

ARTICLE 2

PROCEDURES FOR PLAT APPROVAL

2-101 General Procedure

2-101.1 Plat Approval Requirements -- Before any contract is executed for the sale of any parcel of land which is proposed to be subdivided and before any permit for the erection of any structure in a proposed subdivision shall be granted, the subdividing owner or his authorized agent shall apply for and secure the planning commission's approval of the proposed subdivision in accordance with the procedures of this article.

2-101.2 Classification of Subdivisions -- The planning commission shall classify each subdivision proposal as either major or minor as defined herein.

2-101.201 Review Procedure -- The subdivider shall follow the procedure described below in order to secure plat approval

(1) Minor Subdivision (See Definition in Article 6)

- (a) Pre-application conference with the enforcing officer including submittal of a scale drawing or survey of the proposed subdivision for preliminary discussion and review.
- (b) Submittal of a final plat, prepared in accordance with the specifications in Section 5-104, herein, for approval by the planning commission.

(2) Major Subdivision (See Definition in Article 6)

- (a) Pre-application conference on the subdivision with the planning commission and/or staff assistant to the planning commission, generally including a sketch plat, and discussion of the proposed area to be subdivided.
- (b) Submittal of the preliminary plat, prepared in accordance with Section 5-102, herein for planning commission approval.
- (c) Securing of approval from other public agencies.
- (d) Submittal of the final subdivision plat, prepared in accordance with Section 5-104, herein for planning commission approval.

- 2-101.3 Official Submission Date -- For the purpose of these regulations, for both major and minor subdivisions, the date of the regular meeting of the planning commission at which the public hearing on the final subdivision plat, including any adjourned date thereof, is closed, shall constitute the official submittal date of the plat at which the statutory period required in Section 13-4-304, Tennessee Code Annotated, for formal approval or disapproval of the plat shall commence.
- 2-101.4 Policy on Flood-prone Areas -- In determining the appropriateness of land subdivision at any site containing a flood-prone area, the planning commission, in reviewing any plat, shall consider the policy and purpose set forth in Section 1-104 of these regulations and, additionally:
- (1) the danger to life and property due to the increased flood heights or velocities, either potential or actual, caused by subdivision fill, roads, and intended uses;
 - (2) the danger that intended uses or improvements may be swept onto other lands or downstream to the injury of others;
 - (3) the adequacy of proposed water supply, sanitation, and drainage systems, and the ability of these systems to function under flood conditions;
 - (4) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage upon the individual owner;
 - (5) the importance of the services provided by the proposed facility to the community at large;
 - (6) the requirements of the subdivision for a waterfront location;
 - (7) the availability of alternative locations not subject to flooding for the proposed subdivision and land uses;
 - (8) the compatibility of the proposed uses with existing development or development anticipated in the foreseeable future;
 - (9) the relationship of the proposed subdivision to the land development plan and the floodplain management program for the area;
 - (10) the safety of access to the property for emergency vehicles in times of flood;
 - (11) the expected heights, duration, velocity, rate of rise, and sediment transport of the floodwaters expected at the site;

- (12) the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, public ways, and bridges; and
- (13) the effect of the proposed subdivision upon the governing body's participation in the National Flood Insurance Program, if such governing body is, or elects to be, in the program.

No subdivision or part thereof shall be approved by the planning commission if proposed subdivision levees, fills, structures, or other features will individually or collectively, increase flood flows, heights, duration, or damages. The regulatory limits (the one hundred-year flood level) shall be determined from the latest approved flood study for the jurisdictional area, and any subsequent revisions thereto. Specific engineering studies are to be formulated by the developer in those areas in which flood data are not currently available, if deemed necessary by the planning commission.

In any instance in which the planning commission determines that a proposed subdivision may affect the flood height, velocity, or duration in any flood-prone area outside its jurisdiction, the commission shall take all actions necessary and proper to ensure the coordinated review of the development with the appropriate governmental agencies of the affected area.

In approving plans for subdivision of land containing flood-prone areas, the planning commission shall ensure that development will proceed in such a way that property lying within any floodway, as defined by these regulations, will be maintained in a manner as prescribed by the Westmoreland Zoning Ordinance. The planning commission shall also ensure that development within any floodway fringe area (within the one hundred-year flood level) will be protected adequately against potential flood hazards by the methods prescribed in Article 4 of these regulations.

The planning commission shall disapprove the subdivision of any land containing a flood-prone area when the commission determines that subdivision plans are not consistent with the policy stated in this section.

2-101.5 Special Provisions Governing Unit Ownership (Condominium) Subdivisions

2-101.501 General Provisions

- A. Intent -- This section is intended to augment the general legislation of Sections 66-27-101 through 66-27-123, Tennessee Code Annotated, entitled "Horizontal Property Act," by providing supplemental

rules and regulations for the implementation of the act, as specifically authorized in Sections 66-27-121, Tennessee Code Annotated.

B. Applicability -- Whenever a developer, the sole owner, or the co-owners of a building or buildings expressly declare through the submission of a master deed, lease, or plat their desire to submit their property to a regime, as established and provided by Sections 66-27-101 through 66-27-123, Tennessee Code Annotated, wherein there is established a horizontal property regime, each such condominium horizontal property regime created under the authority of these provisions for the purpose of sale or transfer of real property is subject to the provisions of these regulations.

2-101.502 Submission of Plat Required -- Prior to the sale or transfer of any property incorporated in the property regime, the developer, sole owner, or co-owners of such property shall submit to the planning commission a subdivision plat of such property in the manner prescribed by this article; such plat, if approved, shall be filed with the county register in the manner prescribed by this article.

2-101.503 Determination of Subdivision Type -- Condominium subdivisions shall be classified by the planning commission during the plat review process as either horizontal condominiums or vertical condominiums as defined in Article 6 of these regulations.

2-101.504 Procedure -- An applicant seeking approval of a condominium subdivision shall proceed through the normal procedure for subdivision approval, as set forth in this article.

2-101.505 Contents of Plans and Documents -- The plats, plans, and documents submitted by an applicant seeking approval of condominium subdivision shall conform with the specifications set forth in Article 5 of these regulations.

2-102 Sketch Plat

2-102.1 Purpose of Sketch Plat -- The planning commission shall require a sketch plat from the developer for a pre-application conference with the planning commission. The sketch plat is to be a concept plan for design purposes and should be used to discover all factors which may have an impact on the proposed development and to advise the subdivider of various possibilities before substantial amounts of time and money have been invested in a very detailed proposal which may contain elements contrary to these regulations.

2-102.2 Sketch Plat Requirements -- The sketch plat shall include the information set forth in Section 5-101.

2-102.3 Approval of Sketch Plat -- When a sketch plat is submitted for planning commission approval, the number of copies required and timing of the submission shall be as for a preliminary plat. Approval of the plat shall constitute authorizations to prepare detailed plans and specifications.

2-102.4 Expiration of Approval -- The approval of the sketch plat shall expire within one year if no other progress is made toward the development. An extension may be granted upon proper application.

2-103 Preliminary Plat (Major Subdivisions Only)

2-103.1 Application Procedure and Requirements -- The applicant shall file with the planning commission a preliminary plat. The failure of the applicant to satisfy the requirements of this section with full and correct information shall be cause for disapproval of a preliminary plat. The preliminary plat shall be prepared in accordance with Section 5-102 and:

- (1) be presented at the office of the chief enforcing officer;
- (2) include all land which the applicant proposes to subdivided and all land immediately adjacent, extending two hundred (200) feet therefrom, or of that directly opposite thereto, extending two hundred (200) feet from the public way frontage of such opposite land. The lot pattern of surrounding development shall be shown within that area located within two hundred (200) feet of the proposed development;
- (3) be accompanied by a minimum of nine (9) copies of the preliminary plat as described herein;
- (4) be accompanied by a minimum of four (4) copies of construction plans as described in Section 5-103, of these regulations; and

Note - Please note that construction plans may be filed concurrently with the preliminary plat, but must be approved by the city engineer in all cases prior to the official consideration of the final plat.

- (5) be presented to the Town Recorder no later than 11:00 a.m., the Monday prior to the next scheduled meeting of the Planning Commission for review and consideration at the following month's meeting. **(Amended by Resolution No. 2-24-05, February 24, 2005)**

2-103.2 Administrative Review -- An administrative review meeting shall be conducted on the preliminary plat, construction plans, and any exhibits submitted in conformance with these regulations. This review shall include the staff assistant to the planning commission and any other appropriate governmental representative. The review shall be held prior to the regularly scheduled planning commission meeting at which the plat is to be reviewed. The findings of the review committee shall be presented to the planning commission.

With expert assistance, as necessary, the subdivider shall prepare a report, on any proposed subdivision containing or abutting a flood-prone area. In all cases, wherein a portion of a subdivision encroaches on an unmapped watercourse as defined in Section 6-102 herein, a drainage easement shall be reserved on both sides of such channel extending five (5) times the width of said channel, unless a flood report as specified herein is approved by the planning commission requiring a lesser easement. Such report shall estimate the discharge of the regulatory flood; determine the specific flooding threat at the site of the proposed subdivision; and indicate whether the subdivision is located in a floodway or floodway fringe area by:

- (1) calculation of water surface elevations and regulatory flood protections based upon a hydraulic analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood;
- (2) computation of the floodway required to convey the regulatory flood without increasing natural flood heights of the regulatory flood more than one foot at any point; and
- (3) unless otherwise established, computation of increases in flood heights caused by any encroachment shall be based upon the reasonable assumption that there will be an equal degree of encroachment on both sides of the stream within that reach. No increase in flood storage attributable to encroachments on the floodplain of any river or stream shall be permitted in any one reach or for the cumulative effect of several reaches.

2-103.3 Notice of Hearing -- The planning commission shall hold a hearing as required by Chapter 4 of Title 13, Tennessee Code Annotated, on each plat brought before it.

2-103.4 Preliminary Approval -- After the planning commission has reviewed the preliminary plat, construction plans, exhibits, and the results of administrative review, the applicant shall be advised of any required changes. The planning commission shall approve, conditionally approve, or disapprove the preliminary plat within thirty (30) days after the date of the regular meeting of the planning commission at which the hearing on preliminary approval, including adjourned date thereof, is closed.

A certificate of preliminary approval shall be issued by the secretary of the planning commission, upon demand, and the applicant may proceed to apply for final subdivision plat approval in the manner prescribed by Section 2-104, of these regulations.

After the planning commission approves, conditionally approves, or disapproves the preliminary plat, one copy of the proposed preliminary plat shall be returned to the developer with the date of approval, conditional approval, or disapproval thereon. If a preliminary plat is disapproved the planning commission shall state specific reasons for disapproval which shall be entered into the minutes of the meeting.

Before the planning commission approves a preliminary plat showing land for any public use, the planning commission shall obtain approval for the land reservation from the governing body or appropriate governmental agency.

2-103.5 Effective Period of Preliminary Approval -- The approval of a preliminary plat shall be effective for a period of twelve (12) months, at the end of which time final approval of the subdivision plat must have been obtained from the planning commission, although the plat need not have been signed and filed with the county register. Any plat not receiving final approval within the period of time set forth herein shall be null and void, and the developer shall be required to submit a new plat for preliminary approval subject to the Westmoreland Zoning Ordinance and the subdivision regulations currently in effect.

2-103.6 Zoning Regulations -- Every plat shall conform to the Westmoreland Zoning Ordinance and subdivision regulations applicable at the time of proposed final approval, except that any plat which has received preliminary approval shall be exempt from any subsequent amendments to such zoning ordinance or these regulations rendering the plat nonconforming as to bulk, use, or development standards, provided, that final approval is obtained within the effective period of preliminary approval set forth in Section 2-103.5, herein.

2-104 Final Subdivision Plat (Minor and Major Subdivisions)

2-104.1 Application Procedure and Requirements -- A subdivider shall file with the planning commission a final plat. The plat shall be prepared in accordance with Section 5-104 and:

- (1) include the entire subdivision, or section thereof, for which final approval is sought;
- (2) be accompanied by a minimum of nine (9) copies of the final subdivision plat as described herein. Distribution of the copies shall be as in Section 2-103.1 herein.

- (3) comply substantially with the preliminary plat, where such plat is required;
- (4) be presented to the Town Recorder no later than 11:00 a.m., the Monday prior to the next scheduled meeting of the Planning Commission for review and consideration at the following month's meeting. **(Amended by Resolution No. 2-24-05, February 24, 2005)**;
- (5) be accompanied by formal irrevocable offers of dedication to the public of all public ways and uses, utilities, parks, and easements, in a form approved by legal counsel, as applicable. (The subdivision plat shall be marked with a notation indicating the formal offers of dedication as shown in Article 5 of these regulations.);
- (6) be accompanied by a performance bond or letter of credit, if required, in a form satisfactory to legal counsel and in an amount satisfactory to the governing body upon recommendation by the appropriate governmental representative. It shall include provisions that the principal of the bond shall comply with all the terms of the resolution of final subdivision plat approval, as determined by the planning commission, including, but without limitations, the performance of all required subdivision and off-site improvements, and that all improvements and land included in the irrevocable offers of dedication shall be dedicated to the governing body free and clear of all liens and encumbrances on the premise(s);
- (7) be accompanied by written assurance from any public utility companies serving the area of the subdivision that necessary utilities will be installed and by proof that the applicant has submitted petitions in writing for the creation or extension of any utility districts as required by the planning commission upon preliminary plat approval; and
- (8) be accompanied, if the final plat contains open space, or recreational facilities, or if any portion of the site is in common ownership, by the following documentation for approval by the planning commission:
 - (a) plans for improvement and maintenance of the open space or facilities located thereon;
 - (b) articles of incorporation and bylaws of the co-owners association or other legal entity (where open space or facilities are to be deeded to a co-owners association or similar organization acting on behalf of the joint owners of said property) charged with improving or maintaining the open space or facilities, and declaration of covenants and restrictions pertaining to each and every property within the subdivisions; and

- (c) declaration of covenants and restrictions pertaining to open space and facilities which assure the continued use of said facilities for the purpose intended, where open space or facilities are to be retained by the developer.

2-104.2 Endorsement of Notations -- The notations and certifications required by Section 5-104.3, of these regulations to appear upon the final plat shall be endorsed by appropriate officials and other persons prior to application for final subdivision plat approval, except that the certificate of planning commission approval shall be signed at the time specified in Section 2-105 of these regulations.

2-104.3 Hearing and Decision on Final Plat -- The planning commission shall hold a hearing as required by Section 13-4-304, Tennessee Code Annotated, on each final plat brought before it. The planning commission shall, within thirty (30) days after submission of the plat, approve, modify, or disapprove the final subdivision plat by resolution, which shall set forth in detail any conditions to which the approval is subject or reasons for disapproval. The official date of submission for the purpose of the regulations shall be deemed to be the planning commission meeting date wherein the plat is first officially entertained.

The failure of the planning commission to act upon a plat within the prescribed time shall be deemed approval of the plat, and in such event, a certificate of approval, entitling the subdivider to proceed as specified in Sections 2-104.4 and 2-105, of these regulations shall be issued, upon demand, by the secretary of the planning commission. The applicant, however, may agree to an extension of the time for planning commission review.

One copy of the final subdivision plat shall be returned to the subdivider with the date of approval, conditional approval, or disapproval noted thereon.

2-104.4 Vested Rights -- No vested rights shall accrue to any plat by reason of preliminary or final approval until the actual signing of the plat by the secretary of the planning commission. All requirements, conditions, or regulations adopted by the planning commission, applicable to the particular subdivision or to all subdivisions generally, shall be deemed a condition of approval for any subdivision prior to the time of the signing of the final plat by the secretary of the planning commission. Where the planning commission has required the installation of improvements prior to the signing of the final plat, the planning commission shall not modify unreasonably the conditions set forth in the resolution of final approval.

2-105 Signing and Recording of Subdivision Plat

2-105.1 Signing of Plat

- (1) When a bond is required, the secretary of the planning commission shall endorse approval on the plat after the bond has been approved by the planning commission and after all the conditions of the resolution pertaining to the plat have been satisfied.
- (2) When installation of improvements is required, the secretary of the planning commission shall endorse approval on the plat after all conditions of the resolution have been satisfied and all improvements satisfactorily completed. There shall be written evidence that the required public facilities have been installed in a manner satisfactory to the governing body as shown on certifications by the engineer or other appropriate governmental representative(s) that necessary land dedications and improvements have been accomplished.
- (3) When the conditions of this section are satisfied, the secretary shall sign the permanent reproducible original of the subdivision plat.

2-105.2 Recording of Plat -- It shall be the responsibility of the enforcing officer to file the plat with the county register's office within fifteen (15) days of the date of signature. Simultaneously, with the filing of the plat, the enforcing officer shall record the agreement of dedication together with such legal documents as shall be required to be recorded by legal counsel. The project applicant or subdivider shall pay the city all costs associated with the recordation of his or her respective final plat(s).

2-105.3 Sectionalizing Major Subdivision Plats -- Prior to granting final approval of a major subdivision plat, the planning commission may permit the plat to be divided into two (2) or more sections and may impose such conditions upon the filing of each section as it may deem necessary to assure the orderly development of the subdivision.

The planning commission may require that a performance bond be in such amount as is commensurate with the section or sections of the plat to be filed and may defer the remaining required performance bond principal amount until the remaining sections of the plat are offered for filing. The developer also may file irrevocable offers to dedicate public ways and improvements in the section offered to be filed and defer filing offers of dedication for

the remaining sections until such sections, subject to any conditions imposed by the planning commission, shall be granted concurrently with final approval of the plat. Such authorized sections must contain at least ten (10) percent of the total number of lots contained in the proposed plat unless a specific waiver of this requirements is granted by the planning commission.