

**ARTICLE I**  
**GENERAL PROVISIONS**

**1-101 Title**

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

**1-102 Authority**

These subdivision regulations are adopted by the Hendersonville Municipal-Regional Planning Commission (hereinafter, referred to as "planning commission"), pursuant to 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 Sumner 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 Subsection 1-107.1, of these regulations, the planning commission has fulfilled the requirements set forth in state law as prerequisites to adoption of these regulations.

**1-103 Jurisdiction**

These subdivision regulations shall apply to all subdivisions, as herein defined, located within Hendersonville, Tennessee, and its extraterritorial planning region as established by resolution of the Local Government Planning Advisory Committee. No land shall be subdivided within the jurisdictional area until the subdivider submits necessary plans and plats as required by these regulations, obtains planning commission approval of such documents, files the approved final plat with the county register and otherwise complies with all requirements herein.

**1-104 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 as subject to control of the adopted Long Range General 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 Combined Zoning Ordinance of the City of Hendersonville and the Hendersonville Planning Region (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 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 planning region and to minimize detrimental conflicts among the uses of land and structures.
- F. To guide public and private policy 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 movement of traffic 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 sufficient capacity to serve the proposed subdivision.
- J. 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.
- 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 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 ordinance.
- M. To encourage subdivision design which would maximize 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 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 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 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.

## **1-106 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 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 Previously Approved Subdivisions**

### **1-107.1 Unexpired Approval**

The approval granted on any sketch, preliminary or final plat granted by the Hendersonville Regional Planning Commission prior to the effective date of these regulations shall remain in force and effect for the time period stipulated by the regulations under which such approval was first granted and as amended prior to adoption of this revision.

### **1-107.2 Expired Approval**

In any instance where the period of sketch or preliminary approval shall have passed, development and construction of the subdivision may proceed only under one of the three (3) options listed as follows:

(1) The Planning Commission may grant up to three (3) one (1) year extensions to allow the subdivision to be developed under the terms of the Subdivision Regulations in effect at the time of the preliminary approval, or

(2) The Planning Commission may grant up to three (3) one (1) year extensions under the condition the subdivision be developed and constructed according to any new regulations or standards enacted since preliminary approval, or

(3) The Planning Commission may declare the preliminary approval null and void and require that a new plat be presented subject to all laws and provisions of the regulations that are in effect at the time such action is considered.

### **1-107.3 Filing of Previously 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 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 plats approved under these regulations shall be filed with the county register's office within one (1) year following final approval.

## **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 Chapters 3 and 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. 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 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 or more lots containing more than 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 or that such lots be restricted from further subdivision through a permanent conservation easement. The planning

commission may also require that dedications providing for future opening and extension of such public ways be indicated on the plat.

### **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**

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 have been sold the plat may be vacated in the manner herein provided only if all of the owners of all lots in such platted area join in the execution of such writing.

### **1-112 Deviations**

#### **1-112.1 General**

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

1. granting of the deviation 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 deviation is based are unique to the property for which the deviation 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 deviation will not in any manner alter provisions of the land development plan, the major street or road 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 deviations to these regulations.

#### **1-112.2 Deviation Procedures**

Each and every deviation 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 deviations being requested. This form shall accompany the preliminary conceptual plan.** Any condition shown on the plat, which is a deviation or modification, shall constitute grounds for disapproval of the plat unless such special application for deviation is made. In approving any deviation from these regulations the planning commission shall state fully in the minutes the grounds for the deviation and all of the facts upon which the decision is made. The minutes of the meeting where the action approving the deviation is taken shall reflect the specific nature and extent of such deviations.

#### **1-112.3 Conditions**

In approving deviations, the planning commission may impose such conditions as in its judgment will secure substantially the objectives, standards, and requirements of the 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 Planning Director (hereinafter referred to as "the Enforcing Officer") to enforce these regulations and to bring to the attention of legal counsel any violations or lack of compliance herewith.

**1-113.103     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 Subsection 2-105.1, (Signing of Plat), of these regulations.

**1-113.104     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.

**1-113.105     Public Ways and Utilities**

Pursuant to Sections 13-3-406 and 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 plat approved by the planning commission or on a public way plat made by 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 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     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 Enforcing Officer 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 Sections 13-3-411 and 13-4-308, Tennessee Code.

### **1-113.108     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 prior to that time or unless such way corresponds in its location and lines with a way shown on a subdivision plat approved by the planning commission, or on a street plat made and adopted by the commission, or unless such lot fronts upon a permanent easement which conforms to all rules, regulations and specifications set forth herein.

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 plat 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 Section 4-103, of 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     Civil Enforcement**

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 1-113.1, of these regulations.

### **1-114     Repeal of Previous Regulations**

Upon the adoption and effective date of these regulations, the Subdivision Regulations, of Hendersonville, Tennessee, adopted July 18, 1989, as amended, are, hereby, repealed.

### **1-115     Fees for Plat 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 by the city. These fees shall be paid at the time of submittal of the application for plat review and approval.