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**ARTICLE 6
WAIVERS, VARIANCES, ENFORCEMENT, AND PENALTIES FOR VIOLATION AND
APPEALS**

Section 6.100 Waivers from Subdivision Regulations

The Planning Commission may waive these Subdivision Regulations only under the following conditions:

1. That unusual topographical or exceptional physical conditions exist; or
2. That strict compliance with these Regulations would create an extraordinary hardship in the face of the exceptional conditions; or
3. That the waiver would provide for innovative design layout of the subdivision; or
4. That strict compliance with any section of these Regulations regarding the issue of safety could cause an unsafe situation.

In granting any waiver to these Regulations, the Planning Commission shall find that said waiver will not be detrimental to the public interest nor in conflict with the intent and purpose of these Regulations.

The Planning Commission may require certain conditions to be met, as may be determined necessary, to accomplish the purpose of these Regulations, when waived.

6.101 Hardship

If it is found by the Planning Commission that strict enforcement of these Regulations would create an undue hardship because of the extraordinary or unique physical conditions that exist on the property to be subdivided, and which are not found usually within the area of jurisdiction of these Subdivision Regulations; any waiver shall be to the extent necessary to provide relief for the undue hardship. Financial disadvantage to the property owner is no proof of hardship within the purpose of these Regulations.

6.102 Absence of Detriment

No granting of a waiver shall be materially detrimental to the public welfare or injurious to the surrounding improvements or subdivisions.

6.103 Conformance to Comprehensive Plan and/or Official Plan

The granting of the waiver shall not be contrary to the objectives of these Subdivision Regulations, the Comprehensive Plan and/or Official Plan.

6.104 Conditioned Waiver

In granting a waiver; the Planning Commission may require such conditions as will, in its judgment, substantially secure the objectives of the standards or requirements so varied or modified.

6.105 Design Innovations and Large Scale Development

Plans for complete neighborhoods or other design innovations which, in the opinion of the Planning Commission, achieve the basic objectives of these regulations may be granted a waiver or modification of these regulations. The Planning Commission shall require those conditions, such as covenants or other legal provisions, which it feels are necessary to assure conformity to, and achievement of, the proposed subdivision plan.

Section 6.200 Variances from Zoning Regulations

The Planning Commission shall have the power to hear and decide applications for dimensional variances from the Zoning Regulations when a proposed development requires approval of a subdivision and one (1) or more variances pursuant to KRS 100.281. In doing so, the Planning Commission shall assume all powers and duties otherwise exercised by the Board of Adjustment pursuant to KRS 100.231, 100.233, 100.237, 100.241, 100.243, 100.247 and 100.251 with the exception that the Planning Commission shall not hear and grant Conditional Use Permits.

The applicant for the subdivision at the time of the filing of the application for the subdivision may 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 after the Planning Commission has conditionally approved the application.

The Planning Commission shall not possess the power to grant a variance to permit a use of any land, building, or structure which is not permitted by the Zoning Regulations in the zone in question, or to alter the density requirements in the zone in question.

Section 6.300 Enforcement

6.301 Voidance and Inability to Record Properties in Non-Approved Subdivision

No person owning land composing a subdivision, or his agent, shall transfer or sell or agree to sell any lot or parcel of land located within a subdivision by reference to, or by exhibition, or by any other use of a plat of such subdivision, before such plat has received final approval of the Planning Commission, signed by the Chairman of the Planning Commission, and recorded by the County Clerk. Any such instrument of transfer, sale, or contract shall be void and shall not be

subject to be recorded, but all rights of such purchaser to damages are hereby preserved. The description of such lot or parcel by metes and bounds in any contract or instrument of transfer or other document used in the process of selling, or transferring same shall not exempt the person attempting to transfer from penalties provided or deprive the purchaser of any rights or remedies he they may otherwise have.

6.302 Utility Improvements Conditioned to a Legal Public Status of the Street

No board, public officer, or authority shall accept, layout, improve, or authorize utilities to be laid in any street within the territory for which the Planning Commission has adopted these Subdivision Regulations unless the street has received a legal status of public street prior to the adoption of the Subdivision Regulations or unless a street corresponds with a street shown on the Major Thoroughfare Plan or equivalent; or unless a street on a Subdivision Plat or a street plan has been approved by the Planning Commission.

Section 6.400 Penalties for Violations

Any subdivider, County Court Clerk, public official, or other person who violates and does not comply with these Subdivision Regulations, the conditions set forth by the Planning Commission, Board of Adjustment, or any court, or does not comply with the plans presented and approved, may have the Planning Commission take the following actions against them.

6.401 Injunctions

The Planning Commission may apply for an injunction against any type of subdivision construction by a subdivider or a landowner where these Subdivision Regulations have been violated.

6.402 Withholding Zoning Permits, Building Permits and Certificates of Occupancy

The Planning Commission may direct the authorized officer not to issue zoning permits, building permits or certificates of occupancy in the subdivision in question.

6.403 Fines

Pursuant to KRS 100.991, the Planning Commission may take action to fine any person or entity who is in violation of these provisions or any of the regulations adopted pursuant hereunder for which no other penalty is provided, shall upon conviction, be fined not less than ten dollars (\$10) but not more than five hundred

dollars (\$500) for each conviction. Each day of violation shall constitute a separate offense.

Any County Clerk who receives, files, or records a subdivision plat in violation of the provisions of these Regulations shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) as provided in the Kentucky Revised Statutes, Chapter 100.991.

Section 6.500 Appeals from Planning Commission Action

Any person or entity claiming to be injured or aggrieved by any final action of the Planning Commission may appeal from the action to the Shelby Circuit Court. Such appeal shall be taken within thirty (30) consecutive calendar days after the final action of the Planning Commission and all decisions which have not been appealed within thirty (30) consecutive calendar days shall become final. Final action shall not include the Commission's recommendation made to other governmental bodies.

