

Part 1 Floyds Fork Special Zoning Overlay District

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. 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 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 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:

Floyds Fork Special Zoning Overlay District Threshold Table 3.1.1

The following regulatory tiers under Chapter 3 shall apply to all developments meeting the thresholds and applicability requirements set forth in the table below.

Thresholds	Tier 1 Regulated Activity	Tier 2 Regulated Activity	Exempt Activity
Agricultural uses and related structures			X
Properties and activities subject to Community Facility Reviews		X	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 21st Century Parks Endowment			X
Expansion to existing non-residential structures square footage by less than 10 percent			X
Clearing of forested area greater than 5,000 square feet for development		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	
Construction of any non-Tier 1 regulated structure not exempt from review		X	
Individual Single-Family Lots			
Expansion to existing residential structure's footprint by less than 50 percent			X
Expansion to existing residential structure's footprint by 50 percent or greater	X		
Clearing of forested 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		X
Construction of an Accessory Dwelling Unit that meets the provisions of Section 4.3.27	X		
Construction of a roadway 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.			

NOTES: 3.1.1. Thresholds

- **Change Community Facility Reviews to Tier 2** and should be held accountable to the public process.
- **Remove Parklands exemption.** A private company should not be given an exemption. All entities should be held accountable to the public process.
- **Change to Exempt:** 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. is insignificant to the overall DRO and should be exempt from this process.

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 11.2.2 and/or 11.2.3 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.

B. Review Authority

1. The Planning Director or designee shall review 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.B 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 designee within twenty-two (22) calendar days after submittal of all materials required under LDC Section 3.1.2.C. 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.

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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 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 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.
2. Structures, impervious surfaces, septic systems, **pump stations, water quality basins**, 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 **for Tier 2 activities**.
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.

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"> 1. Streamside Zone = 150 feet 2. Outer Zone = 50 feet
Stream, Perennial (Blue Line Stream, Solid)	Total Buffer Area = 100 feet, comprised of the following three zones: <ol style="list-style-type: none"> 1. Streamside Zone = 50 feet 2. Middle Zone = 25 feet 3. Outer Zone = 25 feet
Stream, Intermittent (Blue Line Stream, Intermittent)	Total Buffer Area – 25 feet (Streamside Zone)

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.
 - c. The buffer reduced is not in the local regulatory floodplain**
7. There shall be no waivers from the Streamside Zone buffer area width.

NOTE: 3.1.3.A.Protected Waterways

Add to "Pump Stations, water quality basins" to 3.1.3.A.2.

- Structures, impervious surfaces, septic systems, pump stations, water quality basins, and associated fill slopes shall not be located within the local regulatory floodplain.
 - No pump stations should be permitted near the water where failure would be catastrophic to the environment
 - Water quality basins that become submerged during flooding events are of no value and eliminate the purpose of the basin

Add "for Tier 2 activities" to 3.1.3.A.3

- Filling and excavation shall not be permitted in the local regulatory floodplain for Tier 2 activities.
 - Single family dwellings that are out of the conveyance zone but in a shallow floodplain should be permitted

Add "c. The buffer reduced is not in the local regulatory floodplain." to 3.1.3.A.6.

- Elevation should be considered when reducing the buffers. Low flat areas near the water should be more protected and not reduced.

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 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. **No water quality basins, no berming, no elevation changes**

NOTE: 3.1.3.A. Standards for Protected Waterways and All Buffer Areas

Add “c. No water quality basins, no berming, no elevation changes” to 3.1.3.B.3.

- *Water quality basins that become submerged during flooding events are of no value and eliminate the purpose of the basin; berming on the streamside will channel the water during lesser flooding events causing damage to the riparian vegetation and erosion the banks*

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, **water quality basins**, lateral fields, **and elevation changes**
 - b. Permanent structures
 - c. Impervious surface coverage with a footprint of greater than 100 square feet, except for approved recreational trails

NOTE: Update 3.1.3.B.3.a. to “Wastewater Disposal Systems, including septic systems, water quality basins, lateral fields, and elevation changes”

- *Water quality basins that become submerged during flooding events are of no value and eliminate the purpose of the basin; berming on the outer buffer will channel the water during lesser flooding events causing damage to the riparian vegetation and erosion the banks*

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 grading within wooded areas is necessary, disturbed areas shall be seeded to a shade tolerant plant species and mulched with straw.
 3. 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.
 4. 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.
 5. All required plantings shall be of native species.
- D. Drainage and Water Quality
1. Areas identified as wetlands in studies approved by government agencies 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 permitted by the appropriate federal agency(ies).
 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. **No direct to stream water quality or channeling. All runoff must go through water quality treatment of 1.2” of first flush with planned maintenance procedures by MSD or HOA.**

NOTE: 3.1.3.D. Drainage and Water Quality

Add “3. No direct to stream water quality or channeling. All runoff must go through water quality treatment with planned maintenance procedures by MSD or HOA.”

- E. Hillside
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. Vistas and Appearance
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 setback. The existing trees within the buffer shall equal or exceed 1 Type A tree per 25 feet of lot frontage.
 - ii. Non-wooded areas - New development shall provide a 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 shall provide the 60-foot buffer with a 75-foot minimum setback.

- b. Signature entrances located along designated scenic corridors 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.
- e. All required plantings shall be of native species.

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 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.
- b. Buildings, parking lots, and other impervious surfaces shall cover no more than 50 percent of each site.
- c. 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.
- d. All required plantings shall be of native species.

G. 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 a front 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 10 watts and 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.
- H. Major Subdivisions
1. All major subdivision developments in R-4 or R-5 zoning districts shall utilize one of the following:
 - a. Conservation Subdivision Regulations; or

- b. Mixed Residential Development Incentive with a minimum of 30 percent of the site designated as common open space.

C. Tracts of 5 acres or more

D. Impervious surface requirements for density greater than RR

2. All major subdivision developments in all other zoning districts shall utilize any method of subdivision permitted in the Land Development Code.

NOTE: 3.1.3.H. Major Subdivisions

Add "C. Tracts of 5 acres or more" to 3.1.3.H.1

Add "Impervious surface requirements for developments above RR"

I. 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 **or open 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.~~

NOTE: 3.1.3.I. Multi-Family Residential Development

Remove: "Private space (such as balconies and patios) may satisfy 50 percent of the total open space requirement." From 3.1.3.I.1.

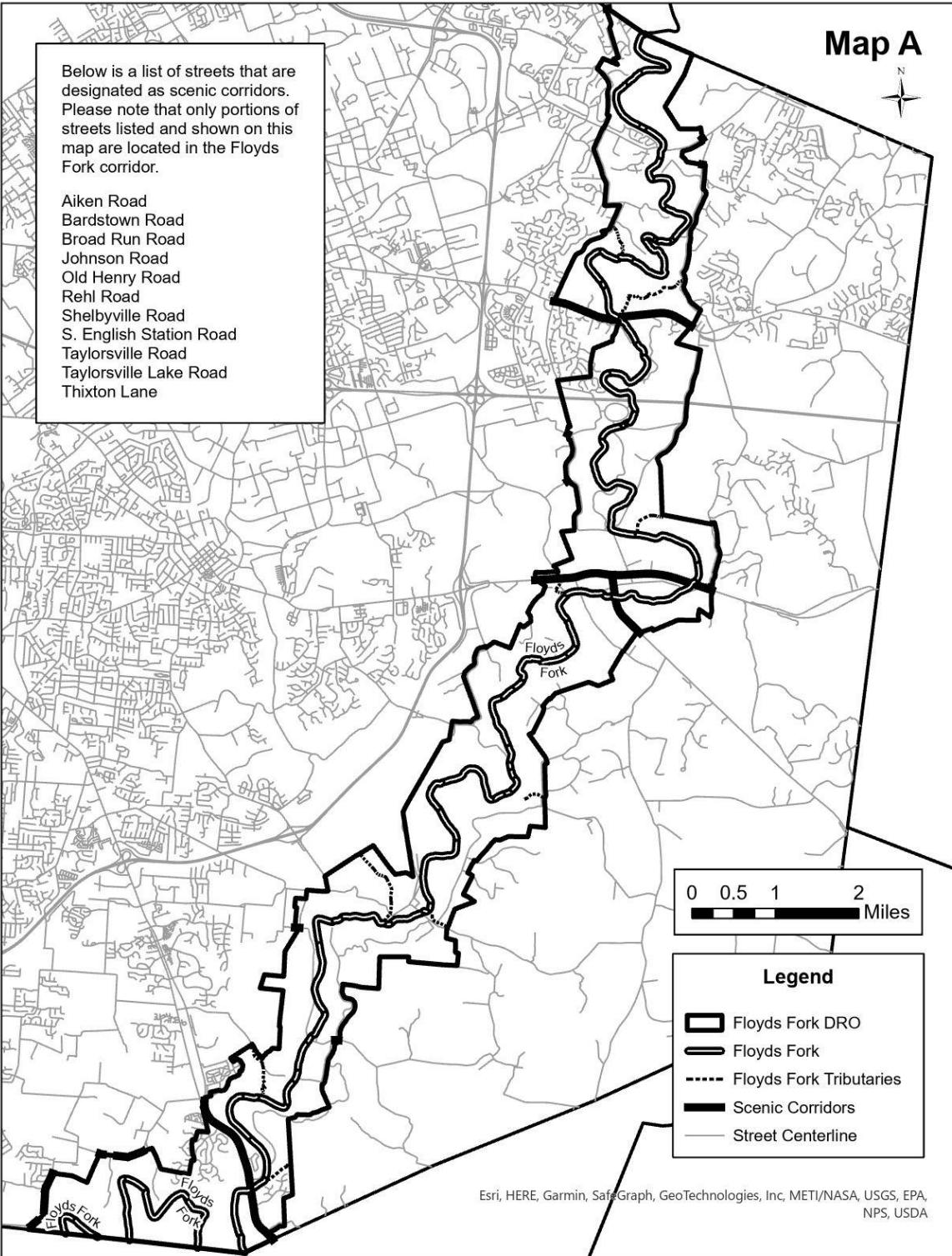
- *Private impervious surfaces should not be counted toward public open spaces*

Add "or open space" to 3.1.3.I.2

"Recreational space" is only used one time in the entire LDC.

Remove 3.1.3.I.4. The intent of the language is to protect more of the land. If one area protects it, that ought not to permit another land owner to have less protections.

Additionally, The Parklands, while technically available to the public is not considered a public park. Metro Louisville does not include it in the park system. Therefore, there is no park within 1,320 feet of any DRO property.



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. 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 **to include the waterway, the sediment, to nutrient load, the riparian vegetation, and the wildlife corridor:**
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.

NOTE: 11.12.3. Environmental Assessment of Certain Waiver Requests

A. "Impact to the health" must be more thoroughly defined

A. "Impact to the health of Floyds Fork waterway" is too narrow.

- *Add "to include the waterway, the sediment, to nutrient load, the riparian vegetation, and the wildlife corridor"*

The DRO is an entire ecosystem, not just the water. Floyds Fork is the life source for the ecosystem so it takes priority, but the "health of" should include the banks, the vegetation, and the wildlife.

- 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 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 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 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.