

ORDINANCE NO. 07-28

**AN ORDINANCE OF THE MADISON COUNTY FISCAL COURT, KENTUCKY
AMENDING THE SUBDIVISION REGULATIONS OF MADISON COUNTY,**

WHEREAS, the Madison County Planning Commission recommends to the Fiscal Court to amend Section 316.2.1 Encroachment Permit Performance Bonds Required of the Madison County Subdivision Regulations by establishing a bond to cover all new commercial entrances onto a County Road;

WHEREAS, the Madison County Planning Commission recommends to Fiscal Court that 316.2.1 Encroachment Permit Performance Bonds of the Madison County Subdivision Regulations be amended as shown in Section 1;

NOW, THEREFORE, be it ordained by the Fiscal Court of the County of Madison, Commonwealth of Kentucky, as follows:

SECTION I

316 Construction Guarantees

316.1 Completion of Improvements - Prior to the submission of the Final Plat to the Planning Commission for approval, the developer shall complete all required improvements to the satisfaction of the appropriate county agency who will certify their satisfactory completion in writing to the Planning Commission.

316.2 Performance Bonds - The developer may execute and file guarantees of construction with the county in lieu of actual installation or completion of all required improvements when requesting approval of the Final Plat. No Final Plat will be reviewed at the business meeting until such time as minimum improvements to include the road-base, water lines, soil erosion control measures, storm water drainage and curbs and gutters are completed. However, no structure on a lot can be sold for occupancy until such time as all improvements applicable to that lot are completed.

A bond shall be filed with the county in an account not less than one hundred fifteen percent (115%) of the cost as the developer's engineer shall estimate and determine to be reasonably necessary to complete all of the improvements required to be done by the developer (including measures to control erosion and sedimentation, when applicable) and also any related fees for field inspection. The County Road Department Supervisor

will verify then approve the estimate prior to the filing of the bond. The bond may be in the form of a surety bond, certified check, or a cash bond or negotiable United States Treasury Certificates of the kind approved by law for securing deposits, or Irrevocable Commercial Letter of Credit approved by the Fiscal Court and County Attorney. The bond shall be executed by the developer as principal, and if a surety bond, shall be executed by a corporation authorized to act as a surety under the laws of the Commonwealth of Kentucky, as surety. The bond shall be a joint bond and severally obligates faithful performance of any and all work and the construction and installation of all improvements required to be done by the developer together with all engineering and inspection costs and fees incurred by the county. The bond shall contain the further condition that should the developer fail to complete all work and improvements required to be done by him within twenty-four (24) consecutive calendar months of the date of approval of the Final Plat, or within mutually agreed upon extension not to exceed twelve (12) consecutive calendar months, that the county may at its option cause all required work to be done and improvements constructed. The parties executing the bond shall be firmly bound for the payment of all necessary costs therefore. Whenever the developer elects to deposit cash, certified check, or approved negotiable United States Treasury Certificates, the county shall be authorized, in the event of any default on the part of the developer in the performance of any work or construction of any improvements for which the cash or negotiable bond has been deposited, to cause the required work to be done and to withdraw that amount required for payment of all cost therefore. The bond shall be filed with the County Clerk.

At such time that the developer has completed such improvements specified in the bond guarantee, he shall notify the County Engineer (or delegated representative) who will inspect the improvements, and, if all are in conformance with the requirements, will notify the Fiscal Court in writing and recommend the release of seventy-five percent (75%) of the bond. Twenty-five percent (25%) shall be retained as a guarantee of the improvements against the incorporation of faulty materials or poor workmanship and guarantee of proper operation of all erosion and storm water facilities for a period of three (3) years after the date that the construction was accepted by the county.

316.2.1 Encroachment Permit Performance Bonds – Where an application has been made for an Encroachment Permit to construct a Commercial Entrance onto a County Road the applicant shall submit a Bond in the amount of \$5,000.00 as a guarantee of conformance with the County’s Encroachment Permit requirements. Once the work has been completed, inspected and approved by the County Road Department Supervisor the County shall release the Bond back to the applicant or his/her designee.

316.3 Maintenance and Repair of Improvements - The developer is responsible for the maintenance and repair of the improvements installed. The developer shall be responsible for any damage done to the improvements by construction traffic, local traffic, or by any other means, and shall insure the accessibility to all occupied lots until final acceptance for maintenance by the county. Upon completion of work and before public acceptance, the developer shall clean up all ground occupied or affected in connection with the work. Failure to maintain or repair improvements may result in withholding approval of subsequent units of the subdivision or the billing of the developer for such service performed by the county. Payment shall be guaranteed by the performance bond or letter of credit.

316.4 Liability Insurance - The developer shall furnish such insurance as deemed necessary by the Fiscal Court, which shall indemnify and save harmless the county from any and all liability arising from any conditions which may result from the construction or installation of improvements. The insurance shall be of such as determined by the Fiscal Court, but in no case shall be allowed to expire earlier than one (1) year from the date of construction of improvements is accepted for maintenance by the county. A copy of the insurance policy shall be filed with the County Clerk.

SECTION II

That the County Clerk cause this ordinance to be published in accordance with the appropriate Kentucky Revised Statues.

DATE OF FIRST READING: December 18, 2007

MOTION BY: Roger Barger

SECONDED BY: William H. Tudor

VOTE: YES NO

JUDGE, KENT CLARK ✓
MAGISTRATE LARRY COMBS ✓
MAGISTRATE ROGER BARGER ✓
MAGISTRATE WILLIAM TUDOR ✓
MAGISTRATE HAROLD BOTNER, JR. ✓

DATE OF SECOND READING: January 8, 2008

MOTION BY: Larry Combs

SECONDED BY: Roger Barger

VOTE: YES NO

JUDGE, KENT CLARK ✓
MAGISTRATE LARRY COMBS ✓
MAGISTRATE ROGER BARGER ✓
MAGISTRATE WILLIAM TUDOR ✓
MAGISTRATE HAROLD BOTNER, JR. ✓

[Signature]
MADISON COUNTY JUDGE EXECUTIVE

Attest:
[Signature]
MADISON COUNTY CLERK