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### Part 1 Floyds Fork Special Zoning Overlay District

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#### 3.1.1 General Regulations:

##### A. The Floyds Fork Special Zoning Overlay District - Definition and Purposes:

1. The Floyds Fork Special Zoning Overlay District is an overlay shown on the zoning district map. It constitutes a second level of development standards in addition to those specified by the underlying zoning and form districts.
2. This Floyds Fork Special Zoning Overlay District regulation does not apply to the following, which are exempted:
  - a. Applications for development plans submitted before the adoption of these regulations shall continue to be regulated pursuant to the standards existing at the time of the filing of their application.
  - b. Utility infrastructure owned by or built by a governmental, public or quasi-governmental and/or public agency or utility, including such infrastructure of which such agency or utility has a financial stake, and the right to access such infrastructure, as allowed by such agency and/or utility.
3. The purpose of the district is to protect the quality of the waterways and the natural environment. The district achieves these purposes by promoting compatible development of land and structures. The Floyds Fork Special Zoning Overlay District's primary objectives are to:
  - a. Protect and enhance the natural environment and integrate in with the built environment as development occurs (see Plan 2040 Livability Goal 1).
  - b. Protect the existing waterways to enhance water quality (see Plan 2040 Livability Objective 1.b).
  - c. Mitigate negative impacts to waterways from development impacts by discouraging changes to stream channels and natural drainage features (see Plan 2040 Livability Policy 1.10).
  - d. Protect those waterways as defined by the Land Development Code as protected waterways.
  - e. Encourage development techniques that protect, preserve or minimize the impact to prominent hillsides and valleys.
  - f. Maintain the economic value of existing properties and/or new developments.
  - g. Protect all waterways from soil erosion and stream siltation.
  - h. Conserve mature and/or valuable trees and other vegetation and wildlife habitat.
  - i. Respect the high-quality visual character.

##### B. Applicability:

1. The Floyds Fork Special Zoning Overlay District shall not be deemed to repeal or in any

respect alter the provisions and requirements of the Flood Plain Regulations, the Metropolitan Sewer District, or applicable local, state or federal regulations.

2. Where applicable by provisions of this ordinance, requirements imposed herein shall be in addition to those of the underlying zoning and form classifications.

### 3.1.2. Development Within the Overlay District:

#### A. Exempt & Regulated Activities:

<b>Floyds Fork Special Zoning Overlay District Threshold Table 3.1.1</b>			
The following regulatory tiers under Chapter 3 shall apply to all developments meeting the thresholds and applicability requirements set forth in the table below.			
<b>Thresholds</b>	<b>Tier 1 Regulated Activity</b>	<b>Tier 2 Regulated Activity</b>	<b>Exempt Activity</b>
Agricultural uses and related structures			X
Properties and activities subject to Community Facility Reviews * All Community Facility Reviews within the Floyds Fork Special Zoning Overlay District shall be reviewed by the Planning Commission or its designee. The Planning Director or their designee may waive the review by the Planning Commission or its designee if the Community Facility Review applicant demonstrates public engagement has already occurred.			X*
Properties and facilities subject to The Parklands of Floyds Fork Master Plan and amendments thereto, to include all properties within The Parklands of Floyds Fork and those owned by The 21 <sup>st</sup> Century Parks Endowment			X
Expansion to existing non-residential structure's square footage by less than 10 percent			X
Clearing of treed area greater than 5,000 square feet for development For the purpose of this section, "Treed Area" is defined as "an area of at least 20,000 square feet with more than 20 living, non-diseased and non-invasive trees exceeding a caliper of four-inches [trunk diameter measured at 4 feet 6 inches (breast height) above the ground]"		X	
Non-agricultural grading, excavation, construction of retaining walls, or ground alteration		X	

Construction of roadways or parking lots serving more than 1 dwelling unit		X	
Utility construction, including water, sewer or waste disposal, natural gas and electric		X	
Expansion of a non-residential structure by more than 10 percent		X	
Expansion to existing residential structure's footprint and/or accessory structures (such as garages, pool, shed, etc.) by less than 50 percent			X
Expansion to existing residential structure's footprint by 50 percent or greater	X		
Clearing of treed area greater than 5,000 square feet	X		
Grading, excavation, construction of retaining walls, or alteration to ground surface for non-agricultural uses greater than 5,000 square feet	X		
Construction of an accessory structure (including pools) for a single-family residential building with a maximum building footprint that does not exceed the footprint of the principal structure. Accessory structures with building footprints greater than the footprint of the principal structure may be permitted in accordance with Section 4.3.6.	X		
Construction of an Accessory Dwelling Unit that meets the provisions of Section 4.3.27	X		
Construction of a street serving one (1) dwelling unit	X		
Construction of a single-family structure on a lot not exempt from review	X		
The Planning Director shall have the authority to determine which level of review shall be applied to any uses/activities that do not fall under the descriptions listed above. Decisions of this nature may be appealed to the Planning Commission or its designee within thirty (30) days of such action.			

### 1. Tier 1 Review Process:

Tier 1 Regulated Activities, as described above, are allowed only upon approval of a Floyds Fork Special Zoning Overlay development review application by the Planning Director or their designee. A separate overlay development review application shall not be required when another application (such as a category review, plan certain development plan, major subdivision, or conditional use permit plan) is required by this Land Development Code. The review of such applications shall include a full review of the plan to determine compliance with this regulation.

Actions taken by the director or designee may be appealed to the Planning Commission within thirty (30) days of such action. Overlay reviews conducted in conjunction with other development plan reviews shall follow the appeal procedures for the applicable development plan review. Failure to appeal the action of the director or designee in accordance with this section shall preclude further review and appeal.

2. Tier 2 Review Process:

Tier 2 Regulated Activities, as described above, are allowed only upon approval of a Floyds Fork Special Zoning Overlay development review application by the Planning Commission or its designee. A separate overlay development review application shall not be required when another application (such as a category review, plan certain development plan, major subdivision, or conditional use permit plan) is required by this Land Development Code. The review of such applications shall include a full review of the plan to determine compliance with this regulation.

Waiver(s) to a standard listed in LDC Section 11.12.2 and/or 11.12.3 shall be reviewed in accordance with this chapter and LDC Section 11.8.

Actions taken by a designee of the Planning Commission may be appealed to the Planning Commission within fourteen (14) days of such action.

Actions by the Planning Commission are final. Such actions may be appealed in accordance with KRS 100.347.

3. Specific land uses not listed above shall require an interpretation by the Planning Director or their designee to determine whether the proposed use shall be considered a Tier 1 or Tier 2 Regulated Activity. Decisions of this nature may be appealed to the Planning Commission or its designee within thirty (30) days of such action.

B. Review Authority

1. The Planning Director or their designee shall conduct applicable development reviews as outlined above, pursuant to this chapter.
2. Overlay reviews conducted in conjunction with other development plan reviews shall follow the appeal procedures for the applicable development plan review.

C. Submittal Requirements

Submittal materials required by this section will be only as detailed as necessary to determine environmental impacts, without creating needless expense for the applicant. Persons contemplating development within the Floyds Fork Special Zoning Overlay area are encouraged to schedule a pre-application meeting (shall be required in conjunction with a zoning change and conditional use permit pre-application) with Planning Commission staff to determine if the project will require review under this regulation, and to identify materials that will have to be submitted. A proposed district development plan in accordance with the provisions of Plan Certain (Chapter 11 Part 6), may be needed depending upon the scope of the proposal.

### D. Overlay Standards

All regulated activities as listed in LDC Section 3.1.2.A shall be reviewed for compliance with the Floyds Fork Special Zoning Overlay design standards pursuant to LDC Section 3.1.3.

### E. Length of Plan Review Period

Floyds Fork Special Zoning Overlay development review applications shall be reviewed by the Planning Director or their designee within twenty-two (22) calendar days after submittal of all materials required under LDC Section 3.1.2.C, as reasonably determined by the Planning Director or designee interpreting this regulation. As part of the review, the Planning Director or their designee shall determine whether or not the application is complete, as well as whether or not the application is ready for review by the Planning Commission or its designee.

### 3.1.3 Floyds Fork Special Zoning Overlay Design Standards

Intent: The intent of the Floyds Fork Special Zoning Overlay Design Standards is to ensure that new development within the Floyds Fork Corridor is designed to aid in restoring and maintaining excellent quality for land and water resources. The design standards are also intended to complement the natural and rural landscape of the Floyds Fork area.

#### A. Protected Waterways

1. A buffer area shall be provided in accordance with Table 3.1.3 below. The buffer shall be measured from the top of the bank of the protected waterway. Specific and final buffer area boundary delineations shall be reasonably determined by the Planning Director or their designee pursuant to Table 3.1.3. Required stream buffers shall apply to all areas with the buffer width as described in this Part, whether the protected water body is on the subject property or on an adjacent property. However, the applicant shall not be required to provide buffer width on property they do not own or control where a property line lies within Table 3.1.3 buffer area for said waterway.
2. Structures, impervious surfaces, septic systems and associated fill slopes shall not be located within the local regulatory floodplain. Stream crossings are an exception to this restriction; the Planning Director may approve crossings that are minimized and receive approval from all applicable local, state, and federal agencies.
3. Filling and excavation shall not be permitted in the local regulatory floodplain unless associated with approved stream crossings.
4. Modification of perennial and/or intermittent streams, including stream relocation and channelization, is prohibited. Removal of fallen trees, tree limbs, brush and similar debris that accumulate naturally in creek beds and impede stream flow is permitted.
5. Stream restoration, stream bank stabilization, wetland restoration, flood impact reduction and compensation, habitat restoration or similar projects by or in cooperation with appropriate local, state or federal agencies are allowed when permitted by the appropriate governing authority or agency.

**Table 3.1.3**

Type of Protected Waterway	Buffer Area
Floyds Fork	Total Buffer Area = 200 feet, comprised of the following two zones: <ol style="list-style-type: none"> <li>1. Streamside Zone = 150 feet</li> <li>2. Outer Zone = 50 feet</li> </ol>
Stream, Perennial (Blue Line Stream, Solid)	Total Buffer Area = 125 feet, comprised of the following three zones: <ol style="list-style-type: none"> <li>1. Streamside Zone = 50 feet</li> <li>2. Middle Zone = 50 feet</li> <li>3. Outer Zone = 25 feet</li> </ol>

Stream, Intermittent (Blue Line Stream, Intermittent)	Total Buffer Area – 25 feet (Streamside Zone)
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6. Required stream buffers shall apply to all areas within the buffer width as described in this Part, whether the protected water body is on the subject property or on an adjacent property. However, the applicant shall not be required to provide buffer width on property they do not own or control where a property line lies within Table 3.1.3 buffer area for said waterway.
  7. A 25 percent reduction in the buffer width is permitted on a portion of the property if:
    - a. It is offset by an increase of the Streamside Zone buffer width on an equal or greater portion of the same property with the result that the average buffer area width for the property is equal to or greater than that specified in Table 3.1.3.
    - b. There is no reduction to the width of the Streamside Zone buffer.
    - c. Area of waiver is not located in a local regulatory floodplain.
  8. There shall be no waivers from the Streamside Zone buffer area width.
- B. Standards for Waterways and Buffer Areas
1. No land disturbing activity, development, or subdivision of any type shall occur in a protected waterway or buffer area, except as expressly allowed in this Part. All buffer areas shall remain in a vegetated, natural state and shall not be modified in any manner except as expressly allowed in this section. Native plant material adequate for filtering surface drainage shall be maintained within all buffer areas.
  2. Any land disturbing activity in the local regulatory floodplain shall demonstrate compliance with the Louisville Metro Floodplain Ordinance.
  3. Uses Permitted in the Streamside Zone:
    - a. Public flood control structures
    - b. Road crossings, where permitted
    - c. Recreational trails that entail no impervious surface
  4. Uses Permitted in the Middle Zone:
    - a. Linear utility rights of way as demonstrated to be without alternative
    - b. Stormwater management and sediment control facilities approved by MSD
    - c. Recreational trails that entail no impervious surfaces
  5. Uses Permitted in the Outer Buffer Zone:
    - a. Accessory structures equal to or less than 100 square feet
    - b. Recreational trails

**C. Trees and Vegetation**

1. Wooded areas shown on the development plan as being retained shall be preserved and maintained in healthy condition. As trees die or are removed, replacements shall be provided.
2. Where the buffer yard contains trees of at least four (4) inches in caliper, it shall be designated a Tree Canopy Credit Area (TCCA) and no utility easements shall be permitted to encroach the TCCA.
3. Where grading within wooded areas is necessary, disturbed areas shall be seeded to a shade tolerant plant species and mulched with straw.
4. Proposed major subdivisions shall indicate the limits of the site disturbance area. The site disturbance area shall be shown in relation to environmental constraints such as slopes over 30 percent, local regulatory floodplains, and jurisdictional wetlands.
5. Tree protection fencing shall be placed at the outside edge of the Outer Zone for Floyds Fork and Perennial Stream buffers, and the Streamside Zone for Intermittent Stream buffers, prior to construction in adjacent areas.
6. All plantings shall be those species identified in Chapter 10 Appendix A Preferred Plant List.

**D. Drainage and Water Quality**

1. Areas identified as jurisdictional wetlands in studies approved by the US Army Corps of Engineers shall be preserved in their natural state. Drainage, flooding patterns and any hydrologic system(s) needed to sustain the wetlands shall not be altered unless allowed or permitted by the US Army Corps of Engineers.
2. Developers of major subdivisions shall plant, water and maintain vegetative cover on graded slopes on each unsold property until all properties have been sold.
3. Sites shall provide stormwater detention to manage the runoff from the first 1.2 inches of rainfall (95<sup>th</sup> percentile first flush rainfall capture).

**E. Hillsides**

1. Areas with slopes of 30 percent or greater shall not be disturbed. Refer to Section 4.7.5 of the Land Development Code for land disturbing activities on slopes greater than 20 percent but less than 30 percent.

**F. Buffers****1. Residential Development**

- a. New residential construction along designated scenic corridors (Map A) shall provide one of the following design measures:
  - i. Existing wooded areas – New development shall provide a buffer area 60 feet in width that must preserve existing vegetation within the buffer, with a 75-foot minimum building setback. The existing trees within the buffer shall equal or exceed 1 Type A tree per 25 feet of lot frontage. All plantings shall be of those species identified in Chapter



10 Appendix A Preferred Plant List.

ii. Non-wooded areas - New development shall provide a 400-foot minimum building setback with plantings to partially screen buildings (1 Type A tree per 25 feet of building facade visible from the road). An alternative to the substantial setback is to create a 60-foot buffer with 1 Type A tree per 25 feet of lot frontage, with a minimum 75-foot minimum building setback. Residential developments having two or more dwellings per acre shall provide the 60-foot buffer with a 75-foot minimum building setback.

- b. For multi-family residential development, parking lots shall not be located between any structures and the scenic corridor roadway.
- c. All plantings shall be those species identified in Chapter 10 Appendix A Preferred Plant List.

2. Non-Residential Development

- a. New non-residential development along a scenic corridor as depicted on Map A shall provide street trees per Chapter 10 Part 2 as well as have setbacks and required buffers as described below:
  - i. Non-residential development with parking lots provided at the rear of the building shall have a required 50-foot building setback with a 25-foot required buffer area consisting of 1 Type A tree for each 40 feet of scenic corridor road frontage.
  - ii. Non-residential development with parking lots provided at the side of the building shall have a required 50-foot building and vehicle use area setback with a 25-foot required buffer area consisting of 1 Type A tree for each 40 feet of scenic corridor road frontage and a visually continuous screen adjacent to the vehicle use area with an average height of at least 3 feet and shrub massings on or fronting the screening device with at least 1/3 of the frontage length provided.
  - iii. Non-residential development with parking lots provided in front of the building shall have a required 50-foot vehicle use area setback (except driveways/entrances) with a 25-foot buffer area consisting of 1 Type B or C tree for each 25 feet of scenic corridor road frontage, and a visually continuous screen adjacent to the vehicle use area with an average height of at least 3 feet and shrub massings on or fronting the screening device with at least 1/3 of the frontage length planted.
- b. All required plantings shall those species identified in Chapter 10 Appendix A Preferred Plant List.

G. Impervious Surface

- 1. Buildings, parking lots, and other impervious surfaces shall cover no more than 50 percent of each site.

H. Lighting

- 1. All exterior lighting, freestanding or attached to any structure, including street lights and lighting for any signage, shall be fully shielded, shall utilize flat or hidden lenses, and shall

be pointed directly to the ground of the property. The following are exceptions to this requirement:

- a. A partly shielded or unshielded decorative wall sconce(s) shall be allowed at an entry to a residence if the total output does not exceed 2,000 lumens.
  - b. Open flame gas lamps.
  - c. Lighting installed with a vacancy sensor, where the sensor extinguishes the lights no more than 10 minutes after the area is vacated.
  - d. Low voltage landscape lighting aimed away from adjacent properties and not exceeding 1,000 lumens in output.
  - e. Lighting within public right-of-way or easement for the principal purpose of illuminating streets or roads. No exception shall apply to any lighting within the public right-of-way or easement when the purpose of the luminaire is to illuminate areas outside the public right-of-way or easement, unless regulated with a streetlighting ordinance.
  - f. Temporary lighting for construction sites.
  - g. Temporary lighting and seasonal lighting provided that individual lamps are less than 70 lumens.
  - h. Underwater lighting in swimming pools and other water features.
  - i. Lighting that is only used under emergency conditions.
2. The following shall be prohibited:
    - a. Mercury vapor lights.
    - b. Low pressure sodium lights.
    - c. Blinking, flashing, moving, revolving, flickering, changing intensity or color, and chase lighting, except lighting for temporary seasonal displays, lighting for public safety, or required for air traffic safety.
    - d. Searchlights, beacons, and laser source lights, strobe or flashing lights, illusion lights, or any similar high intensity light.
  3. No lighting shall have a correlated color temperature (CCT) exceeding 3,000 degrees Kelvin.
  4. No parking lot or street light fixtures shall be more than sixteen (16) feet high, measured from grade level.
- I. Signage
    1. Permanent freestanding signs for commercial, industrial, or office uses shall not exceed six feet in height and sixty square feet in area and shall be monument style.
    2. Permanent freestanding signs for multi-family residential uses shall not exceed six feet in height and sixty square feet in area and shall be monument style.
    3. Signature entrances located along designated scenic corridors shall not exceed six feet in

height or 50 feet in total length (25 feet each side).

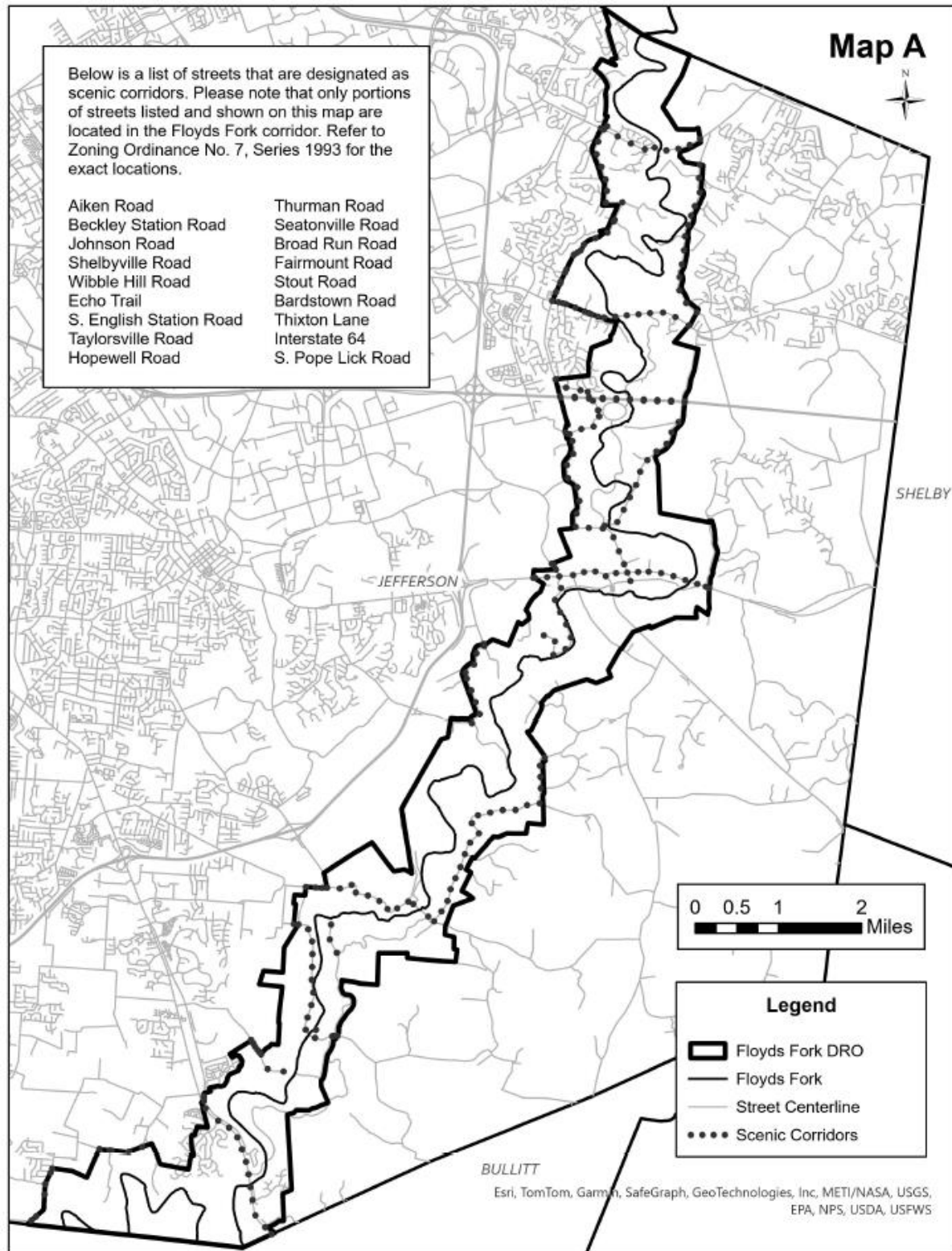
4. Attached signage shall not extend above the first-floor level of the building or 15 feet, whichever is greater.

**J. Major Subdivisions**

1. All major subdivision developments in R-4 or R-5 zoning districts shall utilize one of the following:
  - a. Tracts of 5 acres or more; or
  - b. Conservation Subdivision Regulations; or
  - c. Mixed Residential Development Incentive with a minimum of 30 percent of the site designated as common open space; or
  - d. Development Potential Transfer with a minimum of 30 percent of the site designated as common open space.
2. All major subdivision developments in all other zoning districts shall utilize any method of subdivision permitted in the Land Development Code.

**K. Multi-Family Residential Development**

1. Multi-Family residential developments with 10 or more dwelling units shall provide a minimum of 30 percent of open space in relation to the size of the development site. Common open space shall meet the requirements of Section 5.11.4. Private space (such as balconies and patios) may satisfy 50 percent of the total open space requirement.
2. A minimum of 50 percent of the required open space shall be set aside as recreational space and shall include one or more of the options listed in Section 5.11.9.A.1. Detention and retention basins shall not qualify as recreational space.
3. Private Open Space, such as balconies and patios, shall meet the dimensional requirements as stated in Section 5.11.9.A.2.
4. The open space requirement for development sites within 1,320 feet of a public park shall be reduced by 50 percent. Distance shall be measured using the shortest walking distance (using sidewalks and designated crosswalks) from the nearest points of the multi-family development site and the park's entrance or point of access.



**Chapter 11 Part 12 Floyds Fork Special Zoning Overlay District Waivers****11.12.1 General**

The Planning Commission may modify, reduce or waive those standards and minimum requirements established in Chapter 3, Part 1 of this Land Development Code. Process and procedure requirements cannot be waived through the process outlined within this section.

**11.12.2 Application****A. Submission Requirements**

Applications for a waiver shall be signed by the property owner or his/her agent and filed with the Planning Director in accordance with these regulations and the Planning Commission By-Laws and Rules of Procedure. Applications shall be accompanied by supporting materials determined appropriate by the Planning Director and by the appropriate fee. The list of required supporting materials shall be available from the offices of the Commission. Failure to submit all required material may result in delay of the application review. At a minimum, the following materials shall be submitted with all applications for a waiver:

1. A justification document which addresses as applicable the following items:
  - a. The waiver will not adversely affect adjacent property owners; and,
  - b. The waiver will not violate the Comprehensive Plan; and,
  - c. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant; and,
  - d. The waiver or modification will not adversely impact the health of the waterways of the Floyds Fork Special Zoning Overlay District; and,
  - e. The waiver or modification will not adversely impact the visual quality of the waterways or designated Floyds Fork Special Zoning Overlay scenic corridor; and,
  - f. Either:
    - i. The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); or
    - ii. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.
2. A copy of the Floyds Fork Zoning Overlay plan or associated development plan shall be submitted with the application. The location of the waiver request shall be identified on the plan.

3. Not all Waivers, Variances and Conditional Use Permits require engineered surveys. However, where dimensional information is determined to be essential for consideration of such waivers, variances or Conditional Use Permits by staff, the applicant shall provide a survey prepared by a licensed Land Surveyor in the Commonwealth of Kentucky. Only those property boundaries that are contiguous with the dimension(s) in question need to be provided. The cost of the required survey shall be borne by the applicant. In cases where staff determines a survey is not required the applicant shall not be responsible for the cost of any survey submitted by any party.

#### **11.12.3 Environmental Assessment of Certain Waiver Requests**

- A. Waiver applications for the following design standards shall require an independent environmental assessment of the impact to the health of the Floyds Fork waterway:
  1. Requests to waive or modify the Floyds Fork waterway buffer.
  2. Request to waive or modify the prohibition on disturbing slopes 30 percent or greater.
  3. Requests to waive or modify the prohibition on filling and excavation within the local regulatory floodplain adjacent to the Floyds Fork waterway.
  4. Requests to waive or modify the prohibition on modification of the Floyds Fork waterway.
- B. An independent environmental assessment shall be a summary review of the environmental impacts of a project on the health of the Floyds Fork waterway. Its purpose will be to provide relevant information to the Planning Commission or its designee on the potential environmental impact of projects that include requests for waivers to one or more of the design standards listed in paragraph A above. The complexity of the environmental assessment will depend on the scope of the proposed project and magnitude of the impact to the Floyds Fork waterway based on the requested waiver or modification to the design standard(s). The Office of Planning or its successor agency shall establish criteria for recognizing consultant(s) in the field to develop the environmental assessment for submittal to the Planning Commission or its designee for its review of the request to waive or modify the design standard(s). Until such criteria are determined, applicants shall hire consultants qualified to perform environmentally assessments, the cost of which shall be borne by the applicant.

#### **11.12.4 Notice**

Following receipt of a completed application, staff of the Planning Commission shall provide notice of the request for modification or waiver to first tier adjacent property owners and parties of record to any previous Planning Commission hearing on the proposal now under consideration for waiver or modification. In addition, a supplemental notice to be addressed to "Current Resident" shall be mailed to all dwelling units located on properties where notice of first tier property owners is required by this part in accordance with Planning Commission bylaws and policies. Addresses shall be obtained using available

data from Louisville Metro Government, and those records may be relied upon conclusively to determine the dwelling units to be included in the supplemental notice. Such notice shall be given no less than ten (10) calendar days prior to the meeting at which the request is to be considered. Failure of any person to receive a notice addressed to “Current Resident” mailed in compliance with Planning Commission bylaws and policies shall not invalidate the actions of the Planning Commission.

#### **11.12.5 Public Hearing**

The Planning Commission shall conduct a public hearing for any request to waive or modify a Floyds Fork Special Zoning Overlay design standard. Notice of any such hearing shall be given in accordance with Section 11.12.3.

#### **11.12.6 Findings Necessary for Granting of Waiver or Modification**

The Planning Commission may approve waivers or modifications of the Floyds Fork Special Zoning Overlay design standards upon a finding that:

- A. The waiver or modification will not adversely affect adjacent property owners; and,
- B. The waiver or modification will not violate the Comprehensive Plan and any neighborhood or small area plans approved by Metro Council that include the subject property; and,
- C. The extent of waiver or modification of the regulation is the minimum necessary to afford relief to the applicant; and,
- D. The waiver or modification of the design standard will not adversely impact the health of the waterways of the Floyds Fork Special Zoning Overlay District; and,
- E. The waiver or modification of the design standard will not adversely impact the visual quality of the waterways or designated Floyds Fork Special Zoning Overlay scenic corridor; and
- F. Either:
  - 1. The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); or,
  - 2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

#### **11.12.7 Additional Conditions**

The Commission may impose additional conditions or restrictions intended to mitigate the impact of the modification or waiver. These conditions or restrictions shall be considered as binding elements.

**11.12.8 Delegation to Committee**

The Planning Commission may delegate the authority to consider and take final actions on modifications or waivers to a Committee of the Commission duly created under the By-Laws of the Commission. Committee decisions may be appealed to the Planning Commission in accordance with Section 11.7.2.