

**GUIDELINES FOR DETERMINATION OF ROADWAY  
STATUS FOR AGRICULTURAL DIVISION  
(as Amended 4/21/03)**

Divisions of land for agricultural purposes not involving new roadways are exempt from subdivision regulations and Planning Commission approval. In Washington County tracts 15 acres in size or greater will be presumed to be agriculturally used. Existing "roadways" not publicly maintained or otherwise approved previously by the Planning Commission must be determined to be a roadway under the guidelines of KRS 100. The Planning Commission will make findings of fact detailing each determination. These findings and the determination will be based on submittals by the effected property owner or his/her agent.

Submittals made to the Planning Commission for the Commission's consideration of roadway status for agriculturally exempt divisions must include at a minimum the following information:

- (1) A set of deed restrictions or restrictive covenants that restrict the property accessing the "roadway" to agricultural use. These restrictions are to be recorded upon a finding by the Planning Commission that the division is exempt.
- (2) A document that dedicates to public use that portion of right-of-way for that segment of the roadway running through the parent parcel subject to division. That right-of-way shall be a minimum of 30 feet in width. This roadway dedication document is to be executed and recorded upon a finding by the Planning Commission that the division is exempt.
- (3) The 30-foot right-of-way shall be shown as a separate tract or entity on the final plat to be recorded and not part of any tract. A 30-foot easement running through tracts is not sufficient.
- (4) Documentation/proof that the "roadway" is a publicly accessible thoroughfare accessing multiple properties. This discerns the roadway from a driveway that serves only one property. Types of proof and/or documentation that are acceptable include but are not limited to the following:
  - (a) Deeds in the chain of title, covering a period of time well before the adoption of subdivision regulations in Washington County that mention with some level of specificity the "roadway" as a roadway or thoroughfare. References should be specifically identified and highlighted in each document.
  - (b) Governmental documents that show or refer to the "roadway" as a roadway or thoroughfare such as PVA maps, Fiscal Court orders or

roadway maintenance lists or other materials. References should be highlighted.

- (c) Affidavits by area residents with long term, specific knowledge of the nature of the "roadway". The affidavits should specifically detail the beliefs concerning character of the roadway and the basis for that belief.
- (5) Binding Elements that apply to the approval of the exemption of the Planning Commission. If the binding elements are violated, the Planning Commission's approval of the exemption will be voided and the division will be subject to subdivision regulations and Planning Commission approval. The binding elements shall at the minimum incorporate by reference: The deed restrictions/restrictive covenants (referenced in #1 above) and the restriction on land use to agricultural use; the document that dedicates to public use the "roadway" (referenced in #2 above); a restriction that all tracts have at least 100 feet of frontage on the roadway; a reference to a roadway maintenance agreement as being required (referenced hereinafter); a clause that puts purchasers on specific notice that the land use is restricted to agricultural use; a clause stating in its entirety the KRS 100 definition of agricultural use; and a statement that all documents referenced herein shall be properly executed and promptly recorded in the Office of the Washington County Clerk.
  - (6) A roadway maintenance agreement providing for the continuing and adequate maintenance of the "roadway". The maintenance agreement shall provide for its own enforcement and shall specify shares of the maintenance responsibility. The maintenance agreement shall cover at least the entire portion of the "roadway" that runs through the parent tract subject to division but may also cover additional portions of the roadway. This roadway maintenance agreement is to be properly executed and recorded upon a finding by the Planning Commission that the division is exempt. **Note:** The 30-foot roadway right-of-way may be deeded to the property owners of tracts served by (with frontage on) the "roadway" in undivided interests in the whole. No one property owner should have title or ownership in any particular portion of the roadway. The roadway maintenance agreement shall include a provision for the dedication of the road to ownership and maintenance by the appropriate governmental entity upon agreement of a simple majority of the owners.
  - (7) A draft set of findings of fact shall be submitted detailing the basis for a determination by the Planning Commission that the "roadway" is an existing roadway or thoroughfare that has been in existence prior to the adoption of subdivision regulations in Washington County and continually used.

- (8) An introduction letter detailing the basis for a finding as detailed in #6 above and describing the information provided by index and how each submittal relates to the findings.

NOTE: Submittals made under these guidelines are to be made to the Planning Office on or before the first Tuesday of that month during which they are to be considered. Eight (8) copies of the submittals are to be provided.