

## **ARTICLE III**

### **PROCEDURE FOR FILING SUBDIVISION APPLICATIONS**

#### **300            General Procedure**

The procedure for obtaining approval of a major subdivision plat generally includes four (4) steps:

1.        Pre-application meeting with Planning Commission Staff
2.        Preliminary Plat review and approval
3.        Construction Plan review and approval
4.        Final Plat review and approval

#### **310            Optional Pre-application Meeting With Planning Commission Staff**

The purpose of the optional pre-application meeting is to give the subdivider an opportunity to obtain advice and assistance from the Planning Commission Staff before committing undue time and money to the project.

For this review, subdividers shall contact the Planning Commission Staff to set a meeting date to discuss their intentions as they relate to Article IV. They should have a conceptual plan prepared before the meeting. See Article VI for plan requirements.

The pre-application meeting does not require formal application or fee and can be called at the option of either the subdivider or the Planning Commission Staff.

#### **320            Preliminary Plat Procedure**

All major subdivision plats receive their first official consideration as Preliminary Plats. The developer shall not proceed with any construction work, including grading, until a plat has been given preliminary plat approval, construction plan approval, and until appropriate permits have been received.

##### **A.        Application Procedure**

1.        The subdivider shall have a registered engineer, land surveyor or landscape architect (providing that all engineering data is supplied by a registered engineer) prepare the Preliminary Plat in conformance with the format and design requirements of Article IV.
2.        Fourteen (14) copies of the Preliminary Plat, a suitable electronic (digital) copy as determined by the Planning Commission Staff, and the supplementary material specified shall be submitted to the Planning Commission Staff, together with a written application for approval, on forms provided by the Planning Commission Staff, at least seven (7) days prior to the Technical Review Committee (TRC) meeting.
3.        Upon receipt of the fourteen (14) copies of the Preliminary Plat and other required data, the written application form, and the required fees, the Planning Commission Staff shall distribute the copies to the members of the Technical Review Committee (TRC) for their review and recommendation and shall set a place and date for a public hearing, and notify by general publication or otherwise any person or governmental unit having a probable interest in the proposed subdivision. Notice shall be at least seven (7) days and no more than twenty one (21) days prior to the date set for public hearing.
4.        The subdivider may, at the time of filing the application for the subdivision, elect to have any variance for

the same development to be heard and finally decided by the Planning Commission at the same public hearing set for the subdivision, or by the Board of Adjustment as provided for in the Zoning Ordinance and KRS 100.281 (6) and (7).

B. Technical Review Procedure

1. The Technical Review Committee will review the plat and decide upon their recommendations to the Planning Commission. The developer or their representative may appear before the TRC at its meeting to discuss specific aspects of the plats being considered. A copy of all the TRC recommendations shall then be given to the plat preparer, in writing, in order that they may make any necessary changes to the plats.
2. One reproducible mylar of the revised plat, a digital copy, along with one (1) copy reduced to 8 ½" x 11" for mailing to the Planning Commission members, shall be resubmitted to the Planning Commission office by noon fourteen (14) days prior to the Planning Commission meeting.
3. The Planning Commission Staff shall review the revised plats for technical compliance with the TRC recommendations and determine if deficiencies have been satisfied. If they are not satisfied, plats will be returned for additional revisions. If all deficiencies have been complied with, the plats will be forwarded to the Planning Commission for the next meeting.

C. Public Hearing Procedure

A public hearing shall be held by the Planning Commission . Notice of the hearing shall be at least seven (7) days and no more than twenty-one (21) days prior to the date set for public hearing per KRS 424. After the hearing, the Planning Commission shall proceed to consider the Preliminary Plat. The Planning Commission shall consider the comments and opinions expressed at the public hearing but the Planning Commission shall be responsible for reaching its own conclusions on the merits of the proposed subdivision.

D. Planning Commission Procedure

1. Following Planning Commission review of the Preliminary Plat and other required application materials, and discussions with the subdivider about changes deemed advisable, the Public Hearing shall be closed. The Planning Commission shall, within forty-five (45) days after the public hearing is closed, approve or disapprove the Preliminary Plat. If approved, the Planning Commission may express its approval as conditional approval, (if applicable), and state the conditions of such approval, if any. If disapproval, the Planning Commission shall express its reasons for disapproval in writing.
2. In determining whether an application for approval for a Preliminary Plat shall be granted, the Planning Commission shall determine if the plat provides for:
  - a. Coordination of subdivision streets with existing and planned streets;
  - b. Coordination with the extension of facilities included in the Comprehensive Plan;
  - c. Establishment of minimum width, depth and area of lots within the projected subdivision;
  - d. Distribution of population and traffic in a manner tending to create conditions favorable to health, safety, convenience, and the harmonious development of the area and;
  - e. Fair allocations of areas for streets, parks, schools, public and semi-public buildings, homes, utilities, business and industry.

3. As a condition of approval of a plat, the Planning Commission may specify:
  - a. The manner of which streets shall be laid out, graded and improved;
  - b. Provisions for water, storm water drainage, sewage and other utility services;
  - c. Provision for schools;
  - d. Provision for essential municipal services, and;
  - e. Provision for recreational facilities, including open space.
4. The action of the Planning Commission shall be noted on all copies of the Preliminary Plat, referenced and attached to any conditions determined. One (1) copy shall be returned to the subdivider and the others shall be retained by the Planning Commission Staff for distribution to TRC members. One (1) copy shall be retained in the Planning Commission office.
5. Approval of a Preliminary Plat shall not constitute approval of the Final Plat. Rather, it shall be deemed an expression of approval of the Preliminary Plat as a guide to the preparation of the Final Plat. Upon approval of the Preliminary Plat, Construction Plans shall be submitted within twelve (12) months of the approval according to Section 330 of these regulations. No lot may be sold or transferred or building permit obtained based solely upon an approved Preliminary Plat. Failure to submit Construction Plans or Final Plat within the twelve (12) month approval period requires the applicant to reapply for approval of the Preliminary Plat.

### **330 Construction Plan Procedure**

Prior to beginning any site preparation, grading, or construction, the subdivider shall submit and have approved Construction Plans prepared by a registered engineer as provided for in these regulations. The Construction Plans are detailed plans for public improvements to be developed in conjunction with a subdivision, storm drainage, sanitary sewers and other public facilities. Upon approval of these plans by TRC and the Planning Commission Staff, the developer may construct such improvements in accordance with the approved improvement plan.

#### **A. Application and Distribution**

The subdivider shall file six (6) copies of the Construction Plans along with a digital copy, clearly marked "Draft Construction Plans," prepared and stamped by a registered civil engineer, and fully conforming to these Subdivision Regulations and the approved Preliminary Plan with the Planning Commission Staff at least seven (7) days prior to the regular meeting of the Technical Review Committee (TRC). The subdivider may attend a pre-application meeting with the Planning Commission Staff prior to the preparation of said Construction Plans. In addition, a digital copy of the proposed plans shall be submitted, clearly defined as "proposed."

#### **B. Review**

The TRC shall review the proposed Construction Plans at their regular meeting and shall notify the subdivider in writing of the approval or conditional approval of the plans. Conditional Construction Plan approval may be granted for grading and erosion control pending final approval and obtaining required grading permits. In no case shall the TRC or Planning Commission Staff be authorized to vary the requirements contained herein, since variances can only be permitted by action of the Planning Commission.

1. If conditionally approved, the subdivider shall resubmit six (6) copies of the revised Construction Plans to the Planning Commission Staff for final approval. The staff shall review the Construction Plans and within fourteen (14) days of receipt of the plans, will notify the subdivider in writing of approval or disapproval. If approved, a digital copy of the plans shall be submitted, clearly defined as "conditionally approved."
2. If approved, the subdivider is now authorized to proceed with the construction of physical

improvements and to proceed with preparation of the Final Plat. One set of approved Construction Plans shall be retained in the Planning Commission Office, one set by the City or County Engineer, and one set by the City Public Works Director. Within one (1) year of the approval of the Construction Plans, the subdivider must apply for Final Plat approval in conformance with Section 340 of these regulations.

C. Construction

Upon approval of Construction Plans, a grading permit shall be obtained from the Planning Commission Staff. Construction of all improvements except the final course of blacktop and final cleanup must be completed, inspected, and approved prior to submission of the Final Plat. See Section 350 for performance guarantee procedures for final course of blacktop, sidewalks, street trees, and cleanup.

**340 Final Plat Procedure**

Major subdivisions shall receive their last official consideration by the Planning Commission as a Final Subdivision Plat. Upon approval of the Final Subdivision Plat by the Planning Commission and subsequent recordation, lots may be sold or transferred and building permits obtained in accordance with the approved Final Subdivision Plat.

A. General Procedures

1. The subdivider shall have a registered land surveyor prepare the Final Plat in conformance with the format and design requirements of Article IV.
2. The Planning Commission Staff may permit submission of the Final Plat in sections, each covering a portion of the entire proposed subdivision as shown on the Preliminary Plat.
3. The Final Plat and supporting documents shall comply with the provision of Article IV of these regulations and Section 340 (B)(2) below.
4. The Final Plat shall be submitted to the Planning Commission within twelve (12) months after approval of the Preliminary. Otherwise, such approval shall become null and void, unless an extension of time is applied for before the expiration of the twelve-month period by the subdivider and granted by the Planning Commission.

B. Application and Technical Review Procedures

1. The application, distribution, and review procedures for Final Plat approval shall be on forms provided by the Planning Commission, accompanied by the required fees, the same as required for Preliminary Plats in Sections 320 (A) and 320(B). A public hearing shall not be required for Final Plat approval. Additionally, a reproducible original shall be submitted after all technical deficiencies have been complied with along with a digital copy.
2. The Final Plat shall be accompanied by the required As-built Plans (1 reproducible mylar, 3 sets of prints, one (1) 11" x 17" reduced set, and a digital copy, clearly defined "As-Built Construction Plans"); a request for field inspection of constructed improvements; and an estimate of final surety amount permitted through Section 350 of these Regulations.

C. Planning Commission Procedure

1. The Planning Commission shall review the Final Plat within forty-five (45) days of the meeting at which the Final Plat is first considered. The Planning Commission shall approve, modify and approve, or disapprove such plats. The Planning Commission will not review the Final Plat unless and until the Planning Commission Staff has reviewed As-built Plans and approved the improvements through a

field inspection. As-built plans must be accompanied by an affidavit signed by the subdivider's engineer certifying that the construction was done according to the approved plans.

2. Performance guarantee requirements for final course of blacktop, sidewalks and cleanup are detailed in Section 350 below.
3. If the Planning Commission approves the Final Plat, the Plat shall be signed and dated by the Chairman of the Planning Commission after receipt of the surety as detailed in Section 350 and approved prints from utility companies. If the Planning Commission disapproves the Plat, it shall set forth the reasons in its own records and provide the applicant with a copy.

D. Recording Procedure

Upon approval of the Final Plat by the Planning Commission, the Planning Commission Staff shall, at the subdivider's expense, file such plat in the Office of the Woodford County Clerk in accordance with the appropriate provisions of the law. The Certificate of Land Use Restrictions, if required, shall also be filed by the Planning Commission Staff at the subdivider's expense as per KRS 100. Once the Final Plat has been recorded, lots may be sold.

**350                    Construction Guarantee Procedure**

Subdivider's may begin construction of improvements after the Preliminary Plat and Constructions Plans have been fully approved. All such improvements except the final course of blacktop, sidewalks, and cleanup must have been fully constructed at the time of Planning Commission consideration of the Final Record Plat. A certificate of deposit or irrevocable letter of credit from a Woodford County bank, as determined by the Planning Commission; shall be posted by the developer to cover the full cost of completing the final course of blacktop, sidewalks, and cleanup. The following requirements and procedures shall apply:

A. Required Performance Guarantee

Upon completion of all improvements, except the final course of blacktop, sidewalks, and cleanup, the subdivider shall submit As-built Plans (one (1) reproducible mylar, three (3) sets of prints, one reduced set on 11" x 17" paper, and a digital copy) along with a request for field inspection and an estimate of the final surety amount required for final course of blacktop, sidewalks and clean up at least seven (7) days prior to the Technical Review Committee (TRC) meeting. These may be submitted in conjunction with the Final Plat to expedite the Final Plat approval.

B. Determination of Surety Amount

The City or County Engineer shall conduct a field inspection upon request and certify in writing to the Planning Commission that all improvements have been constructed according to the As-built Plans. The Engineer shall also review the cost estimates for the final course of blacktop, sidewalks, and cleanup and shall prepare a letter to the Planning Commission approving a surety amount equal to one hundred fifteen (115%) percent of the estimated cost of constructing the final improvements.

C. Performance Guarantee

The subdivider must post with the Planning Commission a Certificate of Deposit or Irrevocable Letter of Credit upon a Woodford County bank, conditional to secure the construction of said improvements within a period not to exceed two (2) years. No such certificate of deposit or letter of credit shall be accepted unless it is enforceable by or payable to the appropriate governing body in a sum and in a form with surety and conditions approved by the attorney for the Planning Commission. All certificates of deposit or irrevocable letters of credit shall be posted for a minimum of one (1) year. Interest will accrue and remain with the Certificate of Deposit.

D. Release of Performance Guarantee

1. When eighty (80%) percent of the lots have received a Certificate of Occupancy, or two (2) years have passed, whichever arrives first, the final improvements shall occur. The City or County Engineer must be notified forty eight (48) hours prior to paving. Final improvements must occur within two (2) years of Final Plat approval or the subdivider shall appear before the Planning Commission for consideration of an extension. The Certificate of Deposit or Irrevocable Letter of Credit shall be increased by a minimum of ten (10%) percent of the original Certificate of Deposit or Irrevocable Letter of Credit or an amount to be determined by the City or County Engineer, whichever is greater, each year thereafter. Failure to request an extension or to meet the deadline shall result in the engineer recommending to the Planning Commission to recommend to the appropriate legislative body to call the Certificate of Deposit or Irrevocable Letter of Credit.
2. Once the final improvements have occurred, the subdivider must request in writing a final field inspection by the City or County Engineer and request in writing release of the Certificate of Deposit or Irrevocable Letter of Credit at least 10 (ten) working days prior to the Planning Commission meeting.
3. Upon inspection, the City or County Engineer shall write a letter to the Planning Commission prior to the Planning Commission meeting approving the improvements and recommending release of the Certificate of Deposit or Irrevocable Letter of Credit if improvements are acceptable.
4. The Planning Commission shall review the request and recommend to the appropriate legislative body the release of the performance guarantee and the acceptance of the improvements.
5. There may be one reduction or partial release of the Certificate of Deposit or Irrevocable Letter of Credit when 50% of the lots have received a Certificate of Occupancy. The City or County Engineer shall conduct a field inspection upon request and certify in writing to the Planning Commission which improvements have been constructed. The Engineer shall also review the cost estimates for the materials and shall prepare a letter to the Planning Commission recommending a surety amount equal to one hundred fifteen (115%) percent of the estimated cost of constructing the incomplete final improvements at current prices, including any damages that may have occurred during construction. A new Certificate of Deposit or Irrevocable Letter of Credit shall be posted for this remaining amount if the release or reduction is approved by the Planning Commission. **Amended March 2010**

#### E. Default

Wherever the required improvements have not been installed according to the terms of the performance guarantee and no extension has been granted, the Planning Commission may, upon recommendation of the applicable City or County Engineer and thirty (30) days written notice to the parties to the instrument, declare the performance guarantee to be in default and exercise the right's thereunder. When this occurs the certificate of deposit and any interest generated on the certificate of deposit or the irrevocable letter of credit shall go to the appropriate governing body to be used for completion of the improvements.

Upon default, no building permits or other approvals shall be granted for the development until the Planning Commission determines that adequate progress has been made toward completion of the remaining improvements.

#### F. Posting of Defect Security

1. Prior to acceptance of the required improvements by the applicable city or county engineer through the issuance of a Certificate of Completion, the developer/builder shall post a Defect Security for the repair or correction of material defects or failures of the improvements for a "Maintenance Period" of two (2) years following their acceptance. The Defect Security shall be in an amount equal to fifteen (15%) percent of the actual construction cost of all the improvements, and shall consist of a Certificate of Deposit or Irrevocable Letter of Credit from a Woodford County bank with the appropriate legislative body. The applicable city or county engineer shall

create, maintain, and provide approved forms for each type of Defect Security described immediately above. Upon default, the applicable city or county engineer, Planning Commission or other applicable public body may exercise its rights under the Defect Security upon ten (10) days written notice by certified mail, return receipt requested, to the parties to the instrument.

## 2. Release of Defect Security

Upon issuance of the Certificate of Completion for an approved development or construction stage of a development, the Performance Guarantee shall be fully released. The subdivider must request in writing a final field inspection by the applicable City or County Engineer and request in writing release of the Certificate of Deposit or Irrevocable Letter of Credit(s) at least ten (10) working days prior to the Planning Commission meeting. There shall be no reduction or partial releases of the Certificate of Deposit or Irrevocable Letter of Credit until all improvements are complete.

## G. Maintenance of Common Improvements and Open Space

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

1. Dedicated Lands and Improvements - Any lands or improvements to be dedicated or conveyed to the public, for designated or general public use.
2. Private Lands and Improvements - Any lands or improvements to be owned and maintained by a landlord for the benefit of lessees residing on or occupying leaseholds on the lot or parcel where such lands and improvements are situated or on other lots or parcels owned by the landlord, as for typical multi-family or shopping center development.
3. Condominiums and Cooperatives - Any lands or improvements to be owned and maintained under a condominium or cooperative, which shall be established and regulated in accordance with Kentucky law.

## H. Establishing a Means of Common Ownership and Management

Prior to approval of the Record Plat, the subdivider shall provide documents to establish a means of common ownership and management of all common open space and common improvements. Such documents shall establish an organization or entity to own and manage the open space and/or improvements, describe its membership and responsibilities, and shall include a maintenance and fiscal program for the improvements. In no event shall a Record Plat be recorded for a development involving common open space and/or improvements until the entity of common ownership and management has been incorporated. Documentation shall be provided to the Planning Commission Staff.

## I. Funding Mechanism Required

Prior to approval of any Record Plat, the subdivider shall provide and record documents to establish a funding mechanism for the maintenance of the common improvements and/or open space. The documents shall provide a method for the organization or entity to assess the property owners having beneficial use of the improvements and open space for the cost of their maintenance. The method of assessment shall provide the legal right for the organization or entity to impose liens against those properties for which payment of any assessment is not made. Collection of assessments and

enforcing the payment thereof shall be the responsibility of the organization or entity and shall not be the responsibility of the public. The assessments imposed by the organization or entity shall not relieve property owners from any taxes, fees, charges or assessments imposed by the Planning Commission, Property Valuation Administrator or any other governmental agency.

Notice to Buyers - The documents shall also provide for notice to purchasers and prospective purchasers or properties that the organization or entity shall have the authority to make assessments and impose liens as provided in these regulations.

J. Failure to Maintain Common Improvements and Open Space

Failure to maintain common improvements and/or common open space in accordance with these regulations, established standards and the subdividers agreements, binding elements and other documents establishing the improvements and/or open space shall be considered a violation subject to enforcement in accordance with provisions of these regulations. In such cases, citations for violation shall be issued both to the organization or entity, and to all property owners, occupants and lessees having beneficial use of or legal interest in the improvements and/or open space. The public shall not be required or obligated in any way to construct or maintain, or participate in any way in the construction or maintenance of the common improvements and/or open space.

**360** Minor Plat Procedure

At the pre-application meeting (Section 310 of these Regulations) the Planning Commission Staff will determine whether the proposed subdivision constitutes a Major or Minor Subdivision. In the case of Minor Subdivision, the lesser significance on the long range development of the community is considered justification for simplifying and expediting the processing of such plats.

A. Minor Plat Classification

To qualify for classification as a Minor Subdivision Plat, a subdivision must conform with one of the following situations.

1. Three or Fewer Lots

A subdivision containing three (3) or fewer lots, counting the remainder of the original tract; and fronting on an existing public street; and involving no opening, widening, or extension of streets or utilities.

2. Consolidation Plat

a. A subdivision providing for the transfer of land between adjacent property owners and not involving the creation of any new lots or building sites and which shall neither create any new non-conforming lots nor create any additional non-conformity.

b. A subdivision in which up to and including five (5) lots of record are consolidated to create a lesser number of parcels and involve no new public improvements.

3. Minor Amendments to Existing Plats

a. A subdivision where there is a need to make technical revisions to a recorded Final Plat of an engineering or drafting nature or similar small discrepancy, but not including the altering of any property lines or public improvement requirements.

- b. A subdivision involving amendments to a recorded Final Plat for the purpose of release or modification of existing utilities and drainage easements and the addition of new utility and drainage easements.

B. Application Procedure

1. The subdivider shall have a registered land surveyor prepare a Minor Record Plat in conformance with the format and design requirements of Article IV after checking to make certain that the subdivision qualifies as a minor subdivision.
2. Fourteen (14) copies of the Minor Subdivision Plat, a filing fee, written application and any supplementary material shall be submitted to the Planning Commission Staff for review.

C. Review Procedure

1. The Plat shall be referred to the Technical Review Committee (TRC) and/or the Planning Commission for their review and approval. The TRC may forward the Plat on to the Planning Commission if they determine that it does not meet the classification of a Minor Plat. Any plat the Planning Commission reviews must comply with all Final Plat Procedures of these Regulations (Section 340).
2. The TRC reviews the plat for conformance to these regulations. Any plat deficiencies shall be given to the plat preparer in writing in order that they may make any necessary changes to the plats.
3. A digital copy of the revised plat along with a reproducible mylar shall be resubmitted to the Planning Commission office when complete.
4. Planning Commission Staff shall review the revised plat for technical compliance to determine if plat deficiencies have been satisfied.

D. Approval and Recording Procedure

1. Upon recommendation of approval by the Planning Commission Staff, the Plat shall be signed and dated by the Chairman of the Planning Commission or their designee.
2. The Planning Commission Staff shall, at the subdivider's expense, file such plat in the Office of the Woodford County Clerk in accordance with the appropriate provision of law.

**370**            **Fees.**

The Planning Commission shall establish a uniform schedule of fees proportioned to the cost of checking and verifying the proposed Preliminary, Final and Minor Plats, and Construction Plans. The subdivider shall pay the specified fee plus recording fee, at the time of filing the application for Preliminary, Final or Minor Plat, or Construction Plan approval.

