

PUBLIC HEARING – FAIRFIELD COUNTY SUBDIVISION REGULATIONS

The Board of County Commissioners will hold a public hearing at 10:30 a.m. August 20th at the Fairfield County Courthouse, 3rd floor, 210 E. Main Street, Lancaster, Ohio to consider revisions Section 6.6 (Maintenance Bond Requirement) of the Subdivision Regulations.

SEE LANGUAGE AND ADDITIONAL INFORMATION BELOW

Problem Statement: Fairfield County has been approached by business stakeholders (including developers, contractors, and builders in general) about concerns they have with multiple rules and regulations. They have reported rules and regulations that are outside of their experience in similar political subdivisions; they desire an examination and potential update of the rules and regulations in order to make the business environment more efficient and effective from their business point of view.

Fairfield County officials have indicated a desire to conduct the evaluation and analysis to be supportive and to simultaneously ensure protection for the public. Most rules or regulations have not been updated for several years, and such a review is appropriate. One regulation, the maintenance bond provision, was segregated for a review apart from other rules and regulations, which may take more time to properly analyze.

The issue remains that the maintenance bond provision is an outlier of Ohio market conditions, and business leaders express they are better able to conduct business if the provision is more in line with Ohio market conditions.

Solution Recommended: A work group including stakeholders and officials met to review the maintenance bond provision and the current conditions. Maintenance bonds guarantee completed work is free of defect in workmanship and materials; the bonds are specified for a certain time, and the construction is reviewed to ensure codes and regulations are followed. The time period in Ohio is generally one year, with most counties requiring one year. A few counties require two or more years.

The work group recommended altering the time period to three years with 80% lot occupancy parameters, and a maximum of a time period of five years (the current time period).

In addition, the work group rejected a revision to a shorter time period (favored by the business stakeholders). The work group rejected the status quo because the regulation would remain an outlier, requiring developers to remain involved long after the completion of subdivisions (in many cases), and inspiring a longer period to pass before inspections are conducted, creating a larger punch list.

The work group also recommended that RPC and technical staff clearly define the parameters of 80% occupancy, as well as any other technical parameters. The work group recommended the regulation be a part of an annual review, with monitoring and data collection informing future evaluations.

There are no reports from other counties with similar or more lenient regulations suffering from the regulation. There are reports of how the inspection and oversight on the front-end would change, and this is understood. RPC and township officials will have an increased administrative burden in enforcing the regulation, but the result is anticipated to be a more welcoming business environment and an improved inspection process, while also continuing to protect the public appropriately with a maintenance bond.

Maintenance Bond Revision Staff Recommendation: Pros and Cons Outline

Recommendation:	Pros:	Cons:	Notes:	How it works:
<p>3 years (with 80% lot occupancy, max 5 years)</p>	<ul style="list-style-type: none"> • Closer in line with comparative markets • Allows for two full winters of evaluation • Would capture construction traffic that shortens life of infrastructure • Lower degree of change from current regulation • Mitigates cost concerns • <u>Consistent with stakeholder and County values</u> • No reports from Counties suffering from this regulation 	<ul style="list-style-type: none"> • Would increase inspection oversight on front-end • Increased admin. burden for RPC and Twp's • Increased complexity for development process 	<ul style="list-style-type: none"> • Conversation will take place around the 80% number if it is close, need to determine if it is firm or not • Spell out 80% occupancy at any point after 3 years will be acceptable 	<ol style="list-style-type: none"> 1. Approx. 3-years from cond. accept. resolution RPC staff will contact Twp zoning/building dept. 2. Review lot occupancy of recorded section/phase 3. If 80% is reached by 3-years, inspectors will perform final walkthrough 4. If 80% is not reached by 3-year mark, the developer will initiate contact with staff when 80% is obtained to perform walkthrough 5. The maintenance period regardless of occupancy will not extend beyond 5-years

****This regulation will continue to be evaluated on an annual basis with closer monitoring and data collection**

6.6 MAINTENANCE BOND.

Prior to acceptance of any improvements within a phase of a subdivision, the developer shall furnish the County Commission a maintenance bond, certified check, or other acceptable guarantee that shall be held for a **minimum of three (3) after conditional acceptance is granted** and no longer than five (5) years to ensure that the improvements are in satisfactory condition. **The maintenance guarantee will only be released between years 3 and 5 once the applicable section or phase (of which the guarantee applies) has reached eighty (80) percent lot occupancy*. Occupancy will be defined as an issued Certificate of Occupancy (COO) by the township zoning inspector. In townships where a COO does not apply, a certificate of zoning compliance or similar form may be accepted. For non-residential subdivisions, the maintenance period will be no longer than 3 years.** If within said period defects appear in the improvements which are determined by the County Inspectors to be the fault of the contractor or developer said defects shall be repaired to the satisfaction of the County Inspectors at the expense of the developer. In the event the developer fails to make required maintenance within a reasonable time of a request to do so, the above-mentioned guarantee shall be forfeit. Said guarantee shall be ten (10) percent of the total improvement cost of that phase. **Subdivisions receiving conditional acceptance prior to January 1, 2020 will be subject to a five (5) year maintenance period.**

If succeeding phases of an approved subdivision will be using an existing road in that subdivision for access and that is the only entrance to that phase, an additional maintenance bond, certified check, or other acceptable guarantee will be required to cover any damage to the public improvements in the preceding phase. The County Inspector shall determine the adequacy of an additional guarantee. This additional guarantee will not be required if the maintenance guarantee(s) for the applicable preceding phase(s) do(es) not expire prior to the acceptance of the public improvements for the additional phase(s) using the existing road in that subdivision.

The County Engineer shall make an evaluation of the existing road prior to the start of construction activities in the succeeding phases. An evaluation may be made at the completion of each succeeding phase to determine damage.

** In instances where 80% of the total lots results in a fraction should be rounded up. (Example: 44 lots x 80% = 35.2 lots. In this case the required number of lots occupied to receive final acceptance would be 36.)*