



Lexington-Fayette Urban County Government

200 E. Main St
Lexington, KY 40507

Legislation Text

File #: 1260-17, **Version:** 1

An Ordinance amending Articles 4 and 5 of the Land Subdivision Regulations to update the process for major subdivision plans. (Planning Commission). [Div. of Planning, Duncan]
[A petition for a Land Subdiv. Regulations amendment to Articles 4 and 5 to update the process for Major Subdiv. Plans. Approval of the Staff Alternative Text 9-0 [Div. of Planning, Duncan]]

WHEREAS, the Lexington-Fayette Urban County Planning Commission has considered a text amendment to Articles 4 and 5 of the Subdivision Regulations to update the process for major subdivision plans. Planning Commission did recommend APPROVAL of the text by a vote of 9-0; and

WHEREAS, this Council agrees with the recommendation of the Planning Commission; and

WHEREAS, the recommendation form of the Planning Commission is attached hereto and incorporated by reference herein.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That Article 4 of the Subdivision Regulations of the Lexington-Fayette Urban County Government is hereby amended as follows:

MAJOR SUBDIVISION PLAN PROCEDURE

4-1 PURPOSE - The purpose of this Article is to establish the procedure that shall be followed by the developer, the project engineer, the Division of Engineering, other divisions of the Urban County Government, the Planning Commission, and other entities in preparing, reviewing and approving any subdivision defined as a major subdivision under the provisions of Article 2 of these regulations.

4-2 TYPES OF MAJOR SUBDIVISION PLANS - The following plan types are hereby created and defined as the basic components needed for a major subdivision:

4-2(a) PRELIMINARY SUBDIVISION PLAN - All proposed major subdivisions, except as exempted under Section 4-3 below, shall be first considered by the Commission as a preliminary subdivision plan. Upon

approval of this plan by the Planning Commission, the developer and project engineer may prepare and file the improvement plan with the Division of Engineering. No lot may be sold or transferred, or building permit obtained based upon an approved preliminary subdivision plan.

4-2(b) IMPROVEMENT PLAN - The improvement plan is a detailed plan for public improvements to be constructed in conjunction with a subdivision, such as streets (both public and private); storm drainage; sanitary sewers; pump stations and other public facilities. Upon submission of the required information, the developer may construct such public improvements in accordance with the improvement plan.

4-2(c) FINAL SUBDIVISION PLAN - Major subdivisions shall receive their last official consideration as a final subdivision plan. Upon certification of the final subdivision plan by the Division of Planning and subsequent recordation, lots may be sold or transferred and building permits obtained in accordance with the approved final subdivision plan. This plan may also be referred to as the final record plan, final plan, or the subdivision plat.

4-3 BYPASSING PRELIMINARY AND IMPROVEMENT PLANS - In any subdivision not involving new public or private streets or other public improvements, and where improvement plans are not necessary, the developer may be permitted to omit the preliminary plan and improvement plan stages, and may proceed directly to the final plan submission stage. Whenever a final subdivision plan is submitted under this section and the Division of Planning questions the need for preliminary and improvement plans, the question shall be referred to the Planning Commission for judgment.

4-4 PRELIMINARY PLAN PROCEDURE - All preliminary subdivision plans shall be processed as follows:

4-4(a) PRE-FILING CONFERENCE - At least five (5) working days prior to filing of a preliminary subdivision plan, the developer is encouraged to prepare a rough sketch of the proposal and is encouraged to meet with the Division of Planning to discuss the proposed subdivision. The purpose of this conference is to discuss, at the earliest stages, subdivision requirements and procedures, and possible issues related to the development of the property in question. It is intended that this procedure will help alleviate possible conflicts over subdivision requirements by early recognition of existing conditions, necessary facilities and other requirements, which the developer can then consider in preparing the formal subdivision proposal. The developer is also encouraged to discuss the proposal with other public agencies and utilities at this stage.

4-4(b) APPLICATION AND DISTRIBUTION - To formally ask for action on the preliminary plan, the developer shall file a completed application, filing fee and copies of the plan as required by the Commission's adopted meeting and filing and fee schedules. The Division of Planning shall make copies of the plan available to all other concerned agencies, and divisions of the Urban County Government.

4-4(c) REVIEW - The Division of Planning, and representatives of other divisions and concerned agencies, shall review the preliminary plans, and then meet together as a Technical Committee to try to resolve all differences and to make recommendations to the Commission's Subdivision Committee. The Subdivision Committee will review all recommendations, and then forward their recommendations to the Commission. These committee meetings shall be open to the developer and to any interested citizen; however, each Committee may impose rules, which control participation by non-members in attendance. The developer

may secure recommendations from the staff at any of the review checkpoints, and proceed to make plan changes, so that revised plans may be submitted to the remaining review groups.

4-4(d) COMMISSION ACTION - No preliminary plans shall be considered for action by the Commission until they have been reviewed, and recommendations made, by the Subdivision Committee. All preliminary plans shall be approved, conditionally approved, or disapproved within ninety (90) days of the date they are officially filed for Commission action. The Commission will review the Subdivision Committee's recommendations and then act for approval, conditional approval with conditions noted, postponement, or disapproval. Reasons for action of postponement or disapproval and any requirements associated with a conditional approval shall be fully incorporated in the Commission's minutes and shall be available to the developer and the public. The following actions by the Commission shall have the meanings so stated:

(1) APPROVAL - Means the developer is authorized to proceed with the preparation of the required improvement plan. Preliminary plan approval by the Planning Commission automatically grants a developer five (5) years from the date of Commission action within which he shall submit final plans for all property shown on the preliminary plan for Planning Commission consideration. Before expiration, the Commission may extend the approval period in increments not to exceed one year at a time, provided the Commission finds that progress has been made in the physical construction of improvements. In conjunction with such approval extensions, the Commission shall have the right to require changes in the preliminary plan when it finds that time has necessitated such changes for the health, safety and welfare of the residents of the community or when applicable ordinances and regulations have been changed. Upon the expiration of any approval period specified under this section, the plan shall be deemed as disapproved by the Commission.

(2) CONDITIONAL APPROVAL - Means the developer may proceed to the preparation of the improvement plan, but only after the requirements of the Planning Commission have been fulfilled and/or the preliminary plan has been corrected to reflect all requirements placed on the plan by the action of the Commission.

(3) POSTPONEMENT - Means Commission action is delayed for definite reasons, which shall be noted by the Commission. Certain specified changes may have to be made in the plans, but no completely new resubmittal of the plan is required of the developer. However, all preliminary plans shall be approved or disapproved within ninety (90) days of the date they are officially filed for Commission action unless the developer agrees to a longer postponement.

(4) DISAPPROVAL - Means disapproval of the plan for reasons that shall be noted in the minutes and records of the Commission. For further action, the developer must file a new application, along with a filing fee, and preliminary plan copies as required under Article 4-4(b) above.

4-4(e) CERTIFICATION OF APPROVAL - The project engineer shall make any required additions or corrections to the preliminary plan, and shall submit copies in a number required by the Commission within fourteen (14) days of the Planning Commission's approval for any preliminary plan that has been substituted for a development plan, in conjunction with a map amendment (as provided in Article 21-8 of the Zoning Ordinance), and within one (1) year of the date of Planning Commission approval for all other preliminary plans. The action of the Commission shall be null and void if these requirements are not met. The Division of Planning shall review the plan; and if found in conformance with the Planning Commission's action, the Commission's Secretary shall certify the plan. The Division of Engineering shall not enter into an infrastructure development agreement for a development unless and until it has received a certified copy of the preliminary plan from the Division of Planning.

4-5 IMPROVEMENT PLAN PROCEDURE - All improvement plans shall be prepared and filed in accordance with the following procedure:

4-5(a) INFRASTRUCTURE DEVELOPMENT AGREEMENT - Prior to commencing the engineering design for the public infrastructure of any major subdivision, the project engineer, developer and the Lexington-Fayette Urban County Government, acting by and through its Urban County Engineer, shall enter into an infrastructure development agreement in a form and containing the provisions contained in the Procedures Manual. A new infrastructure development agreement shall be required in the event the developer of the property is changed to another development entity, or in the event the private agreement for infrastructure development services between the developer and the project engineer are terminated. All infrastructure development agreements shall provide that the subject development has sanitary sewer capacity in compliance with the requirements of Section 6-2 of these regulations.

4-5(b) IMPROVEMENT PLAN PROGRESS REPORT - When the project engineer has completed approximately fifty percent (50%) of the infrastructure design for the development, the project engineer shall submit a preliminary report to the Planning Commission informing the Commission of how stormwater, sanitary sewer and environmental conditions imposed by the Commission at the time of the approval of the preliminary subdivision plan will be addressed in the improvement plan. The report shall be distributed to the Commission at the next convenient meeting. The report is for information only, and no action by the Commission shall be taken, however; there shall be no issuance of the Notice To Proceed, as outlined in section 4-5(d), until the Planning Commission meeting is complete.

4-5(c) FILING - Upon completion of the improvement plan, the project engineer shall file with the Division of Engineering the required copies of the improvement plan, which shall fully conform to these Subdivision Regulations, the Zoning Ordinance, the Division of Engineering Technical and Procedures Manuals, Division of Engineering Standard Drawings and the certified preliminary subdivision plan. The Division of Engineering shall conduct an administrative review of the proposed improvement plan. The purpose of the review shall be to verify that the required information has been submitted. It shall be the responsibility of the project engineer to ensure the accuracy, completeness, and construction feasibility of the improvement plan. The improvement plan may be filed in two stages, with the first stage containing the information required for initial grading, erosion and sediment control, and initial incidental construction related to the erosion and sediment control features. The second stage shall contain all other information required for the construction of the improvements related to the development. Within ten (10) working days of the filing, the Division of Engineering shall notify the developer and project engineer in writing of the results of the administrative review.

4-5(d) NOTICE TO PROCEED - Upon verification by the Division of Engineering that the required information has been submitted, the Division of Engineering shall notify the developer and the project engineer, of the notice to proceed with the grading, erosion and sediment control features and/or with the improvements. The construction must commence within two years of the notice to proceed, or the improvement plan is void.

4-5(e) STATE AND FEDERAL PERMITS - It is the obligation of the project engineer and developer to obtain all state and federal permits required for construction, as listed in the Technical and Procedures Manuals. When the Lexington-Fayette Urban County Government is the responsible permitting authority, as specified in the Technical and Procedures Manuals, copies of such approved permits shall be submitted to the Division of Engineering prior to beginning construction of the feature related to the permit. Copies of all

required permits shall be submitted prior to certification of the final record plan.

4-5(f) PROVISION OF PLANS TO THE PRIVATE UTILITY COMPANIES - The project engineer shall provide a copy of the improvement plans, as filed with the Division of Engineering, to the private utility companies.

4-6 CONSTRUCTION OF THE PUBLIC IM-PROVEMENTS - The project engineer shall notify the Division of Engineering, the Division of Water Quality, and the Division of Traffic Engineering when construction of the infrastructure begins. Within two weeks after the commencing of construction, the developer and project engineer shall give at least 72 hours' notice to the representatives of the above divisions and conduct a meeting to discuss the construction schedule. The project engineer shall prepare notes of the meeting and submit them to the various divisions. All construction shall be in conformance with the submitted improvement plan.

4-6(a) LAND DISTURBANCE PERMIT - The Division of Engineering shall issue permits in conformance with the Division's established procedure.

4-6(b) PROTECTION AREAS - Areas that the Planning Commission identified for protection through the preliminary subdivision plan process shall be delineated on the site and shall receive the level of protection specified by the Commission.

4-6(c) DEVELOPMENT SIGN - The developer shall erect a project sign, which shall not be smaller than four feet by four feet and shall not exceed four feet by eight feet, which shall identify the name and telephone number of the developer, project engineer, and the contractor. The format for the sign shall be as specified in the Division of Engineering Standard Drawings.

4-6(d) REPORTS - The project engineer shall provide a resident project representative to observe the construction of the infrastructure and shall prepare daily reports in accordance with the requirements of the Construction Inspection Technical Manual. When work commences, inspection reports shall be prepared for each day (even if no construction occurs) and shall be submitted to the Division of Engineering every two weeks until the project engineer certifies substantial completion.

4-6(e) NOTIFICATION OF TESTING AND CONNECTIONS - All tests required by the Division of Engineering Technical Manuals shall be conducted under the direction of the project engineer. The Divisions of Engineering and Water Quality shall be notified 72 hours in advance of the sanitary sewer tests, connection to the Urban County Government's sanitary sewer system and start-up demonstrations of pump stations. The Divisions of Engineering and Traffic Engineering shall be notified 72 hours in advance of construction that will impact existing public streets, including road widening, turn lane construction and other similar activities.

4-6(f) NEW INFORMATION - When new information related to the natural characteristics of the land is discovered during construction, the project engineer shall promptly advise the Division of Engineering of details of the found conditions, the impacts, and the modifications to the infrastructure which are to be made. Such found conditions may include, but are not limited to, the presence of sinkholes or other environmentally sensitive or geologic hazard areas.

4-7 FINAL PLAN PROCEDURE - All major final subdivision plans shall be processed as follows:

4-7(a) PRE-FILING CONFERENCE - The project engineer is urged to prepare a rough sketch of the proposal and to discuss it informally with the Division of Planning and other divisions of government, utility companies and other agencies in order to share information and open a dialogue at the earliest stages of the process. This conference is not a mandatory prerequisite to the formal filing of the final subdivision plan by the developer.

4-7(b) FILING, DISTRIBUTION AND REVIEW -

To formally ask for action on the final plan, the developer shall file a completed application, filing fee and copies of the plan as required by the Commission's adopted meeting and filing and fee schedules. The Division of Planning shall make copies of the plan available to all other concerned agencies, and divisions of the Urban County Government.

The Division of Planning, and representatives of other divisions and concerned agencies, shall review the preliminary plans, and then meet together as a Technical Committee to try to resolve any differences

The committee meeting shall be open to the developer and to any interested citizen; however, the committee may impose rules, which control participation by non-members in attendance. The developer may secure recommendations from the staff at any of the review checkpoints, and proceed to make plan changes, so that revised plans may be submitted.

Through the review process, should the Division of Planning or Technical Committee question the substantial compliance of the submitted final plan to the previously approved Preliminary Subdivision Plan, the question shall be referred to the Planning Commission for decision.

4-7(d) CERTIFICATION BY THE URBAN COUNTY ENGINEER - Upon determination of substantial completion of the public improvements by the project engineer, the final record plan may be submitted to the Urban County Engineer for certification. The Urban County Engineer shall, within five working days, certify the plan, provided the information listed below is found to be complete. If not complete, the Urban County Engineer shall notify the developer and the project engineer of the specific deficiencies within the five working days.

4-7(d)(1) CERTIFICATION OF SUBSTANTIAL COMPLETION - As provided in the Procedures Manual, the project engineer shall certify that the work on the public improvements, as shown in the Improvement Plans, has progressed to a level of completion so that the public improvements can be utilized for the

purposes for which they were intended.

4-7(d)(2) RECORD DRAWINGS - Record drawings, prepared by the project engineer as specified in the Engineering Manuals, shall be submitted detailing the public improvements as they were constructed. In addition, the project engineer shall submit a copy of the certification prepared for submission to the Kentucky Division of Water, indicating that the record drawings for the sanitary sewers are true and correct.

4-7(d)(3) COMPOSITE DRAINAGE PLAN - The project engineer shall submit the composite drainage plan for the site.

4-7(d)(4) SEWER VIDEO - The project engineer shall submit a video tape of the sanitary sewer system survey, and a table of lateral stub connections suitable for use by the Division of Engineering when issuing sewer tap permits.

4-7(d)(5) TEST RESULTS - The results of all infrastructure tests, required by the Division of Engineering Manuals, and conducted by the project engineer, shall be submitted.

4-7(d)(6) PUNCH LIST - The project engineer shall submit a list of the work needed to complete the public improvements, including a detailed estimate of the cost of such completion. The project engineer shall certify that the punch list and the cost estimate are true and complete.

4-7(d)(7) REQUIRED PERMITS - The project engineer shall submit copies of all approved state and federal permits that were required for the construction of the project and that have not been previously filed.

4-7(d)(8) SCHEDULE FOR COMPLETION - The project engineer shall submit a schedule providing for the completion of all punch list items. All items on the punch list shall be completed within one year, with the exceptions of the installation of the final course of asphalt, the installation of the sidewalk, and the conversion of the silt/sediment basins to detention/retention basins.

4-7(d)(9) PERFORMANCE / WARRANTY SURETY - The developer shall post a combination performance and warranty surety, which shall be both to ensure the completion of public improvements, as indicated by the punch list, and for the repair of infrastructure that is found to be defective due to improper workmanship or defective materials.

4-7(d)(9)(a) ACCEPTABLE SURETIES - Acceptable sureties shall generally be an irrevocable letter of credit or insurance bond in favor of the Urban County Government from a bank with offices in Lexington-Fayette County. For sureties less than \$5,000, cash, certified check, or money order are acceptable. For sureties greater than \$5,000, cash, certified check, money order, or other surety are acceptable.

4-7(d)(9)(b) DETERMINATION OF THE AMOUNT OF THE SURETY - The total amount of the combination surety shall be ten percent (10%) of the total cost of the installed infrastructure, including roads, sanitary sewer system and stormwater facilities, plus one hundred percent (100%) of the cost of the items included on the punch list of incomplete work. Where the sanitary sewer pumping station has been constructed, and all pumping equipment installed, but electrical service has not been provided to the facility, the entire cost of the pumping station shall be included in the surety. The cost of roads, sanitary sewers, stormwater facilities and the punch list items shall be based upon the unit cost of each construction item which is a part of the plan. The unit costs for public improvement construction items shall be determined by the Division of Engineering. The surety shall also include an additional twenty percent (20%) of the amounts listed above to provide for inflation and administrative costs, should the surety be called; and the Urban County Government must cause the work to be constructed or repaired, as appropriate.

4-7(d)(9)(c) SURETY FOR PRIVATE STREETS - All private street improvements (excepting only the final course of asphalt and possibly the sidewalks) shall be constructed in compliance with the approved improvement plan before the final subdivision plan is recorded. For the final course of asphalt only, the developer shall be permitted to post a surety in favor of the final maintenance association responsible for the private street, and shall note such requirement on the final plat of the property. For any sidewalks not yet constructed, the developer shall be permitted, at the time of recordation of the final plat, to post a surety in favor of the final maintenance association responsible for the private street, as long as it is also in favor of the Urban County Government. This shall not be construed to hold the Urban County Government responsible for the construction of such sidewalks other than to the extent of the funds provided by the surety; and neither this, nor any action by the Urban County Government relative to the enforcement of the required construction of such sidewalks and/or the surety, therefore, shall be construed as acceptance of responsibility by the Urban County Government for the construction, maintenance or dedication of such sidewalks as public infrastructure.

The amount of the surety for the private street shall be 10% of the cost of the installed private street plus 100% of the cost of the final course of asphalt. The surety shall also include an additional 20% of the amounts above to provide for inflation and administrative cost, should the surety be called; and the final maintenance association must cause the work to be constructed or repaired, as appropriate. When private streets are permitted, the surety that is submitted in favor of the Urban County Government for the infrastructure shall not include an amount equal to the surety for private streets. The amount of the surety for the sidewalks shall be 100% of the cost of the construction of the sidewalks. The surety shall also include an additional 20% of the amounts above to provide for inflation and administrative cost, should the surety be called; and the final maintenance association must cause the work to be constructed or repaired, as appropriate.

4-7(e) CERTIFICATION OF APPROVAL AND RECORDING -

- (1) The developer shall fully comply with any conditions of approval placed on the plan by the technical committee and shall submit the completed original plan drawing to the Division of Planning;
- (2) The plan shall be certified by the Commission's Secretary if it is in conformance with all

requirements;

- (3) The plan shall be recorded in the plat records of the Fayette County Clerk by the Division of Planning at the developer's expense; and
- (4) Required copies shall be made of the recorded plan by the Division of Planning at the developer's expense.

4-7(f) RECORDING OF A PORTION OF A FINAL PLAN - The Division of Planning shall be authorized to permit a developer to record a final plan in smaller land increments than depicted on the originally submitted final plan. For any such developer's request, the Division of Planning shall review the proposal with the Division of Engineering to ensure that no problems in provision of streets, storm drainage, or sanitary sewers would result. In any disputed cases, the request will be forwarded to the Planning Commission for final judgment.

4-7(g) NO OCCUPANCY PERMIT - No person shall allow occupancy of any building until the Division of Building Inspection has verified that the private utilities (water, electricity, telephone, and, where applicable, sanitary sewers, access to a public street or private street or access easement, stormwater infrastructure, and natural gas), or public sanitary sewer pumping station, are completed in such a fashion that such utilities are available for use on the property in question.

4-8 COMPLETION OF PUBLIC IMPROVEMENTS - Public improvements that were not completed prior to certification of the final plan by the Urban County Engineer shall be completed in conformance with the approved improvement plan and with the submitted schedule for completion. In the event the public improvements are not completed as provided in the schedule for completion, or repaired as required, the Urban County Engineer shall, in writing, advise the Planning Commission, which shall have the authority to call the surety posted in favor of the Urban County Government and cause the work to be constructed or repaired, as appropriate.

4-8(a) PRE-FINAL INSPECTION AND FIRST REDUCTION IN THE SURETY - Within thirty (30) days of the certification of the final plan by the Urban County Engineer, the Division of Engineering shall inspect the public improvements. If the Division of Engineering finds that portions of the work on the public improvements that were included in the punch list have now been completed, a first reduction in the surety shall be permitted, when so requested by the developer. The reduction in the surety shall equal the cost of those punch list items that are found to be complete.

4-8(b) ADDITIONAL REDUCTIONS OF SURETY - Additional reductions in the amount of the surety will be permitted. The surety may be reduced only at times provided below. In all cases, the Division of Engineering shall retain the amount of the surety for inflation and administration until the release of the surety. No reduction will be permitted after the completion date has passed, and no reduction will alter the original completion or termination date of the surety.

- (1) SECOND REDUCTION - When requested by the developer, a second reduction shall be allowed one year from the Urban County Engineer's certification of the final plan. Within thirty (30) days of the request by the developer, the Division of Engineering shall inspect the improvements. The surety may be reduced by an amount equal to ten percent (10%) of the total amount of the cost of the stormwater facilities, plus the value of all punch list items that are found to have been completed during the first year.

(2) THIRD REDUCTION - At the end of the second year from the date of the certification of the plan by the Urban County Engineer, and within thirty (30) days of the request by the developer, the Division of Engineering shall inspect the improvements. The surety may be reduced by an amount equal to the value of the items that are found to have been completed in the second year. If the final course of asphalt has been applied for at least one year, the amount of the surety may be reduced by an amount equal to ten percent (10%) of the total cost of the final course of asphalt.

(3) FOURTH REDUCTION - At the end of the third year from the date of the certification of the plan by the Urban County Engineer, and within thirty (30) days of the request by the developer, the Division of Engineering shall inspect the improvements. The surety may be reduced by an amount equal to ten percent (10%) of the total cost of the sanitary sewer and pump station facilities plus the value of any items that are found to have been completed in the third year. If the final course of asphalt has been applied for at least one year, and if a previous reduction for the final course of asphalt has not been taken, the amount of the surety may be reduced by an amount equal to ten percent (10%) of the total cost of the final course of asphalt.

4-8(c) COMPLETION OF UTILITIES AND FINAL COURSE OF ASPHALT - Completion of utilities and final course of asphalt shall be in compliance with the current edition of the Procedures Manual. Upon installation of the final surface, the amount of the surety may be reduced by an amount equal to 10% of the cost of the base courses; but in no case shall the reduction be more than 10% of the cost of the final surface.

4-8(d) RENEWAL OF THE SURETY - When requested by the developer, the Urban County Engineer shall renew the surety for uncompleted items for one additional year, beyond the three years otherwise provided. As a condition of renewals for sureties older than 4 years, the Division of Engineering will require recalculation of the amount of the surety based on the current unit prices.

4-8(e) FINAL REDUCTION / RELEASE OF SURETY - When the developer has completed all required improvements, and the final course of asphalt has been applied for at least one year, the developer may request a final release of the surety. When so requested, the Division of Engineering will conduct a final inspection within thirty (30) days. Upon determination by the Division of Engineering that all improvements have been properly constructed in conformance with the requirements of these Subdivision Regulations, the Zoning Ordinance, the Division of Engineering Manuals and the Division of Engineering Standard Drawings, the Urban County Engineer shall, in writing, notify the Planning Commission, which shall release the surety.

4-8(f) SURETY FORFEITURES - If a surety is forfeited or called by the Urban County Government, the Corporation, Corporation Principal(s) or developer will be prohibited from submitting a surety to the Urban County Government for a period of three years from the date of forfeiture.

4-9 AMENDMENTS TO PLANS - With the exception of minor amendments set forth in Article 2, any amended preliminary plan, improvement plan, or final plan shall follow the same procedures as required for the original subdivision plan.

SIMPLIFIED DESCRIPTION OF PROCEDURE FOR PROCESSING MAJOR SUBDIVISION PLANS

- Step # 1 PRE-APPLICATION CONFERENCE ..Developer reviews sketch plan ideas with the Division of Planning, and reviews the community development plan.
- Step # 2 DEVELOPMENT PLAN If needed, developer prepares development plan for surrounding vacant land, and the Commission holds public hearing.
- Step # 3 PRELIMINARY PLAN Developer is ready to proceed with the preparation of the preliminary subdivision plan.
- Step #4 Developer properly files preliminary plan with the Division of Planning, which distributes copies to other agencies.
- Step # 5 The Land Subdivision Technical Committee meets and prepares recommendations to the Subdivision Committee.
- Step # 6 The Commission's Land Subdivision Committee meets and prepares recommendations to the full Planning Commission.
- Step # 7 At official meeting, the Commission acts on plan.
- Step # 8 IMPROVEMENT PLAN As soon as preliminary plan is fully approved (certified), the developer proceeds to the improvement plan.
- Step # 9 Following certification of preliminary plan, and completion of 50% of the design for the improvement plan, the developer must file a progress report on the improvement plans with the Division of Planning, for review by the Commission, prior to issuance of the Notice to Proceed from the Division of Engineering.
- Step # 10 Once completed, the developer must file improvement plans with the Division of Engineering.
- Step # 11 FINAL PLAN As soon as improvement plans are fully approved, developer may proceed to construct improvements and after improvements have been completed (unless a bond is to be used), proceeds to prepare final plans.

- Step # 12 Within 5 years of approval of the preliminary plan, developer must properly file final plan(s) with the Division of Planning, which distributes copies to other agencies.
- Step # 13 The Land Subdivision Technical Committee meets and prepares recommendations to the full Commission.
- Step # 14 The final plan must meet all requirements of the Technical Committee, be certified, and recorded. Lots may then be sold.
- Step # 15 If a construction bond has been permitted, it shall be released if work is properly completed within specified time. Otherwise, the Commission shall call the bond and have work properly performed.

NOTE: This illustration is presented for general information purposes only. In many cases all steps are not required. All developers should consult with the Division of Planning, prior to filing, to determine the required procedural steps for the proposed subdivision.

Section 2 - That Article 5 of the Land Subdivision Regulations of the Lexington-Fayette Urban County Government is hereby amended as follows.

CONTENT AND FORMAT REQUIREMENTS FOR MAJOR SUBDIVISION PLANS

5-1 PURPOSE - The purpose of this Article is to describe the minimum content and format of required plan materials before they can be considered as officially filed for Commission review.

5-2 PRELIMINARY SUBDIVISION PLAN RE-QUIREMENTS - The following information and requirements shall be applicable to any submission for Commission consideration of a preliminary sub-division plan:

5-2(a) AUTHORIZATION TO PREPARE PLANS - Preliminary subdivision plans may be prepared only by a licensed professional engineer, registered landscape architect, or community planner. However, certain information associated with the plan may be required to be provided only by a licensed professional engineer, such as drainage calculations (including sizing of retention/detention basins, pipes and culverts); preliminary estimates of street grades; and preliminary sanitary sewer design information (especially where capacity or grade problems are an issue).

5-2(b) TITLE BLOCK - The title block shall be placed on the bottom of the sheet and shall contain the subdivision name, which shall not duplicate nor closely approximate (phonetically or in spelling) the name

of any other subdivision in Fayette County, preceded by the words "Preliminary Plan of (Subdivision Name)"; the record name and street address of the property being subdivided; the name and mailing address of the property owner, the developer, the engineer, and any other persons directly involved in the transaction; and legend information such as the graphic scale, written scale, north point, date of preparation, and any other pertinent legend data.

5-2(c) VICINITY SKETCH - A sketch showing the general location of the subdivision in relation to the surrounding area and to existing and proposed community features, such as major traffic arteries; public transportation; schools; recreation areas; shopping areas; industrial areas; and residential neighborhoods -- with the sketch oriented in the same direction as the lotting scheme.

5-2(d) LOTTING SCHEME - The lotting scheme shall be drawn at a scale of one hundred (100) feet or less to the inch, north oriented to the top of sheet, and shall show the following existing and proposed features on the adjacent, as well as the subject, property:

5-2(d)(1) BOUNDARY LINES - The location, distance, and bearings for boundary lines; and the location, width, and purpose of all easement lines.

5-2(d)(2) STREETS - The street name (which shall not be the same nor closely approximate, phonetically or in spelling, to the name of any other street in Fayette County), right-of-way width, location, and typical cross section, and any access points designated for use by construction vehicles.

5-2(d)(3) LOTTING AND SETBACK - The location and distances for lot lines; lot numbers and block numbers; and the proposed building setback lines, with dimensions showing the distance set back from the street right-of-way.

5-2(d)(4) EXISTING UTILITIES - The location, size, and invert elevation of sanitary and storm sewers; location of water mains; location of gas lines, fire hydrants, electric and telephone poles or underground wires, and street lights.

5-2(d)(5) CONTOURS - Contours shall be at two-foot vertical intervals, referenced to North American Vertical Datum 1983 for horizontal, and 1988 for vertical control, or to a permanent benchmark. Source of contours shall be noted.

5-2(d)(6) SUBSURFACE CONDITIONS - When required, location and results of tests made to ascertain subsurface soil, rock, and groundwater conditions, especially for septic tanks, street construction, or flood hazards.

5-2(d)(7) PUBLIC AND NON-PUBLIC SITES - The name, acreage, and use of any parcels to be conveyed or held for public use, or for joint use of property owners; and an explanation of the provisions of reservation and arrangement for maintenance; and the name, location, acreage and use of any non-public uses (other than single-family dwellings) such as multi-family dwellings, shopping centers, churches, existing burial grounds (including private family cemeteries), etc.

5-2(d)(8) EXISTING TREE STANDS - Areas of substantial existing trees, including those located along fence rows and drainage areas, shall be shown along with a general description of the type and size of such trees.

5-2(d)(9) DRAINAGE FEATURES - The location of watercourses shall be shown, as well as the location of any floodplain area as provided in Article 21 of the Zoning Ordinance. The elevation of the regulatory flood shall be labeled where such information is available. The general location of any proposed storm water retention basin and/or stream relocation shall also be shown.

5-2(d)(10) AREAS OF GEOLOGIC HAZARD OR ENVIRONMENTAL SENSITIVITY

- Any such area as defined under Article 6 of these regulations shall be shown on the lotting scheme and labeled as to its nature. Additional information as required in Article 6 shall also be filed.

5-2(d)(11) OTHER CONDITIONS - Such as ponds, marshes, or other significant natural or man-made features; owners or subdivision name of adjacent land, including record plat reference; and other information related to the adjoining land as necessary to ensure proper continuity of storm drainage, sanitary sewers, street grades and other facilities.

5-2(e) PROPOSED PRIVATE UTILITIES - A listing of the private utilities (those improvements generally not later dedicated to and maintained by local government, such as water; gas; electricity; telephone; and, at times, sewage disposal), whether or not the developer intends to have them provided, agency or means by which they are to be provided, and agency which will supervise or approve any installation.

5-2(f) SITE STATISTICS - The total acreage; acreage in street right-of-way, single-family lots, and other land uses; average lot sizes; lineal feet of streets; zoning, etc.

5-2(g) DEVELOPMENT PLAN - Where the land area shown on the preliminary plan represents only a portion of an undeveloped tract of land, a development plan may be required as a means of showing the proposed street layout, land uses, public facilities, etc., for the entire property. Such plan shall be prepared at the developer's expense.

5-3 IMPROVEMENT PLAN REQUIREMENTS - This material shall be sufficient to show the proposed locations, sizes, types, grades, and general design features of each facility as required by the Division of Engineering Technical Manuals; shall be based upon reliable field data; use the number of sheets and sheet size as may be required by the Division of Engineering Technical Manuals; contain title block information as for the preliminary plan; and meet the following requirements, at a minimum:

5-3(a) AUTHORIZATION TO PREPARE PLANS - All improvement plan materials shall be prepared only by a licensed professional engineer.

5-3(b) STREET PROFILES - The plan and profile of each proposed street (with elevations and distances for the existing and proposed ground and street grade surface on, and three hundred feet beyond, the

tract) at a horizontal scale the same as for the approved preliminary plan and a vertical scale of 1/10 of the horizontal scale.

5-3(c) STREET CROSS-SECTIONS - A typical cross-section of each proposed street or other construction item, at a scale of ten (10) feet or less to the inch, showing the width of pavement, the location and width of sidewalks, and rights-of-way.

5-3(d) SEWERS AND STORM WATER DRAINAGE - The plans and profiles of proposed sanitary sewers and storm water drainage sewers or other drainage ways, at a horizontal scale the same as the approved preliminary plan and at a vertical scale of 1/10 of the horizontal scale, with grades and sizes indicated. If a piped system of storm sewers is not proposed, then an alternate system shall be properly illustrated as required by the Division of Engineering.

5-3(e) SOIL EROSION CONTROL PLAN - Soil erosion control plans required in conjunction with major subdivision plans under Chapter 16 of the Code of Ordinances shall be considered as a part of the required improvement plan information for the purposes of these Subdivision Regulations.

5-3(f) RECORD DRAWINGS - This plan, submitted in both paper and digital format, shall include the same information as required for improvement plans, except that the record drawings shall accurately reflect the actual installation of the improvements.

5-3(g) COMPOSITE DRAINAGE PLAN - A composite drainage plan for each lot shall be prepared by the project engineer and submitted to the Division of Engineering prior to recording of the final subdivision plan.

5-4 FINAL SUBDIVISION PLAN REQUIREMENTS - The following information and requirements shall be applicable to any submission for a final subdivision plan.

5-4(a) AUTHORIZATION FOR PLAN PREPARATION - Final subdivision plans must be prepared jointly by a registered civil engineer and land surveyor, except that final record plans exempted from preliminary and improvement plans under Section 4-3 above shall require preparation only by a land surveyor.

5-4(b) MATERIALS - The final plan shall be prepared on mylar or other material capable of clear reproduction using the ozalid print process. The sheet size may not exceed 17"x 22", and all plan information will be shown clearly and legibly. In addition, the final plan shall be submitted in digital format containing the information required by the Division of Engineering. In all cases, the mylar submission shall be considered the official submission.

5-4(c) TITLE BLOCK AND VICINITY SKETCH - The same information shall be required as for a preliminary plan, except that the title shall be "Final Record Plan of (Subdivision Name)."

5-4(d) LOTTING SCHEME - The lotting scheme shall be drawn at a scale of one hundred (100) feet or

less to the inch, north oriented to top of the sheet, and shall show the following:

5-4(d)(1) FOR ADJACENT LAND - Show the exact location of adjoining streets with dashed lines; show the bearings and distances to nearest established street bounds, established survey lines, other official monuments or burial grounds (including private family cemeteries); and for adjacent property, show the boundaries with dashed lines and the record name of the subdivision or owner's name.

5-4(d)(2) BOUNDARY LINES OF TRACT - Show the subdivision tract boundary lines with lengths of courses to hundredths of a foot, and bearings to nearest five (5) seconds of an arc, determined by an accurate survey in the field.

5-4(d)(3) STREET AND LOT LINES - For street and alley rights-of-way, show the names, bearings, angles of intersections, and width including the widths along the line of any obliquely intersecting street; for all arcs, show the length, radii, points of curvature, and tangent bearings; for all lot lines, show dimensions in feet and hundredths, and bearings and angles to minutes if other than right angles to the street or alley lines. Any plan containing permitted private streets shall have such streets so labeled.

5-4(d)(4) EASEMENTS - All easements will be shown and clearly labeled as to their width and purpose.

5-4(d)(5) FLOODPLAIN INFORMATION - As required by Article 19 of the Zoning Ordinance, all floodplain areas shall be shown and clearly labeled; and where available, the actual computed elevation of the regulatory flood shall be noted.

5-4(d)(6) OTHER INFORMATION ON LOTTING SCHEME - Show lots numbered in numerical order, blocks lettered in alphabetical order, and street address numbers for each lot; show the accurate location, description and material of all permanent control monuments, set as required in Article 6; show the accurate location of burial grounds and private family cemeteries, their easements, their accessibility and maintenance; show all property intended for public use or dedication and for common use of property owners; show front yard setback as required by the Zoning Ordinance or, if more restrictive, as desired by developer.

5-4(e) PROPOSED PRIVATE UTILITIES - A listing of the private utilities (those improvements generally not later dedicated to, and maintained by local government such as water; gas; electricity; telephone; and, at times, sewage disposal), whether or not the developer intends to have them provided, agency or means by which they are to be provided, and agency which will supervise or approve any installation.

5-4(f) NOTES - Any informational or restrictive notes to be included on the plan shall be numbered in sequential order and grouped together as one list whenever possible.

5-4(g) MAINTENANCE NOTE - A note shall be included on the plat, which notifies potential lot purchasers of their responsibilities for maintaining drainage and other easement areas. If a private family cemetery is located within the area to be subdivided, a note shall be included on the plat that denotes responsibility for maintaining the cemetery, landscaping and access easement.

5-4(h) CERTIFICATION BLOCK - Shall contain the following certifications, along with required signatures:

5-4(h)(1) OWNER'S CERTIFICATIONS - Shall be as follows:

"I (we) do hereby certify that I am (we are) the owner(s) of record of the property platted hereon, which is recorded in Deed Book Volume (or Plat Cabinet) _____, Page (or Slide) _____, in the Fayette County Clerk's Office; do hereby adopt this as my (our) plan of lots for this property; do hereby dedicate the streets and any other spaces so indicated to public use; and do establish that the easements shown hereon are reserved for the use so indicated; and no structure, tree, or other obstruction of any kind shall be erected or permitted to remain upon or over any portion of said easements."

If public sanitary sewers are provided, the following phrase is to be inserted in the certification at this point:

"And do hereby dedicate the sanitary sewer system to public use."

If private sanitary sewers serve the subdivision, the following is to be added in lieu of the preceding phrase:

"Do hereby dedicate the sanitary sewer lines and other parts of the system, except the sewage treatment plant, to public use, with such dedication to take effect only at such time as the Urban County Government purchases the sewage treatment plant to which said lines are connected."

The certification shall continue as follows:

"Also I (we) do hereby agree that before any lot herein is sold or transferred, the purchaser shall be notified in the contract or deed of any private utilities (water, gas, electricity, telephone, and where applicable, sanitary sewers) not installed, and the deed or contract shall contain a statement that no building occupancy certificate may be secured until any such utility is installed." (Witness, address, and date) (Owner and lien holder, address, and date)

Any plan containing a permitted private street or an access easement shall contain the following signed certification by the owner:

"Private Street (or Access Easement) Responsibilities of Owners - The owners of this property and any successors in title hereby agree to assume full liability and responsibility for any construction, maintenance, reconstruction, snow removal, cleaning or other needs related to the private streets (or access easements) so designated on this plan, and do hereby fully relieve the Urban County Government from any such responsibility. The owners of this property hereby agree to grant full rights of access to this property over the private street (or

access easement), and over utility and other easements for governmental and utility agencies to perform their normal responsibilities. The owners understand that the private streets (or access easements) will not result in any reduction in taxes required by and payable to the Urban County Government. Furthermore, if the owners in the future should request that the private streets (or access easements) be changed to public streets, the owners do fully agree that, before acceptance of such streets (or access easements) by the Urban County Government, the owners will bear full expense of reconstruction or any other action necessary to make the streets (or access easements) fully conform to the requirements applicable at that time for public streets prior to dedication and acceptance. Finally, if at some future date the Urban County Government so requests, the owners also agree that these streets (or access easements) shall be dedicated to public use without compensation to the owners and without the owners' expense in making such streets (or access easements) conform to the requirements applicable at that time for public streets." (Signed and dated by owners)

If the plan is solely for the purpose of dedicating a private street or other private improvement, the following certification shall be used:

"I (we) do hereby certify that I am (we are) the owners of record of the property platted hereon, which is recorded in Plat Cabinet _____, Slide _____, in the Fayette County Clerk's Office; do hereby adopt this as my (our) plan of lots for this property; do hereby dedicate the (streets and/or any other spaces) so indicated to public use, and do establish that the easements shown hereon are reserved for the use so indicated; and no structure, tree, or other obstruction of any kind shall be erected or permitted to remain upon or over any portion of said easements." (Signed and dated by owners)

5-4(h)(2) ENGINEER'S AND SURVEYOR'S CERTIFICATION - Shall be as follows:

"I hereby do certify that this record plan was prepared by me or under my direction; that all work performed by me or under my direction, including engineering design and construction observation of the infrastructure, was done in accordance with the provisions of the Land Subdivision Regulations, the Zoning Ordinance, the Division of Engineering Technical Manuals and the requirements of the Planning Commission; that all monuments indicated hereon do exist and their locations, size and materials are correctly shown; that, to the best of my knowledge and belief, the information shown hereon is accurate." (Engineer's and surveyor's signature, address, date and seal)

If the plan is solely for the purpose of dedicating a private street or other private improvement, the following certification shall be used:

"I hereby certify that this record plan was prepared by me or under my direction; that all monuments relative to the improvements to be dedicated, as indicated, do exist and their locations, size and materials are correctly shown; that, to the best of my knowledge and belief, the information shown hereon is accurate." (Engineer's and surveyor's signature, address, date and seal)

If there is no public or private infrastructure (as defined or regulated by the Division of Engineering Technical Manuals) to be constructed, modified or dedicated, and no performance and/or warranty surety is required, the following certification shall be used:

"I hereby do certify that this record plan was prepared by me or under my direction; was done in accordance with the provisions of the Land Subdivision Regulations, the Zoning Ordinance and the requirements of the Planning Commission; that all monuments indicated hereon do exist and their locations, size and materials are correctly shown; and that, to the best of my knowledge and belief, the information shown hereon is accurate." (Engineer's and/or surveyor's signature, address, date, and seal)

5-4(h)(3) URBAN COUNTY ENGINEER'S CERTIFICATION - Shall be as follows:

"I hereby certify that record drawings for the infrastructure shown hereon have been received."

(or if a surety is involved, substitute the following):

"I hereby certify that record drawings for the infrastructure shown hereon have been received and that a combination performance and warranty surety, in the amount required by the Subdivision Regulations, has been posted in my office by the developer."

(or if no public improvements are contained in the subdivision, substitute the following):

"I hereby certify that the requirements of the Subdivision Regulations and the Planning Commission do not require public improvements for this subdivision, and therefore no improvement plans or surety were required by my office." (Urban County Engineer's signature and date)

If the plan is solely for the purpose of dedicating a private street or other private improvement, the following certification shall be used:

"I hereby certify that the improvements required by the Urban County Council through Ordinance #_____ have been completed." Or "I hereby certify that \$_____ for improvements has been paid into a fund to be used to provide for such improvements in accordance with Urban County Council Ordinance #_____." (Urban County Engineer's signature and date)

5-4(h)(4) COMMISSION'S CERTIFICATION - Shall be as follows:

"I do hereby certify that this record plat has met the requirements established by the Sub division Regulations for a major plan, and is now eligible for recording." (Date and Planning Commission Secretary signature)

If the Plan was referred to the Planning Commission for Approval, the following certification shall be used:

"I do hereby certify that this record plat was approved by the Urban County Planning Commission at its meeting on (date) and is now eligible for recording." (Planning Commission Secretary's signature and date)

5-5 AMENDMENTS - The required content and format for any amendment to a major subdivision plan shall be the same as for the original submission. In addition, the plan title shall be labeled to indicate the plan is an "Amended (type of plan) of (Subdivision Name, including lot numbers affected by the amendment)"; and a note shall be included on the plan setting forth the specific purpose of the requested amendment. No plan change shall be considered in effect unless it is referenced in this note.

Section 3 - That the ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

Clerk of Urban County Council