

PROPOSED SUBDIVISION REGULATIONS

ARTICLE I- GENERAL PROVISIONS

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1-101 TITLE

These regulations shall hereinafter be known and cited as the "Subdivision Regulations of Fairview, Tennessee."

1-102 AUTHORITY

These subdivision regulations are adopted by the Fairview Municipal Planning Commission (hereinafter referred to as "Planning Commission"), pursuant to the authority and powers granted by Sections 13-4-301 through 13-4-309, Tennessee Code. Having adopted a major street or road plan for the jurisdictional area, and filed a certified copy of said plan with the County Register of Deeds (hereinafter referred to as "county register"), as required by Section 13-4-302, Tennessee Code, and having held a public hearing, the Planning Commission has fulfilled the requirements set forth in state law as prerequisites to adoption of these regulations.

1-103 DECLARATION OF DEVELOPMENT PREFERENCE

At the time a Conceptual Plan is filed with the Planning Commission, as provided in Section 2-105, (Conceptual Plan Procedures), the applicant shall declare whether the plan shall be reviewed under the requirements of Articles 1 through 5 of these regulations alone or in combination with Article 6 or Article 7. When opting to use Article 6 or 7, the regulations and standards of Articles 1 through 5 and the selected Article shall be applied. The regulations and standards of the Article not selected by the applicant shall not be applied. In case of conflict between Articles 1 through 5 and the selected Article, the regulation or standard of the selected Article shall apply. A declaration of development preference is not required for a land partition.

1-104 Jurisdiction

These subdivision regulations shall apply to all subdivisions, as herein defined, located within Fairview, Tennessee. No land shall be subdivided within the jurisdictional area until the subdivider submits necessary plans as required by these regulations, obtains Planning Commission approval of such plans, and files the approved final plat with the county register.

1-105 POLICY AND PURPOSE

It is hereby declared to be the policy of the Planning Commission to consider subdivision of land and development of a subdivision plan as subject to control of the adopted land use or development plan (hereinafter referred to as "land development plan") of the jurisdictional area for orderly, planned, and efficient physical and economical development.

Land to be subdivided shall be of such character that it can be used for building purposes without danger of fire, flood, or other menace. Land shall not be subdivided until proper provisions have been made for drainage, water, sewerage, other public utilities, and for other required public services. The existing and proposed public improvements shall generally conform to and be properly related to proposals shown in the land development plan.

The regulations herein shall supplement and facilitate enforcement of the provisions and standards contained in the Zoning Ordinance of Fairview, Tennessee (hereinafter referred to as "zoning regulations").

These subdivision regulations are adopted for the following purposes:

- (1) To promote the public health, safety, and general welfare of the jurisdictional area.
- (2) To guide development of the jurisdictional area in accordance with the land development plan, considering the suitability of nonresidential and public areas and having regard for the most beneficial land use in such areas.
- (3) To provide for adequate light, air, and privacy; to secure safety from fire, flood, and other dangers; and to prevent overcrowding of the land and undue congestion of population.
- (4) To establish reasonable standards of design and procedures for subdivisions and resubdivisions; to further the orderly layout and use of land; and to insure proper legal descriptions and proper monumenting of land.
- (5) To enhance the character and economic stability and encourage the orderly, beneficial development of the jurisdictional area.
- (6) To insure that public facilities are available and will have sufficient capacity to serve all proposed subdivisions.
- (7) To prevent pollution of air, streams, and ponds; to assure adequacy of drainage facilities; to safeguard the water table; and to preserve the integrity, stability, beauty, and value of land within the jurisdictional area.
- (8) To preserve the natural beauty and topography of the jurisdictional area, and to insure appropriate development with regard to these natural features.

- (9) To provide for open spaces through efficient design and layout of the land, including use of average density to provide for reductions in minimum width and area of lots, while preserving the density of land as established in the zoning regulations.

1-106 INTERPRETATION, CONFLICT, AND SEVERABILITY

1-106.1 Interpretation

These regulations shall be held to be the minimum requirements for promotion of health, safety, and general welfare.

1-106.2 Conflict with Public and Private Provisions

1-106.201 Public Provisions

These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule, or regulation, statute, or other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

1-106.202 Private Provisions

These regulations are not intended to abrogate any easement, covenant, or other private agreement or restriction; provided, that where these regulations are more restrictive or impose higher standards than such easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern. Where any private provision exceeds the standards set forth herein, such shall be considered a private contract between the parties of interest, and, as such, is beyond the jurisdiction of the Planning Commission.

1-106.3 Severability

If any part or provision of these regulations or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy where such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The Planning Commission hereby declares that it would have enacted the remainder of these regulations without any such part, provision, or application.

1-107 SAVING PROVISION

These regulations shall not be construed as abating any action now pending under, or by virtue of prior subdivision regulations; or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue; or as affecting the liability of any person; or as waiving any right of the governing body under any section or provision existing at the time of adoption of these regulations; or as vacating or annulling any rights obtained by any person by lawful action of the governing body, except as expressly provided otherwise in these regulations.

1-107.1 Previously Approved Subdivisions

1-107.101 Unexpired Preliminary Plans

The approval granted on any preliminary plan prior to the effective date of these regulations shall remain in force and effect for the time period stipulated by the regulations under which the approval was first granted.

1-107.102 Expired Preliminary Plans

In any instance where the period of preliminary approval shall have passed with some portion of the subdivision not having received approval of the Final Plan, and the applicant wishes an extension of the preliminary approval, the Planning Commission may:

- (1) Permit the remaining portion of the subdivision to be constructed and to receive approval under provisions set forth in the regulations whereby preliminary approval was originally granted, or
- (2) Stipulate that the plan is null and void and that a new plan be presented subject to all laws and provisions of these regulations that are in effect at the time such action is considered.

In making this determination, the Planning Commission shall consider all pertinent facts available to it. The current state and active pursuit of construction and development activities within the subdivision shall be given due consideration in the course of the Planning Commission's deliberation on this question.

1-107.2 Filing of Approved Plats

All previously approved final plats shall be filed with the county register's office within one (1) year following adoption of these subdivision regulations. In the event the owner fails to file a plat within the one (1) year time period stipulated herein the approval shall become void and no building permit may be issued for any lot located therein until action is taken to reinstate the plat. All Final Plans approved following adoption of these regulations shall be filed with the county register's office as provided in Subsection 2-108.602 (Recording of Plan) of these regulations.

1-108 AMENDMENTS

1-108.1 Enactment

For the purpose of providing for the public health, safety, and general welfare the Planning Commission may from time to time amend these regulations. Before adoption of any amendment to these regulations, a public hearing thereon shall be held by the Planning Commission, as required by Article 4, Title 13, Tennessee Code.

1-108.2 Codification and Distribution

Subsequent to adoption of any amendment to these regulations, such amendment shall be incorporated into the text of these regulations in the following manner:

- (1) Replacement pages shall be prepared incorporating the new or changed language. Each such new or replacement page shall have the amendment number and shall be dated so as to indicate the date of last revision of the page.
- (2) Each adopted amendment shall be numbered consecutively and printed on pages separate from any other amendment and in a manner that fully states any language deleted from these regulations and any language added and the place in the text of each such change.

1-109 RESUBDIVISION OF LAND

1-109.1 Procedures for Resubdivision

If any change in an approved or recorded subdivision plat would affect the layout of any public street, alley, or road (hereinafter referred to as public way) shown on such plat, or area reserved thereon for public use, or any lot line, or if it would affect any map, plan, or plat legally recorded before adoption of any subdivision regulations, such amendment shall be approved by the same procedure, rules, and regulations as for a subdivision.

1-109.2 Subdivision Procedures Where Future Resubdivision Is Foreseen

Whenever a parcel of land is subdivided and the subdivision plat shows one (1) or more lots containing more than double the minimum required area for the zoning district wherein the lot is located, and the Planning Commission has reason to believe that any such lot(s) will be resubdivided into smaller building sites, the Planning Commission may require that the subdivision and development of such parcel of land allow for the future opening of public ways and the ultimate extension of adjacent public ways or that such lots be restricted from further subdivision. The Planning Commission may also require that dedications providing for future opening and extension of such public ways be indicated on the plan.

1-110 CONDITIONS

Regulation of the subdivision of land and the attachment of reasonable conditions to land subdivision are exercises of valid police power delegated by the State to the Planning Commission. The developer has the duty of compliance with reasonable conditions imposed by the Planning Commission for design, dedication, improvement, and restrictive use of the land so as to provide for physical and economical development of the jurisdictional area and for the safety and general welfare of future plot owners in the subdivision and of the community at large.

1-111 VACATION OF PLATS AND ABANDONMENT OF RIGHT-OF-WAY DEDICATIONS

1-111.1 Vacation of Plats

Any plat or any part of any plat may be vacated by the owner of the premises, at any time before sale of any lot described therein, by a written instrument, to which a copy of such plat shall be attached, declaring the plat or part of the plat to be vacated. In approving the vacation of plats the Planning Commission shall follow the same procedure for approval of plats. The governing body may reject any such instrument that abridges or destroys any public rights in any of its public uses, improvements, or public ways. Such an instrument shall be executed, acknowledged, or approved, and duly recorded or filed; the instrument shall operate to void the recorded plat and divest all public rights in the public ways and public grounds and all dedications described in such plat. . When any lot or lots shown on a plat have been sold such plat may be vacated in the manner indicated herein, provided however, all owners of lots located in such plated area must join in the execution of such writing.

1-111.2 Abandonment of Right-of-Way Dedications

Any dedicated right-of-way shown on a recorded subdivision plat can be abandoned only through the resubdivision of such plat, or through the resubdivision of the affected section of such plat, according to the procedures stated in Subsection 1-111.1, (Vacation of Plats) of these regulations. Thereby, the Planning Commission must approve the resubdivision of the initially recorded plat that depicts the dedicated right-of-way or future public way access area, in such a manner wherein such dedicated right-of-way is deleted from said plat. Once, this revised plat is officially recorded, it acts to supersede the originally recorded plat, and accordingly abandons the respective dedicated right-of-way or future public way access area. No official action shall be made by the Planning Commission in relation to the abandonment of any dedicated right-of-way, pending public notification of adjacent property owners by registered mail as to the time and place of the Planning Commission meeting, when such action is to be officially entertained. Any public way access area or dedicated right-of-way that is abandoned as per the procedures cited herein, shall be deeded solely to the current owners of those lots which were in the originally platted and recorded section of the affected subdivision wherein such public way access area or dedicated right-of-way was depicted.

1-112 VARIANCES

1-112.1 General

If the Planning Commission finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations, a variance from these regulations may be granted; provided, such variance shall not have the effect of nullifying the general intent and purpose of these regulations and provided, further, that the Planning Commission shall not recommend variations unless it shall make findings based upon written evidence presented to it in each specific case that:

- (1) Granting of the variance will not be detrimental to the public safety, health, or welfare, or be injurious to other property or improvements in the neighborhood where the property is located;

- (2) Conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property;
- (3) Because of the particular physical surroundings, shape, or topographical condition of the specific property involved, a particular hardship (not self-imposed) to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations were carried out; and
- (4) The variance will not in any manner alter provisions of the land development plan, the major thoroughfare plan, or the zoning ordinance.

Where the Planning Commission concludes that the purpose of these regulations may be specifically served to an equal or greater extent by an alternative proposal, condition, or circumstance, it may approve other variations to these regulations.

1-112.2 Procedures

Each and every variance or modification of these subdivision regulations sought by a subdivider shall be specifically applied for in the numerical order of the subdivision regulations, in writing by the subdivider. **A separate form provided by the Enforcing Officer shall be utilized to list any and all variance(s) being requested. This form shall accompany the Development Plan.** Any condition shown on the plan, which would require a variance or modification, shall constitute grounds for disapproval of the plan unless application for modification or variance is made. In approving any variation from these regulations the Planning Commission shall state fully in its minutes the grounds for the variation and all of the facts upon which the decision is made. The minutes of the meeting where the action approving the variance(s) is taken shall reflect the specific nature and content of such variance(s).

1-112.3 Conditions

In approving variations, the Planning Commission may impose such conditions as in its judgment will secure substantially the objectives, standards, and requirements of these regulations.

1-113 ENFORCEMENT, VIOLATION, AND PENALTIES

1-113.1 General

1-113.101 Authority

The enforcement of these regulations and the penalties for violations are provided pursuant to Title 13, Tennessee Code.

1-113.102 Enforcing Officer

It shall be the duty of the Enforcing Officer to enforce these regulations and to bring to the attention of legal council any violations or lack of compliance herewith.

1-113.103 Recording of Plats

Pursuant to Section 13-4-302, Tennessee Code, no Final Plan of subdivision within the jurisdictional area shall be received or recorded by the county register until such plan has received approval of the Planning Commission in accordance with these regulations, and such approval has been endorsed in writing on the plan by the Planning Commission secretary in the manner prescribed by these regulations.

1-113.104 Use of Unapproved Plats

Pursuant to Section 13-4-306, Tennessee Code, no owner or agent of the owner of any land shall convey such land contrary to the provisions stated herein.

1-113.105 Public Ways and Utilities

Pursuant to Section 13-4-307, Tennessee Code, the governing body shall not nor shall any public authority accept, lay out, open, improve, grade, pave, or light any public way, lay or authorize the laying of water mains or sewers, or construct or authorize the construction of other facilities or utilities in any public way located within the jurisdictional area unless such way shall have been accepted, opened, or otherwise received the legal status of a public way prior to the attachment of the Planning Commission's jurisdiction, or unless such way corresponds in its location and lines to a way shown on a subdivision plan approved by the Planning Commission or on a public way plan made by the Planning Commission. The governing body may, however, accept or lay out any other street or adopt any other street location, provided the resolution, ordinance, or other measure for such acceptance, laying out or adoption first shall be submitted to the Planning Commission for its approval and, if disapproved by the Planning Commission, shall receive the favorable vote of a majority of the entire membership of the governing body. A street approved by the Planning Commission upon such submission or accepted, laid out, or adopted by the Planning Commission shall have the status of an approved street location as fully as though it originally had been shown on a subdivision plat approved by the Planning Commission or on a plat made and adopted by the Planning Commission. In case, however, of any state highway constructed or to be constructed in the jurisdictional area by the State of Tennessee with state funds as a part of the state highway system, the submission to the Planning Commission shall be by the Tennessee Commissioner of Transportation, who shall have the power to overrule the disapproval of the Planning Commission.

1-113.106 Building Permits

No building permit shall be issued for construction of any building or structure located on a lot or plat that is subdivided or sold in violation of any provision of these regulations. Any individual requesting a building permit for a lot located within an established subdivision shall provide evidence that the plat of subdivision wherein such lot is located has been approved and appropriately recorded.

1-113.107 Access to Lots by Public Way or Private Easement

Pursuant to Section 13-4-308, Tennessee Code, no building permit shall be issued and no building or structure shall be erected on any lot within the jurisdictional area, unless the public way giving access to the lot whereon the building or structure is proposed to be placed shall have been accepted or opened or shall have otherwise received the legal status of a public way prior to that time or unless such way corresponds in its location and lines with a way shown on a subdivision plan approved by the Planning Commission, or on a street plan made and adopted by the commission, or unless such lot fronts upon a permanent easement that conforms to all rules, regulations and specifications set forth, herein.

Except as provided elsewhere in Article VI for Conservation Subdivisions, in any instance where a permanent easement is used to provide access to a lot or tract of land having been or being separated by deed or plan from other property, such easement shall be at least fifty (50) feet in width. Where a permanent easement is proposed to provide access to more than one (1) lot or tract of land, an access way shall be constructed within the easement which will meet or exceed the standards for design and construction of public ways set forth in these regulations, and the Planning Commission shall act to insure that the responsibility for future maintenance of any such access way lying within a permanent easement remains solely with the benefited parties and that in no event shall the maintenance of such access way become a public responsibility.

1-113.2 Penalties for Violations

1-113.201 Recording of Unapproved Plats

No county register shall receive, file, or record a plat of subdivision within the planning region without approval of the Planning Commission as required in Section 13-4-302, Tennessee Code, and any county register so doing shall be deemed guilty of a misdemeanor, punishable as other misdemeanors as provided by law. Any county register, receiving, filing or recording a plan of a subdivision in violation of Subsection 1-113.103 (Recording of Plats), of these regulations, shall be deemed guilty of a violation of the above cited provision of the Tennessee Code.

1-113.202 Use of Unapproved Plats

Section 13-4-306, Tennessee Code, provides that whoever being the owner or agent of the owner of any land transfers, or sells or agrees to sell or negotiates to sell such land by reference to, exhibition of or by other use of a plat of subdivision of such land without having submitted a plat of such subdivision to the Planning Commission and obtained its approval as required before such plat be recorded in the office of the appropriate county register, shall be deemed guilty of a misdemeanor punishable as other misdemeanors as provided by law; and the description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties. The local government through its attorney may enjoin such transfer or sale or agreement by action of injunction.

1-113.203 Illegal Buildings

Any building or structure erected or to be erected in violation of these subdivision regulations shall be deemed an unlawful building or structure; and the building official or other official designated by the local government may bring action or enjoin such erection or cause it to be vacated or removed as provided in Section 13-4-308, Tennessee Code.

1-113.3 CIVIL ENFORCEMENT

1-113.301 General

Appropriate actions and proceedings may be taken in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages; to restrain, correct, or abate a violation, or to prevent illegal occupancy of a building, structure, or premise; these remedies shall be in addition to the penalties described in Subsection 1-113.2 (Penalties for Violations), of these regulations.

1-113.302 Specific Statutory Remedies

a. Use of Unapproved Plats

The City, through its attorney or other official designated by the City, may enjoin by action for injunction any transfer of, sale of, or agreement to sell any land in violation of Subsection 1-113.104 (Use of Unapproved Plats), of these regulations.

b. Erection of Unlawful Buildings

Where any building or structure is erected or being erected on any lot in violation of the street or easement frontage requirements of Subsection 1-113.107, (Access to Lots by Public Way or Private Easement), of these regulations, the building official or the City attorney or other official designated by the Board of Commissioners may bring action to enjoin such erection or cause the building or structure to be vacated or removed.

1-114 REPEAL OF PREVIOUS REGULATIONS

Upon the adoption and effective date of these regulations, the Subdivision Regulations, of Fairview, Tennessee, adopted -----, as amended, are, hereby, repealed.

1-115 FEES FOR PLAN REVIEW

Any individual who is seeking to subdivide property within the jurisdictional area where these regulations are applicable shall pay such filing and review fees as are required. These fees shall be paid prior to the item being placed on an agenda for consideration by the Planning Commission.