the County Commissioners.
2. Each appointing authority may appoint an alternate citizen member to act during the absence or disability of a regular appointee of the authority. (see **Section 833.6.B** for more on alternate members)

C. Qualifications of Members

The members of the Board may not hold other elective or appointive office in municipal, county, or state government, except as permitted by Section 2 of this chapter. A member must be a resident of the County Planning Jurisdictional Area.

D. Terms of Office

1. The Board was established by Ordinance 86-19, passed on August 29, 1986, and said Ordinance provided that members be appointed for the following terms:
 - a. One member for a term of one year;
 - b. One member for a term of two years;
 - c. One member for a term of three years; and
 - d. Two members for a term of four years.

2. Board members were appointed to the foregoing terms. All subsequent members shall be appointed for a term of four years which term expires on the first Monday of January of the fourth year after the member's appointment.
3. A member may serve until his successor is appointed and qualified. A member may be reappointed.

E. Removal of a Member

The appointing authority may remove a member from the Board for cause. The appointing authority must mail notice of the removal, along with written reasons for the removal, to the member at his residence address. A member who is removed may, within 30 days after receiving notice of the removal, appeal the removal to the Monroe Circuit Court.

F. Vacated Membership

1. If vacancy occurs among the members of the Board, the appointing authority shall appoint a member for the unexpired term of the vacating member.
2. The appointing authority may appoint an alternate member to participate with the board in any hearing or decision if the regular member is otherwise unavailable to participate in the hearing or decision. An alternate member shall have all the powers and duties of a regular member while participating in the hearing or decision.⁴⁶
3. A member of the board of zoning appeals who misses three consecutive regular meetings of the board may be treated as if the member had resigned, at the discretion of the appointing authority.⁴⁷

G. Expenses

If the Board determines that it is necessary or desirable for members to join a professional organization or to attend a conference or interview dealing with planning or related problems, the Board may pay the applicable membership fees and all actual expenses of the members, subject to County Council appropriation of funds.

H. Conflicts of Interest

A member of the Board may not participate in a hearing or decision of the Board concerning a zoning matter in which they have a direct or indirect financial interest. The Board shall enter in its records the fact that a regular member has such a disqualification and the name of the alternate member, if any, who participates in the hearing or decision in place of the regular member.

⁴⁶ New – From the State Statute IC 36-7-4-907

⁴⁷ New

I. Official Action

An action of the Board is not official unless it is authorized by a majority of the entire membership of the Board.

J. Chairman and Vice Chairman

At the first Board meeting of each year, the Board shall elect a chairman and vice chairman from its members. The vice chairman shall act as chairman during the absence or disability of the chairman.⁴⁸

K. Secretary

The Board may appoint a secretary and such employees as are necessary for the discharge of its duties, subject to County Council appropriation.

L. Rules of Procedure

The Board shall adopt rules concerning the filing of appeals, applications for variances and conditional uses, the giving of notice, the conduct of hearings and other subjects or matters as required by state law or as deemed necessary or desirable by the Board.

M. Meetings and Records

All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, keep records of its examinations and other official actions, prepare written findings of fact and record the vote, disqualification, abstention, or failure to vote of each member upon each question. All minutes and records shall be filed in the office of the Board and shall be public records to the extent required by IC 5-14-3-1, as amended.

N. Findings of Fact

All decisions of the Board on all matters within its jurisdiction and authority shall be committed to writing and shall be supported by written specific findings of fact on each material element pertaining to the matter under consideration.

O. General Powers and Duties.

The Board:

1. Shall hear and determine appeals from and review any order, requirement, decision or determination made by the Plan Director, a staff member or administrative officer, board or committee designated by the Zoning Ordinance, other than the Plan Commission, made in the enforcement of the Zoning Ordinance or the issuance of permits required by the Zoning Ordinance.

⁴⁸ Updated terminology to match the state statute

2. May reverse or affirm, wholly or partially, or may modify any order, requirement, decision or determination appealed from as in its opinion ought to be done in the premises and to that end shall have all the powers vested in the person or board from whom the appeal is taken. Reversal or modification must rest upon a finding by the Board that the initial order, requirement, decision, or determination was improper as a matter of law or fact.
3. Shall approve or deny variances of use from the terms of this ordinance. The Board may impose reasonable conditions as a part of its approval.
4. Shall approve or deny variances from the development standards (e.g., height, bulk, area, and density) of this ordinance but not from said standards as they may apply to subdivisions.
5. Hear petitions that were transferred from the hearing officer or the Plan Commission, and to hear appeals of the decisions of the hearing officer, as depicted in Section **XXX**.⁴⁹

P. Appeal Procedures

1. An appeal filed with the Board must specify the grounds of the appeal and must be filed within such time and in such form as may be prescribed by the Board by rule.
2. The administrative official, hearing officer, administrative board, or other body from whom the appeal is taken shall, on the request of the Board, transmit to the Board all documents, plans, and papers (or certified copies of the same) constituting the record of the action from which an appeal was taken.
3. When an appeal from the decision of an official or board has been filed with the Board, proceedings and work on the premises affected shall be stayed unless the official or board certifies to the Board that, by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property. In that case, proceedings or work may not be stayed except by court order.
4. The Board shall fix a reasonable time for the hearing of administrative appeals, exception, uses, and variances.
5. Public notice in accordance with IC 5-3-1-2 and IC 5-3-1-4 and due notice to interested parties shall be given at least 10 days before the date set for the hearing.
6. The party taking the appeal, or applying for the exception, use, or variance, may be required to assume the cost of public notice and due notice to interested parties. At the hearing, each party may appear in person, be agent, or by attorney.
7. The Board shall, by rule, determine who are interested parties, how notice is to be given to them, and who is required to give that notice.

⁴⁹ Power granted in the Plan Commission, new reference here

CHAPTER 829: REVIEW AND ADVISORY BODIES

829.3 Advisory Board of Zoning Appeals

8. The Board staff and other persons may appear before the Board at the hearing and present evidence in support of or in opposition to the granting of a variance or the determination of any other matter.
9. A person may not communicate with any member of the Board before the hearing with intent to influence the member's action on a matter pending before the Board. Not less than five days before the hearing, however, the staff may file with the Board a written statement setting forth any facts or opinions relating to the matter.
10. The Board may require any party adverse to any pending petition to enter a written appearance specifying the party's name and address. If the written appearance is entered more than four days before the hearing, the Board may also require the petitioner to furnish each adverse party with a copy of the petition and a plot plan of the property involved.
11. Upon appeal, the Board may reverse, affirm, or modify the order, requirement, decision, or determination appealed from. For this purpose, the Board has all the powers of the official, officer, board, or body from which the appeal is taken.
12. The Board shall make its decision on any matter specified in Section (P) of this chapter at the meeting at which the matter is first presented or at the conclusion of the hearing on the matter if the hearing is continued. Within five days after making any decision, the Board shall file in the office of the Board a copy of its decision.

Q. Commitments

1. In the case of a petition for a variance or conditional use from the terms of this ordinance, the Board may permit or require the owner of the affected parcel to make a written commitment concerning the use or development of the affected parcel.
2. The Board may adopt rules governing the creation, form, recording, modification, enforcement, and termination of commitments; and designating which specially affected persons and classes of specially affected persons are entitled to enforce commitments.
3. Commitments shall be recorded in the Monroe County Recorder's Office and shall take effect upon the granting of the exception, use or variance. Unless modified or terminated by the Board, a commitment is binding on the owner of the parcel, each subsequent owner, and each other person acquiring an interest in the parcel. A commitment is binding on the owner of the parcel even if it is unrecorded; however, an unrecorded commitment is binding on a subsequent owner or other person acquiring an interest in the parcel only if that subsequent owner or other person had actual notice of the commitment. A commitment may be modified or terminated only by the Board at a public hearing after notice as provided by rule.
4. By permitting or requiring commitments, the Board does not become obligated to approve or deny any request.

5. Conditions imposed on the granting of an exception, use or variance are not subject to the rules applicable to commitments.
6. The rules applicable to commitments do not affect the validity of any covenant, easement, equitable servitude, or other land use restriction created in accordance with law.

R. Judicial Review

Each decision of the Board on a matter specified in Section 16 is subject to review by certiorari.

829.4 Historic Preservation Board of Review

A. Establishment

The County is hereby authorized to appoint members to a Monroe County Historic Preservation Board of Review ("Board of Review"). The Board of Review shall be established by the appointment of its members as herein provided.

B. Scope of Authority

The Board of Review shall have all of the powers and duties set forth in Monroe County Code Chapter 810, not inconsistent with IC 36-7-11-1, as amended. In exercising its powers and performing its duties, the Board of Review shall be concerned with those elements of development, redevelopment, rehabilitation, and preservation that affect visual quality in designated Historic Districts. However, the Board of Review may not consider details of design, interior arrangements, or building features if those details, arrangements, or features are not subject to public view, and may not make any requirement except for the purpose of preventing development, alteration, or demolition in a Historic District obviously incongruous with the Historic District. The Board of Review may not take any action that affects property located outside of the Monroe County Planning Jurisdictional Area.

C. Membership: Qualification and Procedures

1. The Board of Review shall consist of nine members. Each member shall be appointed by the Monroe County Commissioners and shall serve for a term of three years. The membership shall be staggered so that the terms of three of the members expire each year. The initial terms of membership may be less than three years as necessary to achieve staggered terms. A membership vacancy shall be filled for the duration of the vacating member's term.

2. Candidates for membership on the Board of Review must be interested in the preservation and development of historic sites and areas and must be residents of Monroe County, Indiana. The majority of the members must reside in the County Jurisdictional Area. Membership is open to both professionals and non-professionals in fields related to historic preservation. When possible, at least one person appointed to membership on the Board of Review shall be an architectural historian or other professionally qualified person. Candidates for membership shall be sought who are residents of historic properties, who have restored historic properties, or who are professionals from the disciplines of architecture, history, preservation planning, archaeology, or other historic preservation-related disciplines, such as urban planning, American studies, art history, American civilization, cultural geography, or cultural anthropology. Professionals must meet the minimum qualifications as specified by 36 CFR 61 (Professional Qualification Standards). All members shall serve without compensation except for reasonable expenses incurred in the performance of their duties, subject to the appropriation of funds for that purpose.
3. The Board of Review shall elect annually a chairman, a vice chairman. A Planning Department staff member shall be designated to serve as Secretary. The Board or Review shall adopt rules for the transaction of its business which rules shall not be inconsistent with the rules of the Plan Commission and shall not be inconsistent with the provisions of this chapter. The rules shall include the time and place of regular meetings of the Board of Review. All meetings of the Board of Review shall be open to the public and a public record of the Board of Review's resolutions, proceedings, and actions must be kept by the secretary of the Board of Review. The Board of Review shall hold regular meetings, at least monthly, except when it has no business pending. A decision of the Board of Review is subject to judicial review under IC 36-7-4 as if it were a decision of the Monroe County Board of Zoning Appeals

829.5 Planning Department

A. Purpose of the Planning Department

The purpose of the Monroe County Planning Department is to administer and enforce the Zoning Ordinance. The Department consists of the Monroe County Planning Director, the Monroe County Planners, the Monroe County Zoning Inspectors, and any other employees deemed necessary by the Plan Commission.

B. Duties of the Planning Director

On behalf of the Board of Commissioners, the Board of Zoning Appeals, the Plan Commission, and the Board of Review, the Planning Director shall:

1. Perform the administrative duties of the department head of the Planning Department, including the supervision of the Planning Department personnel and the preparation of Planning Department budgets;

2. Assist the Plan Commission in the preparation and amendment of the Comprehensive Plan by compiling data on land use and development in Monroe County, Indiana, researching planning theories and techniques, conducting forums on local planning issues, and rendering written recommendations to the Plan Commission;
3. Administer and enforce this ordinance, including the issuance of permits, certificates, notices, and orders;
4. Keep and maintain careful and comprehensive records of applications and petitions filed, of permits and certificates issued, of inspections made, of reports and recommendations rendered, and of notices and orders issued;
5. Prepare, keep, and maintain careful and comprehensive records of applications and petitions filed, of permits and certificates issued, of inspections made, of reports and recommendations rendered and of notices and orders issued;
6. Make all records kept by the Planning Department available for public inspection, at reasonable hours, subject to any limitation imposed in accordance with IC 5-14-3, and this ordinance;
7. When requested by the Board of Commissioners, investigate any matter concerning or relevant to land use in Monroe County, Indiana, and render a written report to the Board of Commissioners on the same;
8. Prepare and submit an annual report of the activities of the Plan Department to the Board of Commissioners, the Board of Zoning Appeals, and the Plan Commission; and
9. Perform such other duties as may be assigned, from time to time, by the Plan Commission.

C. Duties of the Planners

On behalf of the Board of Commissioners, the Board of Zoning Appeals, the Plan Commission, the Board of Review, and the Planning Director, the Planners shall:

1. Receive all applications for approvals, recommendations, permits, certificates, and appeals, and review all such applications for compliance with this ordinance;
2. Receive all petitions for amendments to this ordinance and review all such petitions for compliance with the Comprehensive Plan;
3. Prepare a report and recommendation on each application or petition received and forward said report and recommendation to the Planning Director;
4. Provide the public, upon request, with information and materials concerning the Zoning Ordinance and all rules and procedures adopted thereunder, subject to any limitation imposed in accordance with IC 5-14-3, and this ordinance; and

CHAPTER 829: REVIEW AND ADVISORY BODIES

829.5 Planning Department

5. Perform such other duties as may be assigned, from time to time, by the Planning Director.

D. Duties of the Zoning Inspectors

On behalf of the Board of Commissioners, the Board of Zoning Appeals, the Plan Commission, the Board of Review, the Planning Director, and the Planners, the Zoning Inspectors shall:

1. Inspect structures and land uses for compliance with this ordinance;
2. Assist in the review of applications for approvals, recommendations, permits, certificates, and appeals;
3. Assist in the review of petitions for Zoning Ordinance amendment;
4. Assist the attorney for the Plan Commission in the enforcement of this ordinance; and
5. Perform such other duties as may be assigned, from time to time, by the Planning Director.

830. DEVELOPMENT PROCESSES AND PERMITS

830.1 Site Plans

A. Purpose

The purpose of these site plan review standards is to regulate the development of structures and sites in a manner which considers the following concerns and, where necessary, requires modification of development proposals to eliminate or minimize potential problems and nuisances. The principal areas of concern are:

1. The balancing of landowners' rights to use their land, with the corresponding rights of abutting and neighboring landowners to live without undue disturbances (e.g., noise, smoke, fumes, dust, odor, glare, storm water runoff, etc.);
2. The convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent areas or roads;
3. The adequacy of water supply, waste disposal methods, and protection from pollution of surface or ground water;
4. The protection of natural, environmental, historical, or archeological features on the site under review and in adjacent areas; and,
5. Ensure that stormwater is managed effectively as to not to create off-site impacts from new development.⁵⁰

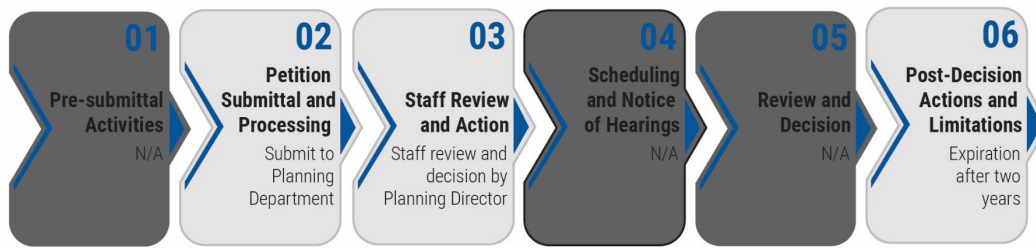
B. Site Plan Review Requirement

No permit or certificate for the construction, exterior alteration, relocation, demolition, occupancy, or change in use of any building, structure or parcel shall be given and no existing use shall be established or expanded in floor area except in conformity with a site plan approved by the Planning Director. Site plan review shall also be required for the resumption of any use discontinued for more than six consecutive months or for the expansion of any existing use.

C. Site Plan Approval Procedure

Applications for site plan approval shall be considered in accordance with the following procedures and as outlined in the below flowchart:

⁵⁰ New



1. Application and Requirements for Site Plan Review

- a. An applicant for site plan review under this section shall file with the Planning Director a checklist for site plan approval upon forms made available in the Commission's office. Applications may be made after a pre-design conference has been conducted with a Planner.
- b. The site plan shall include all elements deemed necessary by the Planning Director in order to properly evaluate the proposed project in accordance with the provisions of this ordinance, taking into consideration the nature of this project, its magnitude, uses, and overall community impact. A checklist with a comprehensive list of site plan requirements is available at the Planning Department.⁵¹
- c. In addition to the site plan requirements discussed in (b) above, the following technical components are required as part of the site plan application⁵²:
 - i. Grading plan/erosion control and Rule 5 plan per Chapter XX;
 - ii. Lighting fixture and photometric plan (if outdoor lighting is proposed);
 - iii. Landscaping plan per Chapter XX;
 - iv. Parking plan per Chapter XX;
 - v. Construction plans;
 - vi. Statement of compliance with Chapter XX;
 - vii. Sewer capacity letter or septic permit;
 - viii. Stormwater plan, drainage calculations, operations, and maintenance manual, and if deemed necessary, stormwater easements;
 - ix. Driveway permit application; and
 - x. Materials requested during the pre-design conference) (Materials must include a subscribed statement of an engineer or architect,

⁵¹ Removed the specific requirements from the code and replaced with a reference to the checklist. This allows the planning department the ability to update this list from time to time without updating the code.

⁵² New

licensed by the State of Indiana, certifying that the proposed activity will satisfy the performance standards of Chapter 802 of this ordinance).

2. **Completeness of a Petition for Review**⁵³. Following the submittal of a site plan application, the Planning Director will review the application to determine if it is complete or incomplete. If it is determined that the application is incomplete, the Planning Director, shall notify the petitioner of the submittal's deficiencies. The petitioner may continue to correct the deficiencies and resubmit the petition for a determination of completeness until it is determined by the Planning Director that the petition is complete. No development petition shall be reviewed for compliance with this ordinance or be scheduled for a public hearing by any review or advisory body until it is determined to be complete. Upon determining that the petition is complete, the Planning Director shall accept the petition for review in accordance with the procedures and standards of this section.
3. **Criteria for Determining Site Plan Preparation Standards**⁵⁴. Structures that are located outside the Environmental Constraints Overlay Area 1, a critical watershed, or are 100 feet from a floodplain, do not require a site plan, certified by an Engineer or Architect registered in the State of Indiana, if they are categorized as any of the following:
 - a. Single family residential structures and accessory structures; and
 - b. Agricultural buildings used for the purpose of storing equipment or farm animals.
4. **Site Plan Review Criteria**. The Planning Director shall review the site plan and supporting documents, taking into consideration the following general standards for site plan approval:
 - a. Compatibility with surrounding land uses;
 - b. Availability and coordination of sanitary sewer, water, storm water drainage, and other utilities as deemed appropriate;
 - c. Management of traffic in a manner which creates conditions favorable to the health, safety, convenience, and harmonious development of the community, particularly considering each of the following factors:
 - i. The design and location of proposed street and highway access points and sidewalks to minimize safety hazards and congestion;

⁵³ New

⁵⁴ New

- ii. The capacity of adjacent existing streets and highways to safely and efficiently handle traffic projected to be generated by the proposed development; and,
 - iii. the coordination of entrances, streets, sidewalks, and internal traffic circulation facilities in the site plan with existing and planned streets and adjacent developments.
 - d. Compliance with the performance standards set forth in **Section 802-5** of this ordinance and any general standards provided in this ordinance
- 5. Site Plan Decision**
- a. The Planning Director shall consider and evaluate the complete site plan application and render a decision in writing, which shall consist of either:
 - i. Approval of the site plan based upon the determination that the proposed plan complies with the general, design and performance standards set forth in this ordinance;
 - ii. Disapproval of the site plan based upon the determination that the proposed project does not meet the general, design or performance standards set forth in this ordinance; or
 - iii. Approval of the site plan subject to any conditions, modifications and restrictions as required by the Planning Director which will ensure that the project meets the general, design and performance standards set forth in this ordinance.
 - b. Site plans submitted to the Planning Director under this section shall become a permanent public record.

830.2 Conditional Uses

A. Regulations for Conditional Uses

The regulations set forth or identified in this chapter are provided to establish procedures, criteria and conditions which shall be met before the Board of Zoning Appeals may approve a conditional use to the terms of this ordinance.

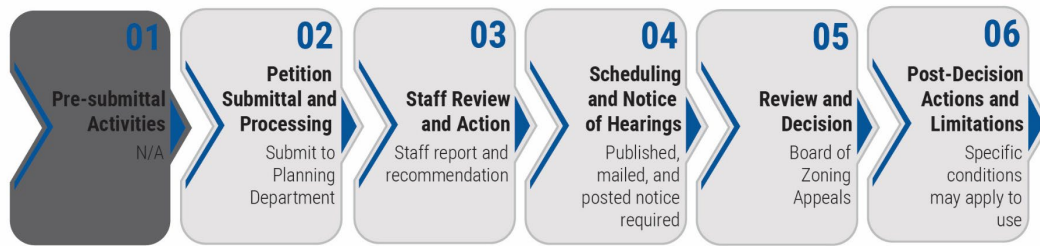
B. Applications for Conditional Use Approval

A person desiring conditional use approval shall submit a written application for such approval with the Planning Director. An application for approval shall:

1. Be made on the forms available at the office of the Board of Zoning Appeals and be signed by the owner of the property subject to the conditional use request ("subject property") or by a person who has been authorized to sign the form by the owner. If the form is signed by a person other than the owner, the person must submit written documentation of his/her authority to sign the form (e.g., a letter from the owner which states that the person has been authorized to sign the form);
2. Identify the specific conditional use requested;
3. Be presented to the Planning Director in duplicate;
4. Be accompanied by an area map which shows the location of the subject property, the locations of related public and utility facilities (e.g., schools, sewer, etc.), and the relationship of the subject property to the thoroughfare plans for the area;
5. Be accompanied by a site plan, drawn to an appropriate scale, which shows:
 - a. The subject property;
 - b. The location of all existing and proposed buildings, structures, and improvements to be made to the subject property, including drainage and erosion control facilities and features;
 - c. Accurate dimensions of the parcel, buildings, parking areas, and ingress/egress driveways;
 - d. Location, owner of record, zoning, and use of adjacent properties, including the location, size, and use of all structures within 50 feet of the subject property;
 - e. Location, right-of-way, and pavement width of all streets adjacent to the subject property;
 - f. Proposed and existing connections to utilities; and
 - g. Landscaping improvements, as required by Chapter 830.
6. Be accompanied by any other information reasonably required by the Planning Director; and,
7. Be accompanied by the fee established by the Plan Commission.

C. Conditional Use Approval Procedure

Applications for conditional use approval shall be considered in accordance with the following procedures and as outlined in the below flowchart:



1. Within 30 days after receiving a complete application, the Planning Director shall schedule and announce the date and time of the Board of Zoning Appeals' hearing on the application. At the time the hearing is scheduled, the Planning Director shall provide the applicant with written notice of the hearing date and time.
2. Prior to the Board of Zoning Appeals' hearing on the application, the Planning Director shall review the application for compliance with the Zoning Ordinance. Following such review and prior to the hearing, the Planning Director shall prepare and provide the Board and the applicant with the Planning Director's written comments and recommendation on the application, including the Planning Director's opinion as to any effect which the proposed conditional use might have upon the Comprehensive Plan;
3. The Board of Zoning Appeals, and its representatives, at its discretion, may visit the subject property at any reasonable time during the review process;
4. Notice of the Board of Zoning Appeals' hearing on the application for conditional use approval shall be published in two local newspapers of general circulation at least 10 days prior to the hearing, in accordance with IC 5-3-1;
5. At least 20 days⁵⁵ prior to the Board of Zoning Appeals' hearing on the application for conditional use approval, the applicant, in the manner prescribed in the Board's Rules of Procedure, shall notify all interested parties of the public hearing by certified mail. Prior to the hearing, the applicant shall provide the Planning Director with certified mail receipts demonstrating that the required notices were delivered or returned as undeliverable;
6. At least 10 days prior to the Board of Zoning Appeals' hearing on the application for conditional use approval, the applicant shall post and maintain a sign on the subject property notifying those passing the property that a request for conditional use approval for the property has been made. The sign shall be provided to the applicant by the Planning Director. The cost of the sign shall be borne by the applicant.
7. The Board of Zoning Appeals shall conduct a public hearing on the application for conditional use approval in accordance with the Board's Rules of Procedure;

⁵⁵ Updated from 10 to 20 to be consistent with the rules of procedure

8. Following the Board of Zoning Appeals' hearing on the application for conditional use approval, the Board shall take action on the applicant's application. The Board may approve the application, approve the application with conditions, or deny the application.
9. The Board of Zoning Appeals shall make written findings of fact in support of its decision. The Planning Director shall promptly provide the applicant with a copy of the Board's written findings.
10. If the Board of Zoning Appeals approves the application for conditional use approval, the Planning Director may issue the applicant an improvement location permit and/or land use certificate subject to the conditions of conditional use approval and the provisions of the ordinance.
11. If the Board of Zoning Appeals denies the application for conditional use approval, the applicant must file a new conditional use application which is subject to the procedures contained within this section⁵⁶.

D. Environmental Impact Statement

The Board of Zoning Appeals shall have the authority to require an applicant to perform an environmental impact study of the area in which the use is proposed and to submit the results of the study to the Board.

E. Standards for Approval

In order for a conditional use to be approved, the Board of Zoning Appeals must find that:

1. The requested conditional use is listed as such in the zoning district in which it is located⁵⁷;
2. Conditional uses shall satisfy any use-specific regulations as set forth in Section XXX;
3. All applicable regulations and development standards required in this ordinance shall be satisfied;
4. Granting the conditional use shall not conflict with the general purposes of this ordinance or with the goals and objectives of the County's Comprehensive Plan;
5. The conditional use property can be served with adequate utilities, access streets, drainage, and other necessary facilities;
6. The conditional use shall not involve any element or cause any condition that may be dangerous, injurious, or noxious to any other property or persons, and shall comply with performance standards delineated in this ordinance;

⁵⁶ Removed the allowance that denied conditional uses could amend and re-submit without paying a fee within 6 months. Revised to say that if denied they can resubmit a brand new conditional use

⁵⁷ Revised this language

7. The conditional use shall be situated, oriented, and landscaped (including buffering) to produce a harmonious relationship or buildings and grounds with adjacent structures, property, and uses;
8. The conditional use shall produce a total visual impression and environment which is consistent with the environment of its surrounding neighborhood;
9. The conditional use shall organize vehicular access and parking to minimize traffic congestion in the neighborhood; and
10. All permits required by other Federal, State, and local agencies have been obtained.

F. Conditional Approval

All conditional use approvals shall be considered to be conditional approvals. The Board shall have the authority to impose specific conditions as part of its approval in order to protect the public health, and for reasons of safety, comfort, and convenience (e.g., to ensure compatibility with surroundings). A conditional use approval may be denied or revoked when the applicant fails to comply with specific conditions made a part of the approval by the Board, or fails to comply with a reasonable request of the Board or the Planning Director for furnishing specific information related to the proposed use. Failure to comply with the conditions of approval shall constitute a violation of this ordinance.

G. Miscellaneous Guidelines

1. If there are other valid reasons for denying a conditional use application, the denial may be sustained even if the proposed conditional use constitutes the highest and best use which can be made of the subject property.
2. The Board may not deny a permit solely for the purpose of limiting the number of similar uses in an area. However, the Board may require that reasonable minimum distances be maintained between similar uses as a condition of approval.⁵⁸

830.3 Variances

A. Regulations for Use and Design Standards Variances

The regulations set forth or identified in this chapter are provided to establish procedures, criteria and conditions which shall be met before the Board of Zoning Appeals may approve a use or design standards variance from the terms of this ordinance.

B. Application for Variance

A person desiring a variance from the terms of this ordinance shall submit a written application for a variance approval with the Planning Director. An application for variance approval shall meet the applicable requirements contained within the ordinance and shall:

⁵⁸ Use-specific conditional use standards will be in the uses chapter and will be drafted with Module 2

1. Be made on the forms available at the Planning Department office and signed by the owner of the property subject to the variance request ("subject property") or by a person who has been authorized to sign the form by the owner. If the form is signed by a person other than the owner, the person must submit written documentation of his/her authority to sign the form (e.g., a letter from the owner which states that the person has been authorized to sign the form);
2. Describe the specific use or standard for which the variance is sought;
3. Be presented to the Planning Director;
4. Be accompanied by two copies of an area map which shows the location of the subject property, the locations of related public and utility facilities (e.g., schools, sewer, etc.), the relationship of the subject property to the thoroughfare plans for the area;
5. Be accompanied by two copies of a site plan, drawn to an appropriate scale, which shows:
 - a. The subject property;
 - b. The location of all existing and proposed buildings, structures, and improvements to be made to the subject property, including drainage and erosion control facilities and features;
 - c. Accurate dimensions of the parcel, buildings, parking areas, and ingress/egress driveways;
 - d. Location, owner of record, zoning, and use of adjacent properties, including the location, size, and use of all structures within 50 feet of the subject property;
 - e. Location, right-of-way, and pavement width of all streets adjacent to the subject property; and,
 - f. Proposed connections to public utilities.
6. Be accompanied by any other information reasonably required by the Planning Director; and,
7. Be accompanied by the fee established by the Plan Commission.

C. Variance Approval Procedure

Applications for variance approval shall be considered in accordance with the following procedures and as outlined in the below flowchart:



1. Within 30 days after receiving a complete application, the Planning Director shall schedule and announce the date and time of the Board of Zoning Appeal's hearing on the application. At the time the hearing is scheduled, the Planning Director shall provide the applicant with written notice of the hearing date and time.
2. Prior to the Board of Zoning Appeals hearing on the application, the Planning Director shall review the application for compliance with the Zoning Ordinance. Following such review and prior to the hearing, the Planning Director shall prepare and provide the Board of Zoning Appeals and the applicant with the Planning Director's written comments and recommendation on the application, including the Planning Director's opinion as to any effect with the proposed variance might have upon the Comprehensive Plan.
3. The Board of Zoning Appeals, and its representatives, at its discretion, may visit the subject property at any reasonable time during the review process.
4. Notice of the Board of Zoning Appeals hearing on the application for variance approval shall be published in two local newspapers of general circulation at least 10 days prior to the hearing, in accordance with IC 5-3-1.
5. At least 10 days prior to the Board of Zoning Appeals hearing on the application for variance approval, the applicant, in the manner prescribed in the Board of Zoning Appeals Rules of Procedure, shall notify all interested parties of the public hearing by certified mail. Prior to the hearing, the applicant shall provide the Planning Director with certified mail receipts demonstrating that the required notices were delivered or returned as undeliverable.
6. At least 20⁵⁹ days prior to the Board of Zoning Appeals hearing on the application for variance approval, the applicant shall post and maintain a sign on the subject property notifying those passing the property that a request for variance approval for the property has been made. The sign shall be provided to the applicant by the Planning Director. The cost of the sign shall be borne by the applicant.
7. The Board of Zoning Appeals shall conduct a public hearing on the application for variance approval in accordance with the Board of Zoning Appeals Rules of Procedure.

⁵⁹ Changed from 10 to 20 days to be consistent with the County's BZA Rules of Procedures

8. Following the Board of Zoning Appeals hearing on the application for variance approval, the Board shall take action on the applicant's application. The Board may approve the application, approve the application with conditions, or deny the application.
9. The Board of Zoning Appeals shall make written findings of fact in support of its decision. The Planning Director shall promptly provide the applicant with a copy of the Board's written findings.
10. If the Board of Zoning Appeals approves the application for variance approval, the Planning Director may issue the applicant an improvement location permit and/or land use certificate subject to the conditions of variance approval and the provisions of the ordinance.
11. If the Board denies the application for variance approval, the applicant must file a new variance application which is subject to the procedures contained within this section.⁶⁰

D. Environmental Impact Statement

With respect to use variances, The Board shall have the authority to require an applicant to perform an environmental impact study appropriate to the situation in which the use is proposed and to submit the results of the study to the Board.

E. Standards for Use Variance Approval

In order to approve a use variance, the Board must find that:

1. The approval will not be injurious to the public health, safety, and general welfare of the community;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
3. The need for the variance arises from some condition peculiar to the property involved;
4. The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and,
5. The approval does not interfere substantially with the Comprehensive Plan. Especially, the five principles set forth in the Monroe County Comprehensive Plan:
 - a. Residential choices,
 - b. Focused development in designated communities,

⁶⁰ Removed the allowance that denied variances could amend and re-submit without paying a fee within 6 months.
Revised to say that if denied they can resubmit a brand new variance

- c. Environmental protection,
- d. Planned infrastructure improvements, and
- e. Distinguish land from property.

F. Standards for Design Variance Approval

In order to approve an application for a design standards variance, the Board must find that the applicant has submitted substantial evidence establishing that, if implemented:

1. The approval, including any conditions or commitments deemed appropriate, will not be injurious to the public health, safety, and general welfare of the community, because:
 - a. It would not impair the stability of a natural or scenic area;
 - b. It would not interfere with or make more dangerous, difficult, or costly, the use, installation, or maintenance of existing or planned transportation and utility facilities;
 - c. The character of the property included in the variance would be altered in a manner that substantially departs from the characteristics sought to be achieved and maintained within the relevant zoning district. That is, the approval, singularly or in concert with other approvals – sought or granted, would not result in a development profile (height, bulk, density, and area associated with a more intense zoning district and, thus, effectively re-zone the property; and,
 - d. It would adequately address any other significant public health, safety, and welfare concerns raised during the hearing on the requested variance.
2. The approval, including any conditions or commitments deemed appropriate, would not affect the use and value of the area adjacent to the property included in the variance in a substantially adverse manner, because:
 - a. The specific purposes of the design standard sought to be varied would be satisfied;
 - b. It would not promote conditions (on-site or off-site) detrimental to the use and enjoyment of other properties in the area (e.g., the ponding of water, the interference with a sewage disposal system, easement, storm water facility, or natural watercourse, etc.); and,
 - c. It would adequately address any other significant property use and value concerns raised during the hearing on the requested variance.

3. The approval, including any conditions or commitments deemed appropriate, is the minimum variance necessary to eliminate practical difficulties in the use of the property, which would otherwise result from a strict application of the terms of this ordinance.

G. Conditional Approval

All variance approvals shall be considered conditional approvals. The Board shall have the authority to impose specific conditions as part of its approval to protect the public health, and for reasons of safety, comfort, and convenience (e.g., to ensure compatibility with surroundings). A variance approval may be denied or revoked where the applicant fails to comply with specific conditions made a part of the approval by the Board, or fails to comply with a reasonable request of the Board or the Planning Director for furnishing specific information related to the proposed variance. Failure to comply with the conditions of approval shall constitute a violation of this ordinance.

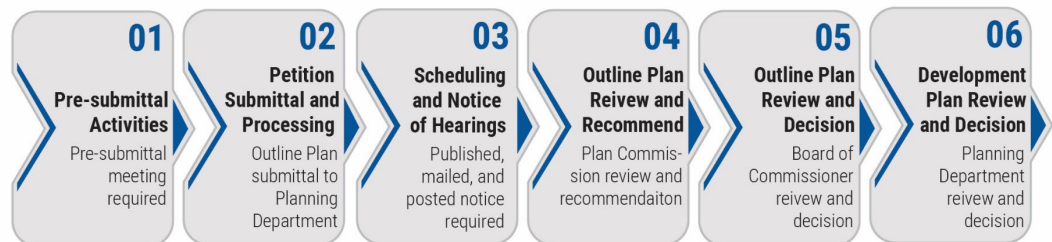
H. Relationship to Subject Property

Variance approval applies to the subject property and may be transferred with ownership of the subject property subject to the provisions and conditions prescribed by or made pursuant to the Zoning Ordinance.

830.4 Planned Unit Developments

A. Planned Unit Development Approval Procedure

Applications for Planned Unit Development approval shall be considered in accordance with the following procedures and as outlined in the below flowchart:



1. **Pre-Design Conference.** Prior to filing a formal application for approval of a Planned Unit Development, the applicant shall schedule a pre-design conference with the planning staff. The purpose of the pre-application conference shall be to:
 - a. Allow the applicant to present a general concept and to discuss characteristics of the development concept in relation to adopted County policies.
 - b. Allow the planning staff to inform the applicant of applicable policies, standards, and procedures for the Planned Unit Development.

- c. The pre-design conference is intended only for the above purposes; neither the developer nor the jurisdiction is bound by any decision made during a pre-application conference.

2. Procedure for Outline Plan Approval

- a. The Outline Plan and application for the Planned Unit Development shall be submitted to the planning staff which, after certifying the application to be complete, shall initiate a review by the Planning Department and Highway Department.
- b. The application and the results of the review shall then be forwarded to the Plan Commission for its consideration, public hearing, and recommendations, together with the Planning Department's report and such other documents as may be pertinent to the Planned Unit Development.
- c. The Plan Commission shall hold a public hearing in accordance with its Rules of Procedure.
- d. Where there are environmentally sensitive features on the site or the Development Plan is expected to be complex, or there are other important planning implications involved, the Plan Commission may reserve the right to review the Development Plan. Where the Plan Commission recommends denial of an Outline Plan and the Board of Commissioners approves the plan, the Plan Commission shall review the Development Plan.
- e. Upon completion of its review, the Plan Commission shall certify the application to the Board of Commissioners with a favorable recommendation, an unfavorable recommendation, or no recommendation.
- f. The Board of Commissioners shall vote on the proposal within 90 days after the Plan Commission certifies the proposal. The Board may adopt or reject the proposal. If the Plan Commission has given the proposal a favorable recommendation and the Board fails to act on the proposal within 90 days, the Ordinance takes effect as if it has been adopted as certified 90 days after certification. If the Plan Commission has failed to make a recommendation or has given the proposal an unfavorable recommendation and the Board fails to act on the proposal within 90 days, the proposal is defeated.

3. Effects of Approval of an Outline Plan

- a. When an Outline Plan for a Planned Unit Development has been approved by the Board, the Plan shall become effective and its location shall be shown on the zoning map. The zoning map shall be amended to designate the site as a Planned Unit Development.

- b. Upon such amendment of the zoning map, the use and development of the site shall be governed by the Planned Unit Development Outline Plan, subject to approval of a Development Plan.
- c. No permit of any kind shall be issued until the Development Plan has been approved.

4. **Development Plan**

- a. **Purpose of Development Plan Approval.** The purpose of the Development Plan is to designate the controls for development of the Planned Unit Development. The Development Plan shall show the exact location of each building and improvement to be constructed and a designation of the specific internal use or range of uses to which each building shall be put.
- b. **Time Limit for Approval of Development Plan.** The Development Plan shall be submitted to the Planning Department not more than 18-months following the Board of Commissioner's approval of the Outline Plan.
 - i. The Outline and Development Plan may be submitted as a single plan if all requirements of Sections (outline and development plan contents) are met.
 - ii. The Development Plan may be submitted and approved in stages, with each stage representing a portion of the Outline Plan, at the discretion of the Plan Commission. The time limit for submitting each stage for approval may be set forth in the Outline Plan, in which case that schedule shall control the timing of development, rather than the time period established in paragraph (b) above.
 - iii. The Plan Commission may extend the time for application for approval of the Development Plan for good cause, consistent with the purposes of this Ordinance.
- c. **Expiration of Time Limit.** Periodically, the planning staff shall report to the Plan Commission on Planned Unit Developments whose time limits have expired. The applicants shall be notified. The Plan Commission shall determine whether to consider extending the time limit or to initiate action to amend the zoning map so as to rescind the Planning Unit Development designation.
- d. **Relationship of Development and Outline Plan.** The Development Plan shall conform to the Outline Plan as approved.
- e. **Procedure for Approval of a Development Plan:**
 - i. *Development Plan Submission.* The Development Plan and supporting data shall be filed with the planning staff.

- ii. *Staff Review.* The planning staff shall review the Development Plan to include site plan review, in accordance with the requirements of this ordinance.
 - iii. *Staff Approval.* It shall generally be the responsibility of staff to review Development Plans unless the Plan Commission reviews the Development Plans as provided in Section [830.4A.2.d](#), or where a new Development Plan is required.
 - iv. *Plan Commission Review.* If the Plan Commission has retained Development Plan approval authority, the Plan Commission shall hold a public hearing in accordance with its Rules or Procedures. The Commission may approve, deny, or approve with modifications.
- f. **Expiration of Development Plan.** The Development Plan shall expire two years after approval, unless grading and/or building permits have been obtained and are still current and valid on that date. This rule shall also apply to each stage of a Development Plan approved in stages. The applicant may request an extension of time in writing, and the approving authority may extend the time limit where appropriate. Such extension may be considered at the time of Development Plan approval.
- g. **Effect of Approval of Development Plan.** No permit of any kind shall be issued for any purpose within a Planned Unit Development except in accordance with the approved Development Plan, and after acceptance by the County of all required guarantees for improvements pursuant to Section XXX.

B. Specific Content of Plans

Planned Unit Development plans and supporting data shall include all documentation listed in this section of the ordinance unless certain documentation is deemed superfluous by the planning staff due to the specific circumstances of the particular request.

1. Pre-Design Conference Requirements

- a. **Intent Letter.** A written letter of intent from the applicant describing the applicant's intention for developing the site.
- b. **Sketch Plan.** A scaled drawing of the site, in simple sketch form, showing the proposed location and extent of the land uses, major streets, and the approximate location of any existing easements, natural features, and topographic, or geologic constraints.

2. Outline Plan Requirements

- a. **Outline Plan.** A drawing of the Planned Unit Development shall be prepared at a scale not less than 1"=50', or as considered appropriated by the planning staff, and shall show in concept major circulation; generalized location and dimensions of buildings, structures, and parking areas; open space areas, recreation facilities, and other details to indicate the character of the proposed development. A checklist with a comprehensive list of the Outline Plan requirements is available at the Planning Department.⁶¹
- b. **Additional Requirements.** The planning staff shall inform the applicant of any additional documents or data requirements after the pre-application conference.
- c. **Written Statement.** A written statement of the character of the Planned Unit Development and the reasons why it has been planned to take advantage of the flexibility of these regulations. The written statement shall include:
 - i. A specific explanation of how the proposed Planned Unit Development meets the objectives of all adopted land use policies which affect the land use in question.
 - ii. Ownership: a statement of present and proposed ownership of all land within the project including the beneficial owners of a land trust.
 - iii. Development scheduling indicating:
 - (1) The stages in which the project will be built, including the area, density, use, public facilities, and open space to be developed with each stage. Each stage shall be described and mapped.
 - (2) Projected dates for beginning and completion of each stage.
 - iv. Proposed Uses:
 - (1) *Residential Uses*: gross area, architectural concepts (narrative, sketch, or representative photo), number of units, bedroom breakdown, and proposed occupancy limits for each residential component.
 - (2) *Non-Residential Uses*: specific non-residential uses, including gross areas, architectural concepts (narrative, sketch, or representative photo), and building heights.

⁶¹ Removed the specific site plan requirements from the code, indicated that they will be available on a checklist at the planning department.

- v. Facilities Plan: Preliminary concepts and feasibility reports for roads, sidewalks, sanitary sewers, stormwater management, water supply system, street lighting, public utilities.
 - d. **Traffic Analysis.** If requested by the planning staff or the Plan Commission, a study of the impact caused by the Planned Unit Development and any measures proposed to accommodate that impact.
 - e. **Neighborhood Meeting Report.** The petitioner shall invite any neighborhood association on record with the City of Bloomington, Town of Ellettsville, or Monroe County, within a 500-foot radius of the boundaries of the development to meet to discuss the proposal. The petitioner or the association shall submit to staff a letter summarizing the results of the meeting.
3. **Development Plan Requirements.** The application for Development Plan approval shall include, but not be limited to, the following documents:
- a. Such additional information as may have been required by the Outline Plan approval.
 - b. An accurate map exhibit of the entire phase for which Development Plan approval is being requested, showing the following:
 - i. Precise location of all buildings to be constructed, and a designation of the specific use or range of uses for each building. Single family residential development on individual lots need not show precise locations of buildings on each lot, but plans shall show setback and other bulk constraints.
 - ii. Design and precise location of all streets, drives, and parking areas, including construction details, centerline elevations, pavement type, curbs, gutters, and culverts.
 - iii. Location of all utility lines and easements.
 - iv. A final detailed landscape plan, in conformance with Chapter XXX.
 - v. Tabulation on each separate subdivided use area, including land area, number of buildings, number of dwelling units per acre, type of unit, bedroom breakdown, and limits on occupancy.
 - c. If lands to be subdivided are included in the Planned Unit Development, a subdivision plat meeting the requirements of a primary plat, as modified by the Outline Plan approval, is required where platting is to be done concurrent with the Development Plan approval.
 - d. Projected constructed schedule.

- e. Agreements and covenants which govern the use, maintenance, and continued protection of the Planned Unit Development and its common spaces, shared facilities, and private roads.
- f. **Guarantee of Performance for Completion of Improvements:** A letter of credit or other guarantee acceptable to the County shall be provided for all required improvements and shall be executed at the time of permit application or platting, whichever comes first. Improvements that must be guaranteed include facilities which shall become public and may include other facilities or improvements as may be specified in the Outline or Development Plan approval. If the project is to be built in phases, the guarantee shall be posted prior to the commencement of work on each phase. The guarantee shall specify the time for completion of improvements and shall be in an amount of 125 percent of the estimated cost of the improvements.

C. Review Considerations

- 1. In their consideration of a Planned Unit Development Outline Plan, the planning staff in its report to the Plan Commission, the Plan Commission in its recommendation, and the Board of Commissioners in its decision, shall consider as many of the following as may be relevant to the specific proposal:
 - a. The extent to which the Planned Unit Development meets the purposes of this ordinance, the Comprehensive Plan, and any other adopted planning objectives of the County.
 - b. The extent to which the proposed plan meets the required standards, and stated purpose of the Planned Unit Development regulations.
 - c. The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to, the density, dimension, bulk, use, required improvements, and construction and design standards and the reasons, which such departures are or are not deemed to be in the public interest.
 - d. The proposal will not be injurious to the public health, safety, and general welfare.
 - e. The physical design of the Planned Unit Development and the extent to which it make adequate provision for public services, provides adequate control over vehicular traffic, provides for and protects designated permanent open space, and furthers the amenities of light and air, recreation, and visual enjoyment.

- f. The relationship and compatibility of the proposed plan to the adjacent properties and neighborhood, and whether the proposed plan would substantially interfere with the use or diminish the value of adjacent properties and neighborhoods.
- g. The desirability of the proposed plan to the County's physical development, tax base, and economic well-being.
- h. The proposal will not cause undue traffic congestion, and can be adequately served by existing or programmed public facilities and services.
- i. The proposal preserves significant ecological, natural, historical, and architectural resources to the extent possible.

D. Changes in the Planned Unit Development

1. **Changes Requiring New Outline Plan Approval.** Changes which alter the concept or intent of the Planned Unit Development including but not limited to:
 - a. Significant increases in density;
 - b. Significant changes in the proportion or allocation of land uses;
 - c. Changes in the list of approved uses;
 - d. Changes in the locations of uses;
 - e. Changes in functional uses of open space, where such change constitutes an intensification of use of the open space; and/or
 - f. Changes in the final governing agreements where such changes conflict with the Outline Plan approval.
2. **Changes Requiring New Development Plan Approval.** These changes shall include the following:
 - a. Changes in lot arrangement, or addition of buildable lots which do not change approved density of the development;
 - b. Changes in site design requirements, such as location of required landscaping, signage, building height, cube and/or footprint, or other such requirements of this ordinance;
 - c. Changes to the internal street system or off-street parking areas;
 - d. Changes in drainage management structures;
 - e. Changes in access to the development site, where such change amounts to an intensification in the traffic patterns of roadways of classification higher than local; and/or

- f. All other changes not expressly addressed under Section (1) shall require new Development Plan approval.

830.5 Permits and Certificates

A. Improvement Location Permits

1. A person shall obtain an improvement location permit prior to:
 - a. Constructing, reconstructing, moving, enlarging, demolishing, or structurally altering any building or other structure;
 - b. Connecting a structure to a public water or sewer disposal system;
 - c. Locating a mobile home;
 - d. Making any significant land alterations (e.g., streets, drives, parking facilities, reservoirs, lakes, ponds, excavations, swimming pools, etc.)
2. An improvement location permit shall not be required for the following activities:
 - a. Routine maintenance, repair, or remodeling of existing structure not involving any change of use, additional lot coverage, or increase in structure size;
 - b. Lot and yard improvements such as fences, drives, sidewalks, patios, retaining walls, and landscaping;
 - c. Signs with a surface area of less than seven square feet;
 - d. Structures which are used exclusively for agricultural production purposes, and which do not exceed the limitations stated in the definition for confined feeding operations in Chapter 802;
 - e. Structures that contain less than 120 square feet of floor area and that are not built on permanent foundations; and
 - f. Utility structures.
3. **Applications for Improvement Location Permit**
 - a. A person desiring an improvement location permit shall submit a written application for such permit with the Planning Director.⁶²
 - b. A person desiring an improvement location permit shall also file for site plan review in accordance with this ordinance.
 - c. The Planning Director shall approve the application upon a finding that:

⁶² Removed language about applications being made on the forms available at the office of the commission as many ILPs are made through the building department

- i. The proposed improvements comply with the provisions of this ordinance;
 - ii. Site plan approval for the subject property has been granted; and,
 - iii. The subject property is located on a public way or is accessible by a recorded easement that permits access for the proposed use.
- d. The Planning Director may condition approval on the receipt of other permits, certificates, and/or approvals (See Subsection 815-3(B), Part 20 of these regulations).

4. Revocation and Expiration of Permit

- a. An improvement location permit may be revoked if active work is not commenced within 60 days after the date of its issuance, and continued with due diligence to completion. The Planning Director shall judge whether due diligence is being shown.
- b. If the work described in any improvement location permit has not been commenced within one hundred and 180 days from the date of permit issuance, said permit shall expire.
- c. If the work described in any permit has not been substantially completed within two years of the date of permit issuance, said permit shall expire.
- d. Upon the revocation or expiration of an improvement location permit, no further work may be performed on the subject property until a new permit is obtained

B. Land Use Certificates

1. Applicability

- a. No land shall be occupied or used and no building or other structure hereinafter erected, reconstructed or structurally altered shall be occupied or used, in whole or in part, for any purpose whatsoever, until a land use certificate has been issued stating that the structure and/or use comply with all the provisions of this ordinance applicable to the building, structure or premises of the use in the district in which it is to be located.
- b. No change shall be made in the use of land or in the use of any building, or other structure, or part thereof, now or hereafter erected, reconstructed or structurally altered, without a land use certificate having been issued and no such Certificate shall be issued to make such change unless it is in conformity with the provisions of this chapter.
- c. A Land Use Certificate will not be issued until all construction and demolition waste has been removed from the project site.

- d. In situations where a nonconforming use or structure is being discontinued or removed to establish a new use in compliance with the Zoning Ordinance, the nonconforming structure must be removed, or the use discontinued before a Land Use Certificate is issued.

2. Applications for Land Use Certificate

- a. A person desiring a land use certificate shall contact the Planning Department for such permit granted by the Planning Director. At the request of the Planning Director, the applicant may be required to submit as-builts to certify the improvement was completed in compliance with the Improvement Location Certificate application and all ordinance provisions. Situations where an as-built may be required include:
 - i. Final grades do not appear to meet the requirements set forth in the application;
 - ii. The MS4 requests as-builts for potential drainage issues; and
 - iii. As required by the Planning Director.
- b. If the proposed use is in conformity with the provisions of this ordinance, the land use certificate shall be issued within five (5) days after the application for the same has been made. However, no land use certificate shall be issued in connection with the construction, alteration, enlargement, demolition or moving of a building or structure until such construction, alteration, enlargement, demolition or moving shall have been completed.⁶³

830.6 Grading Permits and Erosion Control Plans

A. Purpose

The purpose of this chapter is to control soil erosion and sediment damages and to ensure compliance with 327 IAC 15-5 (Rule 5) by establishing requirements for storm water discharges and the protection of exposed soil surfaces for construction activities to promote the safety, public health, convenience, and general welfare of the citizens of Monroe County, Indiana.

B. Applicability and Exemptions

The requirements under this chapter apply to all persons who:

- 1. Propose any land disturbance, except for the following:
 - a. Development where the land will not be disturbed (e.g., addition of a second story, location of a mobile home on an existing pad, etc.);

⁶³ Will move temporary mobile home regulations to use table and use-specific standards and moved PUD subdivision regulations to subdivision standards chapter

CHAPTER 830: DEVELOPMENT PROCESSES AND PERMITS

830.6 Grading Permits and Erosion Control Plans

- b. Land disturbance activities directly associated with the use of a single family and two-family dwelling (e.g., gardening, repairing septic system, etc.);
 - c. Land disturbance activities directly associated with the construction of a single family or two-family, or residential accessory structure, or agricultural structure that is expected to disturb less than one acre;
 - d. Agricultural use of lands;
 - e. Forest harvesting occurring in areas classified as rural in accordance with I.C. 36-7-4-1103;
 - f. Landfills that have been issued a certification of closure under 329 IAC 10;
 - g. Municipal landfills that are accepting waste pursuant to a permit issued by the Indiana Department of Environmental Management under 329 IAC 10 that contains equivalent storm water requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste boundary;
 - h. Projects that are performed by, or on behalf of, the United State, the State of Indiana, or any political subdivision of the State of Indiana, and that are otherwise subject to Federal or State erosion control regulations.
- 2. Proposes any primary plat, site plan, construction plan, or development plan where total land disturbances are expected to exceed one acre in area;
 - 3. Does not obtain an individual NPDES permit under 327IAC 15-2-6;
 - 4. Meets the general permit rule applicability requirements under 327 IAC 15-2-3, and,
 - 5. Proposes forest harvesting in areas classified as urban in accordance with I.C. 36-7-4-1103. Such activities shall only be required to submit a plan that details compliance with the Best Management Practices described in “Best Management Practices. Protecting the Woods While Harvesting” – IDNR, “Logging and Forestry BMP’s for Water Quality in Indiana” – INDR, and any other recognized Best Management Practices adopted by the Indiana Department of Natural Resources.

C. Submittal Requirements

The following information in (1 or 2, 4, and 5) shall be submitted by the project site owner for all projects subject to the provisions of this Chapter:

1. Non Single-Family Residential Construction Plans

- a. **Applicability.** All projects other than single-family residential developments consisting of four or fewer lots or a single-family residential strip development where the developer offers for sale or lease without land improvements, and the project is not part of a large common plan of development or sale.

- ⁶⁵ Removed the construction plan requirements for the code to streamline the requirements and allow staff the ability to update the application requirements on an as-needed basis.

- b. For grading permits, the performance guaranty shall be in the amount of 110 percent of the estimated completion cost of the required erosion and sediment control measures as set forth in the construction plan and storm water pollution prevention plan. For logging harvest permits not otherwise exempted by this Chapter the performance guaranty shall be the aggregate of a fixed amount for each road cut proposed;
 - c. The period within which the required improvements must be completed (“performance period”) shall be specified in the improvement Agreement, and shall not exceed five years from the date of the permit approval;
 - d. The Planning Director may amend the financial guaranty and the Improvement Agreement to extend the performance period provided the provisions of 816-8 are adhered to and upon a finding that the applicant has been unable to complete the required improvements despite due diligence;
 - e. The financial guaranty and the Improvement Agreement shall name the Plan Commission and/or Monroe County as obliges, shall comply with all statutory requirements and shall be satisfactory to the Commission Attorney as to form (see Monroe County Code Section 860-6), sufficiently and manner of execution as set forth in this ordinance, and
 - f. The guaranty and Improvement Agreement shall be secured by either an irrevocable letter of credit or a cashier’s check in the amount of the guaranty. The beneficiary of such guaranty shall be the Plan Commission and/or Monroe County. The financial guaranty shall be issued by a financial institution (guarantor) that maintains an office within 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 Monroe County Code Section 860-8. Cashier’s checks submitted pursuant to this Chapter shall be held by the County Treasurer until the performance guaranty is released or reduced as provided in this ordinance.
- 6. **General Requirements for Storm Water Quality Control.** All storm water quality measures and erosion and sediment controls necessary to comply with this Chapter must be implemented in accordance with the construction plan and sufficient to satisfy the following:
 - a. Sediment laden water which otherwise would flow from the project site shall be treated by erosion and sediment control measures to minimize sedimentation;

- b.** Appropriate measures shall be implemented to minimize or eliminate wastes or unused building materials, including garbage, debris, cleaning wastes, wastewater, concrete truck washout, and other substances from being carried from a project site by run-off or wind. Identification of areas where concrete truck washout is permissible must be clearly posted at appropriate areas of the site. Wastes and unused building materials shall be managed and disposed of in accordance with all applicable statutes and regulations;
- c.** A stable construction site access shall be provided at all points of construction traffic ingress and egress to the project site;
- d.** Public or private roadways shall be kept cleared of accumulated sediment that is a result of run-off or tracking. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment shall be redistributed or disposed of in a manner that is in accordance with all applicable statutes and regulations;
- e.** Storm water runoff leaving a project site must be discharged in a manner that is consistent with applicable state or federal law;
- f.** The project site owner shall post a notice near the entrance of the project site. For linear project sites, such as a pipeline or highway, the notice must be placed in a publicly accessible location near the project filed office. The notice must be maintained in a legible condition and contain a copy of the completed NOI letter, NPDES permit number, and Monroe County Improvement Location Permit, where applicable. The notice shall also contain the name, company name, telephone number, e-mail address (if available), and address of the project site owner or a local contact person, the telephone number of the Monroe County Planning Department and the location of the construction plan if the project site does not have an on-site location to store the plan;
- g.** The permit and posting of the notice under section (f) does not provide the public with any right to trespass on a project site for any reason, nor does it require that the project site owner allow members of the public access to the project site;
- h.** The storm water pollution prevention plan shall serve as a guide for storm water quality but should not be interpreted to be the only basis for implementation of storm water quality measures for a project site. The project site owner is responsible for implementing, in accordance with this Chapter, all measures necessary to adequately prevent polluted storm water runoff and to comply with all other county and state statutes and regulations;

CHAPTER 830: DEVELOPMENT PROCESSES AND PERMITS

830.6 Grading Permits and Erosion Control Plans

- i. The project site owner shall inform all general contractors, construction management firms, grading, or excavating contractors, utility contractors, and the contractors that have primary oversight on individual building lots of the terms and conditions of this Chapter and the conditions and standards of the storm water pollution prevention plan and the schedule for proposed implementation;
- j. Phasing of construction activities shall be used, where possible, to minimize disturbance of large areas;
- k. Appropriate measures shall be planned and installed as part of an erosion and sediment control system;
- l. All storm water quality measures must be designed and installed under the guidance of a trained individual;
- m. Collected runoff leaving a project site must be either discharged directly into a well-defined, stable receiving channel or diffused and released to adjacent property without causing an erosion or pollutant problem to the adjacent property owner;
- n. Drainage channels and swales must be designed and adequately protected so that their final gradients and resultant velocities will not cause erosion in the receiving channel or at the outlet;
- o. Natural features, including wetlands and sinkholes, shall be protected from pollutants associated with storm water runoff;
- p. Unvegetated areas that are scheduled or likely to be left inactive for 15 days or more must be temporarily or permanently stabilized with measures appropriate for the season to minimize erosion potential. Alternative measures to site stabilization are acceptable if the project site owner or their representative can demonstrate they have implemented erosion and sediment control measures adequate to prevent sediment discharge. Vegetated areas with density of less than 70 percent shall be re-established using appropriate methods to minimize erosion potential;
- q. During the period of construction activities, all storm water quality measures necessary to meet the requirements of this Chapter shall be maintained in working order;

- r. Implementation of a self-monitoring program that includes a written evaluation of the project site prepared by a trained individual by the end of the next business day following each measurable storm event and at a minimum of one time per week. The evaluation must address the maintenance of existing storm water quality measures to ensure they are functioning properly and will identify additional measures necessary to remain in compliance with all applicable statutes and rules. Written evaluation reports must include the name of the individual performing the evaluation, the date of the evaluation, problems identified at the project site, and details of corrective actions recommended and completed. All evaluation reports for the project must be made available to the County within 48 hours of a request;
- s. Proper storage and handling of materials, such as fuels or hazardous wastes, and spill prevention, and clean-up measures shall be implemented to minimize the potential for pollutants to contaminate the surface or ground water or degrade soil quality;
- t. Final stabilization of a project site is considered achieved when all land disturbing activities have been completed and a uniform (for example, even distribution, without large bare areas) perennial vegetative cover with a density of 70 percent has been established on all unpaved areas not covered by permanent structure , or equivalent permanent stabilization measures been employed and construction projects on land used for agricultural purposes are returned to its preconstruction agricultural use of disturbed areas, not previously used for agricultural production, such as filter strips and areas that are not being returned to their preconstruction agricultural use, meet the final stabilization requirements identified in this section;
- u. Whenever feasible, natural vegetation shall be retained and protected;
- v. Water runoff shall be minimized and retained on site whenever possible to facilitate ground water recharge;
- w. Natural or constructed slopes in excess of 12 percent shall not be subject to development unless the project engineer can demonstrate conclusively to the satisfaction of both the Planning Director and the County Engineer that said limitation can be overcome in such a manner as to provide hazard to life, hazard to property, adverse effects on the safety, use, or stability of a public water or drainage challenge, and adverse impact on the natural environment;

- x. No grading, filling, clearing of vegetation, operation of equipment, or disturbance of the soil shall take place in areas where any historic or pre-historic ruins or monuments, objects of antiquity, or geological landmarks or monuments are present until protection measures are approved and implemented. The Indiana Department of Natural Resources shall approve the protection measures before the plans are approved by the Department. Whenever during excavation there are uncovered or become apparent any such areas not previously accounted for in the construction plans, all work in the immediate area shall cease until the Indiana Department of Natural Resources determines what precautions should be taken to preserve the historic artifacts, and
- y. No land disturbing activities shall take place in areas where a state or federally protected species and/or habitats are present until protection measures are approved and implemented. The Indiana Department of Natural Resources, the U.S. Fish and Wildlife Service, and other applicable state or federal agency shall approve the protection measure before the plans are approved by the Department. Whenever during construction activities there are identified species and/or habitats not previously accounted for in the construction plans, all work in the immediate area shall cease until the appropriate state or federal agency determines what precautions should be taken to protect the species and/or habitat.

D. General Requirements for Individual Building Lots Within a Permitted Project

- 1. All storm water quality measures, including erosion and sediment control, necessary to comply with this Chapter must be implemented in accordance with the plan and sufficient to satisfy (2) of this Section;
- 2. Provisions for erosion and sediment control on individual building lots regulated under the original permit of a project site owner must include the following requirements:
 - a. The individual lot operator, whether owning the property or acting as the agent of the property owner, shall be responsible for erosion and sediment control requirements associated with the activities on the individual lots;
 - b. Installation and maintenance of a stable construction site access;
 - c. Installation and maintenance of appropriate perimeter erosion and sediment control measures prior to land disturbance;
 - d. Sediment discharge and tracking from each lot must be minimized throughout the land disturbing activities on the lot until permanent stabilization has been achieved;

- e. Clean-up of sediment that is either tracked or washed onto roads. Bulk clearing of sediment shall not include flushing the areas with water. Cleared sediment must be redistributed or disposed of in a manner that is in compliance with all applicable statutes and rules;
- f. Adjacent lots disturbed by an individual lot operator must be repaired and stabilized with a temporary or permanent surface stabilization, and
- g. For individual residential lots, final stabilization meeting the criteria of this Chapter will be achieved when the individual lot operator completes final stabilization or has installed appropriate erosion and sediment control measures for an individual lot prior to occupation of the home by the homeowner and has informed the homeowner of the requirement for, and benefit of, final stabilization.

E. Project Termination

- 1. All necessary erosion and sediment control measures installed under this Chapter shall be adequately maintained for one year after completion of the approved plan or until such measures have been stabilized as determined by the Planning Director. The Plan Commission, by rule, may require and establish standards for maintenance letters of credit, or other assurances, to guarantee compliance with the maintenance requirement of this Chapter;
- 2. The project site owner shall plan an orderly and timely termination of the construction activities, including the implementation of storm water quality measures that are to remain on the project site;
- 3. The project site owner shall submit a Notice of Termination (NOT) letter to the Commissioner and copy to both the Monroe County Soil and Water Conservation District and the Monroe County Planning Department with the following:
 - a. Except as provided in (b) of this Section, the project owner shall submit a NOT letter when the following conditions have been met:
 - i. All land disturbing activity, including construction on all building lots, have been complete and the entire site have been stabilized, and
 - ii. All temporary erosion and sediment control measures have been removed.
 - b. The project site owner may submit a NOT letter to obtain early release from compliance with this rule if the following conditions are met:
 - i. The remaining, undeveloped acreage does not exceed five acres, with contiguous areas not to exceed one acre;
 - ii. A map of the project site, clearly identifying all remaining undeveloped lots, is attached to the NOT letter. The map must be

accompanied by a list of names and addresses of individual lot owners or individuals lot operators of all undeveloped lots;

- iii. All public and common improvements, including infrastructure, have been complete and permanently stabilized and have been transferred to the appropriate local entity;
- iv. The remaining acreage does not pose a significant threat to the integrity of the infrastructure, adjacent properties, or water quality; and
- v. All permanent storm water quality measures have been implemented and are operational.

F. Inspection and Enforcement

- 1. The Planning Department or other designated representative may inspect any project site involved in construction activities regulated by this Chapter at reasonable times. The Department or its designated representatives may make recommendations to this project site owner or their representative to install appropriate measures beyond those specified in the storm water pollution prevention plan to achieve compliance;
- 2. All persons engaging in construction activities on a project site shall be responsible for complying with the storm water pollution prevention plan and the provisions of this Chapter;
- 3. The Department shall investigate potential violations of this Chapter to determine which person may be responsible for any violation. The Department shall, if appropriate, consider public records of ownership, building permits, Improvement Location Permits, and other relevant information, which may include site inspections, storm water pollution prevention plans, notices of intent, and other information related to the specific facts and circumstances of the potential violation. Any person causing or contributing to a violation of any provisions of this Chapter shall be subject to enforcement as provided for in this Ordinance and may further be subject to enforcement under IC 13-14-10, IC 13-15-7, and IC 13-30;
- 4. If remaining storm water quality measures are not properly maintained by the person occupying or owning the property, the Department may pursue enforcement against that person for correction of deficiencies, and
- 5. Construction plans and supporting documentation associated with the quality assurance plan must be made available to the Department or its designated representatives within 48 hours of such a request.

G. Duration of Coverage

- 1. A permit issued under this Chapter is granted for a period of five years from the date coverage commences;

2. Once the five year permit term duration is reached, a general permit issued under this Chapter will be considered expired, and, as necessary for construction activity continuation, a new NOI letter would need to be submitted in accordance with (3) of this Section; and
3. To obtain renewal of coverage under this Chapter, the information required under Section **830.6C** must be submitted to the Planning Department 90 days prior to the termination of coverage under this Chapter; unless the Planning Director determines that a later date is acceptable. Coverage under renewal NOI letters will begin on the date of expiration from the previous five year permit term.

830.7 Appeals⁶⁶

A. Applicability

1. The Board of Zoning Appeals shall hear and determine appeals from and review any order, requirement, decision, or determination made by an administrative official, Hearing Officer, or staff member under this ordinance.
2. The Board shall also hear and determine appeals from and review any order, requirement, decision, or determination made by an administrative board or other body, except the Plan Commission, in relation to the enforcement of this ordinance or to the enforcement of any other titles of the Monroe County Code requiring procurement of a building permit or occupancy permit.
3. Any final decision of the Plat Committee may be appealed by to the Plan Commission.

B. Initiation

An appeal must be filed by any person aggrieved by the order, requirement, decision, or determination described in Section **830.7A**. An appeal filed must specify the grounds of the appeal and must be filed in the form and within the time limit established by rule of the Board or Commission, except that a decision of a Hearing Officer must be appealed within 14 days after the decision is made. An appeal may be initiated by the applicant or by any property owner whose individual legal or property rights have been substantially or specifically injured by the final decision.

C. Processing

An appeal shall be filed with the planning staff, who shall forward such appeal to the applicable Board or Commission for processing in accordance with this ordinance and applicable statutes of the State of Indiana.

D. Public Hearing

⁶⁶ Combined the subdivision and the zoning appeals section

A public hearing shall be conducted by the applicable Board or Commission in conformance with their Rules of Procedure. The party marking the appeal shall be required to assume the cost of public notice and due notice to interested parties.

E. Decisions

The applicable Board or Commission shall hear testimony and evidence concerning appeals and prepare findings of fact and shall render a final decision on appeals. A written copy of such decision, as in the Rules of Procedure, shall be available in the Planning Department within five days after making such decision.

F. Final Decision

A final decision of the applicable Board or 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.

G. Additional Considerations

1. The administrative official, hearing officer, administrative board, or other body from whom the appeal is taken shall, on the request of the Board or Commission, may transmit to the Board or Commission certified copies of all documents, plans, and papers constituting the record of the action from which an appeal was taken.
2. When an appeal from the decision of an official or administrative board has been filed with the Board or Commission, proceedings and work on the premises affected shall be stayed unless the official or board certifies to the Board or Commission that, by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property. In that case, proceedings or work may not be stayed except by court order.

831. SUBDIVISION PROCEDURES

831.1 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 Plan Commission in accordance with the procedures prescribed in this Chapter.



831.2 Pre-design Conference

- A.** Prior to submitting an application under this Chapter, the applicant shall participate in at least one pre-design conference with the Planning Director.

B. Purpose

The purpose of the pre-design conference is to:

1. Provide the applicant with an opportunity to discuss the regulatory viability of a subdivision proposal with the Planning Director, in general terms in an informal setting, before expending significant development resources; and
2. Provide the Planning Director with an opportunity to facilitate the subdivision process by sharing information and planning experience with the applicant.

C. Objective

The objectives of the pre-design conference shall be to:

1. Discuss the applicant's subdivision 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 applicable ordinance procedures as they relate to the proposal;
10. Discuss the role of checkpoint agencies and identify the relevant checkpoint agencies;

CHAPTER 831: SUBDIVISION PROCEDURES

831.3 Primary Plat

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 Planning Department will be directed.

D. Procedure

The applicant shall contact the Planning Director to schedule a pre-design conference. Upon contacting the Planning Director and scheduling the pre-design conference, the applicant shall provide the following information to the Planning Director:

1. The location and acreage of the proposed subdivision;
2. The number of proposed subdivision lots;
3. The applicant's name, telephone number, e-mail address, mailing address;
4. The property's owner's name; and
5. Any additional information as deemed necessary by the applicant or the Planning Director.

E. Pre-Design Conference Report



Within five business days following the pre-design conference, the Planning Director shall prepare a brief written summary of the conference and submit⁶⁷ a copy of the summary to the applicant. The Planning Director'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 procedure standards.

831.3 Primary Plat



A. Applicability

Any applicant who desires to record a sliding scale, major, or minor subdivision must apply for and obtain approval of a primary plat from the Commission.

B. Purpose

The purpose of a primary plat is to determine whether a proposed primary 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. Objective

The objectives of the primary plat approval are to:

1. Approve, approve with conditions, or deny a proposed primary plat;
2. Approve, approve with conditions, or deny requested modifications;

⁶⁷ Revised this wording to allow the county to e-mail or mail the summary

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.

D. Procedure

1. Following receipt of the Planning Director's pre-design conference report, the subdivider may apply for the primary plat. An application for the primary plat shall:
 - a. Be made on the forms available at the office of the Commission and be signed by the property owner to be subdivided;
 - b. Be presented to the Planning Director digitally and in hard copy if requested, meeting the requirements set forth in Section [831.3E](#); and
 - c. Be accompanied by the fee established by the Commission.
2. Within 30 days after receiving a complete application, the Planning Director 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 Planning Director shall provide the applicant with written notice of the hearing date, time, and location. The Planning Director 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.
3. Prior to the Commission's hearing on the application, the Department, the Plat Committee, and the County MS4 Coordinator shall review the application for compliance with these regulations. Following such review and prior to the commencement of the hearing, the Planning Director 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 Planning Director's attempt to provide the applicant with such a written summary, shall not affect the validity of any action taken by the Planning Director or the Plan Commission with respect to the application.
4. The Commission, and its representatives, at its discretion, may visit the site of the proposed subdivision at any reasonable time during the review process.

CHAPTER 831: SUBDIVISION PROCEDURES

831.3 Primary Plat

5. Notice of the Commission's hearing on the applicant's application for primary plat shall be published in two local newspapers of general circulation at least 10 days prior to the hearing, in accordance with I.C. 5-3-1, at the applicant's expense.
6. At least 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 (major subdivisions only) 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.
7. The Commission shall conduct a public hearing on the applicant's application in the manner prescribed by the Commission's Rules of Procedure.
8. Following the Commission's hearing on the applicant's application, the Commission shall take the following action on the applicant's application:
 - a. Approve, approve with conditions, or deny the primary plat based on the plat's compliance with the improvement, reservation, and design standards of Chapter [826](#) and all other relevant procedures and requirements of these regulations;
 - b. Approve, approve with conditions, or deny requested modifications in the manner prescribed by Section [831.9](#);
 - c. Approve, approve with conditions, or deny a plan for sectionalizing (phasing) final approval in the manner prescribed by [Section XX](#); and
 - d. If the primary plat is approved 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.
9. 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 Planning Director shall provide the applicant with a copy of the Commission's written findings within 10 days of the Commission's approval of the findings.⁶⁸

⁶⁸ Removed (J) which stated that the president or the secretary of the Commission should sign the preliminary approval certificate. This is not currently done.

10. The approval of the primary plat shall be effective for a period of four⁶⁹ years ("primary plat approval period") after the date of primary plat 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 regulations in effect at the time of resubmission.
11. 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 Planning Director determines that the circumstances have changed so as to defeat the basis of the Commission's denial (e.g., relevant portions of this ordinance have been amended or the proposed primary plat has been amended to address the deficiencies identified in the Commission's findings).

E. Submittal Requirements

1. The primary plat shall be prepared by a licensed land surveyor at an appropriate scale as determined in consultation with the Planning Department. To determine the appropriate scale, the applicant and the Planning 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 sheet is used.
2. A checklist with a comprehensive list of the primary plat requirements is available at the Planning Department⁷⁰.
3. The applicant shall submit the following supporting materials with the preliminary plat:
 - a. An erosion control plan;
 - b. A sewage disposal plan;
 - c. A drainage plan for review by the Monroe County Drainage Board;
 - d. Specifications for any required improvements to existing County or State roads;

⁶⁹ Changed preliminary approval from two years to four years to allow developer flexibility and less staff paperwork as most subdivisions take more than two years to complete and extensions are generally approved. This makes the process straight forward and simpler for staff and the applicant.

⁷⁰ Removed the specific requirements from the code and replaced with a reference to the checklist. This allows the planning department the ability to update this list from time to time without updating the code.

CHAPTER 831: SUBDIVISION PROCEDURES

831.3 Primary Plat

- e. 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;
- f. Proof of septic permit approval:
 - i. 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;
 - ii. 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 primary 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 form the County Health Department for the mound system at the time of the final plat submittal; and,
 - iii. 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.
- g. 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;

- h.** 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;
 - i.** A list specifically citing any requirements of this ordinance for which modifications are requested and a statement of the specific facts which the applicant would offer in support of the requests;
 - j.** If lots are to be dedicated or reserved for schools, parks, playgrounds, or for other public or community purposes, a letter of approval and acceptance from the entity that will be responsible for maintaining the dedicated lots;
 - k.** Documentation sufficient to show that all relevant requirements and design standards set forth in Chapter XXX are met;
 - l.** 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;
 - m.** 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;
 - n.** 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;
 - o.** The names and addresses of all interested parties, as defined in the Plan Commission's Rules of Procedure who are to be notified by mail of a public hearing;
 - p.** The recorded deed or land contract for the proposed subdivision site;
 - q.** The Auditor's plat map of the proposed subdivision site; and
 - r.** A digital copy of the primary plat to be sent to Planning Department staff.
- 4.** The applicant may, and is encouraged to, submit proposed findings of fact.

831.4 Subdivision Improvement Agreement

A. Applicability

The applicant must obtain subdivision improvement agreement approval from the Planning Department⁷¹ before commencing the construction or installation of the required improvements.

B. Purpose and Objective

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.

C. Contents

The Subdivision Improvement Agreement shall address the following:

1. Identify all required improvements;
2. Incorporate the construction plans;
3. Set forth the terms and conditions under which the required and temporary improvements are to be completed, including the improvement completion schedule;
4. Incorporate a letter of credit and financial guaranty, where required; and
5. Be signed by the subdivider and/or property owner and the president of the Commission.

⁷¹ Updated approval body from Commission to Planning Department



D. Approval Procedure

1. Following the primary plat 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 Planning Department. The applicant's letter shall be accompanied by a digital submission of the construction plans (a checklist with a comprehensive list of the construction plan requirements is available at the Planning Department) and a proposed form of subdivision improvement agreement as described in Section [831.4C](#).
2. Within 15 working days of receipt, the Planning Director and the County Engineer shall review the subdivision improvement agreement and the construction plan for compliance with these regulations and the primary plat approval. The Planning Director may consult with County Highway Department and other resources as necessary to validate the construction costs proposed in the subdivision improvement agreement.
3. Upon a finding by the Planning Director and the County Engineer that the subdivision improvement agreement and the construction plans comply with the regulations contained herein and the primary plat approval, the President of the Commission shall execute the agreement on behalf of the Commission.
4. Prior to the approval and execution of the subdivision improvement agreement and the stamping of the construction plans:
 - a. The applicant may not commence the construction or installation of the required improvements; and
 - b. The Planning Director may neither approve building or improvement location permits for the required improvements nor grant final approval of the plat, or any section thereof.
5. The installation of the required improvements shall be inspected by the County Engineer. Such inspections are required in all instances regardless of whether work is being 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.

831.5 Final Plat

A. Applicability

Any applicant who desires to record a major or minor subdivision must apply for and obtain final plat approval from the Commission.

CHAPTER 831: SUBDIVISION PROCEDURES

831.5 Final Plat

B. Purpose

The purpose of final plat approval is to authorize the creation, recordation, and sale of subdivision lots that comply with these regulations, with the primary plat approval and with the subdivision improvement agreement.

C. Objectives

The objectives of final plat 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 letter of credit and financial guaranty, where required; and
4. Approve or reject the maintenance letter of credit and financial guaranty, where required.

D. Approval Procedure

1. Following the primary plat submittal, primary plat approval or conditional primary approval, the applicant, if wishing to proceed with the subdivision, shall file with the Planning Director a request for final plat approval. The application shall:
 - a. Be made on the forms available at the office of the Commission;
 - b. Be accompanied by a digital⁷² submission of the final plat and supporting materials, as described in Section [831.5E](#), which shall show the entire subdivision, or section thereof, and the right-of-way that the subdivision obtains access from⁷³;
 - c. Be accompanied by a maintenance letter of credit and the applicant's certificate, signed by the applicant's engineer and/or land surveyor (as determined by the Planning Director), that the required improvements have been completed and dedicated or be accompanied by the performance letter of credit and financial guaranty in the manner prescribed by Chapter [827](#) of these regulations; and
 - d. 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.

⁷² Changed to require a digital submittal

⁷³ Revised language to make it clearer

2. The Planning Director shall be responsible for determining whether the final plat approval application is complete and shall promptly notify the applicant, in writing, if the application is determined to be incomplete.
3. 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 the primary plat approval and with the subdivision improvement agreement.
4. If the final subdivision plat materially deviates from the approved primary plat, the subdivision shall be resubmitted to the Commission for a new primary plat approval in accordance with the procedures and requirements for primary plat approval. For purposes of this section, a material deviation is one that:
 - a. Increases the number of subdivision lots;
 - b. Adds, removes, or reconfigures an internal subdivision street or relocates a subdivision access point;
 - c. Affects a condition of primary plat approval that was established by the Commission during the primary plat approval stage;
 - d. Reduces the area devoted to open spaces or buffer landscaping;
 - e. Would require a waiver of the requirements and standards of these regulations or would negate the basis for a modification that was granted; or
 - f. Affects the draining of the approved subdivision as determined by the MS4 Coordinator.
5. The following changes to an approved primary 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:
 - a. A minor increase or decrease in the area of the subdivision, as determined by the Planning Director;
 - b. An addition, removal, or reconfiguration of an easement within the subdivision that is limited to the parcel(s) subject to the amendment; or
 - c. A removal or reconfiguration of an internal lot line of the subdivision.

Changes to an approved primary plat not specifically described above shall require that a new primary plat be submitted to the Commission for new primary plat approval in accordance with the procedures and requirements of Section XX. 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 the primary plat approval.
6. Final plat approval may not be granted within 31 days of primary plat approval.

7. 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 Planning Director 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.
8. After the Commission has granted final approval and after the County has accepted any public dedications, improvements, and/or assurances of performances 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.
9. It shall be the responsibility of the subdivider to file the approved final plat with the County Recorder within 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 30 days shall constitute a violation of this ordinance.

E. Submittal Requirements

1. The primary plat shall be prepared by a licensed land surveyor licensed by the State of Indiana.
2. A checklist with a comprehensive list of the final plat requirements is available at the Planning Department⁷⁴.
3. The primary plat may be used as the final subdivision plat if it meets these requirements and is revised in accordance with the Commission's approval.
4. All numbers appearing on the plat shall be in Arabic style and all letters and/or words shall be Roman print in the English language.
5. If the applicant submitted a letter at the primary 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 **831.3E.3.f**, 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.

⁷⁴ Removed the specific requirements from the code and replaced with a reference to the checklist. This allows the planning department the ability to update this list from time to time without updating the code.

F. Recording final Plats in the Flood Plain

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.

831.6 Major Subdivision Phasing

- A.** The subdivider may seek final approval of a portion or section of the primary plat (per Section [831.3C.3](#)). The Commission may impose such conditions upon the filing of applications for final plat approval of the sections as it deems necessary to assure the orderly development of the subdivision (e.g., sequential lot numbering).
- B.** The Commission may require that the performance letter of credit 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 letter or credit (or other assurance) principal amount until the remaining sections of the plat are offered for filing.
- C.** Such sections must contain at least 20 lots or 10 percent 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 Planning Director shall automatically expire four years from the date of the primary plat approval, unless the primary plat approval period has been extended per Section [831.3D.10](#).

831.7 Minor Subdivision Alternative Process

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. Applicability

For subdivisions classified by the Planning Director as minor subdivisions, the applicant may choose to seek approval under the procedures of this section in lieu of those specified by Section [831.3D](#).

B. Procedure

- 1.** Following receipt of the Planning Director's pre-design conference report, the subdivider may apply for approval. An application for approval of shall consist of the following:
 - a.** A digital submission of the plat and any supporting materials as described in Section [831.7C⁷⁵](#);

⁷⁵ Revised to make electronic submittal only

831.7 Minor Subdivision Alternative Process

- 116 | MONROE COUNTY DEVELOPMENT ORDINANCE

6. 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 this ordinance or specific findings that the appellant believes the subdivision fails to comply with, with the Planning Director within 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;
7. Upon the filing of a notice of appeal, the applicant's application for primary plat approval shall be subject to the procedures of **831.3D**, as if it were a new application; and
8. The applicant's proposed subdivision shall be subject to the following procedures and requirements for final approval:
 - a. The Planning Director 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 Planning Director to be in conformance with these regulations and with the primary plat or Plat Committee approval. Final Minor Subdivision plats shall comply with Section **860-9 (B)**.
 - b. Final approval may not be granted until the period to file a Notice of Appeal has passed without such an appeal being filed.
 - c. After the Planning Director has granted final approval, the Commission's seal shall be affixed to the plat.
 - d. It shall be the responsibility of the subdivider to file the approved plat with the County Recorder within 30 days of the date of final approval. The applicant shall notify the Planning Department when the plat has been recorded. If the subdivider fails to record the plat within the required time frame, the plat shall be deemed expired.⁷⁶

C. Submittal Requirements

1. The primary plat for the minor subdivision shall generally comply with the submittal requirements of the primary plat, with exceptions noted. A checklist with a comprehensive list of minor subdivision plat requirements is available at the Planning Department⁷⁷.

⁷⁶ Revised language. Instead of a lack of recording being a violation it is considered an expired plat

⁷⁷ Removed the specific requirements from the code and replaced with a reference to the checklist. This allows the planning department the ability to update this list from time to time without updating the code

CHAPTER 831: SUBDIVISION PROCEDURES

831.8 Vacation and Re-subdivision of Plats

2. The final plat for the minor subdivision shall generally comply with the submittal requirements of the final plat, with exceptions noted. A checklist with a comprehensive list of minor subdivision plat requirements is available at the Planning Department. 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).”

831.8 Vacation and Re-subdivision 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 re-subdivision 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 re-subdivided in accordance with these regulations and there are indications that such lots will eventually be re-subdivided 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.

Table 831.1: Subdivisions Following Plat Vacations	
Type of Subdivision being Vacated From	Allowable Subdivisions Following Plat Vacation
Administrative Subdivision	Major
Sliding Scale	Major, Administrative
Minor	Major, Administrative
Major	Major

831.9 Subdivision Modifications

- A. The Plan Commission may authorize and approve modification from the requirements and standards of the Subdivision Standards (Chapters 824 – 8XX) upon finding that:
 1. Practical difficulties have been demonstrated;
 2. The requested modifications would not, in any way, contravene the provisions of the remaining Chapters of this ordinance, the Comprehensive Plan, the Official Map of the County, and any other relevant adopted policies of the County⁷⁸;
 3. Granting the modification(s) 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.);

⁷⁸ Updated language

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 parcels;
 6. Granting the requested modifications would not contravene the policies and purposes of these Subdivision Standards;
 7. The requested modification(s) 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 judgement, 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 primary 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.

831.10 Additional Requirements Applicable to Subdivisions and Planned Unit Developments



In addition to the requirements prescribed by or incorporated in this Chapter, no improvement location permit or land use certificate shall be issued for the construction, erection, demolition or placement of any building or other structure, or the use or occupancy of any lot, tract, parcel, building or other structure within a subdivision or planned unit development approved under this ordinance, until, as appropriate:

- A.** The applicant has provided the Planning Director with a certified copy of the current recorded plat, construction plans, or development plan;
- B.** All provisions of this ordinance and all conditions of plat or plan approval have been complied with;

CHAPTER 831: SUBDIVISION PROCEDURES

831.10 Additional Requirements Applicable to Subdivisions and Planned Unit Developments

- C.** The required utility facilities have been installed and made ready to service the lots, tracts, or parcels in question; and
- D.** All streets providing access to the subject lots, tracts, or parcels have been constructed or are in during construction and are suitable for vehicular traffic.

832. AMENDMENTS TO THE ZONING MAP AND TEXT

832.1 Authority and Procedures

This ordinance and the zoning map may be amended from time to time by ordinance duly enacted by the Board of County Commissioners in accordance with the procedures with the procedures set out in Indiana Code Chapter 36-7-4-600 Series, Zoning Ordinance.

832.2 Application Procedures

Any person seeking a petition for a zoning amendment shall submit to the Planning Department the following information:

- A. A letter to the Plan Commission stating the petition request;
- B. A copy of the most recent recorded deed or land contract for the parcel(s) in question;
- C. If the property owner is not the petitioner, a letter of consent from the owner must be submitted;
- D. A copy of the Plat Book page showing the parcel(s) in question;
- E. Two copies of a property survey or site plan, drawn to scale, and one reduction of the site plan on standard letter size paper, which shall show the following:
 - 1. The full lot including all property lines, required setback lines, and all easements, including all distances;
 - 2. Locations of all existing structures and improvements on the property, including parking lots, driveways, and septic fields, if applicable;
 - 3. All roads bordering the property or that provide access to the property;
 - 4. The location, owner, zoning, and use of all adjacent properties, including all neighboring structures that sit within 50 feet of the property lines;
 - 5. Location, right-of-way, and pavement width of all streets adjacent to the lot; and,
 - 6. Proposed connections to public utilities, if applicable.
- F. An area map, indicating the location of the subject property relative to related public facilities such as schools, water, sewer, etc., and include the orientation of the property to the Thoroughfare Plan.

832.3 Standards for Amendments

In preparing and considering proposals to amend the text or maps of this ordinance, the Plan Commission and the Board of County Commissioners shall pay reasonable regard to:

- A. The Comprehensive Plan;
- B. Current conditions and the character of current structures and uses in each district;

CHAPTER 832: AMENDMENTS TO THE ZONING MAP AND TEXT

832.4 Comprehensive Land Use Plan Amendment

- C.** The most desirable use for which the land in each district is adapted;
- D.** The conservation of property values throughout the jurisdiction; and
- E.** Responsible development and growth.

832.4 Comprehensive Land Use Plan Amendment

Prior to submission of a rezoning request that is not consistent with the Comprehensive Land Use Plan, the applicant shall submit a Comprehensive Land Use Plan amendment to the Plan Commission. The applicant shall submit a statement describing how the proposed project is supported by the growth management policies of the Comprehensive Land Use Plan. The statement shall generally describe the development and its relationship to neighboring properties and shall include planning objectives for the development and the rationale governing their choices and approaches.

832.5 Effect of Approval of Amendment

- A.** When an amendment to the zoning map is approved, such amendment shall be incorporated into the official zoning map maintained by Monroe County.
- B.** When an amendment to the zoning text is approved, such change shall be incorporated into the official document according to the numbering system established within this ordinance.

833. NONCONFORMITIES

833.1 Nonconforming Regulations

A. Purpose and Intent

The purpose of this Section is to regulate nonconforming situations. Nonconforming situations are created when the zoning designation is changed or the zoning regulations are changed such that an existing lawfully established use, structure, lot, or development no longer complies with the zoning regulations. The intent of these regulations is not to force all nonconforming situations to be immediately brought into conformance. Rather, the intent is to guide future uses and development in a direction consistent with County policy, to protect the character of an area by reducing the potential negative impacts from nonconforming situations, and, over time, to bring development into compliance with the regulations of this ordinance⁷⁹.

B. Types of Nonconformities

The following are the multiple types of nonconforming situations:

1. **Nonconforming Use.** Any use of land, building, or structure which use is not permitted in the zoning district in which the use is located.
2. **Nonconforming Structure.** A structure or portion of a structure that was established in conformance with the setback, building height, building width, lot coverage standards, or other requirements or standards of this ordinance, but which subsequently, due to a change in the zone or to the requirements of this ordinance, is no longer in conformance with one or more of these standards⁸⁰.
3. **Nonconforming Lot.** A lot of record that was established in conformance with the minimum lot area, width, and frontage requirement of this ordinance, but which subsequently, due to a change in the zone or the requirements of this ordinance, is no longer in conformance with one or more of these requirements⁸¹.

833.2 Nonconforming Uses

A. Change to Nonconforming Use

1. No legal, pre-existing nonconforming use may be enlarged, moved, or otherwise changed, except that such use may be changed to permitted use, unless a variance from the terms of this ordinance is obtained from the Board of Zoning Appeals.

⁷⁹ New

⁸⁰ New

⁸¹ New

2. Normal maintenance, repair, or remodeling of a building or other structure containing a nonconforming use may be performed, provided that the physical structure is not enlarged, unless otherwise authorized by this chapter. For purposes of this provision, changes made to provide safe access to a building for persons with disabilities is not considered an enlargement⁸².

B. Expansion of Nonconforming Use

A legal, pre-existing nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use but shall not be expanded to occupy any parts of such building that were not so arranged or designed or any land outside such building.

C. Continuation of Nonconforming Use


Any legal, pre-existing nonconforming use may continue until or unless modified or terminated as herein provided. Such use may be sold, inherited, or otherwise transferred, provided the use, land, and structure (if any) remain the same.

D. Discontinuance of Nonconforming Use

When a legal, pre-existing nonconforming use is discontinued or abandoned for six consecutive months, the land may thereafter only be put to a permitted use and the nonconforming use may not thereafter be resumed.

833.3 Nonconforming Structures

A. Change to Nonconforming Structure

1. No legal, pre-existing nonconforming structure may be enlarged, moved, or otherwise changed, except that such structure may be changed if a variance from the terms of this ordinance is obtained from the Board of Zoning Appeals, except as permitted in XXX(803-2(1) 
2. Normal maintenance, repair, and remodeling of a nonconforming structure may be performed, provided that the physical structure is not enlarged, unless otherwise authorized by this chapter. For purposes of this provision, changes made to provide safe access to a building for persons with disabilities is not considered an enlargement⁸³.

B. Nonconforming Dwellings

A legal, pre-existing nonconforming residential dwelling may be enlarged if the following criteria are met:

⁸² Revised standard

⁸³ Revised standard

1. If the nonconforming dwelling is served by a private sewage disposal system, approval by the Monroe County Health Department that the current septic system can accommodate the increased usage created by the expansion;
2. The expansion may not increase the gross floor area of the dwelling unit by more than 25 percent calculated from the gross floor area that existed on the date of passage of this ordinance. However, if the nonconforming dwelling is a mobile home, it may be replaced by another mobile home without regard to the 25 percent increase in gross floor area; and,
3. The expansion must meet the setbacks for the zoning district. If the dwelling intrudes into a setback, the expansion shall only be permitted if setbacks can be followed.

C. Nonconforming Structure Damage

1. Any legal, pre-existing nonconforming structure damaged by fire, flood, explosion or other casualty may be reconstructed and used as before, if such reconstruction is undertaken within 18 months of such casualty, and if the restored structure has no greater coverage and contains no greater content (measured in cubic feet) than before such casualty.
2. A nonconforming structure that is locally designated as a historic structure may be reconstructed upon its original foundation or the site of the original foundation regardless of the extent of the damages, provided it is reconstructed as nearly as possible to the original exterior design. A certificate of appropriateness from the Historic Preservation Board is required prior to commencing reconstruction⁸⁴.

833.4 Nonconforming Lots

- A. A nonconforming lot may not be further developed until compliance with this ordinance is demonstrated or until a variance from the terms of this ordinance is obtained from the Board of Zoning Appeals, except as provided in (2) below.
- B. Existing lots of record that are nonconforming may be developed per the regulations contained herein if the subject lot is within 25 percent of the requirement minimum lot area and lot width of the zoning district in which it is located⁸⁵.

833.5 Burden of Establishing Status

The burden of establishing legal, pre-existing nonconforming use status rests on: the property owner or party seeking to continue the nonconforming use or occupancy; any person applying for an improvement location permit or land use certificate; or, any other person asserting such status. Such persons shall provide sufficient proof in a form acceptable to the Planning Director of the following:

⁸⁴ New

⁸⁵ New

CHAPTER 833: NONCONFORMITIES

833.5 Burden of Establishing Status

- A. The date of construction of the building or structure or the date the use was established;
- B. The continuous operation of the nonconforming use; and,
- C. Such other proof and may be deemed necessary by the Planning Director which may include utility bill history, leasing information, affidavit from the property owner, employee records, tax filings, or other similar records.⁸⁶

⁸⁶ Added examples

834. VIOLATIONS AND ENFORCEMENT

834.1 Violations

- A. The erection, demolition, conversion, construction, enlargement, moving or maintenance of any structure, or the use of any land, structure or premises, which is contrary to any of the provisions of this ordinance, is hereby declared to be a common nuisance and an unlawful violation of this ordinance.
- B. The erection, demolition, conversion, construction, enlargement, moving or maintenance of any structure, or the use of any land, structure, or premises, which is contrary to any requirement, condition or commitment imposed or made by the Board, Commission, Planning Director or applicant under the provisions of this ordinance, is hereby declared to be a common nuisance and an unlawful violation of this ordinance.
- C. Any person, whether as principal agent, owner, lessee, tenant, contractor, builder, architect, engineer or otherwise who, either individually or in concert with another, acts contrary to any provision of this ordinance or a condition or commitment made thereunder, shall be liable for maintaining a common nuisance and shall be in violation of this ordinance.

834.2 Penalty

Any person who violates this ordinance shall be guilty of a Class C ordinance violation and shall be subject to a civil penalty that is listed in Chapter 115 of the Monroe County Ordinance. Each day any such violation is committed or permitted to continue constitutes a separate ordinance violation.

834.3 Enforcement Procedures

- A. It shall be the duty of the Planning Director to enforce the provisions of this ordinance in the manner and form and with the powers provided by this ordinance.
- B. If the Planning Director finds that any provision of this ordinance is being, or has been, violated, he shall send a written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the Planning Director's discretion.
- C. The final written notice (and the initial written notice may be the final notice) shall state what action the Planning Director intends to take if the violation is not corrected.
- D. The above notwithstanding, in cases where delay would seriously threaten the effective enforcement of the ordinance or pose a danger to the public health, safety or welfare, the Planning Director may seek enforcement without prior written notice or Board authority by invoking any of the remedies authorized by this ordinance.

834.4 Authorized Remedies for Violations

- A.** Upon a reasonable belief that a person is violating a provision of this ordinance or a condition, requirement or commitment imposed or made thereunder, the Planning Director may seek, with the assistance of the Commission Attorney, the following civil remedies:
1. A civil penalty for ordinance violation;
 2. A temporary restraining order, preliminary injunction, or permanent injunction to restrain a person from violating the ordinance or a condition, requirement or commitment imposed or made thereunder; and,
 3. A mandatory injunction directing a person to perform a condition, requirement or condition imposed or made under the ordinance or to remove a structure erected in violation of the ordinance.
- B.** In the event the Planning Director finds that a violation of the terms and provisions of an approval, certificate or permit granted pursuant to these regulations has occurred, the Planning Director may use the following administrative remedies:
1. Suspend and withhold other approvals, certificates, and/or permits relevant to the development or use of the site on which the violation has occurred (e.g., if a structure located in a development is occupied prior to having all the improvements properly installed, the Planning Director shall not issue any additional improvement location permits for structures within that same development until the violations are remedied⁸⁷); and/or,
 2. Issue a stop work order and instruct the Building Permit Official to suspend and withhold all building code inspections relevant to the development or use of the site on which the violation has occurred (e.g., if the terms and provisions of an erosion control/grading plan have been violated, the Building Permit Official shall, at the Planning Director's request, suspend and withhold all subsequent building code inspections at the site of the violation, until the violation has been corrected, as determined by the Planning Director)(The Building Permit Official shall comply with the Planning Director's instructions in this regard); and/or,
 3. Draw on an applicable letter of credit, or other financial guaranty, as necessary to affect any remedial actions required to abate the violation; and/or,
 4. Revoke the permits, certificates, and/or approvals that have been violated.

⁸⁷ Simplified this example to make it easier to understand

- C.** The purpose of subsections (1)-(4) above is to encourage compliance with the terms and provisions of the approval, certificate, and or/permit with the terms and provisions of the approval, certificate, and/or permit without having to resort to litigation. If used, the Planning Director shall apply the foregoing remedies in a measured and reasonable fashion to achieve their recognized purpose (e.g., withholding or revoking only those permits for the structures that would be primarily served by the unfinished street).
- D.** The Planning Director may issue notices of violations of the Monroe County Development Ordinance. The ordinance violation notices may be processed through the Monroe County Treasurer's Office⁸⁸. If the person to whom the notice is issued does not file an admission with the Treasurer's Office in a timely manner, the Planning Director may address the violation by employing any other enforcement remedies authorized by law and may seek civil penalties in the full amount authorized by this ordinance.
- E.** The remedies provided for in the regulations shall be cumulative, and not exclusive, and shall be in addition to any other remedies provided by law.

⁸⁸ Changed the processing agent from the Ordinance Violation Bureau to the Treasurer's Office to be consistent with the County's procedures