

ARTICLE I
GENERAL PROVISIONS

1-101 Title

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

1-102 Authority

These subdivision regulations are adopted by the Fayetteville Municipal/Regional Planning Commission (hereinafter referred to as "planning commission"), in pursuance of the authority and powers granted by Sections 13-3-401 through 13-3-411 and 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 the plan with the County Register of Deeds (hereinafter referred to as "county register"), as required by Sections 13-3-402 and 13-4-302, Tennessee Code, and having held a public hearing as indicated in Section 7-101, of these regulations and as required by Sections 13-3-403 and 13-4-303, Tennessee Code, the planning commission has fulfilled the requirements set forth in state law as prerequisites to the adoption of these regulations.

1-103 Jurisdiction

These subdivision regulations shall apply to all subdivisions, as herein defined, located within the Fayetteville Municipal/Regional Planning Region. No land shall be subdivided within the jurisdictional area until the subdivider submits a plat as required by these regulations, obtains planning commission approval of the plat, and files the approved plat with the county register.

1-104 Policy and Purpose

It is hereby declared to be the policy of the planning commission to consider the subdivision of land and development of a subdivision plat as subject to the control of the adopted land use or community 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 health, 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 the proposals shown in the land development plan.

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

These regulations are adopted for the following purposes:

- A. To promote the public health, safety, and general welfare of the jurisdictional area.
- B. To guide the 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.
- C. 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.
- D. To enhance the character and economic stability and encourage the orderly, beneficial development of the jurisdictional area.
- E. To conserve the value of land, buildings, and improvements throughout the jurisdictional area and to minimize detrimental conflicts among the uses of land and structures.
- F. To guide public policy private and action providing for transportation, water, sewerage, schools, recreational areas, and other public requirements and facilities.
- G. To provide for the most beneficial relationship between the uses of land and buildings and the efficient traffic movement throughout the jurisdictional area.
- H. 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.
- I. To insure that public facilities are available and will have a sufficient capacity to serve the proposed subdivision.
- J. To prevent the pollution of air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard the water table; and to preserve the integrity, stability, beauty, and value of the jurisdictional area.
- K. To preserve the natural beauty and topography of the jurisdictional area, and to insure appropriate development with regard to these natural features.
- L. To provide for open spaces through efficient design and layout of the land, including the use of average density in providing for minimum width and area of lots, while preserving the density of land as established in any zoning ordinance.
- M. To encourage subdivision design which would maximize the conservation of all forms of energy.

1-105 Interpretation, Conflict, and Severability

1-105.1 Interpretation

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

1-105.2 Conflict with Public and Private Provisions

1-105.201 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.

1-105.202 Private Provisions

These regulations are not intended to abrogate any easement, covenant, or any 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.

1-105.3 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 in which 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.

1-106 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 planning commission 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 planning commission, except as expressly provided otherwise in these regulations.

1-106.1 Previously Approved Subdivisions

1-106.101 Unexpired Preliminary Approval

The approval granted on any plat 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.

1-106.102 Expired Preliminary Approval

In any instance in which the period of preliminary approval shall have passed with some portion of the subdivision not having received final approval, and the applicant wishes an extension of the preliminary approval, the planning commission may:

- a. 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
- b. stipulate that the plat is null and void and that a new plat be presented subject to the provisions of these regulations.

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 Amendments

1-107.1 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 the adoption of any amendment to these regulations, a public hearing thereon shall be held by the planning commission, as required by Chapter 3, Title 13, Tennessee Code, at least thirty (30) days notice of the time and place of which shall be given in a newspaper of general circulation.

1-107.2 Codification and Distribution

Subsequent to the 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 the last revision of the page.

2. In Article VII, of these regulations, each adopted amendment shall be numbered consecutively and printed on pages separate from any other amendment and in a manner which fully states any language deleted from these regulations and any language added and the place in the text of each such change.

1-108 Resubdivision of Land

1-108.1 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 the adoption of any subdivision regulations, such amendment shall be approved by the planning commission by the same procedure, rules, and regulations as for a subdivision.

1-108.2 Procedures for Subdivision Where Future Resubdivision Is Foreseen

Whenever a parcel of land is subdivided and the subdivision plat shows one or more lots containing more than one acre of land or double the minimum required area for any zoning district in which 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. The planning commission may also require that dedications providing for the future opening and extension of such public ways be indicated on the plat.

1-109 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 the 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.

1-110 Vacation of Plats

Any plat or any part of any plat may be vacated by the owner of the premises, at any time before the 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. The planning commission shall follow the same procedure for approval of plats. The planning commission may reject any such instrument which 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 laid out or described in such plat. When any lot or lots have been sold the plat may be vacated in the manner herein provided only if all of the owners of lots in such platted area join in the execution of such writing.

1-111 Variances

1-111.1 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. the 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 in which the property is located;
2. the 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 the provisions of the land development plan, the major street or road plan, or any zoning ordinance.
5. any approved variance should be reflected on the final plat.

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.

1-111.2 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 in letter form. Any condition shown on the plat which would require a variance or modification shall constitute a grounds for disapproval of the plat unless such special application for modification variance is made. In approving any variation from these regulations the planning commission shall state fully in the minutes the grounds for the variation and all of the facts upon which the decision is made.

1-111.3 Conditions

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

1-112 Enforcement, Violation, and Penalties

1-112.1 General

1-112.101 Authority

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

1-112.102 Enforcing Officer

It shall be the duty of the Building Inspector (hereinafter referred to as "the enforcing officer") to enforce these regulations and to bring to the attention of legal council any violations or lack of compliance herewith.

1-112.103 Recording of Plats

Pursuant to Sections 13-3-402 and 13-4-302, Tennessee Code, no plat of a subdivision of land within the jurisdictional area shall be received or recorded by the county register until the plat has received final approval of the planning commission in accordance with these regulations, and such approval has been endorsed in writing on the plat by the planning commission secretary in the manner prescribed by Section 3-105, of these regulations.

The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transfer shall not exempt any owner or agent violating the provisions of the preceding paragraph from the penalties or remedies provided in Subsections 1-112.2 and 1-112.3, of these regulations.

1-112.104 Use of Unapproved Plats

Pursuant to Sections 13-3-410 and 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.

The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transfer shall not exempt any owner or agent violating the provisions of the preceding paragraph from the penalties or remedies provided in Subsections 1-112.2 and 1-112.3, of these regulations.

1-112.105 Metes and Bounds Subdivisions

The subdivision of any lot or parcel of land by use of metes or bounds description without complying with the plat provisions of these regulations shall not be permitted. All such described subdivisions shall be subject to all of the requirements of these regulations.

1-112.106 False Statements About Roads

Pursuant to Sections 13-3-410 and 13-4-306, Tennessee Code, no owner or agent of the owner of any land shall falsely represent to a prospective purchaser of real estate that roads or streets will be built or constructed by any city, county, or any other political subdivision.

1-112.107 Public Ways and Utilities

Pursuant to Sections 13-3-410 and 13-4-306, Tennessee Code, the planning commission 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 plat approved by the planning commission or on a public way plat made by the planning commission.

However, the governing body may override the planning commission as provided in Title 13, Tennessee Code.

In case of any state highway constructed or to be constructed within the jurisdictional area 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.

1-112.108 Building Permits

No building permit shall be issued for the construction of any building or structure located on a lot or plat subdivided or sold in violation of any provision of these regulations.

1-112.109 Access to Lots by Public Way or Private Easement

Pursuant to Sections 13-3-411 and 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 upon which 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 as provided by law, or unless such lot fronts upon a permanent easement which conforms to the provisions set forth in these regulations.

Provided, further, that when a permanent easement to a public way is used as access to a lot or tract of land having been or being separated by deed or plat from other property, such easement shall be at least fifty (50) feet in width from and after the time of adoption of these regulations and shall not be used to provide access to more than one lot or tract of land.

The above section shall not be construed to prohibit the development of buildings on lots or tracts with permanent access provided by private ways when such development is in the form of condominium ownership of such private improvements which have been approved by the planning commission and will be in private ownership and control in perpetuity.

1-112.2 Penalties for Violations

1-112.201 Recording of Unapproved Plats

No county register shall receive, file, or record a plat of a subdivision within the planning region without the approval of the planning commission as required in Sections 13-3-402 and 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 plat of a subdivision in violation of Subsection 1-112.103, of these regulations, shall be deemed guilty of a violation of the above cited provision of the Tennessee Code.

1-112.202 Use of Unapproved Plats

Section 13-3-410 and 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 or 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 city through its city attorney may enjoin such transfer or sale or agreement by action of injunction.

1-112.203 Illegal Buildings

Any building or structure erected or to be erected in violation of the subdivision regulations shall be deemed an unlawful building or structure; and the building inspector or the city manager or other official designated by the chief legislative body may bring action or enjoin such erection or cause it to be vacated or removed as provided in Section 13-3-411 and 13-4-308, Tennessee Code.

1-112.3 Civil Enforcement

1-112.301 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 1-112.2, of these regulations.

1-112.302 Specific Statutory Remedies

- a. Use of Unapproved Plats - The city, through its attorney or other official designated by the city council, may enjoin by action for injunction any transfer of, sale of, or agreement to sell any land in violation of Subsection 1-112.104, 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 road or easement frontage requirements of Subsection 1-112.109, of these regulations, the city building official or the city attorney or other official designated by the city council may bring action to enjoin such erection or cause the building or structure to be vacated or removed.

1-113 Repeal of Previous Regulations

Upon the adoption and effective date of these regulations, the Subdivision Regulations of the Fayetteville Municipal/Regional Planning Commission, adopted **May 1976**, as amended, are hereby repealed.