

# MONROE COUNTY ORDINANCE REVIEW COMMITTEE



**September 11, 2023  
4:00 pm**

**Hybrid Meeting  
In-person**

Monroe County Government Center  
Planning Department  
501 N. Morton Street, Suite 224  
Bloomington, IN 47404

**Virtual:** <https://monroecounty-in.zoom.us/j/84961227024?pwd=ZUISOUQweHVT0HVLNmVUaHdxVERjUT09>. If calling in, dial 312-626-6799 and enter the Meeting ID: 849 6122 7024 and Password: 346950 when prompted.

**A G E N D A**  
**ORDINANCE REVIEW COMMITTEE**  
**of the Monroe County Plan Commission**

Monroe County Planning Department  
HYBRID

**When:** September 11, 2023 at 4:00 PM

**Where:** 501 N Morton St, Suite 224

Or via Zoom: <https://monroecounty-in.zoom.us/j/84961227024?pwd=ZUISOUQweHVTOHVLTNmVUaHdxVERjUT09>

If calling into the Zoom meeting, dial: 312-626-6799.

When prompted, enter the Meeting ID #: 849 6122 7024

Password: 346950

**ADMINISTRATIVE BUSINESS: NONE.**

**OLD BUSINESS: NONE.**

**NEW BUSINESS:**

**TOPICS FOR DISCUSSION:**

1. Discussion of the Subdivision bonds and Renewal Procedures PAGE 3
  
2. CDO Work Session – PAGE 8  
    CDO Survey Feedback Map and Zoning Change  
    Recommendations
  
3. Any other business properly brought before the committee

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of Monroe County, should contact Monroe County Title VI Coordinator Angie Purdie, (812)-349-2553, [apurdie@co.monroe.in.us](mailto:apurdie@co.monroe.in.us), as soon as possible but no later than forty-eight (48) hours before the scheduled event.

Individuals requiring special language services should, if possible, contact the Monroe County Government Title VI Coordinator at least seventy-two (72) hours prior to the date on which the services will be needed.

The meeting will be open to the public.

## CHAPTER 858

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

#### 858-1. Completion Requirement

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

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

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

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

- (D) The Commission may amend the performance bond to extend the performance period for an additional one (1) year period upon a finding that the Subdivider has been unable to complete the required improvements despite due diligence. A request for a performance period extension must be submitted to the Commission by the Subdivider at least four (4) months prior to the expiration date of the original performance period. As a condition precedent of such performance bond amendment, at least one (1) month prior to the expiration date of the original performance period, the Subdivider shall secure the amended performance bond in accordance with these regulations and shall submit the secured, amended performance bond to the Commission. The amended performance bond amount shall include up-to-date unit price estimates submitted by the petitioner's engineer based on the latest INDOT pricing where applicable, and include an additional 10% increase for every year the guaranty is renewed.
- (E) The performance bond shall name the Commission and/or the County as obligees, shall comply with all statutory requirements and shall be satisfactory to the Commission Attorney and/or County Attorney as to form (see Section 860-6), sufficiency and manner of execution as set forth in these regulations.

**858-3. Financial Guaranty**

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

**858-4. Governmental Units**

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

**858-5. Temporary Public Improvements**

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

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

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

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

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

**858-8. Release or Reduction of Performance Bond and Financial Guaranty**

- (A) The Commission may release or reduce the performance bond and financial guaranty, but only if:
  - (1) the Subdivider applies to the Commission, in writing, for the release or reduction of the performance bond and financial guaranty and provides the Commission with a certificate, signed by the Subdivider's engineer, stating that all required improvements, or a portion of such improvements in the case of a reduction, have been completed in the manner prescribed by these regulations, by preliminary approval and by the subdivision improvement agreement. The certification of the Subdivider's engineer shall be accompanied by detailed "as-built" plans of the required improvements. Such as-built plans must be prepared and signed by the Subdivider's engineer;
  - (2) the County Engineer reviews the as-built plans and the subdivision site and reports to the Commission, in writing, that all required improvements, or a portion of such improvements in the case of a reduction, have been completed in the manner prescribed by these regulations, by preliminary approval and by the subdivision improvement agreement;
  - (3) the Subdivider provides the Commission with written assurances, in the form of affidavits, releases or waivers of liens from all contractors, subcontractors and materialmen, that liens will not be filed against the dedicated land and/or improvements after they are accepted; and,
  - (4) the Subdivider provides the Commission with the maintenance bond required by Section 858-9.
- (B) A performance bond and surety may be reduced only upon the acceptance of the required improvements, and only by the amount that corresponds to the cost of the

improvements that are accepted as set forth in the preliminary approval. Furthermore, a performance bond and financial guaranty may be reduced only one (1) time. The reduction may be approved only after at least fifty percent (50%) of the required improvements have been completed and accepted. However, in no event may the performance bond be reduced to less than ten percent (10%) of the original performance bond amount or ten thousand dollars (\$10,000.00), whichever is greater, until all required improvements for the subdivision or the approved subdivision section have been completed and accepted.

- (C) The costs incurred by the Commission and/or the County in connection with a request for performance bond and financial guaranty reduction or release (for example, without limitation, engineering inspection fees, legal fees, etc.) shall be borne by the Subdivider, regardless of whether the request is ultimately granted. No performance bond and surety shall be released or reduced until such costs have been paid by the Subdivider.
- (D) The Commission may, by rule, authorize the Director to reduce or release performance bonds and, by rule, may establish the procedures by which the Director may reduce or release such bonds.

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

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

#### **858-10. Issuance of Permits**

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

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

The Commission's approval of a subdivision plat shall not be deemed to constitute or imply the County's acceptance of any street, easement, park or other public improvement shown

on the plat. The Commission may require that the plat be endorsed with appropriate notes to that effect. The County may accept the dedication of such public improvements by appropriate official action.

**[end of chapter]**

# CDO Survey Feedback Map

