

JOINT ORDINANCE

CITY OF WINCHESTER, KENTUCKY ORDINANCE NO. 17-2014

CLARK COUNTY, KENTUCKY, ORDINANCE NO. 2004-18

SUMMARY

AN ORDINANCE ENACTED JOINTLY BY CLARK COUNTY/CITY OF WINCHESTER, KENTUCKY AMENDING THE TEXT OF THE WINCHESTER/CLARK COUNTY ZONING ORDINANCE REGARDING RURAL RESIDENTIAL CLUSTER DEVELOPMENTS WITHIN THE A-1 (AGRICULTURAL) ZONING DISTRICT

A complete copy of this ordinance is available for inspection in the office of the Clark County Clerk or City of Winchester City Clerk.

I hereby certify that the foregoing is an accurate summary of the contents of the above-entitled Ordinance.

/s/ William A. Dykeman

William A. Dykeman, City Attorney

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WHEREAS, the City of Winchester and Clark County, Kentucky, have been engaged in a joint planning effort to provide for the orderly development of the city and county and are the governing bodies for said zoning requirements, and

WHEREAS, providing for such development requires the adoption of various types of land use regulations, and

WHEREAS, it is desirable to revise the existing text of the Zoning Ordinance to make changes, modifications and revisions to the restrictions, requirements and limitations as it relates to rural residential cluster developments within the A-1 (Agricultural) Zoning District; and

NOW, THEREFORE, BE IT ORDAINED BY THE FISCAL COURT OF CLARK COUNTY, KENTUCKY, AND THE BOARD OF COMMISSIONERS OF THE CITY OF WINCHESTER, KENTUCKY:

SECTION ONE. That Clark County, Kentucky and the Board of Commissioners have determined that the Winchester/Clark County Zoning Ordinance sets and determines minimum conditions and requirements including but not limited to those found in the TABLE OF CONTENTS, ARTICLE 6, §6.141; ARTICLE 8, §8.7; and ARTICLE 12, which sections need to be changed, revised and modified.

TABLE OF CONTENTS: ARTICLE 8. GENERAL DEVELOPMENT REGULATIONS

8.7 ~~Reserved Rural Residential Cluster Development Regulations~~

ARTICLE 6. ZONING DISTRICTS

- ~~6.141 Reserved Planned Development Project for a Rural Residential Cluster Development~~ as regulated by Article 8, Section 8.7.
(Ord. No. 30-83, § 1, 1-11-84; Ord. No. 3-99, § 1, 3-16-99)

ARTICLE 8. GENERAL DEVELOPMENT REGULATIONS

~~8.7 Reserved Rural Residential Cluster Development Regulations~~

~~8.71~~ The applicant must utilize the planned development application process, including a proposed development plan for a rural residential cluster development. The approval process will include a public hearing as required for a zone change.

~~8.72~~ The applicant must formally request a public hearing as required by KRS 100 by filing the appropriate application, three (3) copies of the proposed cluster development plan and paying the appropriate fees.

~~8.73~~ The development plan procedures outlined in section 8.6 shall be followed. In addition, the plan must disclose the following: lot coverage; height of buildings; maximum building height; construction type; deed restrictions; contiguous properties with road frontages for each property; and crossing points on the access road, if reserved by owner of set aside.

~~8.74~~ The following minimum acreage and road frontage requirements shall apply:

1. Cluster development shall contain not less than sixty (60) acres in addition to the acreage contained in the cluster envelope.
2. For each house in the cluster development (excluding bonus sites), there must be at least one hundred twenty five (125) feet of frontage on a road publicly maintained at the time of the adoption of this ordinance.
3. Exception to road frontage requirement: Cluster developments are permitted on farms with less than one hundred twenty five (125) feet of public road frontage provided the following conditions are met:
 - A. At the date of the adoption of this ordinance, insufficient road frontage existed to comply with the following road frontage requirements;
 - B. All other cluster requirements are fully met; and
 - C. Owner shall have purchased or contracted to purchase sufficient development rights to meet the road frontage requirements.
4. The area of the cluster envelope shall not exceed an average of one and one half (1.5) acres per house site, but there shall be no minimum lot size.

~~8.75 Set-aside Requirements~~

1. The owner shall be required to reserve or grant a conservation easement to or for the benefit of the planning commission barring further development or subdivision of the set aside for a period of not less than twenty five (25) years, after which the status of the land may be reviewed as a part of the comprehensive planning process and a change in the classification of

- the property may be recommended if in agreement with the goals and objectives of the plan.
2. The set aside shall contain not less than ten (10) acres per house site, including bonus sites.
 3. Nothing herein shall be construed to limit the agricultural activities or practices which may be conducted on the set aside; provided, however, that the owner of the set aside may voluntarily enter into private covenants running with the land agreeing not to engage in certain agricultural activities or practices.

8.76 Location of Cluster Development

1. The set aside must completely surround the cluster envelope.
2. There must be a minimum distance of one hundred twenty five (125) feet between all points of the cluster envelope and the property line.
3. All points of the cluster envelope must be set back from the public road a minimum of five hundred (500) feet; provided, however, that the planning commission shall have discretion to grant exceptions to the minimum setback if the board finds that the viewshed is protected by topography, mature woodlands, or other natural features.

8.77 Number of House Sites Permitted

1. A maximum of twelve (12) house sites are permitted unless additional sites are permitted pursuant to the following provisions.
2. The number of house sites permitted may be increased by fifty (50) per cent up to a maximum of six (6) additional house sites by the use of transferred development rights (TDRs).
3. A maximum of four (4) additional " " may be permitted in the discretion of the planning commission, for such features as underground utilities, creative or innovative design of the cluster or of the roads, or other creative or innovative design features.
4. Two (2) additional house sites shall be allowed for each additional two hundred fifty (250) feet the cluster envelope is set back from the public road over and above the 500-foot minimum setback.
5. If there is an existing or proposed house site on the parent tract the number of permitted house sites in the cluster shall be reduced by two (2).

8.78 Requirements Relating to Physical Improvements, Landscaping and Buffering

1. The minimum right of way for the access road shall be thirty (30) feet; and the minimum pavement width shall be twenty (20) feet.
2. Unless dedicated and accepted for maintenance by the county, roads shall be maintained by the owner of the parent tract or by a homeowners association as required by the deed restrictions.
3. The access road shall be of traditional road contours with minimum site disturbance, and shall have an entrance engineered for compliance with storm water runoff requirements and design standards.
4. Signs identifying the cluster shall not exceed thirty two (32) square feet including the printed matter and any supporting or decorative features.
5. Each cluster development shall be permitted only a single access point to the existing public road.
6. Only one cluster development may be served by a single access road.
7. The maximum cul-de-sac length of five hundred (500) feet as provided in the Subdivision Regulations, Article VII, 710 B8 shall not apply to cluster developments.

8. ~~The cluster envelope must be completely fenced off from the parent tract by a fence having the following minimum requirements: 9 gauge wire twelve inch stays, six inch line posts set twelve (12) feet on center. The installation and maintenance of the fence shall be the responsibility of the owner of the set aside unless otherwise provided in the deed restrictions.~~
9. ~~Landscaping and/or buffering shall be required. The design must provide for maximum preservation of existing topography. If located in the set aside, the owner of the set aside shall be responsible for its maintenance.~~
10. ~~All physical improvements, including fencing, utilities, landscaping and roadways shall be installed or a surety bond posted for the completion of the improvements prior to approval of the final plat.~~

8.79 Access Roads

~~Even though a cluster development access road may hereafter be dedicated and accepted for maintenance by the county or other governmental agency, frontage on such road shall not be considered public road frontage under section 6.1 of Article 6 so as to entitle the owner to develop or subdivide the property fronting on such access road.~~

ARTICLE 12. DEFINITIONS

~~**Cluster Development:** A type of design in an agricultural zone which allows a specific area to be utilized for the grouping of lots for residential development, while dedicating a specific area to remain undeveloped and used for farm land and/or open space. The cluster development includes the cluster envelope and the set aside.~~

~~(Ord. No. 3-99, § 7, 3-16-99)~~

~~**Cluster Envelope:** The land area in a cluster development devoted to residential development, including residential lots, road rights of way, and other land devoted to uses or facilities necessary to support the residential development, excluding, however, right of way of the access road from the public road to the point where actual residential development begins.~~

~~(Ord. No. 3-99, § 7, 3-16-99)~~

~~**Set-Aside:** The land area surrounding the cluster envelope which is dedicated to use as farm land and/or open space. That portion of the access road from the public road to the point where residential development actually begins shall not be considered to be a portion of the set aside. (Ord. No. 3-99, § 7, 3-16-99)~~

SECTION TWO. The Revised Winchester/Clark County Zoning Ordinance shall remain in full force and effect as modified herein until such time as it is changed, modified, altered and/or amended by further Joint Ordinance of the City of Winchester and the Clark County Fiscal Court.

SECTION THREE. That this ordinance shall take effect and be in force from and after its date of passage, approval and publication as required by law.

SECTION FOUR. Except as modified herein, all the other Articles, Sections, terms, requirements and conditions set forth in the Winchester/Clark County Zoning Ordinance shall remain in full force and effect as written.

Introduced for first reading at a meeting of the Board of Commissioners of the City of Winchester, Kentucky, held on *December 2, 2014* and finally adopted after second reading at a meeting of said Board held on *December 16, 2014*. Publication Date: **December 24, 2014**

/s/ Edallen York Burtner

Edallen York Burtner, Mayor

ATTEST:

/s/ Marilyn Rowe

Marilyn Rowe, City Clerk

REVIEWED BY:

William A. Dykeman

City Attorney's Office

31 W. Hickman Street

P.O. Box 910

Winchester, KY 40392-0910

Telephone: 859.745.1700

INTRODUCED, upon motion by Commissioner Smith, SECONDED by Commissioner Reed, and therefore passed by unanimous vote, and was GIVEN FIRST READING at a duly convened meeting of the Clark County Fiscal Court, held on this 25th day of November 2014.

INTRODUCED, upon motion by Commissioner Smith, SECONDED by Commissioner Reed, and therefore passed by unanimous vote, and was GIVEN SECOND READING at a duly convened meeting of the Clark County Fiscal Court, held on this 17th day of December, 2014.

/s/ Henry Branham

Henry Branham, Clark County Judge/Executive

ATTEST:

/s/ Anita S. Jones

Anita S. Jones, Clark County Clerk

REVIEWED BY:

Brian Thomas
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