

**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. General Regulations:

1. The Development Review Overlay District - DRO Definition and Purposes:
  - a. The Development Review 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 district.
  - b. 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 District is to protect the public and property owners in the district:
    - i. From blighting influences which might occur under conventional land use regulations.
    - ii. From unsafe buildings which would be caused by uncontrolled development.
    - iii. From significant damage or destruction of prominent hillsides or valleys caused by improper development.
    - iv. From significant damage to the economic value of existing properties and/or new developments.
    - v. From soil erosion and stream siltation.
    - vi. From the destruction of mature and/or valuable trees and other vegetation and wildlife habitat.
    - vii. From loss of 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.

3. Applicability:

- a. The Development Review 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. Where applicable by provisions of this ordinance, requirements imposed herein shall be in addition to those of the underlying zoning classifications.

B. Development Within The Overlay District:

1. Exempt Activities:

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. 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. 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. Clearing of forested area greater than 5,000 square feet for development purposes.
- b. Grading, excavation, construction of retaining walls, or alteration of the ground surface other than that attendant to agricultural uses.
- c. Alteration of a protected body of water including channeling, diverting, dredging or removal of stream materials.
- d. Bridging or damming of a protected body of water.

- e. Modification of a wetland, including filling, excavation, clearing of trees, paving, construction or diversion of the water supply.
- f. Construction of any structure other than those exempted in Paragraph B.1.
- g. Utility construction including water, sewer or waste disposal, natural gas and electric.
- h. Construction of roadways or parking lots serving more than a single dwelling unit.
- i. Subdivision of land.
- j. 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.
- k. Installation of a freestanding sign exceeding 30 square feet in area.

3. Review Process:

Regulated activities, as described above are allowed only upon approval by the Planning Commission or its designee. 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.

4. Review Authority

- a. 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.

- b. 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 action taken by the director may be appealed to the Planning Commission within thirty (30) days of such action. Failure to appeal the action of the director in accordance with this section shall preclude further review and appeal.

5. 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 area are encouraged to schedule a pre-application meeting 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. Guidelines for Approval:

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.

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.

9. Length of Plan Review Period

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 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.

The following section contains the Floyds Fork DRO Guidelines which were adopted in February 1993.

Intent: The intent of the Floyds Fork Design Guidelines is to insure 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 are also intended to complement the natural landscape 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 in the Core Graphics Section of the Comprehensive Plan, copies of which are available at the Planning Commission].

1. Stream Corridors
  - a. A buffer strip should be maintained a minimum of 100 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 be measured from the 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.
  - e. Structures, impervious surfaces, septic systems and associated fill slopes should not be located within the floodplain. Stream crossings are an exception to this; crossings should be minimized and be aesthetically compatible with the natural values of the stream channel.
  - f. Filling and excavation should not be permitted in the floodplain. Floodplains are recommended for agricultural and recreational use.

- g. Modification of streams shown on Map A including stream relocation and channelization is strongly discouraged. 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.

## 2. 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.
- b. Wooded areas shown on the development plan as being retained should be preserved and maintained in healthy condition. As trees die or are removed, replacements should 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.
- d. Where grading within wooded areas is necessary, disturbed areas should be seeded to a shade tolerant plant species and mulched with straw.
- e. Proposed major subdivisions should indicate the limits of the site disturbance area for each lot being created. The site disturbance area should be shown in relation to environmental constraints: slopes over 20%, floodplains and wet soils.
- 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).

## 3. 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.



- b. Areas identified as wetlands in studies approved by government agencies should be preserved in their natural state. Drainage, flooding patterns and any hydrologic system(s) needed to sustain the wetlands should not be altered. 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.
  - f. Developers of major subdivisions should plant, water and maintain vegetative cover on graded slopes on each unsold property until all properties have been sold.
4. Hillside
- a. Design subdivisions and locate structures to preserve the natural character of the land to the greatest extent possible.
  - b. Areas with slopes of 20% or greater generally should not be disturbed.
  - 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.
  - d. Minimize cuts and fills. Necessary cuts, fills and other earth modifications should be replanted with appropriate vegetation. Minimize the practice of terracing hillsides in order to provide additional building sites. 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 DRO 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.

7. Vistas and Appearance

**Residential Development**

- a. New construction along designated scenic corridors (Map A) should preserve the area's rural appearance. In existing wooded areas a buffer area 60 feet in width and densely vegetated should be maintained, to create an effective visual barrier. Outside the wooded areas (agricultural or open lands), new development should provide a substantial setback from the roadway (400 feet minimum) with plantings to partially screen buildings (1 tree per 25 feet of building facade visible from the road). An alternative to the substantial setback is to create a 60-foot buffer thickly planted with fast growing native trees and shrubs. Residential developments having two or more dwellings per acre should provide the 60-foot buffer.
- 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.
- d. Signature entrances located along designated scenic corridors should not exceed six feet in height or 50 feet in total length (25 feet each side).

#### **Non-Residential Development**

- e. New development should 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.
- g. Parking lots should 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.
- h. Buildings, parking lots, and other impervious surfaces should cover no more than 75 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.
- k. Permanent freestanding signs for property or business identification should not exceed six feet in height or sixty square feet in area. Attached signs are governed by size standards found in the Zoning District Regulations.

- i. 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.

