



OFFICE OF PLANNING  
LOUISVILLE, KENTUCKY

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**Summary of Changes  
Floyds Fork Zoning Overlay Changes  
November 7, 2023 Draft**

The following numbered items describes the significant changes made in the latest version of the Floyds Fork Zoning Overlay District regulations.

1. Exempt activities modified to be Ag related uses, properties and activities subject to CFRs, and expansions of existing structures below what we put in the Regulated Activities.
2. We did two tiers of Regulated Activities: Tier 1 can be approved by the Planning Director or designee and is made up of mostly single family construction activities, and Tier 2 is everything else and it requires Planning Commission or designee approval.
3. For the stream buffers, moved the Perennial and Intermittent buffers to match what is currently regulated by either the LDC or MSD. Put in the 25 percent modification rule, and say there can't be any waiver from the Streamside Zone buffer width.
4. Changed steep slopes from 20 percent to 30 percent, with disturbance between 20 and 30 following what is in Chapter 4.7.
5. Clarified buffer requirements for non-residential development. Previous version said parking was prohibited from being in front of buildings. We provided some options to buffer if that is what a developer wants to propose.
6. Changed maximum impervious surface for non-residential development from 75 percent to 50 percent.
7. Any request to waive or modify the Floyds Fork water buffer requires an environmental assessment.

If you have any questions about the latest draft, please contact Brian Davis at 502-574-5160 or [brian.davis@louisvilleky.gov](mailto:brian.davis@louisvilleky.gov). Written comments may also be submitted to Brian Davis and must be submitted by 10:00 a.m. on Wednesday, November 15 in order to be forwarded to the Planning Committee members (comments received after this deadline will still be included in the file and made available to the Planning Commission when the item goes to public hearing).

### Part 1 Floyds Fork **Special** Zoning Overlay District

~~Reserved; until the community based planning process is complete and a Floyds Fork Special District regulation is adopted, the Development Review Overlay District (DRO), originally adopted in 1993, remains in effect.~~

#### **Development Review Overlay District**

##### ~~A~~ 3.1.1 General Regulations:

~~1~~A. The ~~Development Review~~ Floyds Fork Zoning Overlay District - DRO Definition and Purposes:

- ~~a~~1. The ~~Development Review~~ Floyds Fork Zoning Overlay District is an overlay shown on the zoning district maps. It constitutes a second level of development standards in addition to those specified by the underlying zoning and form districts.
- ~~B~~2. The purpose of the district is to protect the quality of the natural environment. The district achieves these purposes by promoting compatible development of land and structures. The ~~Development Review~~ Floyds Fork Zoning Overlay District's primary objectives are to ~~protect the public and property owners in the district~~:
  - ~~i~~a. ~~From blighting influences which might occur under conventional land use regulations.~~ Protect and enhance the natural environment and integrate in with the built environment as development occurs (see Plan 2040 Livability Goal 1).
  - ~~ii~~b. ~~From unsafe buildings which would be caused by uncontrolled development.~~ 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.
  - ~~iii~~e. Encourage development techniques that protect, preserve or minimize the impact to prominent hillsides and valleys. ~~From significant damage or destruction of prominent hillsides or valleys caused by improper development.~~
  - ~~iv~~f. ~~From significant damage to~~ Maintain the economic value of existing properties and/or new developments.
  - ~~v~~g. Protect waterways from soil erosion and stream siltation.
  - ~~vi~~h. ~~From the destruction of~~ Conserve mature and/or valuable trees and other vegetation and wildlife habitat.
  - ~~vii~~i. ~~From loss of~~ Respect the high-quality visual character.

##### ~~2.~~ Definitions

~~Terms in this section shall have the meanings hereinafter given unless the context shall clearly indicate otherwise.~~

~~a. "Protected Body of Water" is a body of water shown on the U.S.~~

~~Geological Survey topographic maps and identified for protection in the design guidelines referenced in paragraph B. 7, below.~~

~~b. "Clearing of forested area" is removal or destruction of trees and other live woody vegetation exceeding a caliper of six inches (trunk diameter measured six inches above ground) to the extent that fewer than 20 trees that meet or exceed this dimension remain standing in each 20,000 square foot area.~~

~~c. "Wetland" is a jurisdictional wetland as defined by the current federal wetlands delineation manual.~~

### B.3. Applicability:

a.1. The ~~Development Review~~ **Floyds Fork 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.

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

### B.3.1.2. Development Within the Overlay District:

#### 1.A. Exempt Activities:

- Expansion to existing structures to a lesser extent than specified in B below
- Agricultural uses and related structures
- Properties and activities subject to Community Facilities Reviews

Existing single family homes, existing and future residential accessory uses and structures, structures accessory to a use established before enactment of the DRO District and expansion of structures to a lesser extent than specified in B.10, B. 2. (j), below are not regulated by the provisions of this section. Agricultural use and related structures likewise are exempt from the provisions of this section.

#### 2.B. Regulated Activities:

Activities that may be detrimental to the natural, scenic and environmental characteristics as described herein are regulated by the provisions of this ordinance and subject to the review process set out in paragraph 3 below. Such activities include:

##### a.1. Tier 1 Regulated Activity

##### a. The following activities shall be classified as Tier 1 Regulated Activities:

- Clearing of a forested area greater than 5,000 square feet on an individual single-family lot/tract

- Grading, excavation, construction of retaining walls, or alteration of the ground surface other than that attendant to agricultural uses, on an individual single-family lot/tract
- Expansion of an existing residential structure by more than 50 percent
- 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.
- Construction of an Accessory Dwelling Unit that meets the provisions of Section 4.3.27
- Construction of a roadway serving a single dwelling unit
- Construction of a single-family structure on an individual lot other than those exempted in Item A above.

b. **Tier 1** Review Process:

**Tier 1** Regulated ~~a~~A activities, as described above, are allowed only upon approval of a Floyds Fork Zoning Overlay development review application by the Planning Director or **their** designee. A separate Overlay development review applications 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 these regulations

~~The a~~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 as outlined in paragraph C above 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 Regulated Activity**

a. **The following activities shall be classified as Tier 2 Regulated Activities:**

- Clearing of forested area greater than 5,000 square feet for development purposes
- Grading, excavation, construction of retaining walls, or alteration of the ground surface other than that attendant to agricultural uses
- Construction of roadways or parking lots serving more than a single dwelling unit
- Utility construction, including water, sewer or waste disposal, natural gas and electric, not associated with a Community Facility Review or a development that has been the subject of an approved Floyds Fork Zoning Overlay review

- Installation of a freestanding sign exceeding 30 square feet in area
- Expansion of a non-residential structure by more than 10 percent
- Construction of any non-Tier 1 regulated structure other than those exempted in [Item A](#),

~~c3. Alteration of a protected body of water including channeling, diverting, dredging or removal of stream materials.~~

~~d4. Bridging or damming of a protected body of water.~~

~~e5. Modification of a wetland, including filling, excavation, clearing of trees, paving, construction or diversion of the water supply.~~

~~f6. Construction of any structure other than those exempted in Item A, above Paragraph B.1.~~

~~g7. Utility construction including water, sewer or waste disposal, natural gas and electric.~~

~~h8. Construction of roadways or parking lots serving more than a single dwelling unit.~~

~~i9. Subdivision of land.~~

~~j10. Expansion of an existing residential structure by more than 50% or of a non-residential structure by more than 10% beyond the extent of the structure's square footage as existed on the effective date of this regulation.~~

~~k11. Installation of a freestanding sign exceeding 30 square feet in area.~~

**3C. b. Tier 2** Review Process:

**Tier 2** Regulated **aA** activities, as described above, are allowed only upon approval of a Floyds Fork Zoning Overlay development review application by the Planning **Commission** **Commission Director** or **its** designee. A separate **O**verlay development review applications 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 these regulations.** ~~The Commission will review proposed regulated activities to determine impact on environmental characteristics, including but not limited to impacts on water quality, the floodplain, wetlands, natural drainage ways, steep slopes, soils, forestation and scenic vistas. The Commission will consult with the Director of Works and the Metropolitan Sewer District in the course of this review process. The applicant will provide adequate information to allow the Commission to determine impacts of the proposal and compliance with the guidelines established in paragraph 7. below.~~

~~If a Conditional Use Permit is required in conjunction with a review and approval under this section, the Conditional Use Permit review by the Board of Zoning Adjustment shall not occur until the Planning Commission has concluded its review and approval under this section.~~ Waiver(s) to a standard listed in LDC section [] shall be reviewed in accordance with this chapter and LDC Section 11.8.9.

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 Kentucky Revised Statutes.

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.

4C. Review Authority

1. ~~The LD&T committee of Planning Commission may review development proposals and act on behalf of the Commission. The action taken by the committee can be appealed to the Planning Commission within thirty (30) days of such action. Failure to appeal the committee's action in accordance with this section shall preclude further review and appeal.~~ The Planning Director or designee shall review applicable development reviews as outlined in **CB** above, pursuant to this chapter.
2. ~~The following regulated activities may be reviewed for compliance with this regulation and approved by the director of the Planning Commission or the director's designee.~~
  - i. ~~Construction of a single family home on a lot created prior to the application of the Development Review Overlay.~~
  - ii. ~~Construction of one or more single family homes in a subdivision which the Planning Commission has approved in accordance with this regulation.~~
  - iii. ~~Cutting, filling, other alteration of the ground surface, subject to the limits established for a minor earth excavation in Section 4.4.7.~~
  - iv. ~~Construction of retaining walls having a vertical face of eight feet or less.~~
  - v. ~~Clearing less than three acres of forested area.~~
  - vi. ~~Construction of roadways or parking lots serving five or fewer dwelling units.~~
  - vii. ~~Subdivision of land creating three or fewer parcels.~~
  - viii. ~~Expansion of an existing residential structure and expansion of a non-residential structure by 100 percent or less.~~

The ~~a~~Actions taken by the director or a designee may be appealed to the Planning Commission within thirty (30) of such action. Overlay reviews conducted in conjunction with other development plan reviews as outlined in paragraph C above 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.

5D. 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 ~~DRO~~Floyds Fork 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.

~~6.~~ Public Hearing Requirement:

~~Persons seeking approval of a regulated activity other than those listed in paragraph 4.b., above shall supply the Planning Commission with the names and addresses of all persons designated by the property valuation administrator as owners of every parcel of property adjoining at any point the subject property and directly across the street from said property, and owners of every parcel of property which adjoins at any point the adjoining property or the property directly across the street from the subject property. The Planning Commission shall notify these adjoining property owners of the proposed development and shall solicit their comments concerning the need for a public hearing. For activities described in paragraph 4. b., the director of the Commission shall determine if notification of the above mentioned property owners and/or a hearing is warranted; the Planning Commission shall determine the need for a public hearing on other regulated activities. The Planning Commission shall send notice of the public hearing to said persons by first class mail not less than 7 nor more than 21 days prior to the hearing.~~

~~7~~E. Guidelines for Approval Overlay Standards:

~~Design guidelines and performance standards which address the characteristics of each Development Review Overlay District shall be prepared. The Planning Commission shall use these design guidelines to determine impact of a proposed development on the quality of the environment in the Development Review District.~~

~~The guidelines shall be enacted in ordinance by the legislative body, in conjunction with the amendment of the Zoning District Map to create each Development Review Overlay District.~~ All regulated activities as listed in LDC Section 3.1.2.B shall be reviewed for compliance with the Floyds Fork Zoning Overlay design standards pursuant to LDC section [].

~~8.~~ Conditions of Approval

~~The plan will be reviewed to determine if negative impacts on the environment can be overcome, mitigated to a substantial degree or proven not to exist. Upon incorporation of any necessary mitigative measures, approval of the development or activity will be given, contingent upon meeting other appropriate regulations including but not limited to Building Code requirements, Zoning District Regulations, Floodplain Regulations, Air Pollution Control and Health Code Requirements. The Planning Commission may disapprove a proposed district development plan if negative environmental impacts are not adequately mitigated. Revisions to an approved district development plan requested by the applicant will be reviewed by the Planning Commission. The Commission may require a public hearing, depending on the magnitude of change and the potential for environmental impacts.~~

**9F.** Length of Plan Review Period

Floyds Fork Zoning Overlay development review applications shall be reviewed by the Planning Director or designee within **twenty-two (22) calendar days** ~~30 business days~~ after submittal of all materials required under LDC Section 3.1.2.E. **As part of the review, the Planning Director or 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. Failure of the Planning Director or designee to act on an application within the plan review period shall authorize the applicant to proceed in accordance with the plan as filed, subject to other applicable regulatory approval and permit, unless the review period is extended by agreement between the Planning Director or designee and the applicant. Waiver to any design standard listed in LDC section [ ] shall extend the review period an additional 60 business days.** ~~It is the Planning Commission's goal to work with applicants, so that delay is minimized. Within 30 business days after submittal of all materials required under paragraph 3, above, the Planning Commission or its designee will take action on a proposed development. For those proposals which are taken to public hearing, the plan review period will be extended to 60 business days. Failure of the Planning Commission or its designee to act on an application within these plan review periods shall authorize the applicant to proceed in accordance with the plan as filed, subject to other applicable regulatory approval and permit, unless the review period is extended by agreement between the Planning Commission and the applicant.~~

**10.** ~~Actions Final~~

~~Action by the Planning Commission on a proposed district development plan is final. Such action may be appealed in accordance with Kentucky Revised Statutes.~~

**11.** ~~Enforcement:~~

~~Immediately after approving a development plan under this article, the Planning Commission shall transmit a certified copy of the approved plan to the Building Department or Code Enforcement Office. The Building Department shall be authorized to issue permits only in accordance with the approved development plan under this section. In addition, violation of any feature of an approved development plan shall be treated in the same manner as a violation of the Zoning District Regulations.~~



### 3.1.3 Floyds Fork **DRO Guidelines** Zoning Overlay Design Standards

The following section contains the Floyds Fork DRO Guidelines which were adopted in February 1993. Intent: The intent of the Floyds Fork Zoning Overlay Design Standards Guidelines 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 of the Floyds Fork Corridor. The design guidelines standards are also intended to complement the natural landscape of the Floyds Fork area in order to obtain an aesthetically pleasing, rural atmosphere.

~~Applicability: The following guidelines would apply to new development, including subdivisions, new construction, clearing and grading of land. Existing homes, farms and undeveloped property are not required to meet these standards. Before a building permit or subdivision is approved, the proposed plans would be reviewed for compliance with these standards. [Note: Environmental constraints referenced within these guidelines are shown on the Comprehensive Plan Core Graphics.]~~

#### 1A. Stream Corridors Protected Waterways

- a.—1. A buffer strip area should shall be provided in accordance with Table 3.1.3 below. be maintained a minimum of 1200 feet wide on each side of Floyds Fork and a 50-foot wide strip on each side along tributaries shown on Map A. Steep slopes extending beyond the minimum buffer strip may necessitate a wider buffer. The buffer strip is to shall be measured from the top of the bank of the protected waterway. Specific and final buffer area boundary delineations shall be determined by the Planning Director or designee. 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. ordinary high water mark. Riparian vegetation should be established, as necessary, and maintained along stream banks to stabilize the banks and protect water quality. Where a bank has been denuded of its vegetation through erosion, slope failure or similar occurrence, other vegetation such as KY-31 Fescue may be appropriate to quickly establish a vegetative cover. This should be considered however only as a temporary, interim solution. Selective removal of dying or diseased trees and shrubs within the buffer strip is permissible, provided that a live root system stays intact. Native plant material adequate for filtering surface drainage should be maintained within the buffer strip. [Note: Small lots within the buffer strip will not be prevented from developing.]
- b.—~~Structures and impervious surfaces should be located at least 200 feet from each bank along Floyds Fork measured from the ordinary high water mark. In conjunction with the riparian vegetative buffer, this buffer protects the stream from adjacent development by filtering sediment, removing other pollution and reducing the force of runoff, in addition hazards from floods and erosion are reduced for development adjacent to the stream. [Note: Small lots within the buffer strip will not be prevented from developing.]~~
- c.—~~Measures to avoid stream bank erosion are especially desirable; although limited grazing is beneficial to vegetation, excessive grazing of livestock near streams can be detrimental~~

- ~~to vegetation and reduce the effectiveness of the buffer strip.~~
- ~~d. In areas experiencing stream bank erosion, planting of native riparian vegetation is preferred. If this stabilization technique is determined to be inadequate by the agency responsible for drainage review, the preferred alternative is riprap that is installed in a manner that allows tree growth among the stones.~~
- ~~E2.~~ Structures, impervious surfaces, septic systems and associated fill slopes ~~should~~ shall not be located within the 100-year floodplain. Stream crossings are an exception to this ~~restriction; the Planning Director may approve~~ crossings ~~should be~~ that are minimized and receive approval from all applicable local, state, and federal agencies ~~and be aesthetically compatible with the natural values of the stream channel.~~
- ~~F3.~~ Filling and excavation ~~should~~ shall not be permitted in the 100-year floodplain. ~~Floodplains are recommended for agricultural and recreational use.~~
- ~~G4.~~ Modification of streams shown on Map A, including stream relocation and channelization, is ~~strongly discouraged~~ prohibited. ~~Watercourse modification as a convenience for site design purposes is not appropriate.~~ Removal of fallen trees, tree limbs, brush and similar debris that accumulate naturally in creek beds and impede stream flow is ~~acceptable~~ permitted.

Table 3.1.3

<u>Type of Protected Waterway</u>	<u>Buffer Area</u>
<u>Floyds Fork</u>	<u>Total Buffer Area = 200 feet, comprised of the following 3 zones:</u> <ol style="list-style-type: none"> <li>1. <u>Streamside Zone = 100 feet</u></li> <li>2. <u>Middle Zone = 50 feet</u></li> <li>3. <u>Outer Zone = 50 feet</u></li> </ol>
<u>Stream, Perennial (Blue line stream, Solid)</u>	<u>Total Buffer Area = <del>125</del> 100 feet, comprised of the following 3 zones:</u> <ol style="list-style-type: none"> <li>1. <u>Streamside Zone = <del>75</del> 50 feet</u></li> <li>2. <u>Middle Zone = 25 feet</u></li> <li>3. <u>Outer Zone = 25 feet</u></li> </ol>
<u>Stream, Intermittent (Blue line Street, Intermittent)</u>	<u>Total Buffer Area – <del>75</del> 25 feet (Streamside Zone) comprised of the following 3 zones:</u> <ol style="list-style-type: none"> <li>1. <del>Streamside Zone = 25 feet</del></li> <li>2. <del>Middle Zone = 25 feet</del></li> <li>3. <del>Outer Zone = 25 feet</del></li> </ol>

5. 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.
6. 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.
7. There shall be no waivers from the Streamside Zone buffer area width.

B. Standards for Protected Waterways and All 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, development, or subdivision in the 100-year floodplain shall demonstrate compliance with the Jefferson County Louisville Metro Floodplain Ordinance as amended.
3. Uses Permitted in the Streamside Zone:
  - a. Public flood control structures
  - b. Road crossings, where permitted
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 uses and activities that entail no impervious surfaces
5. Uses Prohibited in the Outer Buffer Zone:
  - a. Wastewater Disposal Systems, including septic systems and lateral fields
  - b. Permanent structures
  - c. Impervious surface coverage with a footprint of greater than 100 square feet, except for approved recreational trails

2C. Trees and Vegetation

- ~~a. Existing wooded areas, in addition to the riparian buffer strip, should be retained~~

~~wherever possible. Hillside vegetation in particular should be preserved.~~

~~B1.~~ Wooded areas shown on the development plan as being retained ~~should~~shall be preserved and maintained in healthy condition. As trees die or are removed, replacements ~~should~~shall be provided.

~~C.~~ Grading and soil compaction by construction vehicles under the drip lines of trees and wooded areas intended to be retained should be minimized.

~~D2.~~ Where grading within wooded areas is necessary, disturbed areas ~~should~~shall be seeded to a shade tolerant plant species and mulched with straw.

~~E3.~~ Proposed major subdivisions ~~should~~shall indicate the limits of the site disturbance area for each lot being created. The site disturbance area ~~should~~shall be shown in relation to environmental constraints: such as slopes over 20% 30 percent, 100-year floodplains, and jurisdictional wetlands ~~with~~hydric soils.

4. Tree protection fencing shall be placed at the outside edge of the Middle Zone prior to construction in adjacent areas.

~~f.~~ Proposed major subdivisions should indicate existing wooded areas to be retained and to be removed. The location of existing trees exceeding 18" in diameter at a point 54" above the ground that would be removed should be shown on the plan.

~~g.~~ Temporary protective fences should surround features to be preserved during the construction process. Features to be preserved shall be defined during the review process (e.g., trees, slopes, historical and archaeological sites).

### 3D. Drainage and Water Quality

~~a.~~ On site wastewater disposal systems should be located to minimize potential water pollution. Lateral fields should be sited at least 150 feet from the ordinary high water mark of a stream shown on Map A.

~~b1.~~ Areas identified as wetlands in studies approved by government agencies ~~should~~shall be preserved in their natural state. Drainage, flooding patterns and any hydrologic system(s) needed to sustain the wetlands ~~should~~shall not be altered unless permitted by the appropriate federal agency(ies). Existing vegetation and wildlife habitat should be preserved.

~~c.~~ To avoid soil loss, property damage, pollution and cleanup costs, an erosion and sediment control plan should be submitted for major subdivisions and other developments with potentially significant water quality impacts. Guidelines found in the Soil Erosion and Sediment Control Practices Section of MSD's design manual currently in effect are to be used when preparing an erosion and sediment control plan. Additional information on this topic is available from Planning Commission staff.

~~d.~~ Runoff from impervious surfaces should be conveyed in a manner that minimizes erosion. Natural stormwater channels are preferred over manmade materials such as conveyances constructed of concrete.

~~e. Adequate provision should be made to prevent any storm or surface water from damaging the cut face of any excavation or the sloping face of any fill. When necessary for protection of critical areas, diversion ditches or terraces should be provided.~~

~~F2. Developers of major subdivisions ~~should~~ shall plant, water and maintain vegetative cover on graded slopes on each unsold property until all properties have been sold.~~

#### ~~4E. Hillsides~~

~~a. Design subdivisions and locate structures to preserve the natural character of the land to the greatest extent possible.~~

~~B1. Areas with slopes of 20%30 percent or greater ~~generally should~~ 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.~~

~~c. Major subdivisions with developable lots or roadways situated on slopes of 33% or greater should be permitted only if a report prepared by a qualified geotechnical or soils engineer documents that the proposed design will not result in hazardous conditions and certifies work during construction.~~

~~D2. Minimize cuts and fills. Necessary cuts fills and other earth modifications should be replanted with appropriate vegetation. Minimize the practice of tTerracing hillsides in order to provide additional building sites on lots immediately adjacent to the Floyds Fork waterway shall be prohibited. Structural containment of slopes should be minimized; retaining walls exceeding six feet in height should be avoided.~~

#### ~~5. Clustering of Residential Use~~

~~a. Site planning should create cluster patterns of new development whenever possible: building sites and land disturbance activity should be concentrated in portions of the site better suited for development, to minimize disruption of environmentally sensitive areas and to retain the corridor's rural character. Clustering allows significant portions of the site to remain undeveloped, while achieving an amount of development comparable to traditional site plans and reducing development costs.~~

~~b. Preservation of agricultural use, including pastures and sustained-yield wood lots, is encouraged.~~

~~*Note: Cluster developments including lots less than 5 acres in size, with on-lot wastewater disposal, may be approved if designed in accordance with the DRQ guidelines.*~~

#### ~~6. Historic Elements~~

~~a. Where possible, preserve and retain historic elements and distinctive site features such as old buildings, cemeteries, archaeological sites, fence rows, walls and other significant signs of past land use, and as otherwise identified by the agency responsible for historic preservation.~~

#### ~~7F. Vistas and Appearance~~

### 1. Residential Development

**A1a.** New residential construction along designated scenic corridors (Map A) ~~should preserve the area's rural appearance~~ shall provide one of the following design measures:

- i. ~~In existing wooded areas~~ shall provide a buffer area 60 feet in width that must preserve existing vegetation within the buffer, with a 75-foot minimum setback. The existing trees within the buffer shall equal or exceed 1 type A tree per 25 feet of lot frontage. ~~and densely vegetated should be maintained, to create an effective visual barrier.~~
- ii. Outside the Non-wooded areas ~~(agricultural or open lands)~~, new development ~~should~~ shall provide a ~~substantial setback from the roadway (400 feet)~~ 400-foot minimum 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 setback. Residential developments having two or more dwellings per acre ~~should~~ shall provide the 60-foot buffer with a 75-foot minimum setback.

~~b. Placement of new homes within an existing wooded area, or along far edges of open fields adjacent to woodland; is encouraged (to reduce impact upon agriculture, to provide summer shade and shelter from wind and to enable new construction to be visually absorbed by natural landscape features).~~

~~c. Creation of new driveways from designated scenic corridors should be minimized; common driveways and shared access points are encouraged. Where appropriate for the site's topography and traffic volumes gravel rather than paved drives are encouraged.~~

**D2b.** Signature entrances located along designated scenic corridors ~~should~~ shall not exceed six feet in height or 50 feet in total length (25 feet each side).

**c.** 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.

**d.** For multi-family residential development, parking lots shall not be located between any structures and the scenic corridor roadway.

### 2. Non-Residential Development

**E3a.** 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: in accordance with LDC Section 10.3.6. ~~New development should~~ shall be setback a minimum of 50 feet from the right-of-way line of designated scenic corridors (Map A). ~~This area is reserved to accommodate landscaping consistent with the "rural character" of the Floyds Fork corridor. When used in this context, development includes all buildings, signs, parking lots; service drives and access roads that parallel designated scenic corridors.~~

~~f. Landscaping in the 50 foot green space (1a. above) along designated scenic corridors~~

~~should include earth berming (average height of three feet) and shrub masses to screen parking areas. Large deciduous trees, a minimum of one tree for every 50 feet of roadway frontage, should be planted in the green space. Existing trees should be retained whenever possible, both in the buffer area and within the area to be developed. Trees should be planted at least ten feet from the right-of-way.~~

i. Non-residential development with parking lots provided at the rear of the building shall have a required 40-foot 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 40-foot 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 setback 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.

~~G4b. Parking lots should shall be provided only at the side or rear of the buildings to reduce visual impact of the use while providing an appropriate level of visibility.~~

~~H5b. Buildings, parking lots, and other impervious surfaces should shall cover no more than 75 50 percent of each site. The remainder of the site should be planted and maintained with live vegetative cover so as to reduce visual impacts as well as drainage and run off problems.~~

~~i. Newly installed utility services should be underground and service structures should be screened as required by Chapter 10 of the Development Code.~~

~~j. Attached and monument type signs are preferred (see glossary for definition); pole signs should be avoided.~~

~~K6c. Permanent freestanding signs for property or business identification commercial, industrial, or officemulti-family residential uses should shall not exceed six feet in height or and sixty square feet in area and shall be monument style. Attached signs are governed by size standards found in the Zoning District Regulations.~~

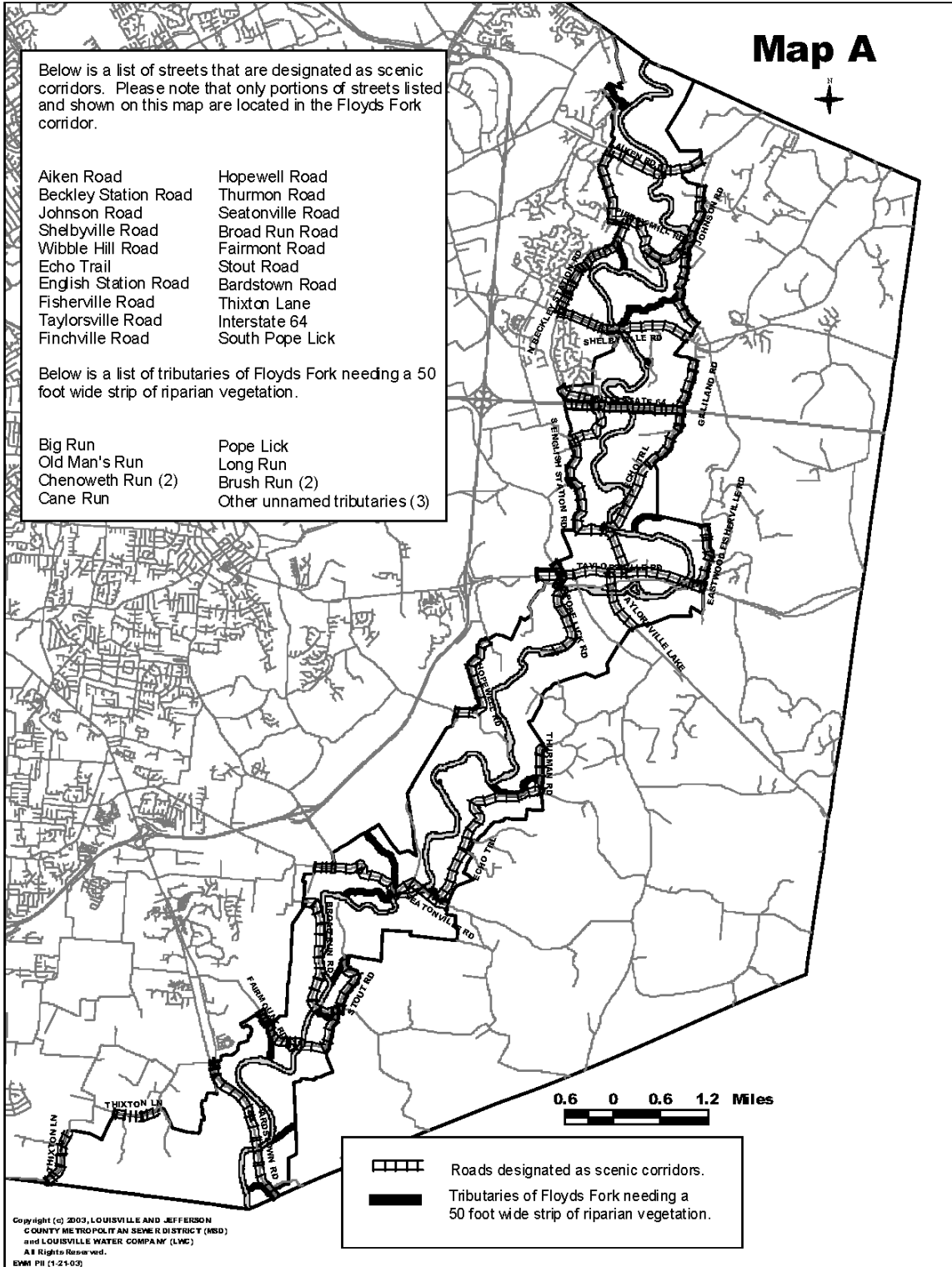
~~l. Billboards, off-premise advertising signs of any kind, banners, balloons, and pennants should not be visible from a scenic corridor.~~

#### **All Development**

~~m. Buildings should be planned and designed and vegetation should be managed to preserve and enhance scenic vistas along roadways shown on Map A.~~

- ~~n. The visual impact of new structures proposed for prominent hillsides visible from public facilities, scenic corridors and the stream itself should be minimized. Trees should be retained or planted to screen them or to create a filtered view of these structures (one tree per 25 feet of building facade length).~~
- ~~o. When it is necessary to use retaining walls, their height should be minimized. A series of smaller retaining walls is preferable to one large wall, provided that the series of walls can be built without excessive removal of vegetation during construction. Retaining walls faced with brick or stone are preferable.~~
- ~~p. Hedges and fence rows (trees and shrubs growing along a fence) are the preferred means of property enclosure provided they do not obstruct scenic vistas. If chain link fencing is to be used, it should blend with its setting (painted or vinyl coated with dark colors such as black, green or brown). Unscreened galvanized chain link fencing is appropriate only for areas not visible from roads shown on Map A.~~
- ~~q. Parking areas, outbuildings, satellite dishes, and other less attractive aspects of a development should be screened from view. Where total screening is impractical, partial measures that lessen the full visual impact of development are recommended.~~





Chapter 11 Part 12 Floyds Fork Zoning Overlay District Waivers11.12.1 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 ApplicationA. 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. 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 **by more than 50%**
  2. Request to waive or modify the prohibition on disturbing slopes over **230** percent **on properties that are immediately adjacent to the Floyds Fork waterway.**
  3. Requests to waive or modify the prohibition on filling and excavation within the 100-year 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). Planning and Design Services or successor agency shall have a recognized consultant(s) in the field to develop the environmental assessment for submittal to the Planning Commission or designee for its review of the request to waive or modify the design standard(s). The cost of the independent environmental assessment 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 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 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 Floyds Fork waterway; and
- E. The waiver or modification of the design standard will not adversely impact the visual quality of the Floyds Fork water or designated Floyds Fork 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.