

ARTICLE III

PROCEDURES AND REQUIREMENTS

300 SUBDIVISIONS

The purpose of this section is to set forth procedures for the preparation, review, and approval of subdivisions classified under these regulations.

- A. **OPTIONAL PRE-APPLICATION CONFERENCE** - Any developer desiring to subdivide property should contact the Planning Commission Staff and make an appointment for a pre-application conference. The purpose of the pre-application conference is to discuss the compliance with Zoning Ordinance, the Subdivision Regulations and any adopted development conditions. Fees, requirements and procedures related to the development of the property will be established.
- B. **APPLICATION** - Following the optional pre-application conference, the developer may submit an application for subdivision including a Preliminary Lot Layout, a Topographic Survey (a copy of the USGS Topo Map may be submitted if a Topographic Survey cannot be performed), a Drainage Plan (if required) and any proposed Plat Restrictions. The application shall be in the form as prescribed by the Planning Commission. Fees established at the pre-application conference will be paid at the time of application. The Preliminary Lot Layout should conform to the content requirements set forth in Article 4 of these regulations.
- C. **NOTIFICATION LETTER** - If application deficiencies are found, a letter advising the applicant of an incomplete application status and what must be done to complete the application to make it eligible for review. This letter will be sent to the applicant by the Planning Commission Staff within five (5) business days of submission.
- D. **PRELIMINARY PLAT REVIEW AND ACTION** - The Planning Commission Staff or an assigned subdivision Technical Review Committee will review the Preliminary Lot Layout and Topographic Survey or Drainage Plan (if required) to determine if the proposed subdivision conforms to the Zoning Ordinance, these Subdivision Regulations, or any recorded Development Plan. Preliminary Plat Approval grants the developer three (3) years to submit Construction Plans (if required). If Preliminary Plat deficiencies are found, a marked-up Plat indicating what must be done to make Plat eligible for Final Approval/ Recording will be available to the applicant's surveyor/ engineer after review by the Planning Commission Staff or an assigned subdivision Technical Review Committee.
- E. **PLANNING COMMISSION FINAL PLAT REVIEW AND ACTION** - The Planning Commission shall take one of the following actions on each application:
 - 1. **FINAL PLAT APPROVAL** - After the Planning Commission has given final plat approval; one (1) set of the required materials will be returned to the

developer along with a written notice of the action, and a Land Use Certificate will be recorded at the County Clerk's office by the Planning Commission. Final Plat Approval grants the developer three (3) years to record the Plat for all property shown on the Preliminary Lot Layout. If the three (3) year period for filing the Plat elapses, the developer must resubmit the Preliminary Lot Layout, and fees for preliminary plan re-approval. The Planning Commission may give special consideration, which may include a time extension, for large scale projects that have demonstrated continuous construction progress throughout the approval period.

2. **CONDITIONAL FINAL PLAT APPROVAL** - The developer must make all corrections to the Preliminary Lot Layout and Drainage Plan as requested by the Planning Commission, the Planning Commission Director or an assigned subdivision Technical Review Committee.
3. **DISAPPROVAL** - The Preliminary Lot Layout and Drainage Plans are not acceptable. For further action, the developer must make all changes and resubmit the application, Preliminary Lot Layout, Drainage Plan, and fees.

F. **PLAT REVIEW, RECORDATION AND ACTION** – The Plat will be reviewed for compliance with the approved preliminary plan review and Planning Commission approval. The Plat of record containing such information as is necessary for the public recording and transfer of land including but not limited to required signatures, lot lines, easements, any recorded conditions and other restrictions.

1. **RECORDING PLAT** - The Recording Plat shall be prepared in accordance with Article 4 of these regulations. The Planning Commission Staff shall record the Subdivision Plat at the Woodford County Clerk's office (which authorizes the property owner or developer to offer lots for sale). A certification of approval shall be stamped on the Recording Plat and affixed with the signature of the Planning Commission Chairman, or Vice-Chairman and Director.

G. **CONSTRUCTION PLANS** – Within three years (3) after preliminary plat approval, the developer may submit Construction Plans to the Planning Commission for the entire project depicted on the preliminary plat. The Planning Commission will distribute the preliminary lot layout and topographic survey or drainage plan (if required) to relevant agencies, such as the utility companies, health department, responding fire department and city or county engineer, and will solicit comments on the proposed subdivision containing public infrastructure. The appropriate local government will determine through approval of these plans and recordation of the plat if dedications of any public lands, streets, alleys, etc. would be beneficial to the public interest and suitable future acceptance if constructed to current standards. All Construction Plans shall be prepared in accordance with Article V and VI of these regulations.

The Construction Plans shall consist of a Utility Plan Sheet and any other supporting drawings that show the location and general construction details for all public improvements. The plan must contain completed signoff blocks for all affected utilities (public and private) that will be using easements on the property. The Construction Plans shall include detailed improvements to be developed within the subdivision, such as streets (private or public), storm drainage, erosion control, gas, sanitary sewers or septic systems, water supply, electrical distribution, communications and any other public facilities. All construction sections shall substantially agree with the filed preliminary plat and shall function within the original concept of the subdivision or a new preliminary approval must be obtained.

- H. **CONSTRUCTION PLAN REVIEW AND ACTION** - The Construction Plans will be reviewed by the Planning Commission Staff and the appropriate local government Staff for compliance with the approved preliminary plat and all applicable standards and requirements. Within thirty (30) days the Planning Commission Staff shall in writing take one of the following actions on the Construction Plans:
1. **FINAL APPROVAL** - The developer is permitted to proceed with the construction process after complying with items I, J, K and L (listed below).
 2. **CONDITIONAL FINAL APPROVAL** - The developer must make all corrections to the Construction Plans as requested by the Planning Commission Director or assigned staff. After corrections are made then final approval to proceed shall be granted as outlined above.
 3. **DISAPPROVAL** - The Construction Plans are not acceptable. For further action, the developer must make all changes and resubmit the Construction Plans.
- I. **PRE-CONSTRUCTION CONFERENCE** - After Preliminary Plat Approval, Construction Plan Approval, the developer and his contractor shall be required to schedule and attend a mandatory pre-construction conference with the Planning Commission Staff and the appropriate local government engineer. The developer or contractor shall be prepared to outline all proposed construction operations and procedures as presented on the plat and in the Construction Plans. If the Construction Plans were given conditional final approval, the developer must show that the conditions have either already been met. The developer will be informed of other regulations applicable to the proposed subdivision.
- J. **NOTICE TO PROCEED** - After attending the required pre-construction conference, the developer is permitted to proceed with the construction process after complying with items K and L (listed below) and receiving a "Notice to Proceed" from the Planning Commission Staff.
- K. **DEVELOPER CONTRACT** - The contract, signed by the developer and property owner shall specify a surety in an amount that will be sufficient to pay the entire cost of installing the public improvements set forth in the Construction Plans and related

documents as determined by the Planning Commission. All required Planning Commission Construction Review Fees shall be paid prior to commencement of construction.

- L. **ACCEPTABLE SURETIES** - To secure the proper completion of all public improvements shown on the approved construction plans, the developer shall provide, subject to Bonding Options below and the approval of the Planning Commission, one of the following sureties listed in items 1, 2 or 3 below.

Public Improvement 100% Bonding Option - At the time of the preconstruction conference the developer is required to bond the entire estimated cost for constructing the proposed infrastructure plus ten percent (10%) contingency, pay administrative fees based upon the bond estimate and sign a construction contract. The developer will then be allowed to plat and transfer lots while the subdivision infrastructure is being constructed. During the construction process Planning Commission representatives will be monitoring construction and as work is successfully completed the developer may request bond reductions. The developer shall then be allowed to substitute a smaller bond amount that reflects work remaining plus ten percent (10%) contingency. Quality issues during construction may influence the allowable bond reduction. The bond will not be reduced below twenty percent (20%) of the original bond estimate until such time as the public infrastructure has been accepted for maintenance by the appropriate governmental entity.

Public Improvement 20% Bonding Option - At the time of the preconstruction conference the developer will be required to bond twenty percent (20%) of the estimated cost for constructing the proposed infrastructure, sign a construction contract, pay administrative fees based upon the original bond estimate and may then begin construction of the public infrastructure. The developer may not record the subdivision plat or transfer lots. During the construction process Planning Commission representatives will be onsite monitoring construction. Once the developer is ready to transfer lots, a request may be made to the Planning Commission who will estimate the cost of the remaining work items plus a minimum 10% for contingencies. This shall be the bond amount that the developer will provide as surety to the Planning Commission until the project is accepted by the appropriate governmental entity. Once the bond is posted the developer will be allowed to plat and transfer lots. The minimum bond will be at least 20% of the original bond estimate until such time as the developments infrastructure has been accepted for maintenance by local ordinance. A separate contract and surety may be provided for the construction of the sidewalks shown with the proposed subdivision. Quality issues during construction may necessitate more than a 20% bond.

1. **CORPORATE SURETY BOND (PERFORMANCE BOND)** - If the developer chooses to provide a Corporate Surety Bond, then it shall be submitted from an insurance company authorized to do business in the Commonwealth of Kentucky. The bond shall be in the form of a payment and performance bond, subdivision bond, or such other form as shall be satisfactory to the

Planning Commission. If the developer has employed a contractor to construct all Improvements as provided herein, the Planning Commission may accept the payment and performance bond of such contractor as surety for the performance of the construction contract.

The Corporate Surety Bond shall provide the Planning Commission as a named obligee. The bond should clearly establish that it acts as a surety for the construction contract, signed by the developer or property owner. The payment and performance bond shall specifically name the Improvements set forth in the construction contract. The Corporate Surety Bond shall state that the amount is equivalent to the contract amount. The Corporate Surety Bond shall also state, that upon the failure by the developer to complete the Improvements within the required time period, the insurance company shall pay the Planning Commission, immediately, and without further action, such funds as are represented, in the Corporate Surety Bond.

The original a Corporate Surety Bond will be for a three-year period, reviewed and renewed annually. If requested the Corporate Surety Bond may have two extensions, for a minimum period of one year. This will allow three years for the completion of the public improvements in the recorded subdivision. The Commission will provide one, non-certified notice of intent to call the Corporate Surety Bond to the developer and to the insurance company which issued the Corporate Surety Bond. Any Corporate Surety Bond which has not been released nor had documentation submitted for an extension prior to the morning of the expiration date shall be called and converted to a cash surety.

2. **CASH SURETY** - If the developer chooses to provide a Cash Surety, then cash shall be deposited in a separate Subdivision Surety account of the Planning Commission. This bond will allow three years for the completion of the public improvements in the recorded subdivision. The cash surety shall be refunded to the developer if he satisfactorily completes the project within the three-year timeframe.
3. **LETTER OF CREDIT** - The Planning Commission will accept the posting of an approved Letter of Credit as surety for the timely and satisfactory completion of public improvements in a subdivision in order that the subdivision may be recorded in an expeditious manner. The developer may provide, as surety for the performance of the contract, a Letter of Credit, from a financial institution acceptable to the Planning Commission. The Letter of Credit shall be delivered in a form acceptable to the Planning Commission. The Letter of Credit shall state that the amount is equivalent to the contract amount. The Letter of Credit shall also state, that upon the failure by the developer to complete the improvements within the required time period, the financial institution shall pay the Planning Commission, immediately, and without further action, such funds as are represented, in the Letter of Credit. The original Letter of Credit will be for a one-year period.

If requested the Letter of Credit may have two extensions, for a minimum period of one year. This will allow three years for the completion of the public improvements in the recorded subdivision. The Commission will provide one, non-certified notice of intent to call the Letter of Credit to the developer and to the institution which issued the Letter of Credit. Any Letter of Credit which has not been released nor had documentation submitted for an extension prior to the morning of the expiration date shall be called and converted to a cash surety. The developer or the institution must submit the new Letter of Credit to the Planning Commission by 4:00 p.m. on the last working day prior to the expiration date on the face of the original Letter.

M. REDUCTION OF CONTRACT SURETIES - The developer may request a reduction of the surety. If progress has been made on the completion of improvements, the Planning Commission may at authorize the reduction of the surety. The construction must be completed as provided in the construction contract and the Subdivision Regulations and in a manner satisfactory to the Planning Commission. The following conditions must be satisfied for contract surety reduction:

1. **AMOUNT OF INITIAL SURETY** - The initial surety is for an amount greater than ten thousand dollars (\$10,000.00);
2. **WRITTEN REQUEST** - The Planning Commission shall require a written request for a reduction. The request must be made in writing and signed by the developer. The request must include the following: An itemized list of the value of the improvements completed and a certification that the detailed Improvements have been completed, and for which the reduction of the contract surety is requested, in accordance with the approved subdivision plan specifications.
3. **DETERMINATION OF SURETY REDUCTION** - If the Planning Commission authorizes the reduction of the amount of the contract surety, the reduction shall be based upon the following formula: $\text{New or Revised Bond Amount} = \text{Total Value of Uncompleted Work} + \text{ten (10) percent}$. Under no circumstances shall the total amount of any reduction approved by the Planning Commission reduce the contract surety to an amount below twenty percent (20%) of the initial construction bond estimate (bonded amount set forth in the construction contract).
4. **PROJECTS IN DEFAULT** - If the improvements are not completed within three (3) years from the date of the Planning Commission's "Notice to Proceed" the construction contract as provided in this Article shall be in default and shall not be eligible to be reduced.

N. DEFAULT/ COMPLETION OF PUBLIC IMPROVEMENTS - If the improvements are not completed within three (3) years from the date of "Notice to Proceed", the construction contract as provided in this Article shall be in default, and the Planning

Commission shall proceed within 120 days against the developer and its surety for performance.

- O. **ACCEPTANCE AND MAINTENANCE OF IMPROVEMENTS** - Any street or other public land dedicated by plat shall be accepted for maintenance by the appropriate Legislative Body after it has received approval by the Planning Commission and formally adopted for acceptance by the Legislative Body. Any street built in accordance with specific standards set forth in these regulations or by ordinance shall only be accepted for maintenance by the appropriate Legislative Body after inspection, final approval, submission of "As-Built" plans and adoption of an ordinance, resolution or order to accept public improvements.

- P. **WARRANTY** - As a material part of the developer's duty to construct in accordance with the plat, plans and specifications, as set forth above, the developer shall warranty, for a period of twelve (12) months following the appropriate Legislative Body's acceptance of the work, that the work performed and the products installed under these regulations, have been performed in accordance with said plans, plat and specifications, in a good and workmanlike manner and are free from defects. In the event the developer breaches its warranty, the appropriate Legislative Body shall be entitled to recover its damages, costs, including reasonable attorney's fees, from the developer and/or his surety.

- Q. **RELEASE** - Upon completion of the improvements as provided in these regulations, the Planning Commission shall terminate the construction contract and release its surety.

- R. **MAINTENANCE OF COMMON IMPROVEMENTS AND OPEN SPACE** - These regulations are established to assure that adequate ownership and management measures will be provided in residential and other developments to protect and perpetually maintain common open space and common improvements, in order to ensure their continued availability and utility for the residents or occupants of the development and to prevent such facilities from becoming an unnecessary burden or nuisance to the general public or surrounding property. However, nothing in these regulations shall be construed as creating any obligation or liability upon the public to maintain such facilities or otherwise ensure their availability and condition. These regulations shall apply to all common open space and all common improvements that are required or provided pursuant to these regulations, the adopted Comprehensive Plan, or other applicable laws and regulations. However, these requirements shall not apply to the following:
 - 1. **Dedicated Lands and Improvements** - Any lands or improvements to be dedicated or conveyed to the public, for designated or general public use.

 - 2. **Private Lands and Improvements** - Any lands or improvements to be owned and maintained by a landlord for the benefit of lessees residing on or occupying leaseholds on the lot or parcel where such lands and improvements are situated or on other lots or parcels owned by the

landlord, as for typical multi-family or shopping center development.

3. Condominiums and Cooperatives - Any lands or improvements to be owned and maintained under a condominium or cooperative, which shall be established and regulated in accordance with Kentucky law.

- S. **ESTABLISHING A MEANS OF COMMON OWNERSHIP AND MANAGEMENT** - Prior to approval of the Record Plat, the subdivider shall provide documents to establish a means of common ownership and management of all common open space and common improvements. Such documents shall establish an organization or entity to own and manage the open space and/or improvements, describe its membership and responsibilities, and shall include a maintenance and fiscal program for the improvements. In no event shall a Record Plat be recorded for a development involving common open space and/or improvements until the entity of common ownership and management has been incorporated. Documentation shall be provided to the Planning Commission Staff.
- T. **FUNDING MECHANISM REQUIRED** - Prior to approval of any Record Plat, the subdivider shall provide and record documents to establish a funding mechanism for the maintenance of the common improvements and/or open space. The documents shall provide a method for the organization or entity to assess the property owners having beneficial use of the improvements and open space for the cost of their maintenance. The method of assessment shall provide the legal right for the organization or entity to impose liens against those properties for which payment of any assessment is not made. Collection of assessments and enforcing the payment thereof shall be the responsibility of the organization or entity and shall not be the responsibility of the public. The assessments imposed by the organization or entity shall not relieve property owners from any taxes, fees, charges or assessments imposed by the Planning Commission, Property Valuation Administrator or any other governmental agency. Notice to Buyers - The documents shall also provide for notice to purchasers and prospective purchasers or properties that the organization or entity shall have the authority to make assessments and impose liens as provided in these regulations.
- U. **FAILURE TO MAINTAIN COMMON IMPROVEMENTS AND OPEN SPACE** - Failure to maintain common improvements and/or common open space in accordance with these regulations, established standards and the subdivider's agreements, binding elements and other documents establishing the improvements and/or open space shall be considered a violation subject to enforcement in accordance with provisions of these regulations. In such cases, citations for violation shall be issued both to the organization or entity, and to all property owners, occupants and lessees having beneficial use of or legal interest in the improvements and/or open space. The public shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the common improvements and/or open space.

310 NON-CONFORMING LOTS OF RECORD

The purpose of this section is to set forth procedures for the preparation, review, and approval of subdivisions classified as Non-Conforming Lots of Record under Article 2 of these regulations.

- A. **APPLICATION** - Following the pre-application conference, the applicant shall submit the original Recording Plat and the required fees. The Recording Plat shall conform to the content requirements set forth in these regulations.
- B. **REVIEW AND ACTION** - The primary focus for the final review is the determination of conformance with all applicable rules and regulations of the Planning Commission. The following actions by the Planning Commission shall be defined in items 1 and 2 below.
 - 1. **FINAL APPROVAL** - The Recording Plat meets all requirements of these regulations and the Planning Commission approves the Plat. A certification of approval shall be stamped on the Recording Plat and affixed with the signature of the Planning Commission Chairman, or Vice-Chairman and Director.
 - 2. **DISAPPROVAL** - The Recording Plat fails to meet the necessary requirements. The Planning Commission shall notify the developer in writing of the disapproval and shall state the changes that will render the Recording Plat acceptable.
- C. **RECORDATION OF PLAT** - After approval by the Planning Commission, the Recording Plat shall be recorded in the Woodford County Clerk's office at the developer's expense.

320 FARM PLATS

The purpose of this section is to set forth procedures for the preparation, review, and approval of Subdivisions classified as Farm Plats under Article 2 of these regulations.

- A. **APPLICATION** - Following the pre-application conference, the applicant shall submit the original Recording Plat and the required fees. The Recording Plat shall conform to the content requirements set forth in these regulations.
- B. **REVIEW AND ACTION** - The primary focus for the final review is the determination of conformance with all applicable rules and regulations of the Planning Commission. The following actions by the Planning Commission shall be defined in items 1 and 2 below.
 - 1. **FINAL APPROVAL** - The Recording Plat meets all requirements of these regulations and the Planning Commission approves the Plat. A certification of approval shall be stamped on the Recording Plat and affixed with the signature of the Planning Commission Chairman, or Vice-Chairman and Director.

2. **DISAPPROVAL** - The Recording Plat fails to meet the necessary requirements. The Planning Commission shall notify the Developer in writing of the disapproval and shall state the changes that will render the Recording Plat acceptable.
- C. **RECORDATION OF PLAT** - After approval by the Planning Commission, the Recording Plat shall be recorded in the Woodford County Clerk's office at the developer's expense.