

# **MUNICIPAL-REGIONAL SUBDIVISION REGULATIONS**

**NEWBERN, TENNESSEE**

# **NEWBERN MUNICIPAL-REGIONAL SUBDIVISION REGULATIONS**

**Prepared by the**

**NEWBERN MUNICIPAL-REGIONAL PLANNING  
COMMISSION**

**Assisted**

**by the**

**DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT**

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## ARTICLE I

### GENERAL PROVISIONS

A. TITLE

These regulations shall herein-after be known and cited as the Municipal-Regional Subdivision Regulations of Newbern, Tennessee.

B. AUTHORITY

These Subdivision Regulations are adopted by the Newbern Municipal-Regional Planning Commission under authority granted by Sections 13-3-401 through 13-3-411 and 13-4-301 through 13-4-309 of the Tennessee Code Annotated and are adopted in conformity with said statutes by having filed a copy of the Municipal and Regional Major Road Plan(s) in the office of the Register of Dyer County and having held a Public Hearing on the Subdivision Regulations after thirty (30) days notice in a newspaper of general circulation.

C. JURISDICTION

These Subdivision Regulations shall apply to all subdivisions, as herein defined, located within the Corporate Limits and Planning Region of Newbern, Tennessee. No land shall be subdivided within the jurisdiction of these Subdivision Regulations until a plat is submitted by the subdivider in accordance with these Subdivision Regulations, the plat is approved by the Planning Commission, and the plat is filed with the County Register.

D. PURPOSE

These regulations are adopted for the following purposes:

1. To promote the public health, safety and general welfare of the jurisdictional area.

2. To guide the development of the jurisdictional area in accordance with the Land Use 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 enhance the character and economic stability and encourage the orderly, beneficial development of the jurisdictional area.
5. 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.
6. To guide public and private policy and action providing for transportation, water, sewerage, schools, recreational areas and other public requirements and facilities.
7. To provide for the most beneficial relationship between the uses of land and buildings and the efficient traffic movement throughout the jurisdictional area.
8. To establish reasonable standards of design and procedures for subdivisions and re-subdivisions; to further the orderly layout and use of land; and to insure proper legal descriptions and proper monumentation of land.
9. To insure that public facilities are available and will have a sufficient capacity to serve the proposed subdivision.
10. 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.

11. To preserve the natural beauty and topography of the jurisdictional area and to insure appropriate development with regard to these natural features.
12. 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 the Zoning Ordinance.
13. To encourage subdivision design which would maximize the conservation of all forms of energy.

E. POLICY

It is the policy of the Planning Commission to review plats and proposed subdivision developments for conformity to any Comprehensive Plan, Land Use Plan, the Transportation Plan, the Capital Improvements Program and/or the Municipal Zoning Ordinance of Newbern, Tennessee; Regional Zoning Ordinance of Newbern, Tennessee; Dyer County Zoning Resolution, any other applicable Zoning Resolution, and to require conformity as a condition of plat approval.

It is further the policy of the Planning Commission to review plats and proposed subdivision developments in the context of existing land use and development, population and traffic distribution and the needs and best interests of the immediate community and to require that a particular subdivision exceed the minimum standards set within these Subdivision Regulations when specific site conditions or immediate community conditions warrant.

F. DEFINITIONS

Except as specifically defined herein all words used in these regulations have their customary dictionary definitions where not inconsistent with the context.

For the purposes of these regulations and in order to carry out the provisions and intentions as set forth herein, certain words, terms and phrases are to be used

and interpreted as defined hereinafter. Words used in the present tense include the future tenses; words in the singular number include the plural, and words in the plural number include the singular; the word "person" includes a firm, partnership, or corporation as well as an individual; the word "lot" includes the word "plot" or "parcel"; the word "building" includes the word "structure"; and the terms "shall" and "will" are always mandatory and not directory; and the word "may" is permissive.

The following words, terms and phrases are hereby defined as follows and shall be interpreted as such throughout these regulations.

Alley - A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

Applicant - The owner of land proposed to be subdivided or his authorized representative. Consent shall be required from the legal owner of the premises(s).

Architect - Any architect or landscape architect certified and registered by the State Board of Architectural and Engineer Examiners pursuant to Title 62, Chapter 2, Tennessee Code Annotated, to practice in Tennessee.

Arterial Street or Road - A major public way intended to move traffic to and from major industrial areas or a route for traffic between communities or large area.

Base Flood Elevation - The highest elevation, expressed in feet above sea level, of the level of flood waters occurring in the regulatory base flood.

Base Map - A map having sufficient points of reference, such as state, county or municipal boundary lines, streets, easements, and other selected physical features to allow the plotting of other data.

Block - A tract of land bounded by public ways or by public parks, cemeteries, railroad rights-of-way or shorelines or waterways or a combination of such.

Building - Any structure built for the support, shelter or enclosure of persons, animals, or movable property of any kind and includes any structure.

Building Setback Line - A line in the interior of a lot which is generally parallel to and a specified distance from the street right-of-way line or lines; which creates a space between such lines in which no building shall be placed.

Buildable Area of a Lot - That portion of a lot bounded by the required rear and side yards and the building setback line.

Capital Improvements Program - A proposed schedule of future projects, listed in order of construction priority, together with cost estimates and the anticipated means of financing each project. All major projects requiring the expenditure of public funds, over and above the annual local government operating expenses, for the purchase, construction, or replacement of the physical assets of the community are included for the purpose of these Subdivision Regulations.

Cluster - A development design technique that concentrates buildings in specific areas on the site to allow the remaining land to be used for recreation, common open space and preservation of environmentally sensitive features.

Cluster Subdivision - A form of development for single-family residential subdivisions that permits a reduction in lot area and bulk requirements, provided there is no increase in the number of lots permitted under a conventional subdivision and the resultant area is devoted to open space.

Collector Street or Road - A major public way intended to move traffic from local ways to arterial routes. Collector routes serve neighborhoods or large subdivisions.

Common Elements - Any portion of a condominium which is held in common by owners of condominium units. These elements may be either general common elements or limited common elements, as defined below.

General Common Elements - Any of the common elements of a condominium which are held in joint ownership by all owners of the condominium.

Limited Common Elements - Any of the common elements of a condominium which are reserved for use by the owner of a particular condominium unit or group of units.

Community Association - A homeowners association organized to own, maintain, and operate common facilities and to enhance and protect their common interests.

Comprehensive Plan - A comprehensive long-range plan is intended to guide the growth and development of a community or region and one that includes analysis, recommendations and proposals for the community's population, economy, housing, transportation, community facilities and land use. For the purpose of these Subdivision Regulations, the Newbern Comprehensive Plan.

Condominium - A form of ownership of less than the whole of a building or system of buildings under the provisions of Title 66, Chapter 27, Tennessee Code Annotated, which provides the mechanics and facilities for formal filing and re-coordination of divided interests in real property, whether the division is vertical or horizontal.

Condominium Unit - A space conveyed by separate title and located within a condominium structure.

Construction (Engineering) Plat - The maps or drawings of a subdivision showing the specific location and design of improvements to be installed in the subdivision.

Contractor - An individual, firm, or corporation with whom an owner or authorized agent has executed a work agreement.

County Environmentalist - An agent designated to administer local and/or state health regulations.

Cul-de-sac - A minor street having only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement; definition includes: dead end, turn-around, or turn-about.

Culvert - A drain, ditch or conduit not incorporated in a closed system, that carries drainage water under a driveway, roadway, railroad, pedestrian walk or public way.

Curb - A stone or concrete boundary usually marking the edge of the roadway or paved area.

Curvilinear Street System - A pattern of streets which is curved.

Dedication - Gift or donation of property by the owner to another party.

Density - The number of families, individuals, dwelling units, or housing structures per unit of land.

Design Specifications - Written descriptions of a technical nature of materials, equipment, construction systems, standards, and workmanship required for a project intended for local government ownership or maintenance.

Design Plat - A map of a proposed subdivision showing the lot sizes and layout, location and sizes of streets and used as an aid in discussing the design of the proposed subdivision.

Developer - The legal or beneficial owner of a lot or of any land included in a proposed development including the holder of an option or contract to purchase, or other persons having enforceable proprietary interests in such land, and which undertakes the activities covered by these regulations. In as much as the subdivision plan drawings are merely a necessary means to the end of assuring satisfactory development, the term "developer" includes "subdivider", "owner" or "builder" even though the persons and their precise interests may vary at different project stages.

Drainage - (1) Surface water runoff; (2) the removal of surface water or ground water from land by drains, grading or other means which include runoff controls to minimize erosion and sedimentation during and after construction or development, the means for preserving the water supply and the prevention or alleviation of flooding.

Drainage Area - That area in which all of the surface runoff resulting from precipitation is concentrated into a particular stream.

Drainage System - Pipes, swells, natural features and man-made improvements designed to carry drainage.

Dwelling Unit - A room, or rooms connected together constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease on a daily, weekly, monthly, or longer basis; physically separated from any other room(s) or dwelling units which may be in the same structure; and containing independent cooking and sleeping facilities.

Easement - Authorization by a property owner for the use by another, for a specified purpose, of any designated part of his property.

Easement Area - A strip of land over, under, or through which an easement has been granted.

Enforcing Officer - The building inspector or such person designated by the chief executive officer to be responsible for enforcing the provisions of these regulations.

Engineer - An engineer certified and registered by the State Board of Architectural and Engineer Examiners pursuant to Title 62, Chapter 2, Tennessee Code Annotated, to practice in Tennessee.

Equal Degree of Encroachment - The delineation of floodway limits so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows. This is determined by considering the

hydraulic conveyance of the floodplain along both sides of a stream for a significant reach.

Escrow - A fiduciary agreement with the local government in lieu of actual performance and intended to assure performance. An escrow account may be provided as a surety instrument subject to agreement of the Planning Commission.

External Subdivision Boundary - All points along the periphery of a subdivision.

Final Plat - The final map or drawing and accompanying materials, described in these regulations, on which the subdivider's plan of the subdivision is presented to the Planning Commission for approval and which, if approved by the Commission, is recorded with the County Register of Deeds.

Flood - A temporary rise in stream level that results in inundation of areas not ordinarily covered by water.

Flood Frequency - The statistically determined average for how often a specific flood level or discharge may be equaled or exceeded.

Flood Hazard Boundary Map - An official map on which the boundaries of the floodplain areas having special flood hazards have been delineated.

Flood Hazard or Flood-prone Area - The maximum area of the floodplain that, on the average, is likely to be flooded once every one hundred (100) years (i.e., that has a one (1) percent chance of being flooded in any year).

Flood Insurance Rate Map - The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Floodplain - A land area adjoining a river, stream watercourse, bay, or lake which is likely to be flooded. It is composed of floodway and floodway fringe.

Floodplain Management Program - The overall program of corrective and preventive measures for reducing flood damage, including, but not limited to emergency preparedness plans, flood control works, building code regulations, health regulations, Zoning Ordinance regulations and these Subdivision Regulations.

Flood Profile - A graph showing the water surface elevation or height or a particular flood event for any point along the longitudinal course of a stream. The flood profile is determined through the use of standard open-channel hydraulic calculations.

Flood Proofing - Any combination of structural and non-structural additions, changes, or adjustments to properties and structures which reduce or eliminate potential flood damage to lands, water facilities, sanitary facilities and other utilities; structures; and contents of buildings; and which prevent pollution of floodwaters from such natural or man-made sources.

Floodway - The stream channel and adjacent overbank areas required to carry and safely discharge the one hundred (100) year flood without increase flood levels more than one foot above natural flood levels.

Floodway Encroachment Limits - The lines marking the limits of floodways on official federal, state and local floodplain maps.

Floodway Fringe - The area adjoining a watercourse which, although not lying within a floodway, has been or may hereafter be covered by a one hundred (100) year flood.

Frontage - That side of a lot abutting a public way ordinarily regarded as the front of the lot. It shall not be considered as the ordinary side of a corner lot.

General Plan - The official statement of the Planning Commission which sets forth major policies concerning future development of the jurisdictional area and meeting the provisions set forth in Sections 13-3-301 and 13-3-302 as well as Section 13-4-201 and 13-4-202, Tennessee Code Annotated.

Governmental Agency - Any public body other than the governing body.

Governing Body - The chief legislative body of any government.

Governmental Representative - An outside person or designated local official or employee authorized to act on behalf of the governing body in making determinations regarding legal, public works, planning, community development, or other public business.

Grade - The degree of rise or descent of a sloping surface.

Grade, Finished - The final elevation of the ground surface after development.

Grade, Natural - The elevation of the ground surface in its natural state, before man-made alterations.

Grading - Any stripping, cutting, filling, stockpiling of earth or land, including the land in its cut or filled condition.

Health Department - The Dyer County Health Department.

Highway Department - The Dyer County Highway Department.

Highway, Limited Access - A freeway or expressway providing a traffic way for through traffic, in respect to which owners or occupants of abutting property(s) or lands and other persons have no legal right of access to or from the traffic way, except at such points and in such manner as may be determined by the public authority having jurisdiction over such traffic way.

Homeowners Association - A community association, other than a condominium association, which is organized in a development in which individual owners share common interests in open space or facilities.

Horizontal Property Act - "The Tennessee Horizontal Property Act" as codified in Title 66, Chapter 27, Tennessee Code Annotated.

Improvements - Physical changes made to raw land and structures on or under the land surface in order to make the land more usable for man's activities. Typical improvements in these regulations would include but not be limited to grading, street pavement, curbs, gutters, drainage ditches, storm and sanitary sewers, street name signs and street trees.

Individual Sewage Disposal System - A septic tank, seepage title sewage disposal system, or any other sewage treatment device other than a public treatment system approved by the appropriate governmental representative.

Internal Subdivision Boundary - All points within a subdivision which do not constitute external boundaries.

Joint Ownership - The equal estate interest of two or more persons. Joint ownership among persons shall be construed as the same owner for the purpose of imposing Subdivision Regulations.

Jurisdictional Area - Planning boundary(s) established in keeping with Sections 13-3-102, 13-3-201 and 13-3-301, Tennessee Code Annotated.

Land Use Plan - An element of the general or comprehensive plan which sets out a plan or scheme of future land usage.

Land Surveyor - A land surveyor certified and registered by the State Board of Land Survey Examiners pursuant to Title 62, Chapter 18, Tennessee Code Annotated, to practice in Tennessee.

Land Use Plan - A plan showing the existing and proposed location, extent and intensity of development of land to be used in the future for varying types of residential, commercial, industrial, agricultural, recreational, educational and other public and private purposes or combination of purposes. For the purposes of these Subdivision Regulations, the Newbern Land Use Plan.

Legal Counsel - The person designated by the governing body to provide legal assistance for the administration of these and other regulations.

Lot - A tract, plot or portion of a subdivision or parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for building development.

Lot Area - The total horizontal area included within lot lines.

Lot, Corner - A lot situated at the intersection of two (2) or more public ways.

Lot Depth - The average distance from the street line of the lot to its rear line measured in the general direction of the side lines of the lot.

Lot Frontage - That dimension of a lot or portion of a lot abutting on a street excluding the side dimension of a corner lot.

Lot Improvements - Any building, structure, place, work of art, or other object or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment.

Lot Lines - The lines bounding a lot as defined herein.

Lot Number - The official number assigned to a lot for identification purposes.

Lot Width - The width of a lot at the building setback line measured at right angles to its depth.

Major Street or Road - A public way which is classified as a collector or arterial public way according to these regulations or by the Major Road Plan for the jurisdictional area.

Major Road Plan - The plan adopted by the Planning Commission, pursuant to Sections 13-3-402 and 13-4-302, Tennessee Code Annotated, showing, among other things, the general location, character and extent of public ways... (and) the removal, relocation, extension, widening, narrowing, vacating, abandonment or change of use of existing public ways. For the purpose of these Subdivision Regulations, the Newbern Municipal and Regional Major Road Plans as registered at the Dyer County Register's Office.

Major Subdivision - All subdivisions not classified as minor subdivisions including but not limited to subdivisions of five (5) or more lots or subdivisions of any size requiring any new or improved road, the extension of government facilities, or the creation of any public improvements, or containing any flood-prone area.

Metes and Bounds - A method of describing the boundaries of land by directions and distances from a known point of reference.

Minor Street or Road - A public way which is not classified as an arterial or collector.

Minor Subdivision - Any subdivision containing less than five (5) lots fronting on an existing public way; not involving any new or improved public way, the extension of public facilities, or the creation of any public improvements, and not in conflict with any provision of the adoption general plan, any Major Road Plan, Zoning Ordinance or these regulations.

Monuments - Markers placed on or in the land.

National Flood Insurance Program - A program established by the U.S. Government in the National Flood Insurance Act of 1968, and expanded in the Flood Disaster Protection Act of 1973, in order to provide a flood insurance at rates made affordable through a federal subsidy in local political jurisdictions which adopt and enforce floodplain management programs meeting the requirements of the National Flood Insurance Program regulations. The program regulations are found at 24 Code of Federal Regulations, Chapter X, Subchapter B.

Off-site - Any premise not located within the area of the property to be subdivided, whether or not in the same ownership of the applicant for subdivision approval.

One Hundred-Year Flood - A flood having an average frequency of occurrence of once in one hundred (100) years, although it may occur in any year. It is

based on statistical analysis of stream flow records available for the watershed and analysis of rainfall and runoff characteristics in the general region of the watershed.

Open Space - Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space.

Owner - Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having title to or sufficient proprietary interest in the real property to seek subdivision or development of that property.

Percolation Test - An examination of subsoil used in determining the acceptability of the site and the design of the subsurface disposal system.

Performance Bond - See Surety Instrument.

Perimeter Street - Any existing street to which the parcel of land to be subdivided abuts on only one side.

Planning Commission - A public planning body established pursuant to Title 13, Tennessee Code Annotated, to execute a partial or full planning program within authorized area limits. For the purpose of these Subdivision Regulations, the Newbern Municipal-Regional Planning Commission.

Planned Unit Development - An area of minimum contiguous size as specified by ordinance or regulation to be planned, developed, maintained as a single community customarily under the auspices of a homeowners' association comprised of residential, commercial, public, and semi-public uses such as a gated residential community.

Preliminary Plat - The preliminary drawing or drawings, described in these regulations, indicating the proposed manner of layout of the subdivision to be submitted to the Planning Commission for approval.

Premise(s) - A tract of land together with any buildings or structures which may be thereon.

Protective Covenants - Contracts between the land subdivider and lot purchaser expressing agreement covering use of the land.

Public Improvements - Any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation or which may affect an improvement for which government responsibility is established.

Public Sewer System - A central sewer system, owned, operated and maintained by the Town of Newbern.

Public Hearing - A meeting for the review of a matter where opinions may be presented by the public. These hearings may take place during the regular Planning Commission meetings and are held according to state law.

Public Uses - Public parks, schools and administrative, cultural and service buildings, not including public land or buildings devoted solely to storage and maintenance of equipment and material.

Public Utility - Any person, firm, corporation, municipal department or board duly authorized to furnish under state or municipal regulations to the public electricity, gas, steam, communications, telegraph, transportation, water, or sewer.

Public Way - Any publicly owned street, alley, sidewalk, or lane right-of-way which provides for movement of pedestrians or vehicles.

Reach - A hydraulic engineering term to described longitudinal segments of a stream or river. A reach generally includes the segment of the flood hazard area where flood heights are influenced by a man-made area or natural obstruction. In an urban area, the segment of a stream or river between two (2) consecutive bridge crossing typically would constitute a reach.

Rectilinear Street System - A pattern of streets that is characterized by right angle roadways, grid pattern blocks and four-way intersections.

Register of Deeds - Dyer County Register of Deeds.

Regulatory Flood - The one hundred (100) year flood.

Regulatory Flood Protection Elevation - The elevation of the regulatory flood plus one foot of freeboard to provide a safety factor.

Reserve Strip - A portion of land set aside to prevent and prohibit access to adjoining property or public thoroughfare.

Re-subdivision - A change in a map of an approved or recorded subdivision plat if such change affects any street layout on such map or area reserved thereon for public use, or any lot line; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling the subdivision of land.

Right-of-Way - A strip of land occupied or intended to be occupied by a public way, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer line, or for another special use. The usage of the term "right-of-way" for land platting purposes, shall mean that every right-of-way hereafter established and shown on a Final Plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and shall not be included within the dimension areas of such lots or parcels.

Road - For the purpose of these regulations, "road" shall be defined the same as "street".

Roadway - The portion of the street right-of-way which contains the street pavement, curb, and gutter, and is used primarily as a channel for vehicular movement and secondarily as a drainage channel for storm water. In these regulations the pavement is measured from face to face of the curbs.

Sale or Lease - Any immediate or future transfer of ownership, including contract of sale or transfer, of an interest in a subdivision or part thereof, whether by metes and bounds, deed, contract, plat, map, or other written instrument.

Same Ownership - Ownership by the same person, corporation, firm entity, partnership, or unincorporated association or ownership by different corporations, firms, partnerships, entities, or unincorporated associations, in which a stockholder, partner, associate, or a member of his family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

Sanitary Sewer System - A public or community sewage disposal system of a type approved by the State Department of Conservation and Environment.

Secretary - The person designated by the Planning Commission as its secretary.

Septic Tank - See Individual Sewage Disposal System.

Setback - The distance between a building wall, edge of a structure or overhang of a building, whichever extends out the farthest and the nearest to a right-of-way of a public way, or the distance required to obtain the minimum front, side and rear yards.

Sketch Plat - A sketch preparatory to the Preliminary Plat (or Final Plat, in the case of minor subdivisions).

Slope - The degree of deviation of a surface from the horizontal, usually expressed in percent or degrees. (See Grade)

Special Flood Hazard Map - The official map designated by the Federal Insurance Administrator to identify floodplain areas having special flood hazards.

Staff Assistant to the Planning Commission - The person(s) employed by the local governing body to assist the Planning Commission in planning and land use regulation activities.

Start of Construction - For purposes of subdivision control, any alteration of the original surface area of the land, from and after the date of adoption of these regulations.

Street - Any vehicular way which: (1) is an existing state, county or municipal roadway; or (2) is shown upon a plat approved pursuant to law; or (3) is approved by other official action; or (4) is shown on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of planning board and the grant to such board of the power to review plats; and includes the land between the street right-of-way line, whether improved or unimproved.

Street Furniture - Any improvements placed within the street right-of-way, such as utility poles, street signs, etc.

Street Grade - The officially established grade of the street upon which a lot fronts. If there is no officially established grade, the existing grade of the street at the midpoint of the lot shall be taken as the street grade.

Street Line - The legal line of the street right-of-way and abutting property.

Street Sign - The sign designating the official name of the street.

Structure - Anything constructed above or below ground.

Subdivider - Any person who (1) having an interest in land causes it, directly or indirectly, to be divided into a subdivision or who (2) directly or indirectly, sells, leases, or develops, or offers to sell, lease, or develop, or advertises for sale, lease, or development, any interest, lot, parcel site, unit, or plot in a subdivision or who (3) engages, directly or indirectly, or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development in a subdivision or any interest, lot, parcel site, unit, or plot in a subdivision or who (4) is directly or indirectly controlled by or under direct or indirect common control with any of the foregoing.

Subdivision - "Subdivision" means the division of a tract or parcel of land into two (2) or more lots, sites, or other divisions requiring new street or utility

construction, or any division of less than five (5) acres for the purpose, whether immediate or future, of sale or building development, and includes re-subdivision and when appropriate to the context, relates to the process of re-subdividing or to the land or area subdivided. As used herein, "utility construction" does not include the mere extension of individual service pipes or lines for the purpose of directly connecting a single lot, site or other division to existing utility mains. (See Section 13-3-401 and 13-4-301, Tennessee Code Annotated)

Subdivision Agent - Any person who represents or acts for or on behalf of a subdivider or developer in selling, leasing, or developing or offering to sell, lease, or develop any interest, lot, parcel, unit, site or plot in a subdivision, except in an instance where only legal counsel is provided.

Surety Instrument - Any form of security, including a cash deposit, surety bond, collateral, property or letter of credit in an amount and form satisfactory to the Planning Commission, such security to bind the one posting the bond to perform required acts, such as constructing subdivision improvements with the condition that the security shall be forfeited if such acts are not performed.

Surveyor - A qualified surveyor registered and currently licensed to practice surveying in the State of Tennessee.

Temporary Improvement - Any improvement built and maintained by a subdivider during construction of the subdivision and prior to release of the surety for completion of required improvements.

Test Holes - Openings dug, boarded, or drilled in the ground for conducting soil tests.

Topography - The configuration of a surface area showing relative elevations.

Twenty-five Year Flood - A flood having an average frequency of occurrence of one in twenty-five (25) years.

Unit - A subsection of a total subdivision developed as a complete segment.

Use - The specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any non-conforming use.

Water Surface Elevation - The heights in relation to mean sea level expected to be reached by floods of various magnitudes and frequencies at pertinent points in the floodplain.

Way - A street or alley or other thoroughfare or easement permanently established for passage of persons or vehicles.

Yard, Front - An open space on the same lot with a main building, extending the full width of the lot and situated between the street line and the front line of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the front line (extended) of the building and the street line.

Yard, Rear - A yard extending across the rear of a lot between the side lot lines and being the required minimum horizontal distance between the rear lot line and the rear building line. On all lots, except corner lots, the rear yard shall be opposite the front yard. On corner lots, the rear yard shall be defined at the time the building permit is issued.

Yard, Side - An open space on the same lot with the building, situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

Zoning Ordinance - A statute, legally adopted pursuant to Title 13, Chapters 7, Tennessee Code Annotated, for the purpose of regulating by district, land development or use for a designated area. For the purpose of these Subdivision Regulations, the Newbern Municipal Zoning Ordinance, the Newbern Regional Zoning Ordinance, or the Dyer County Zoning Resolution.

## ARTICLE II

### PROCEDURE FOR MAJOR SUBDIVISION APPROVAL

#### A. GENERAL

Any owner of land lying within the area of the jurisdiction of the Planning Commission wishing to divide such land into two (2) or more lots, sites or divisions for the purpose of either immediate or future sale or building shall make application to the Planning Commission by submitting the required plans and plats of the proposed subdivision along with the application fees. Such plans and plats shall conform to the minimum standards for subdivision design as set forth in Article V of these regulations and such additional site peculiar criteria as may be deemed necessary by the Planning Commission or its technical staff.

The subdivider shall consult early and informally with the Planning Commission and its technical staff for advice and assistance before the preparation of the Preliminary Plat and its formal application for approval. This will enable him or her to become thoroughly familiar with these regulations, the Major Road Plans and other official plans or public improvements which might affect the area. Such informal review should prevent unnecessary and costly revisions.

The procedure for review and approval of subdivisions and its documentation consists of two (2) separate steps. These steps are:

Step 1: The Preliminary Plat which is the initial plan for the subdivision and is submitted to the building inspector for review and recommendation by the planning staff and appropriate department directors and is then submitted to the Planning Commission for formal action.

Step 2: The Final Plat which is the instrument of permanent public record of the survey of the lots or parcels, rights-of-way, easements and public lands is also submitted for review and recommendation and then submitted to the Planning Commission for action.

1. Previously Approved Plats

Upon adoption of these Subdivision Regulations any portion and/or section of an approved Preliminary Plat not having gained Final Plat approval shall be considered as an approved Preliminary Plat in accordance with these regulations. Subsequently, any future plats relating to an approved Preliminary Plat shall adhere to the requirements for major subdivision approval as determined by these regulations and any subsequent amendments to these regulations.

2. Official Submission Dates and Deadlines

All plats and plans of subdivisions shall be submitted to the building inspector no less than fifteen (15) days prior to the regularly scheduled Planning Commission meeting. Any plat or plan submitted less than fifteen (15) days prior to the regularly scheduled Planning Commission meeting will not be considered until the subsequent meeting.

For the propose of these regulations, the official submission date of a plat shall be the date of the first regular Planning Commission meeting after the plat was submitted to the Public Works Department. The statutory period required for formal approval or disapproval shall not begin to run until that date.

3. Official Submission of Revisions to Plats

A plat that is re-submitted to the Planning Commission to be on the agenda of a subsequent Planning Commission meeting shall be accompanied by a letter reporting how revisions requested by the Planning Commission or staff have been resolved.

The re-submitted plat and accompanying letter shall be submitted to the to the Public Works Department no less than seven (7) days prior to the regular Planning Commission meeting.

4. Required Submission

Prior to commencing any street improvements, substantial grading, installation of utilities or any horizontal construction, the developer shall submit a set of plans to obtain the approval of the indicated agencies as follows:

- a. A Preliminary Plat to the Public Works Department for review and recommendation by the planning staff and appropriate department directors and the Planning Commission in accordance with Section "B" of this Article. The review process should include, at a minimum, Water and Sewer System Superintendent, the Street Superintendent, Electric System Superintendent, Gas Department Superintendent, Public Works Director, and the Planning Staff. Other department officials or Town officials that should be involved in the review of major subdivisions are the Building Inspector, the Fire Chief, and the Police Chief
- b. A Final Plat in accordance with Section "D" of this article.

5. Application Fees

The schedule of required subdivision application and review fees shall be established by the Newbern Mayor and Board of Alderman.

B. PRELIMINARY PLAT

The Preliminary Plat is the initial formal plat for a proposed subdivision and shall include the full area of the proposed subdivision. The purpose of the Preliminary Plat is to insure the proposed subdivision conforms with the Zoning Ordinance, the Major Road Plans and other related regulations. The developer should consult early with the building inspector and planning staff and review Newbern's Major Road Plan(s), Subdivision Regulations and the applicable Zoning Ordinance prior to submitting a Preliminary Plat for approval.

1. Preliminary Plat Submission

After consultation with the Planning Commission and/or the Planning Staff, the developer shall submit seven (7) copies of the plat, together with all applicable fees, to the building inspector no less than fifteen (15) days prior to the regularly planned meeting. All plans must be drawn to a scale of not less than one inch equals one hundred feet (1" = 100').

2. Preliminary Plat Content

The Preliminary Plat shall, even when the subdivision is to be developed in phases or sections, meet the minimum standards of design as set forth in Article V and give the following information:

- a. Meet the minimum design standards as set forth in Article V;
- b. Be prepared by a Land Surveyor licensed in the state of Tennessee;
- c. Be drawn to a scale no less than one inch equals one hundred feet (1"= 100') and;
- d. Contain the following information:
  - (1) Scale, date of preparation, north arrow, vicinity map, acreage, zoning classification, and number of lots; and note pertaining to acreage of the parent tract or remaining property, if applicable;
  - (2) Subdivision name; name and address of the developer and/or developers and the name of the individual responsible for the preparation of the plat;
  - (3) Tax Map, Group, and Parcel Number

- (4) Lot lines, dimensions of lot lines, lot numbers, building setback lines, and the lot area in square feet;
- (5) Boundary lines from deed records and surveys;
- (6) Adjoining subdivisions by name and section, and the names of owners and acreage of all abutting tracts;
- (7) Name, location, and rights-of-ways of all existing and proposed streets and alleys;
- (8) All existing buildings, primary and accessory on the property;
- (9) Location and type of all existing and proposed utilities (i.e. water, sewer, electric and gas);
- (10) Proposed method of sewage disposal;
- (11) One hundred (100) year floodplain, floodway boundaries and elevations of each;
- (12) Major environmental features, including but not limited to rivers, streams, drainage ditches and groupings or stands of trees;
- (13) All existing and proposed public and private easements including their location, purpose and width, and the instrument number for any existing easements;
- (14) Where divisions of the property into phases or sections is contemplated, the proposed boundaries of such sections shall be shown and labeled, and the sequence of development listed alphabetically or numerically;
- (15) Where the re-subdivision of a lot in a previously recorded subdivision is proposed, the title of the proposed subdivision

must indicate and identify the lot number and subdivision name from the previous subdivision;

- (16) Request for variances from the Subdivision Regulations, along with justification of proposed variances, shall be submitted in writing with the application for Preliminary Plat approval; and
- (17) A typical road cross-section of improvements for the various classifications of streets proposed construction or improvement.
- (18) Sites reserved for entrances, medians, sidewalks, or landscaping to be dedicated for private and public use parks, playgrounds, open spaces, schools or other public/private uses, together with the purpose, and conditions or limitations of such reservations;
- (19) The location of existing storm sewers and sanitary sewers or the distance to the nearest available structure;
- (20) Existing and proposed contour data showing contour intervals of five (5) feet or less; elevation shall reference a bench mark on or near the subjects property;
- (21) A drainage plan which shall include, but not be limited to, an analysis of the drainage area, a storm water routing plan showing maximum quantities of flow and maximum rates of flow before and after development. A map of the drainage area in which the subdivision is located shall be included with the drainage plan and shall include the drainage structures leading to and from the subdivision with their sizes. The scale of the map shall be drawn to scale no less than one inch equals one hundred feet (1"=100');

3. Preliminary Plat Review

a. Subdivision Review Process

The planning staff, building inspector, and appropriate department director/superintendents shall recommend to the Planning Commission the approval, approval with conditions or disapproval of the application and shall include all department comments received.

b. Planning Commission

The Planning Commission shall review the plat and indicate its approval, disapproval, or approval subject to modifications. If a plat is disapproved, reasons for such disapproval shall be stated in writing. If approved subject to modifications, the nature of the required modifications will be indicated. The Planning Commission may, prior to the close of the public meeting, hold the matter under advisement or defer a decision until the next regular meeting. Substantial changes made to the plat after review by the building inspector, the planning staff, and appropriate department directors shall be cause for the Planning Commission to defer a decision pending review of a revised plat.

c. Revised Plat

If modifications are requested by the Planning Commission or staff, the developer shall submit the revised Preliminary Plat, along with a letter addressing the revisions requested, no less than seven (7) days prior to the Planning Commission meeting at which it is to be considered.

d. Failure To Take Action

For subdivisions, the Planning Commission shall approve or disapprove a Preliminary Plat within sixty (60) days after the initial consideration of the Preliminary Plat by the Planning Commission meeting in a regularly scheduled session unless at the end of the sixty (60) day period there is a holiday or an unexpected interceding event that would close municipal or county government offices and thus affect the normal computation of the sixty (60) day period, in which case the Preliminary Plat shall be approved or disapproved after the interrupted sixty (60) day period at the next regularly scheduled meeting of the Planning Commission; otherwise, the Preliminary Plat shall be deemed approved and a certificate to that effect shall be issued by the commission on demand. The applicant for the Planning Commission's approval may waive the time requirement set in this subsection and consent to an extension or extensions of the applicable time period. When a Preliminary Plat has been filed with the appropriate officials of the Planning Commission, the Preliminary Plat shall be placed on the agenda of the Planning Commission within thirty (30) days of the filing or the next regularly scheduled planning commission meeting after the thirty (30) day period. The applicant may waive the time frame requirement for the appearance of the Preliminary Plat on the agenda.

4. Preliminary Plat Approval

a. Action Upon Approval

Upon approval of the Preliminary Plat by the Planning Commission, the developer shall present three (3) copies of the approved Preliminary Plat for the files of the Planning Commission. The developer shall then provide the corrected copies to the building inspector or his designated representative for filing in Town Hall and with the municipal utilities.

b. Effect of Approval

The approval of the Preliminary Plat by the Planning Commission will not constitute acceptance of the Final Plat and will not be indicated on the Preliminary Plat.

c. Expiration of Approval and Renewal

The approval of the Preliminary Plat shall lapse unless a Final Plat, based thereon, is submitted within twelve (12) months from the date of such approval unless an extension of time is applied for and granted by the Planning Commission. Failure of the developer to act within the specified time or denial of a time extension shall require new application for Preliminary Plat approval including the application fee.

D. FINAL PLAT

The Final Plat is the culmination of the land subdivision process. When approved and duly recorded as provided by law, the Final Plat becomes a permanent public record of the survey of the lots or parcels, rights-of-way, easements and public lands, and the restrictive covenants as may be applicable to the lots or parcels within the boundary of the subdivision. As such, it serves as a vital instrument in the sale and transfer of real estate, in the dedication of rights-of-way easements, and public lands, and in future land survey of the properties contained in or adjoining the subdivision.

1. Final Plat Submission

The developer shall submit seven (7) copies of the Final Plat to City Hall no less than fifteen (15) days prior to the Planning Commission meeting at which it is to be considered. The Final Plat shall conform substantially to the approved Preliminary Plat.

The original of the Final Plat shall be in black permanent or colored ink twenty inches by twenty-four inches (20" x 24"), to a scale of one inch equals one-hundred feet (1" = 100'). If more than one sheet is required, an index sheet of the same size shall be filed and shall show a key map of the entire area being platted. The separate sheet of the Final Plat shall be keyed alphabetically and shall match lines with the adjoining sheets.

2. Plat Content

The Final Plat shall include the following information:

- a. The lines of all streets and roads with names, alley lines, lot lines, building setback lines, lots numbered in numerical order, reservations for easements and any areas, such as entrances, medians, sidewalks, or landscaping to be dedicated for private and public use or sites for other than residential use with notes stating their purpose and any limitations.

- b. Sufficient data to determine readily and reproduce on the ground the location, bearing and length of every street line, lot line, boundary line, block line and building line whether curved or straight, and curved property lines that are not the boundary of curved streets.
- c. All dimensions to the nearest one hundredth (100th) of a foot and bearings to the nearest minute.
- d. Location and description of monuments.
- e. The names and locations of adjoining subdivisions and streets and the location and ownership of adjoining properties.
- f. Date, title and name of the subdivision, surveyor/designer of the subdivision, vicinity map, graphic scale, total acreage subdivided and note pertaining to acreage of the parent tract or remaining property, if applicable; zoning classification and true north arrow.
- g. Tax Map, Group, and Parcel Number
- h. Any restrictive covenants which are to apply to lots or other parcels within the subdivision.
- i. One hundred (100) year floodplain, floodway boundaries and elevations of each;
- j. Major environmental features, including but not limited to rivers, streams, drainage ditches and groupings or stands of trees;
- k. The following certificates are required on the Final Plat (See Appendix II):

- (1) Certification showing that the applicant is the land owner and dedicates the streets, rights-of-way, utilities and any sites for public use to the Town of Newbern.
- (2) Certification by a registered land surveyor or professional engineer as to the accuracy of the survey, the plat and the placement of the monuments.
- (3) Certificate of approval of installation of streets and drainage or the posting of sufficient financial surety to insure completion of all required street and drainage improvements by the Street Superintendent.
- (4) Certificate of approval of installation of water or the posting of sufficient financial surety to insure completion of all required improvements by the Water and Sewer System Superintendent.
- (5) Certificate of approval of installation of sewer or the posting of sufficient financial surety to insure completion of all required improvements by the Water and Sewer System Superintendent.
- (6) Certificate of approval of installation of electric or the posting of sufficient financial surety to insure completion of all required improvements by the Electric System Superintendent.
- (7) Certificate of approval of installation of gas or the posting of sufficient financial surety to insure completion of all required improvements by the Gas System Superintendent.
- (8) If applicable, Certificate of approval by the Dyer County Health Officer of an individual subsurface sewage disposal (septic tank) system. Septic restrictions shall be attached to the plat.

- (9) Certification by an engineer as to the accuracy of the engineering and design of the subdivision, if applicable.
- (10) Certification by an engineer as to the adequacy of engineering and design of the storm drainage system, if applicable.
- (11) Certificate of approval by the Secretary of the Planning Commission.

3. Final Plat Review

a. Subdivision Review Process

The building inspector, the planning staff, and appropriate department directors shall recommend to the Planning Commission the approval, approval with conditions or disapproval of the application and shall include all department comments received.

b. Planning Commission

The Planning Commission shall review the plat and indicate its approval, disapproval, or approval subject to modifications. If a plat is disapproved, reasons for such disapproval shall be stated in writing. If approved subject to modifications, the nature of the required modifications will be indicated. The Planning Commission may, prior to the close of the public meeting, hold the matter under advisement or defer a decision until the next regular meeting. Substantial changes made to the plat after review by the Subdivision Review Committee shall be cause for the Planning Commission to defer a decision pending review of a revised plat.

c. Revised Plat

If modifications are requested by the Planning Commission or staff, and if variances have been granted, the developer shall submit a letter addressing the revisions requested, a revised Final Plat indicating any approved variances, not less than seven (7) days prior to the Planning Commission meeting at which it is to be considered.

d. Failure To Take Action

The Planning Commission shall approve or disapprove a Final Plat within sixty (60) days after the initial consideration of the Final Plat by the Planning Commission meeting in a regularly scheduled session unless at the end of the sixty (60) day period there is a holiday or an unexpected interceding event that would close municipal or county government offices and thus affect the normal computation of the sixty (60) day period, in which case the Final Plat shall be approved or disapproved after the interrupted sixty (60) day period at the next regularly scheduled meeting of the Planning Commission; otherwise, the Final Plat shall be deemed approved and a certificate to that effect shall be issued by the commission on demand. The applicant for the Planning Commission's approval may waive the time requirement set in this subsection and consent to an extension or extensions of the applicable time period. When a Final Plat has been filed with the appropriate officials of the Planning Commission, the Final Plat shall be placed on the agenda of the Planning Commission within thirty (30) days of the filing or the next regularly scheduled planning commission meeting after the thirty (30) day period. The applicant may waive the time frame requirement for the appearance of the Final Plat on the agenda.

4. Final Plat Approval

a. Action Upon Approval

Upon approval of the Final Plat by the Planning Commission, the developer shall present the four (4) copy of the Final Plat for signing by the Secretary of Planning Commission. The developer shall then provide the signed copies to the building inspector or his designated representative for filing in City Hall and with the municipal utilities.

b. Effect of Approval

The approval of the Final Plat by the Planning Commission shall not constitute acceptance by the public of the dedication of any streets or public ways or grounds, until all water, sewer, streets, drainage, and other improvements shall have been installed, approved, and accepted by the Newbern Mayor and Board of Alderman or Dyer County Commissioners, when in the Planning Region.

c. Recording of the Final Plat

(1) Upon approval of the Final Plat by the Planning Commission, the developer shall submit to the Town of Newbern the original and one (1) copy of the Final Plat for the Town's files. The building inspector shall verify that the plat is acceptable for recording and that required modifications, if any, have been properly made. Upon such verification, the Secretary of the Planning Commission shall attest to approval by signing the appropriate certificate on the original and copy of the plat. The building inspector or his designated representative, shall record the approved plat in the Office of the Register of Dyer County, Tennessee, and shall note the date, plat book and page number of recording on the file copy of the plat. The developer shall provide the recordation fee.

- (2) A recorded original plat shall be retained as a permanent record in the Planning Commission files after it has been stamped and signed by the County Register.

5. Surety Instrument / Performance Bond

If a Surety Instrument or Performance Bond in an amount equal to or greater than the cost of constructing all required improvements including, but not limited to streets, sewer and water lines, surface and subsurface drainage, has not been submitted to the Town prior to approval of the Final Plat by the Planning Commission then one must be submitted to the Town before the Final Plat is to be signed by the Secretary of the Planning Commission.

## ARTICLE III

### PROCEDURE FOR MINOR SUBDIVISION APPROVAL

Whenever a proposed subdivision containing less than five (5) lots fronting on an existing public way; not involving any new or improved public way, the extension of public utilities or the creation of any public improvements, and not in conflict with any provision of the adopted general plan, Major Road Plans, Zoning Ordinance, or these regulations, this procedure for review and approval of the subdivision may apply.

#### A. PROCEDURE

1. The subdivider may, if he desires, submit only a Final Minor Plat in securing plat approval provided that the plat submitted complies with all the requirements of the Final Minor Plat. However, if any corrections or modifications are needed, the Planning Commission shall disapprove the plat and require it to be re-submitted for approval.
2. The procedure for review and approval of a minor subdivision and its documentation shall consist of one (1) step. This step is the preparation of a Final Minor Plat with all the required certificates for submission to the Planning Commission. The preparation of a Final Minor Plat is mandatory for all minor subdivision proposals. The Final Minor Plat, once approved by the Planning Commission and signed by the Secretary of the Planning Commission, becomes an instrument to be recorded by the Office of the County Register.
3. The Final Minor Plat is the culmination of the land subdivision process. When approved and duly recorded as provided by law, the Final Minor Plat becomes a permanent public record of the survey of the lots or parcels, rights-of-way, easements and public lands, and the restrictive covenants as may be applicable to the lots or parcels within the boundary of the subdivision. As such, it serves as a vital instrument in the sale and transfer of real estate, in the dedication of rights-of-way easements, and

public lands, and in future land survey of the properties contained in or adjoining the subdivision.

B. SUBMISSION

1. The developer shall submit seven (7) copies of the Final Minor Plat to the building inspector no less than fifteen (15) days prior to the Planning Commission meeting at which it is to be considered.
2. The original of the Final Minor Plat shall be in black permanent or colored ink, a minimum of eleven inches by seventeen inches (11" x 17"), to a scale of one inch equals one-hundred feet (1" = 100'). If more than one sheet is required, an index sheet of the same size shall be filed and shall show a key map of the entire area being platted. The separate sheet of the Final Minor Plat shall be keyed alphabetically and shall match lines with the adjoining sheets.

C. FINAL MINOR PLAT CONTENT

The Final Minor Plat shall include the following information:

1. The lines of all streets and roads with names, alley lines, lot lines, building setback lines, lots numbered in numerical order, all existing and proposed public and private easements including their location, purpose and width, and the instrument number for any existing easements; and any areas such as entrances, medians, sidewalks, or landscaping to be dedicated for private and public use to be dedicated to public use or sites for other than residential use with notes stating their purpose and any limitations.
2. Sufficient data to determine readily and reproduce on the ground the location, bearing and length of every street line, lot line, boundary line, block line and building line whether curved or straight, and curved property lines that are not the boundary of curved streets.
3. All dimensions to the nearest one hundredth (100th) of a foot and bearings to the nearest minute.

4. Location and description of monuments.
5. The names and locations of adjoining subdivisions and streets and the location and ownership of adjoining properties.
6. Date, title and name of the subdivision, designer of the subdivision, vicinity map, graphic scale, total acreage subdivided and note pertaining to acreage of the parent tract or remaining property, if applicable, zoning classification and true north arrow.
7. Any restrictive covenants which are to apply to lots or other parcels within the subdivision.
8. Tax Map, Group, and Parcel Number
9. Location, size, and type of all existing utilities (i.e. water, sewer, electric, septic, wells, and gas);
10. Septic Restrictions, proposed septic fields, and proposed well sites, when applicable;
11. One hundred (100) year floodplain, floodway boundaries and elevations of each;
12. Major environmental features, including but not limited to rivers, streams, and drainage ditches;
13. Drainage, if applicable;
14. The following certificates are required on the plat (See Appendix II):
  - (a) Certification showing that the applicant is the land owner and dedicates the streets, rights-of-way, utilities and any sites for public use to the Town of Newbern.

- (b) Certification by a registered land surveyor as to the accuracy of the survey, the plat and the placement of the monuments.
- (c) Certification of availability of water by the Water and Sewer System Superintendent or certification of approval by the Dyer County Health Officer for an individual subsurface water (well) system.
- (d) Certification of availability of sewer by the Water and Sewer System Superintendent or certification of approval by the Dyer County Health Officer for an individual subsurface sewage disposal (septic tank) systems with attached septic restrictions, if applicable.
- (e) Certification of access through an adopted public way or permanent access easement by the Street Superintendent.
- (f) Certification of availability of electricity by the Electric System Superintendent.
- (g) Certification of availability of gas by the Gas System Superintendent.
- (h) Certificate of Approval by the Secretary of The Planning Commission.

D. PLAT REVIEW

1. Subdivision Review Committee

The building inspector, the planning staff, and appropriate department directors shall recommend to the Planning Commission the approval, approval with conditions or disapproval of the application and shall include all department comments received.

2. Planning Commission

The Planning Commission shall review the plat and indicate its approval, disapproval, or approval subject to modifications. If a plat is disapproved, reasons for such disapproval shall be stated in writing. If approved subject to modifications, the nature of the required modifications will be indicated. The Planning Commission may, prior to the close of the public meeting, hold the matter under advisement or defer a decision until the next regular meeting. Substantial changes made to the plat after review by the Subdivision Review Committee shall be cause for the Planning Commission to defer a decision pending review of a revised plat.

3. Revised Plat

If modifications are requested by the Planning Commission or staff, and if variances have been granted, the developer shall submit a letter addressing the revisions requested, a revised Final Minor Plat indicating any approved variances, not less than seven (7) days prior to the Planning Commission meeting at which it is to be considered.

4. Failure To Take Action

For subdivisions within the Planning Region but outside the Corporate Limits, the Planning Commission shall approve or disapprove a Final Minor Plat within sixty (60) days after the initial consideration of the Final Minor Plat by the Planning Commission meeting in a regularly scheduled session unless at the end of the sixty (60) day period there is a holiday or an unexpected interceding event that would close municipal or county government offices and thus affect the normal computation of the sixty (60) day period, in which case the Final Minor Plat shall be approved or disapproved after the interrupted sixty (60) day period at the next regularly scheduled meeting of the Planning Commission; otherwise, the Final Minor Plat shall be deemed approved and a certificate to that effect shall be issued by the commission on demand. The applicant for the Planning Commission's approval may waive the time requirement set in this subsection and consent to an extension or extensions of the applicable time period. When a Final Minor Plat has been filed with the appropriate officials of the Planning Commission, the Final Minor Plat shall be placed

on the agenda of the Planning Commission within thirty (30) days of the filing or the next regularly scheduled planning commission meeting after the thirty (30) day period. The applicant may waive the time frame requirement for the appearance of the Final Minor Plat on the agenda.

E. PLAT APPROVAL

1. Action Upon Approval

(a) Upon approval of the Final Minor Plat by the Planning Commission, the developer shall submit to the Town of Newbern the original and one (1) copy of the Final Minor Plat for the Town's files. The building inspector shall verify that the plat is acceptable for recording and that required modifications, if any, have been properly made. Upon such verification, the Secretary of the Planning Commission shall attest to approval by signing the appropriate certificate on the original and copy of the plat. The building inspector or his designated representative, shall record the approved plat in the Office of the Register of Dyer County, Tennessee, and shall note the date, plat book and page number of recording on the file copy of the plat. The developer shall provide the recordation fee.

(b). Recording of the Final Minor Plat

A recorded original plat shall be retained as a permanent record in the Planning Commission files.

## ARTICLE IV

### ASSURANCE FOR COMPLETION AND MAINTENANCE OF IMPROVEMENTS

#### A. IMPROVEMENTS AND SURETY INSTRUMENTS

##### 1. Completion of Improvements

Before the Final Plat is signed by the Secretary of the Planning Commission as specified in Article II, D of these regulations, all applicants shall complete, in accordance with the Planning Commission's decision and to the satisfaction of the appropriate governmental representative, all public ways, sanitary, and other improvements, including lot improvements on the individual lots of the subdivision, as required in these regulations and approved by the Planning Commission, and shall dedicate such improvements to the Town of Newbern or Dyer County free and clear of all liens and encumbrances on the property and public improvements thus dedicated.

##### 2. Surety Instrument

The Planning Commission at its discretion may waive the requirement that the applicant complete and dedicate all public improvements prior to the signing of the Final Plat by providing that, as an alternative, the applicant post a Surety Instrument or Performance Bond at the time of submission for Final Plat approval in an amount of which is at least one hundred (100%) percent of the amount estimated by the Street Superintendent, Water and Sewer System Superintendent, Electric Superintendent, and Gas Superintendent as sufficient to guarantee to the governing body the satisfactory construction, installation, and dedication of the incomplete portion of the required improvements.

Such Surety Instrument or Performance Bond shall comply with all statutory requirements and shall be satisfactory to legal counsel as to form, sufficiency, and manner of execution, as set forth in these regulations. The period within which required improvements must be completed shall be specified by the Planning Commission when approval of the Final Plat is granted and shall be incorporated into the Surety Instrument or Performance Bond and shall not exceed one (1) year from date of final approval.

Such Surety Instrument or Performance Bond shall be approved by the Planning Commission as to amount and conditions. The Planning Commission may, upon proof of difficulty, extend the completion date set forth in such Surety Instrument or Performance Bond for a maximum period of one (1) additional year. The Planning Commission may accept at any time during the period of such Surety Instrument or Performance Bond a substitution of principal.

3. Temporary Improvements

The applicant shall build and pay for all costs of temporary improvements required by the Planning Commission, and shall maintain them to a reasonable satisfaction for the period specified by the Planning Commission. Prior to construction of any temporary facility or improvement, the applicant shall file with the Planning Commission a separate suitable Surety Instrument or Performance Bond for temporary facilities, which shall ensure that the temporary facilities will be properly constructed, maintained, and removed.

4. Costs of Improvements

All required improvements shall be made by the applicant at his expense. Any provisions for reimbursement by the governing body or any utility agency shall be stipulated clearly in the provisions of any surety instruments/performance bonds, and shall be supported

by certified resolution or ordinance of such governing body or agency.

5. Governmental Units

Governmental units to which these surety instruments/performance bonds and contract provisions apply may file, in lieu of said contract or Surety Instrument or Performance Bond, a certified resolution or ordinance from officers or agencies authorized to act in their behalf agreeing to comply with the provisions of this Article.

6. Failure to Complete Improvements

In subdivisions for which no Surety Instrument or Performance Bond has been posted, if the improvements are not completed within the period specified by the Planning Commission in the resolution approving the plat, the approval shall be deemed to have expired. In those cases in which a (Surety Instrument or Performance Bond) has been posted and required improvements have not been installed within the terms of such Surety Instrument or Performance Bond, the Planning Commission thereupon may declare the Surety Instrument or Performance Bond to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the Surety Instrument or Performance Bond is declared to be in default.

7. Acceptance of Dedication Offers

Acceptance of formal offers of dedication of public ways, easements, and parks shall be by formal action of the governing body. Such action shall be in the form of a resolution recommended by the Planning Commission to the governing body. The approval by the Planning Commission of a subdivision plat shall not be deemed to constitute or imply an acceptance by the local government of any public way, easement, or other ground

shown on the plat. The Planning Commission may require the plat to be endorsed with appropriate notes to this effect.

B. INSPECTION OF IMPROVEMENTS

1. General Procedure

The Planning Commission may provide for inspection of required improvements during construction and ensure their satisfactory completion. If the appropriate governmental representative finds upon inspection that any of the required improvements has not been constructed in accordance with the governing body's construction standards and specifications, the applicant shall be responsible for completing the improvements to the required standards. Whenever the cost of improvements is covered by a Surety Instrument or Performance Bond, the applicant and the underwriting person or institution shall be liable severally and jointly for completing said improvements according to specifications.

2. Release or Reduction of Surety Instrument or Performance Bond

a. Certificate of Satisfactory Completion

The Planning Commission shall not recommend dedication of required public improvements nor shall the Planning Commission release nor reduce a Surety Instrument or Performance Bond until the appropriate governmental representative submits a certificate stating that all required improvements have been satisfactorily completed, and until the applicant's engineer or surveyor has certified to the Planning Commission and the appropriate governmental representative (through submission of a detailed "as built" survey of the subdivision indicating location, dimensions, construction materials, and any other information required by the Planning Commission) that the layout and the line and grade of all public improvements are in accordance with the

approved construction plans for the subdivision. Upon such approval and recommendation, the governing body, thereafter, may accept the dedicated improvements in accordance with the procedures set forth in other sections of these regulations.

b. Reduction of Surety Instrument or Performance Bond

A Surety Instrument or Performance Bond may be reduced upon actual dedication and acceptance of public improvements and then only to the ratio that the public improvement dedicated bears to the total public improvements for the plat. In no event shall a Surety Instrument or Performance Bond be reduced below ten (10%) percent of the principal amount prior to final acceptance of all items covered under the Surety Instrument or Performance Bond.

C. MAINTENANCE OF IMPROVEMENTS

The applicant shall be required to maintain all improvements including all lot improvements, until acceptance of the public improvements by the governmental body.

The applicant may be required to file a maintenance Surety Instrument or Performance Bond with the Planning Commission prior to dedication, in an amount considered adequate by the appropriate governmental representative and in a form satisfactory to legal counsel in order to assure the satisfactory condition of the required improvements, including all lot improvements, for a period of one year after the date of approval of the public improvements by the Planning Commission.

D. DEFERRAL OR WAIVER OF REQUIRED IMPROVEMENTS

The Planning Commission may defer or waive at the time of final approval, subject to appropriate conditions, the provision of any or all such

improvements as, in its judgment, are not requisite in the interest of the public health, safety, and general welfare, or which are inappropriate because of inadequacy or lack of connecting facilities.

Whenever it is deemed necessary by the Planning Commission to defer the construction of any improvement required herein because of incompatible grades, future planning, inadequate or lack of connecting facilities, or other reasons, the developer shall either pay his share of the costs of the future improvements to the Planning Commission prior to signing of the Final Plat by the appropriate governmental representative(s) or post a performance bond or other surety instrument ensuring completion of said improvements upon demand of the Planning Commission.

#### E. ESCROW DEPOSITS FOR LOT IMPROVEMENTS

##### 1. Acceptance of Escrow Funds

Whenever, by reason of the season of the year, any lot improvements required by these regulations cannot be performed, the enforcing officer nevertheless may issue a certificate of occupancy upon accepting a cash escrow deposit in an amount to be determined by the appropriate governmental representative for the cost of such improvements; provided, there otherwise is no danger to the health, safety, or general welfare. The Surety Instrument or Performance Bond covering such lot improvements shall remain in full force and effect.

##### 2. Procedures on Escrow Fund

All required improvements for which escrow moneys have been accepted by the enforcing officer at the time of issuance of a certificate of occupancy shall be installed by the developer within a period of six (6) months from the date of deposit and issuance of the certificate of occupancy. In the event that the improvements have not been installed properly at the end of the time period, the

enforcing officer shall provide written notice, within two (2) weeks, to the developer requiring him to install the improvements, and in the event they are not installed properly, in the judgment of the enforcing officer, he may request the Planning Commission to proceed to install or to contract for the installation of the necessary improvements in a sum not to exceed the amount of the escrow deposit.

At the time of the issuance of the certificate of occupancy for which escrow moneys are being deposited, the applicant shall obtain and file with the enforcing officer, prior to obtaining the certificate of occupancy, a notarized statement from the purchaser(s) of the premise authorizing the enforcing officer to install the improvements at the end of the one year period in the event the improvements have not been installed properly by the developer.

F. ISSUANCE OF BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY

Where a Surety Instrument or Performance Bond has been required for a subdivision, or any section of a subdivision, no certificate of occupancy for any building in the subdivision or section thereof shall be issued prior to the completion and dedication of the improvements to the appropriate governmental unit, as required in the Planning Commission's resolution of final approval of the subdivision plat.

The extent of public way improvements shall be adequate for vehicular access by the prospective occupant and by police and fire equipment prior to the issuance of an occupancy certificate. The developer shall at the time of the dedication submit moneys in escrow to the Planning Commission in a sum to be determined by the appropriate governmental representative.

## ARTICLE V

### GENERAL REQUIREMENTS AND STANDARDS OF DESIGN

#### A. GENERAL REQUIREMENTS

##### 1. General Design Concepts

Land Subdivision design is a compromise among competing and often conflicting objectives. Users of these regulations should recognize that land subdivision is far more than a means of marketing land; it is primarily the first step in the process of building a community. Once land has been divided into lots, streets established, utilities installed and buildings constructed, correction of defects is costly and difficult. Moreover, the development pattern is permanently ingrained upon the community and unlikely to be changed. Ultimately, subdivided land becomes a public responsibility requiring the maintenance of improvements and the provisions of public services. Additionally, for the sake of future owners and the community, subdivided land should not only be presently marketable, but should remain competitive with future developments, thereby presenting a stable and liquid investment. Therefore, the interests of the public, the developer, and future owners are served by adherence to sound concepts and standards of design. To achieve the desired objectives, all subdivisions within the Town and Planning Region of Newbern must conform to the following four (4) basic design concepts:

##### a. External Factors

Subdivision design must provide for external factors of community wide concern including the proper extension of major streets, extensions of utilities, preservation of major drainage channels and of related flood-lands, and the

reservation of needed school and park sites. Additional external factors to be considered include proximity to local, community, and regional shopping centers; to places of employment; to educational and recreational facilities; and to public transportation.

b. Land Use

Subdivision design must be related to proposed and existing land uses. Layout of a subdivision is inseparable from the use to which the land is to be put. Moreover, adjacent land use patterns must be considered. Some uses, such as parks, certain institutional uses, and bodies of surface water, may be used in the design to create value. Others, such as railroads, power lines and associated easements, poorly subdivided lands, and unsightly strip commercial developments, may require special design techniques to minimize their deprecatory effect on property values.

c. Natural Environment

Subdivision design must give due consideration to the natural environment. Areas of natural beauty, such as fine stands of trees and prominent terrain, should be conserved by the design. Low areas subject to flooding or areas of unsuitable soil or ground water conditions should not be put to residential use.

d. Internal Details

Subdivision design must give attention to internal design details including the proper layout of the streets, utilities, lots and needed open space, as well as adjustment of the design to topography and soil capabilities of the land. A major aspect of internal detailing is careful attention to drainage.

2. Conformance to Applicable Rules and Regulations

In addition to the requirements established herein, all subdivision plats shall comply with all applicable laws, ordinances, resolutions, rules, or regulations, including, but not limited to:

- a. All applicable provisions of Tennessee Law, regulations, or policy.
- b. Any Zoning Ordinance, any Building and Housing Codes, and all other applicable laws or policies of the Planning Commission.
- c. The adopted General Plan and Major Road Plans.
- d. The rules of the county health department and the Tennessee Department of Environment and Conservation.
- e. The rules, as applicable, of the Federal Highway Administration or Tennessee Department of Transportation, if the subdivision or any lot contained therein abuts a non-local highway.
- f. The standards and regulations adopted by all other boards, commissions, and agencies of the Planning Commission, where applicable.

Plat approval may be withheld if a subdivision is not in conformity with the above rules or with the provisions set forth in these regulations.

3. Self-imposed Restrictions

If the owner places restrictions on any of the land contained in the subdivision greater than those required by any Zoning Ordinance or these regulations, such restrictions or reference thereto shall be

recorded with the County Register on a separate form, along with the Final Plat in the Office of the County Register.

4. Character of the Land

Land which the Planning Commission finds to be unsuitable for subdivision or development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements, or other features which would be harmful to the safety, health, and general welfare of inhabitants of the land and surrounding areas shall not be subdivided or developed unless adequate methods are formulated by the developer and approved by the Planning Commission, upon recommendation of any staff assistant serving the Planning Commission and/or other governmental representative, if any, to solve the problems created by the unsuitable land conditions. Such land shall be set aside for such uses as will not involve such a danger.

Where protection against flood damage is necessary, in the opinion of the Planning Commission, flood-damage protection techniques may include, as deemed appropriate by the Planning Commission, any of the following.

- a. The imposition of any surety and deed restrictions enforceable by the Planning Commission to regulate the future type and design of uses within the flood-prone areas.
- b. Flood protection measures designed so as not to increase, either individually or collectively, flood flows, height, duration, or damages, and so as not to infringe upon the regulatory floodway.
- c. Installation of flood warning systems.
- d. The use of fill, dikes, levees, and other protective measures.

- e. The use of flood-proofing measures, which may include:
- (1) Anchorage to resist flotation and lateral movement.
  - (2) Installation of watertight doors, bulkheads, shutters, or other similar methods of closure.
  - (3) Reinforcement of walls to resist water pressures.
  - (4) Use of paints, membranes, or mortars to reduce seepage through walls.
  - (5) Addition of mass or weight to structures to resist flotation.
  - (6) Installation of pumps to lower water levels in structures.
  - (7) Construction of water supply and waste treatment systems so as to prevent the entrance of or contamination of flood waters.
  - (8) Installation of pumps or comparable facilities for subsurface drainage systems to relieve external foundation wall and basement flood pressures.
  - (9) Building design and construction to resist rupture or collapse caused by water pressure of floating debris.
  - (10) Installation of valves or controls on sanitary and storm drains which permit the drains to be closed to prevent backup of sewage and stormwater into buildings or structures.

- (11) Location and installation of all electrical equipment, circuits, and appliances so that they are protected from inundation by the regulatory flood.
- (12) Location of storage facilities for chemicals, explosives, buoyant material, flammable liquids, or other toxic materials which would be hazardous to the public health, safety, and welfare at or above the regulatory flood protection elevation, or design of such facilities to prevent flotation of storage containers or damage to storage containers which could result in the escape of toxic materials.

The acceptability of any flood protection methods formulated by the subdivider or his agent shall be determined by the Planning Commission.

All such flood protection measures shall be designed so as not to increase, either individually or collectively, flood flows, heights, duration, or damages so as not to infringe upon the regulatory floodway.

5. 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:

- a. 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.
- b. The danger that intended uses or improvements may be swept onto other lands or downstream to the injury of others.

- c. The adequacy of proposed water supply, sanitation, and drainage systems, and the ability of these systems to function under flood conditions.
- d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage upon the individual owner.
- e. The importance of the services provided by the proposed facility to the community at large.
- f. The requirements of the subdivision for a waterfront location.
- g. The availability of alternative locations not subject to flooding for the proposed subdivision and land uses.
- h. The compatibility of the proposed uses with existing development or development anticipated in the foreseeable future.
- i. The relationship of the proposed subdivision to the Land Development Plan and the floodplain management program for the area.
- j. The safety of access to the property for emergency vehicles in times of flood.
- k. The expected heights, duration, velocity, rate of rise, and sediment transport of the floodwaters expected at the site.
- l. 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.

- m. The effect of the proposed subdivision upon the Town and County's participation in the National Flood Insurance Program.

No subdivision or part thereof shall be approved by the Planning Commission if proposed levees, fills, structures, or other features within the subdivision will individually or collectively, increase flood flows, heights, duration, or damages. The regulatory limits (the one hundred (100) 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 any Zoning Ordinance. The Planning Commission shall also ensure that development within any floodway fringe area (within the one hundred (100) year flood level) will be protected adequately against potential flood hazards by the methods prescribed in Article VI 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.

6. Subdivision Name

The proposed name of the subdivision shall not duplicate or too closely approximate phonetically the name of any other subdivision in the area covered by these regulations. The Planning Commission shall have authority to designate the name of the subdivision which shall be determined at sketch or Preliminary Plat approval.

B. PUBLIC WAYS

1. Frontage on Improved Public Ways

No subdivision shall be approved unless the area to be subdivided shall meet the requirements for access as set forth in this article and Article VI of these regulations. If any new street construction or improvements to existing streets are required, such improvements shall be approved and publicly dedicated as provided for in these regulations. Any new street or required improvement to a public way must be suitably improved to the standards required by this article or be bonded by a Surety Instrument or Performance Bond as required under these regulations. All roads must adhere to the required right-of-way widths of this article and the Municipal and Regional Major Road Plans.

2. Grading and Improvement Plan

Public ways shall be graded and improved to conform to the standards required by this article and Article VI and shall be approved as to design and specification by the appropriate governmental representative in accordance with the specifications required herein. No surface shall be applied to the base of any proposed public way prior to the approval of the Final Plat of the subdivision or of the final approval of any section of the subdivision in question without having been properly inspected.

3. Improvements in Flood-prone Areas

The finished elevation of proposed public ways subject to flood shall be no more than one foot above the regulatory flood protection elevation. The Planning Commission may require profiles and elevations of public ways to determine compliance with this requirement. All drainage structures shall be sufficient to discharge flood flows without increasing flood height. Where fill is used to bring the finished elevation of any public way to the required elevation, such fill shall not encroach upon a floodway, and the fill shall be protected against erosion by rip-rap, vegetative cover, or other methods deemed acceptable by the Planning Commission.

4. Classification of Public Ways

a. Arterials - Streets having the primary purpose of carrying through traffic and the secondary purpose of providing access to abutting properties. The service to abutting land should be subordinate to the provision of travel service to major traffic movements. Arterial streets may be further classified as follows:

(1) Parkways - Streets and highways with the sole purpose of carrying through traffic with the highest degree of mobility and safety. These roads provide no direct access to abutting properties.

(2) Major Arterials - Streets and highways serving major municipal activity centers, the highest traffic volume corridors, the longest trip desires, and a high proportion of total urban area travel on a minimum of mileage. Service to abutting land should be subordinate to the provision of travel service to major

traffic movements. This system carries the major portion of trips entering and leaving an urban area.

- (3) Minor Arterials - Street and highways interconnecting with and augmenting the principal arterial system and providing service to trips of moderate length at a somewhat lower level of travel mobility. The system places more emphasis on land access and distributes travel to geographic areas smaller than those identified with the higher system.
- b. Collectors - Streets penetrating neighborhoods, collecting traffic from local streets and channeling it into the arterial systems. A minor amount of through traffic may be carried on collector streets, but the system primarily provides service access and carries local traffic movements within residential neighborhoods, or commercial and industrial areas. Collector streets may be further classified as follows:
- (1) Major Collectors - Streets serving commercial and industrial areas, or large volumes of residential traffic. All cul-de-sac and streets serving nonresidential areas shall be classified as minor collectors.
  - (2) Minor Collectors - Streets serving low and moderate volumes of residential traffic.
- c. Locals - Residential streets not classified in a higher system, primarily providing direct access to abutting land and to collector streets. They offer the lowest level of mobility. Service for through traffic is deliberately discouraged.
- (1) Minor/Residential Street - Single family residential streets are land access streets which are primarily for access to abutting residential properties and which are designed to discourage through traffic.

- (2) Cul-de-sacs - Streets which are dead ends having only one end open for vehicular access and serves only abutting properties.
- (3) Dead-end Streets (Cul-de-sac) - Cul-de-sacs are permanent dead-end streets which may provide access to commercial, industrial or residential properties, and are designed to prevent future extension.
- (4) Marginal Access Streets - Marginal access streets are minor land access streets which are normally parallel to and adjacent to arterial streets and highways; which provide access to abutting properties (usually office, commercial or industrial uses); and which are designed to provide protection from through traffic and to provide maximum control of ingress and egress onto heavily traveled thoroughfares.
- (5) Alleys - Alleys are minor public ways used primarily for service access to the back or side of properties otherwise abutting on a street. Where permitted, alleys may serve in lieu of otherwise required utility easements.
- (6) Permanent Access Easements - A permanent access easement is a private way that is maintained by a landowner or a homeowners association. It must have a right-of-way width of at least fifty (50) feet and can only serve one (1) lot if the road or street does not meet the adopted public street standards.

## 5. Right-of-way Widths

The minimum width of right-of-way shall be measured from lot line to lot line. The minimum width of right-of-way shall conform with existing roads or proposed roads as designated on the Major Road Plan or, if not shown on such Plan shall be based on function. The minimum right-of-way shall be not less than listed below.

- a. Major Arterial 100 feet or more if required
- b. Minor Arterial ..... 80 feet
- c. Major Collector/Parkway ..... 75 feet
- d. Minor Collector..... 60 feet
- e. Minor / Residential ..... 50 feet
- f. Dead-end (Cul-de-sac) ..... 50 feet
- g. Marginal Access ..... 50 feet
- h. Permanent Access Easement..... 50 feet
- i. Alley..... 20 feet

In cases where topography or other physical conditions make a street of the required minimum width impracticable, the Planning Commission may modify the above requirements. The Planning Commission may not modify the above requirements by not more than ten (10%) percent of the specified widths solely for the purpose of increasing the area of marketable land, nor to accommodate a land use which might otherwise be inappropriate:

6. Access and Circulation

- a. Intersections - Arterials should intersect with other arterials and collector roads. Minor/residential streets intersecting arterials shall be discouraged. Intersections of minor/residential streets with limited access roads shall not be permitted.
- b. Arterials - Limited access roads and arterials, shall be designated according to the most recently adopted Major Road Plan.
- c. Collectors - Any street which serves or is expected to serve over two hundred (200) lots shall be designated as a collector. Streets serving over six hundred (600) lots at any density shall be designated as major collector.
- d. Number of Access Points - Residential developments with more than 50 lots shall have at least two separate points of public road access. Developments with two hundred (200) lots shall have at least three separate points of public road access. One additional point of access will be required for each additional one hundred (100) lots.

7. Additional Width on Existing Streets or Public Ways

Subdivisions abutting on existing streets shall dedicate additional right-of-way to meet the minimum width requirements of Article VI, Section B, 8.

Where a subdivision adjoins an existing narrow public way or where the Major Road Plan or any zoning setback provisions indicate plans for realignment or widening of a public way that would require use of some of the land in the subdivision, the subdivider shall be required to dedicate, at his expense, areas for widening or realigning such public way as set forth below:

- a. The entire right-of-way and improvements shall be provided where any part of the subdivision is on both sides of the existing street.
- b. Where the subdivision is located only on one side of an existing street, one-half (1/2) of the required improvements of the right-of-way measured, from the center line of the existing right-of-way, shall be provided.
- c. A non-residential subdivision abutting and having access on a residential street shall provide the total additional right-of-way required for a minor collector street.
- d. Where subdivision development requires an existing street be cut down for proper sight distance and the subdivision is on one side of the street, the developer shall improve the entire road.

8. Access Limitations

- a. Limited Access Roadway - Where a subdivision abuts a proposed or existing limited access road, all right-of-vehicular access to such road shall be conveyed to the Town of Newbern, County, or State of Tennessee including existing points of access. If no other means of access to the subdivision is available, a frontage road shall be provided along the entire frontage. A temporary access from the frontage road to the limited access arterial road may be permitted, but such access shall be terminated when the frontage road is further extended or is connected to another public street. Frontage roads shall meet the requirements of the appropriate street classification for the development being served, except that sidewalks are not required on the side of the street nearer the limited access facility.

b. Arterials

(1) Access Limitation - Where a subdivision abuts an existing or proposed arterial, double frontage lots with no access to the arterial, lots with rear service drives, common access drives, or other treatment may be required.

(2) Residential Driveways - Driveways should not be permitted on existing or proposed arterials. Where this requirement cannot be met, shared or common driveways may be required. All driveways shall be designed to provide egress in a forward motion.

c. Double Frontage and Corner Lots - Where lots have frontage on two (2) streets, a conveyance of vehicular access on the street carrying or expected to carry the lesser traffic volume may be required.

9. Street Alignment and Grades

In setting the alignment and grades for streets, due consideration shall be given to storm drainage. In general, the depth of flow in gutters and the allowable spread of water shall be consistent with the functional classification of the street. Arterial streets shall be designed to remain virtually free of water. Deeper flows and wider spreads may be tolerated on collector and land access streets. Street alignment and grades shall be designed so that, during severe rainfall events, the collector and land access streets can serve as open channels supplementary to the minor, normally piped, storm drainage system without flooding adjoining lots or building sites; therefore, mid-block sags in street grades are to be avoided and grades are to be set so as to generally parallel storm sewer gradients. During frequent normal rainfall events, appreciable runoff shall not be permitted to flow across

intersections. The rate of flow for runoff contained on streets shall not normally exceed ten (10) feet per second.

10. Street Grades

Grades on major streets and roads shall not exceed seven (7) percent. Grades on other streets may exceed seven (7) percent but not ten (10) percent.

11. Horizontal curves

Where a deflection angle of more than ten (10) degrees in the alignment of a street occurs, a curve of reasonably long radius shall be introduced. On streets sixty (60) feet or more in width, the centerline radius of curvature shall be not less than three hundred (300) feet; on other streets, not less than one hundred (100) feet.

12. Vertical Curves

Every change in grade shall be connected by a vertical curve constructed so as to afford a minimum sight distance of two hundred (200) feet, said sight distance being measured from the driver's eyes, which are assumed to be four and one-half (4 1/2) feet above the pavement surface, to an object four (4) inches high on the pavement. Profiles of all streets showing natural and finished grades drawn to a scale of not less than one (1) inch equals one hundred (100) feet horizontal, and one (1) inch equals twenty (20) feet vertical, may be required by the planning commission.

13. Tangents

A tangent of at least one hundred (100) feet in length shall be introduced between reverse curves on arterial and collector streets.

14. Intersections

- a. Spacing - Intersections on the same side of a street shall be spaced a minimum of three hundred (300) feet apart, measured from centerline to centerline.
- b. Angle - Public ways shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two (2) new public ways at an angle of less than seventy-five (75) degrees shall not be permitted. A slanting public way should be curved approaching an intersection and should be approximately at right angles for at least one hundred (100) feet therefrom. Not more than two (2) public ways shall intersect at any one point unless specifically approved by the Planning Commission.
- c. Proposed new intersections along one side of an existing public way shall coincide, wherever practicable, with any existing intersections on the opposite side of such public way. Jogs within public ways having center line offsets of less than one twenty-five (125) feet shall not be permitted, except where the intersected public ways have separated dual drives without median breaks at either intersection. Where public ways intersect arterial or collector routes, their alignment shall be continuous. Intersections of arterial or collector public ways shall be at least eight hundred (800) feet apart.
- d. Intersections and abrupt changes in alignment within a block shall have the corners cut off in accordance with standard engineering practice to permit safe vehicular movement.

- e. Where a public way intersection will involve earth banks or existing vegetation inside any lot corner that would create a traffic hazard by limiting visibility, the subdivider shall cut such ground or vegetation (including trees) in connection with the grading of the public right-of-way to the extent necessary to provide adequate sight distance.
- f. Intersections shall be designed with a flat grade wherever practical, In hilly or rolling areas, at the approach to an intersection, a leveling area shall be provided having not greater than a two (2) percent grade for a distance of sixty (60) feet, measured from the nearest right-of-way line of the intersecting public way.

15. Reserve Strips

There shall be no reserve strips controlling access to streets, except were the control of such strips is definitely placed with the Town of Newbern under conditions approved by the Planning Commission.

16. Street Names

Proposed streets which are obviously in alignment with other streets already existing and named shall bear the names of the existing streets. In no case shall the name for a proposed street duplicate an existing street name irrespective of the suffix used, i.e., street, avenue, boulevard, drive, parkway, cove, court, or place. Proposed street names shall be reviewed by the Planning Commission following submission to the Dyer County 911 office.

17. Arrangement of Continuing and Dead-End Public Ways

- a. The arrangement of public ways shall provide for the continuation of major public ways between adjacent

properties when such continuation is necessary for convenient movement of traffic, effective fire protection, efficient provisions of utilities, and when such continuation is in accordance with the Major Road Plan. If the adjacent property is undeveloped and the public way must be a dead-end public way temporarily, the right-of-way shall be extended to the property line. A temporary cul-de-sac, temporary T-, or L-shaped turnabout shall be provided on all temporary dead-end public ways as required in the following turnabout standards, with a notation on the subdivision plat that land outside the normal public way right-of-way shall revert to abutting property owners whenever the public way is continued.

- b. Where a public way does not extend beyond the boundary of the subdivision and its continuation is not required by the Planning Commission for access to adjoining property, its terminus shall normally not be nearer to such boundary than fifty (50) feet. However, the Planning Commission may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic, or utilities. A cul-de-sac turnabout shall be provided at the end of a dead-end public way in accordance with the design standards of these regulations.
- c. For greater convenience to traffic and more effective police and fire protection, permanent dead-end public ways shall, in general, be limited in length in accordance with the design standards of these regulations.

18. Public Way Surfacing and Improvements

After underground utilities have been installed, the subdivider shall construct curbs with gutters in the Corporate Limits or in areas requesting annexation or side ditches for developments in the Planning Region, and shall surface or cause to be surfaced public ways to the widths prescribed in these regulations. No public way shall be surfaced until approval of the Preliminary Plat has been obtained. Surfacing shall be of such character as is suitable for the expected traffic. Types and methods of paving shall be in accordance with the specifications of Article VI. D., and in no event shall such construction be below the specifications set forth in these regulations. Adequate provisions shall be made for culverts, drains and bridges, as required.

C. LOT LAYOUT

In general, all lots within a subdivision shall have about the same area. Minimum lot areas and frontages are specified in the Newbern Municipal Zoning Ordinance for property in the Corporate Limits, Newbern Regional Zoning Ordinance, Dyer County Zoning Resolution or according to these regulations for developments inside the Planning Region, however, a subdivision plan should not be predicated solely on producing a maximum density. The lot layout plan should give balanced consideration to the natural topography of the tract being subdivided, to the conservation and preservation of the natural environment, to the provision of adequate open space, to the enhancement of the character and beauty of the community, to the optimization of lot density, to improvements ratio, and to the protection of life and property.

1. Adequate Building Sites

Each lot shall contain a building site not subject to flooding or other hazards and such site shall be outside the limits of any easements, rights-of-way, building lines, side yards, rear yards and front yards as defined below or in Section F of Article I and the Newbern

Municipal Zoning Ordinance, the Newbern Regional Zoning Ordinance, or the Dyer County Zoning Resolution depending on the location as per the jurisdiction of the zoning district.

2. Arrangement of Lots

Where practical, side lot lines shall be at right angles to straight street lines and radial to curved street lines. Each lot shall front on a public street, public road, or permanent access easement for a distance of fifty (50) feet. Where lots abut on an arterial street, a marginal access street, or have double frontage, acceptable arrangements shall be made to control ingress and egress onto such streets from the individual lots.

3. Minimum Size of Lots

The size, shape and orientation of lots or buildings sites shall be as the Planning Commission deems appropriate for the intended use and topography of the site, for adjoining land uses, and for the protection of life and property.

- a. For development in the Corporate Limits or for development of land proposed for annexation, the minimum area and dimensions of lots shall be as specified by the Newbern Municipal Zoning Ordinance.
- b. For development outside of the Corporate Limits, the minimum area and dimensions of residential lots shall be as specified by the Newbern Regional Zoning Ordinance, the Dyer County Zoning Resolution, or any other applicable Zoning Ordinance or Resolution.
- c. For development in the Corporate Limits or for development of land proposed for annexation, the minimum area and dimensions of office, commercial and industrial tracts shall be as specified by the Newbern Municipal Zoning Ordinance

and such tract shall also provide adequate space for the off-street service and parking facilities, landscaping and screening required by the type of use and proposed development.

- c. For developments outside the Corporate Limits under less otherwise dictated by the applicable Zoning Ordinance or Zoning Resolution the minimum area and dimensions of lots shall conform the the following standards.

The size, shape and orientation of lots shall be such as the Planning Commission deems appropriate for the type of development and use contemplated. Where public water and sanitary sewer systems are reasonably accessible, the subdivider shall connect with such systems and provide a connection or connections to each lot. Outside of the Corporate Limits, where a public sewer is not accessible, an alternate method of sewage disposal may be used, if it meets all applicable public health regulations.

- 1.) Lots served by public water but not sanitary sewer systems shall not be less than 90 feet wide at the building setback line nor less than 25,000 square feet in area. Provided, however, greater area may be required by the planning commission as indicated by data from percolation tests and investigations or as determined by the County Environmentalist.
- 2.) Size of properties reserved or laid out for commercial or industrial properties shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated. Platting of individual lots should be avoided in favor of an over-all design of the land to be used for such purposes.

4. Building Setback and Yard Requirements

- a. For development in the Corporate Limits or for development of land proposed for annexation, all lots or tracts shall have at least the minimum front, side and rear yard that is required by the Municipal Zoning Ordinance. To accommodate site peculiar conditions, such as side yard drainage, the Planning Commission may require increasing the yard requirements for a given lot or tract.
- b. For developments outside the Corporate Limits, all lots or tracts shall have at least the minimum front, side and rear yard of 30 feet unless dictated by an applicable Zoning Ordinance or Zoning Resolution. The front setback shall be measured from the dedicated or existing (if more than required by the applicable Major Road Plan) right-of-way.
- c. In the case of electrical transmission lines where easement widths are not definitely established, there shall be a minimum building setback line from the center of the transmission line as follows:

<u>VOLTAGE LINE</u>	<u>MINIMUM</u>	<u>BUILDING</u>
<u>SETBACK</u>		
46 KV		37.5 feet
69 KV		50 feet
161 KV		75 feet

5. Large Tracts or Parcels

Where land is subdivided into larger parcels than ordinary buildings sites, such parcels shall be arranged to allow for future opening of streets and for logical re-subdivision. In no case shall this be construed to allow the creation of severed parcels.

6. Lot Drainage and Grading

Where possible, lots shall drain toward the street or toward both the street and the rear lot lines. In case of drainage to the rear lot line, lateral drainage along rear lot lines shall be required, necessitating careful attention to grading. Where required by the topography, side yard drainage may be required, in which case it may be necessary to increase the minimum side yard requirements. Terracing of lots, particularly in residential subdivisions, shall be avoided unless essential for erosion control or to reduce the velocity of runoff.

D. BLOCKS

Blocks configuration within a subdivision is essentially determined by the street layout; hence, it must provide safe and sufficient vehicular and pedestrian circulation.

1. Block Length

Blocks shall be not less than four hundred (400) feet nor more than twelve hundred (1200) feet in length measured centerline to centerline of street, except as the Planning Commission may deem necessary to secure efficient use of the land or desired features of street pattern. The Planning Commission may require one (1) or more public cross walks of not less than ten (10) feet in width extending entirely across the block at locations deemed necessary.

2. Block Width

Blocks shall be wide enough to allow two (2) rows of lots, except where double frontage or open space is provided or required, or where prevented by topography or other physical conditions of the side. In such cases, the Planning Commission may permit a single row of lots.

E. DRAINAGE AND STORM SEWERS

1. General Requirements

The Planning Commission shall not approve any plat of a subdivision which does not make adequate provisions for stormwater or floodwater run-off channels or basins. The stormwater drainage system shall be separate and independent from any sanitary sewer system.

2. Nature of Stormwater Facilities

a. Location

The subdivider may be required by the Planning Commission to transport by pipe or open ditch any spring or surface water that may exist prior to or as a result of the subdivision. Such drainage facilities shall be located in the public right-of-way, where feasible, or in perpetual unobstructed easements of appropriate width and shall be constructed in accordance with the construction specifications contained in these regulations.

b. Accessibility to Public Storm Sewers

(1) Where a public storm sewer is accessible, the developer shall install storm sewer facilities, or if no outlets are within a reasonable distance, adequate provisions shall be made for the disposal of stormwaters, subject to the specifications of the appropriate governmental representative; inspection of facilities shall be conducted to assure compliance. Inspection of facilities shall be conducted by the enforcing officer.

(2) If a connection to a public storm sewer will be provided eventually, as determined by the Planning Commission, the subdivider shall make arrangements for future stormwater disposal by a public system at the time the Plat receives final approval. Provisions for such connection shall be incorporated by inclusion in the Surety Instrument or Performance Bond required for the Final Plat.

c. Accommodation of Upstream Drainage Areas

A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. Necessary facilities shall be sized based on the construction specifications and assuming conditions of maximum potential watershed development permitted by the Zoning Ordinance or the minimum lot size above.

d. Effect on Downstream Drainage Areas

The Planning Commission also shall study the effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the Planning Commission may withhold approval of the subdivision until provision has been made for adequate improvement of such drainage facilities in such sum as the Planning Commission shall determine. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.

e. Areas of Poor Drainage

Whenever a plat is submitted for an area which is subject to flooding, the Planning Commission may approve such subdivision; provided, that the applicant fills the affected floodway fringe area of said subdivision to place public way elevations at no more than twelve (12) inches below the regulatory flood elevation and first floor elevations (including basements) at no less than one (1) foot above the regulatory flood elevation. The plat of such subdivision shall provide for a floodway along the bank of any stream or watercourse of width sufficient to contain or move the water of the regulatory flood, and no fill shall be placed in the floodway; neither shall any building nor flood-restrictive structure be erected or placed therein. The boundaries of the floodway and floodway fringe area, and the regulatory flood elevation, shall be determined by the Planning Commission based upon the review specified in these regulations and the submission of flood data on a the Preliminary Plat as specified in these regulations.

f. Floodplain Areas

The Planning Commission may when it deems it necessary for the health, safety, or welfare of the present and future population of the area or necessary to the conservation of water, drainage, and sanitary facilities, prohibit the subdivision of any portion of the property which lies within the floodplain of any stream or drainage course. The regulatory floodway shall be preserved from any and all destruction or damage resulting from clearing, grading, or dumping of earth, waste material, or stumps. Any subdivision which contains flood-prone land shall be subject to the special provisions set forth in these regulations, the Newbern Municipal Zoning Ordinance, the Newbern Regional Zoning Ordinance, the Dyer County Zoning Resolution, the Dyer County Floodplain Management

Resolution, any other applicable federal, state, county, municipal, or other regulatory body established by law.

3. Dedication of Drainage Easements

a. General Requirements

Where a subdivision is traversed by a watercourse, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially to the lines of such watercourse and of such width and construction as will be adequate. Where open drainage ways are utilized they shall be designed for the twenty-five (25) year frequency flood.

b. Drainage Easements

(1) Where topography or other conditions are such as to make impracticable the inclusion of drainage facilities within the right-of-way of a public way, perpetual unobstructed easements at least ten (10) feet in width for such facilities shall be provided across property outside the public way lines and with satisfactory access to public ways. All easements shall be indicated on the Preliminary Plat and Final Plat. Drainage easements shall be carried from the public way to a natural watercourse or to other drainage facilities.

(2) When a new drainage system is to be constructed which will carry water across private land outside the subdivision, appropriate drainage rights must be secured and indicated on the plat.

(3) The applicant shall dedicate, when required by the Planning Commission by drainage or conservation

easement, the land on both sides of an existing watercourse to a distance to be determined by the Planning Commission.

- (4) Along watercourses, low-lying lands within any floodway, whether or not included in areas for dedication, shall be preserved and retained in their natural state as drainage ways.

4. Ditching, Concrete Ditch Paving, Culverts and Storm Drains

The design and construction details of drainage facilities shall be in accordance with the provisions of these regulations. The design and construction details of all such facilities shall be approved by the appropriate governmental representative.

F. WATER FACILITIES

1. General Requirements

- a. Necessary action shall be taken by the developer to extend a water supply system capable of providing domestic water use and fire protection.
- b. Where a public water main is within reasonable access of the subdivision, as determined by the Planning Commission, the subdivider shall install adequate water facilities, including fire hydrants, subject to construction and material specifications, approval of the Planning Commission, the Tennessee Department of Environment and Conservation and these regulations.
- c. Where required for fire protection, water mains shall not be less than six (6) inches in diameter.

- d. All water systems, whether public or private, located in a flood-prone area shall be floodproofed to the regulatory flood protection elevation. All water supply facilities located below the regulatory flood protection elevation shall be designed to prevent the infiltration of floodwaters into the water supply system and discharges from the system into floodwaters.

2. Fire Hydrants

Fire hydrants shall be required in all subdivisions within reasonable access as determined above; they shall be located no more than five hundred (500) feet apart. However, the Planning Commission may require closer spacing where physical conditions or types of structures so warrant. To eliminate future public way buttings or openings, all underground utilities for fire hydrants, together with the fire hydrants themselves, and all other water supply improvements shall be installed before any final paving of a public way shown on the subdivision plat, unless otherwise approved by the Planning Commission.

- G. SEWAGE FACILITIES

1. General Requirements

For development outside of areas defined below or outside of proposed annexation areas, the applicant shall ensure all lots within the proposed subdivision are adequate in size to allow for the installation and operation of a subsurface waste disposal system and shall be required to provide certification by the Dyer County Health Officer of adequacy for individual subsurface sewage disposal (septic tank) systems on each proposed lot.

2. Mandatory Connection to Public Sewer System

- a. For developments inside the Corporate Limits or within 1000 feet of existing adequate public facilities, the applicant shall

install sanitary sewers in the subdivision and shall provide sanitary sewer facilities to each lot therein and shall connect the facilities to the public system. The subdivider shall provide sewers which meet standards set forth in the regulations of the Tennessee Department of Environment and Conservation.

- b. All sanitary sewer facilities located in a flood hazard area shall be floodproofed to the regulatory flood protection elevation. All sewer facilities located below the regulatory flood protection elevation shall be designed to prevent infiltration of floodwaters into the sewer system and discharges from the system into floodwaters.

3. Design Criteria for Sanitary Sewers

- a. Sanitary sewer systems shall be designed for the ultimate tributary population based upon appropriate plans and zoning regulations.
- b. The minimum size of a public sewer line shall be eight (8) inches in diameter for gravity lines and six (6) inches in diameter for forced lines unless approved by the Town of Newbern in accordance with Town policies. Individual lot service lines shall be a minimum of four (4) inches.
- c. Sanitary sewers shall be located within a public street right-of-way, unless topography dictates otherwise. Public utility easements shall be provided across private property for access to lines and manholes, such easements to be of an adequate width for service purposes, but in no case less than twenty (20) feet.

H. ELECTRIC FACILITIES

1. General Requirements

- a. Necessary action shall be taken by the developer to extend an electric supply system capable of providing services to the proposed use based on zoning or proposed zoning if annexation is considered.
- b. The subdivider shall install adequate electric facilities subject to construction and material specifications within the area legally served by the Newbern Electric System based on duly and legally adopted policies under state, federal, or other appropriate regulations.

I. GAS FACILITIES

1. General Requirements

- a. Necessary action shall be taken by the developer to extend an gas supply system capable of providing services to the proposed use based on zoning or proposed zoning if annexation is considered.
- b. The subdivider shall install adequate gas facilities subject to construction and material specifications within the area legally served by the Newbern Gas System based on duly and legally adopted policies under state, federal, or other appropriate regulations.

J. UTILITY EASEMENTS

- 1. Easements along front rear and side lot lines, if deemed necessary by the Planning Commission, shall be provided for utilities (private or public). Such easements shall be at least twenty (20) feet wide. The subdivider shall take such action necessary to ensure the

coordination and continuation of utility easements established on adjacent properties with those proposed within his development.

2. Where topographical or other conditions are such as to make impractical the inclusion of utilities within rear lot lines, perpetual unobstructed easements at least twenty (20) feet in width shall be provided along side lot lines with satisfactory access to public ways or rear lot lines. All easements shall be indicated on the Final plat.
3. Temporary construction easements exceeding the width of permanent easements may be required as necessary until completion of utility extensions.

K. PRESERVATION OF NATURAL FEATURES AND AMENITIES

Existing features which would add value to a residential development or to the area as a whole, such as trees, watercourses and falls, historic spots, and similar irreplaceable assets, shall be preserved in the design of the subdivision, as required by the Planning Commission. No change of grade of the land shall be affected nor shall any natural features be removed or relocated until a Preliminary Plat has been approved by the Planning Commission.

L. NONRESIDENTIAL SUBDIVISIONS

1. General

If a proposed subdivision includes land which is zoned for a commercial or industrial purpose, the layout of the subdivision with respect to such land shall make such provisions as the Planning Commission may require. A nonresidential subdivision also shall be subject to all the requirements of site plan approval as set forth in the applicable zoning ordinance. Site plan approval may proceed simultaneously at the discretion of the Planning Commission. A nonresidential subdivision shall be subject to all the requirements of these regulations, as well as such additional

standards set forth by the Planning Commission, and shall conform to the Land Development Plan, Major Road Plan, and Zoning Ordinance.

2. Standards

In addition to the principles and standards in the regulations, which are appropriate to the planning of all subdivisions, the subdivider shall demonstrate to the satisfaction of the Planning Commission that the public way, parcel, and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:

- a. Proposed industrial parcels shall be suitable in areas and dimensions to the types of nonresidential development anticipated.
- b. Public rights-of-way and pavements shall be adequate to accommodate the type and volume of traffic anticipated.
- c. Special requirements may be imposed by the governing body with respect to any public way, curb, gutter, and sidewalk design and construction specifications.
- d. Special requirements may be imposed by the governing body with respect to the installation of public utilities, including water, sewer, and stormwater drainage.
- e. Every effort shall be made to protect adjacent residential areas from potential nuisance from the proposed nonresidential subdivision, including the provision of extra depth in parcels backing on existing or potential residential development and provisions for permanently landscaped buffer strips, when necessary.

- f. Public ways carrying nonresidential traffic, especially trucks, normally shall not be extended to the boundaries of adjacent existing or potential residential areas.

## ARTICLE VI

### PREREQUISITES TO FINAL SUBDIVISION APPROVAL

#### A. GENERAL REQUIREMENTS

As a condition precedent to the final acceptance of any subdivision, subdivision addition or re-subdivision, every subdivision developer shall be required to grade and improve streets and other public ways, to install survey monuments, utilities, curbs, gutters, sidewalks, sewers, water mains, storm water inlets, surface and ground water drainage channels and structures, and buffer screens, and to prepare the plant landscaping in accordance with these regulations and the *Local Government Public Works Standards and Specifications*. In lieu of the completion of such improvements prior to final subdivision acceptance, the Planning Commission may accept a Surety Instrument or Performance Bond, in an amount and with surety and conditions satisfactory to it, providing for and securing to the Town of Newbern the actual construction and installation of such improvements within a period specified by the Planning Commission and expressed in the Surety Instrument or Performance Bond.

#### B. SURETY INSTRUMENT IN LIEU OF COMPLETED IMPROVEMENTS

The subdivision developer shall furnish to the Town of Newbern a construction Surety Instrument or Performance Bond showing the Newbern Municipal-Regional Planning Commission as the beneficiary. The amount of the Surety Instrument or Performance Bond shall equal 100 percent of the cost of all public improvements and shall be irrevocable. The Surety Instrument or Performance Bond shall be effective for one (1) year with renewal for one (1) year with no effort on the part of the Town of Newbern. Terms of the Surety Instrument or Performance Bond shall be as determined by the Water and Sewer System Superintendent, the Street Superintendent, Electric System Superintendent, and Gas Department Superintendent of Newbern and

approved by the Planning Commission in accordance with Sections 13-3-402 and 13-4-303 Tennessee Code Annotated.

1. Reduction of Surety Instrument or Performance Bond Upon Partial Completion

Upon completion of the major improvements, and upon final inspection and acceptance by the Water and Sewer System Superintendent, the Street Superintendent, Electric System Superintendent, Gas Department Superintendent, the developer may reduce the amount of the Surety Instrument or Performance Bond or he/she may substitute a new Surety Instrument or Performance Bond to secure the obligation with respect to incomplete or unacceptable improvements. The residual improvements shall normally be limited to such items as erosion control, re-vegetation, landscaping, and planting, and to those improvements such as sidewalks, handicap ramps, and curb cuts and driveway aprons which are deferred pending completion of building construction in those instances where the developer is also the builder.

2. Enforcement of Surety Instruments/Performance Bonds

Failure of the developer to comply with any or all parts of these regulations subsequent to Final Plat approval shall be grounds for issuance of a stop work order by the Building Inspector and enforcement of the Surety Instrument or Performance Bond by the Town of Newbern.

C. SURVEY MONUMENTS

Permanent and semi-permanent survey monuments are an essential by-product of the land subdivision process. Such monuments facilitate the resurvey of lands contained within the subdivision and provides survey control points for future cadastral and cartographic surveys and mapping.

Each subdivision developer shall provide, at his expense, all survey monuments and documentation specified herein.

1. Permanent Monuments

- a. A permanent survey monument shall be set behind the curb on the North and East side of every street and at least one monument shall be provided near each street intersection and located to provide inter-visibility with one or more monuments located on each of the intersecting streets. At least one monument shall be located at a point in the exterior boundary of the subdivision or subdivision addition. There shall be a minimum of two (2) such permanent monuments within every subdivision.
  
- b. All corners shall be established and shall be metal or concrete. The type of corner (old or new) shall be indicated on the plat. Metal monuments shall be no less than 1/2 inch in diameter; concrete corners shall be no less than 4 inches in diameter; and both shall be no less than 18 inches in length unless some impregnable material is encountered. All new corners placed shall have a cap or tag or non-corrosive material with the surveyor's registration number or company name stamped. In the case of placement of a concrete marker, the marker shall have a permanent mark for the survey point and shall have the surveyor's registration number or company name attached or stamped. A notation on the plat shall be made stating whether the corners were found or set, and in addition, the statement shall indicate the material and size of the corner found or set. New corners shall be established at dedicated or existing road or street rights-of-way so as to assist Public Works, building officials, or Utility Departments in practical duties of their jobs such as setback evaluation, utility maintenance or construction, as well as street maintenance or construction.

The top of each monument shall have an indented cross to identify the precise location of the survey point, and the top shall be set flush with the finished grade of the surrounding surface or, in asphalt paved areas, flush with the finished grade of the pavement base.

- c. Where deemed necessary by the Director of Public Works or appropriate Utility Superintendent, to insure recovery of survey point, a subsurface mark set in concrete poured at the base of the concrete monument and plumbed to the surface mark shall be required.

2. Unauthorized Survey Marks

Survey reference marks, benchmarks, witness marks, or auxiliary corners which are unsightly or damaging to curbs, gutters, sidewalks, driveways, and street pavements shall not be permitted. Any such unauthorized marks and corners shall be removed or repaired by the developer at his expense, prior to Final Plat approval.

3. Survey Documentation

The developer shall provide to the Director of Public Works or appropriate Utility Superintendent, prior to Final Plat approval, a detailed description of all new and recovered permanent survey monuments lying within or on the boundary of the subdivision. Each description shall include:

- a. A physical description of the monument.
- b. Instructions for locating the monument with respect to a fixed prominent landmark.
- c. Survey data in addition to that shown on the Final Plat which shall, when available, consist of adjusted plan coordinates

and elevation, survey precision and accuracy, and datum to which coordinates and elevation refer.

D. STREET IMPROVEMENTS

The developer shall construct all streets, roads, and alleys at his expense to the approved alignments, grades and cross sections. Deviations due to site peculiar conditions may be allowed only with prior approval of the Planning Commission.

1. Special Precautions

Where streets are constructed under or adjacent to existing electric transmission lines or over gas transmission lines, the nearest edge of the pavement shall be a minimum of fifteen (15) feet from any transmission line structure. All street grading shall be done in a manner which will not disturb the structure nor result in erosion endangering the structure. In the case of electric transmission lines, the clearance from the pavement surface to the nearest conductor shall meet the requirements of the National Electrical Safety Code.

2. Minimum Pavement Widths

Minimum pavement widths shall be measured excluding gutters and shoulders. For developments with side ditches, the widths of the shoulders shall be three (3) feet to the slope of the ditch. The minimum shall be as follows:

- a. Major Arterial as required
- b. Minor Arterial .....as required
- c. Major Collector.....36 feet
- d. Minor Collector .....32 feet

e. Minor/Residential.....28 feet

f. Dead-end (Cul-de-sac) .....26 feet

The turnaround shall have an improved pavement diameter of 80 feet.

g. Marginal Access .....26 feet

Rural roads shall be defined as roads not defined on the applicable Major Road Plan; outside the Corporate Limits or an area which is not intended for annexation; and not anticipated to be extended beyond the boundary of the proposed subdivision.

h. Alley .....20 feet

3. Roadway Subgrade Preparation

a. Clearing and Grubbing

Before roadway grading is started, the entire right-of-way area shall be cleared of all stumps, brush, roots, all trees not intended for preservation, and all other objectionable materials. The cleared and grubbed material shall be disposed of in a legal manner, generally away from the construction site.

b. Excavation

During construction, roadbed excavations should be maintained in a smooth condition with sufficient slope to insure adequate drainage under all weather conditions. All obstructions, such as roots, stumps, boulders and other similar material, shall be removed. Rock, when

encountered, shall be scarified to a depth of twelve (12) inches below the subgrade. All loose material in the roadway shall be compacted in the manner prescribed in the *Local Government Public Works Standards and Specifications* and the Street Superintendent.

c. Embankment

All suitable material from roadway excavations may be used in the construction of roadway embankments. Excess or unusable materials shall be legally disposed of away from the construction site. The fill material used in the construction of embankment shall be spread in layers not to exceed six (6) inches loose and shall be compacted at optimum moisture content by a sheeps foot roller or other compacting equipment approved by the Street Superintendent. During construction, embankments shall be maintained in a smooth condition with sufficient slope to insure adequate drainage under all weather conditions.

d. Dust Control

Provide positive methods and apply dust control materials to minimize raising dust from construction operation and provide positive means to prevent airborne dust dispersing into the atmosphere.

4. Pavement Base Course

After preparation of the subgrade, the roadbed shall be surfaced with an approved material conforming to the *Local Government Public Works Standards and Specifications*. The pavement base course shall consist of a gravel base material which shall be a hard and durable road type gravel with size gradation from two (2) inches down to dust fines. After compaction, the gravel base shall be at least six (6) inches thick on streets with rights-of-way less

than eighty (80) feet, and ten (10) inches thick on streets with rights-of-way of eighty (80) feet or more.

5. Roadway Surfacing

After preparation of the base course the roadway surface shall be paved with an aggregate base and a wearing surface. The aggregate base shall be installed prior to the issuance of any building permits within the subdivision. Prior to the installation of the wearing surface at least 90% of all building permits in the approved subdivision shall be issued which will allow time for the repair of any damage to the gravel base or aggregate base caused by construction vehicles.

a. Aggregate Base

The aggregate pavement surface shall consist of approved aggregate and asphalt cement mixed in proper proportions. The aggregate shall be a minimum of two (2) inches of compacted Tennessee Department Of Transportation type 307-B bituminous hot mix. The roadway surface shall be paved with the aggregate and asphalt cement mix laid hot in a single course on the prepared base course. The aggregate and asphalt cement shall be two (2) inches thick prior to issuance of building permits.

b. Wearing Surface

The final one (1) inch asphalt concrete laid hot wearing surface shall be in place prior to acceptance by the Town or County and relinquishment of the Surety Instrument or Performance Bond. This final asphalt wearing surface shall be of compacted Tennessee Department of Transportation type 411-E bituminous hot mix.

6. Curbs and Gutters

- a. Curbs and gutter shall be required in all subdivisions within the Town or areas requesting sanitary sewer.
- b. Curbs and gutters shall be either permanent integral type six inch (6") concrete curbs with twenty-four inch (24") gutters when there is an existing curb and gutter system in place; standard rolled type concrete curbs and gutters; or other construction approved by the Planning Commission. Only the standard eight inch (8") curbs and twenty-four inch (24") gutters shall be permitted on major streets. For major streets a waiver of the requirement to install curbs and gutters shall not be granted.

E. PERMANENT ACCESS EASEMENTS

A private and permanent easement may be permitted under certain conditions. These easements shall meet the following minimum requirements and any special conditions attached by the planning commission, and the requirements and special conditions for the easement shall be placed on the final plat for recording.

1. A permanent easement shall be of a required width of no less than fifty (50) feet. However, the planning commission may require greater widths if necessary to meet special conditions present on a plat.
2. A permanent easement providing legal access to more than one (1) lot shall be considered a street and shall be improved to meet the road construction standards established in Article V and VI of these regulations.

3. If, at any future date, a permanent easement is submitted for acceptance as a public street or road, it shall be submitted to the planning commission for approval. In considering the permanent easement for approval as a public street or road, the planning commission shall require the improvements to the permanent easement to meet the minimum street construction standards in effect at the time the request for public acceptance is made.
  
5. Inside the Corporate Limits, a building permit may be issued for a building to be located on a recorded lot of record as of April 21, 1987, which lot fronts on a permanent easement with access to an existing public street or road; provided, however, that any future subdivision of said lot shall be subject to these provisions.

F. ENVIRONMENTAL PROTECTION AND PRESERVATION

Protection and preservation of the environment particularly its natural features such as ground cover, trees, soils, and watersheds are an essential element of subdivision design. The developer shall provide, at his expense, all erosion control, re-vegetation planting, and protection for existing vegetation.

1. Erosion Control

The subdivider shall submit a plan and schedule for soil erosion and sedimentation control to the Street Superintendent for approval. The subdivider shall provide necessary erosion control such as seeding for gentle slopes, grass sod for sharper slopes, with special grading and terracing in accordance with the plans approved by the Street Superintendent and Planning Commission. All freshly excavated embankment areas not covered with satisfactory vegetation shall be fertilized, mulched and seeded and/or sodded as required to prevent erosion. Storm sewer inlets shall have debris guards as approved by the Street Superintendent to trap sediment and avoid possible damage by blockage. Provisions shall be made to accommodate increased runoff caused

by changed soil and surface conditions during development. Runoff shall be intercepted and safely conveyed to storm drains or natural outlets where it will not erode or flood land. Sediment basins shall be installed and maintained to collect sediment from runoff waters. If it is determined by the Street Superintendent that the necessary erosion control is not being provided by the subdivider, the Street Superintendent shall officially notify the subdivider of the problem. If the subdivider has not begun to provide satisfactory erosion control within ninety (90) days after the notice, the Town shall make the necessary improvements to eliminate the erosion problem documenting all expenses incurred. Prior to release of the Surety Instrument or Performance Bond, all expenses incurred by the Town shall be paid in full by the subdivider.

2. Preservation of Trees and Re-vegetation

No trees of caliper of eighteen 18 inches or larger measured five (5) feet above the surrounding ground surface shall be removed if at all possible, and special attention shall be given to preserving larger trees. For removal of trees greater than twelve (12) inches in diameter, the Planning Commission may require a plan for re-vegetation, in order to recover soil stabilization, percolation or buffering lost by removal of such tree.

G. STORM DRAINAGE

1. The developer shall install, at his expense, an adequate drainage system within the subdivision and within the right-of-way of all streets bordering the subdivision, including but not limited to curbs and gutters, open ditches, pipes, culverts, intersection drains, drop, inlets, bridges, etc., and shall provide for the proper drainage of all surface water as deemed necessary by the Street Superintendent. All drainage fixtures to include but not limited to curbs, gutters and culverts.

2. In subdivisions where curbs and gutters are not required or provided, the developer shall provide open drainage ditches on each side of the roadbed. These drainage ditches shall be a minimum of three (3) feet in width and shall be constructed with a maximum three (3) to one (1) 3:1 slope, width-to-height.
3. All intersections of streets shall have a minimum of a fifteen (15) inch metal, concrete or aluminum culvert with concrete head walls at least six (6) inches above the street. Drainage culverts required at locations other than intersecting streets shall be metal, aluminum or concrete with concrete head walls at least six (6) inches above the face of culvert.
4. In subdivisions where curbs and gutters are required or provided, the developer shall provide inlets every six hundred (600) feet which empty into storm sewer facilities, and will be required when existing public storm sewer is accessible. When easements are required for drainage facilities outside the road right-of-way, the easement shall be at least fifteen (15) feet in width. Drainage easements shall be carried from the road to a natural watercourse or to other drainage facilities.

H. SIDEWALKS, WALKING TRAILS , CURB CUTS, DRIVEWAY APRRONS AND HANDICAP RAMPS

1. Sidewalks

a. Sidewalks will not ordinarily be required, however they may be required in special areas, such as in neighborhoods with existing sidewalks. The Planning Commission reserves the right to require sidewalks where the safety of pedestrians and children at play demand them.

b. Sidewalks shall be located in the street right-of-way with the outside edge coinciding with the right-of-way line. All sidewalks shall have a main slab of not less than four (4) inches in thickness. For proper drainage all sidewalks shall have one-fourth an inch (1/4) per foot slope towards the adjacent street. Sidewalks shall conform to the following minimum widths:

- (1) Single-family residential .....4 feet
- (2) Multi-family .....5 feet
- (3) Commercial, Non-residential.....5 feet

2. Handicap Ramps

In all subdivisions where sidewalks, curbs and gutters are required, handicap ramps shall be installed at all crosswalks so as to make the transition from street to sidewalk easily negotiable for physically handicapped persons in wheelchairs and for others who may have difficulty in making the step up or down from curb level to street level.

5. Curb Cuts and Driveway Aprons

All curb cuts and the installation of driveway aprons shall be approved by the Newbern Street Department and shall be in a manner which insures positive drainage to the street. An expansion joint with filler shall be provided at each edge of the driveway apron where it abuts the curb and gutter. If roll type curbs and gutters are used, curb cuts may be waived by the Planning Commission.

6. Quality of Concrete

All sidewalks, curbs, gutters, handicap ramps and driveway aprons shall be constructed of high quality durable portland cement concrete. The concrete shall be ready-mixed, air entrained, 4000 lb. concrete. All concrete shall be Class A and shall be placed, cured, and tested in accordance with the *Local Government Public Works Standards and Specifications*.

7. Deferment of Installation

At the request of the developer, the Planning Commission may defer the installation of sidewalks, curb cuts, driveway aprons, and handicap ramps under the following conditions and procedures:

- a. Where the individual builders assume responsibility for installation of sidewalks, curb cuts and driveway aprons, the developer shall be relieved of responsibility for such installations. The responsibility assumed by individual builders shall become a condition of the building permit and shall comply with the *Local Government Public Works Standards and Specifications* and the standards pertaining to sidewalks, curb cuts and driveway aprons contained in these regulations. No certificate of occupancy shall be issued until the required improvements are complete and accepted.

- b. If developers request this deferment, said conditions shall be noted on the plat.

I. INSTALLATION OF UTILITIES AND SANITARY SEWERS

After roadway grading is completed and approved and before any base course is applied, all of the underground work (i.e. water mains, sewers, gas, electric, etc. and all service connections) shall be installed completely and approved throughout the length of the roadway and across the flat section.

1. Water Supply System

- a. Water mains properly connected with the Newbern water supply system shall be constructed to serve adequately for both domestic use and fire protection to all lots and building sites shown on the subdivision plat.
- b. The size of water mains, the location and types of valves and hydrants, the amount of soil cover over the pipes and other features of the installation shall be as reviewed by the Water and Sewer System and shall conform to accepted standards of good practice for municipal water systems.
- c. All water supply system construction plans and specifications shall be approved by the area office of the Tennessee Department of Environment and Conservation, prior to any construction in accordance with Section 69-13-102, Tennessee Code Annotated. Copies of comments and certificates of approval for the above agency shall be forwarded to the Water and Sewer System Superintendent.
- d. Water mains shall not be less than six (6) inches in diameter. The Water and Sewer System specifically reserves the authority to require larger diameter pipe if necessary to

adequately serve both domestic use and fire protection of the subdivision development.

- e. The developer shall be responsible for the cost of design and construction of any and all water lines which will service the development.

2. Sanitary Sewer Extension

- a. The project developer shall be responsible for the design and construction of a sanitary sewer system adequate to serve that development.

The complete plans and specifications for such project must be reviewed and approved by the Water and Sewer System prior to construction.

- b. The Water and Sewer System of Newbern specifically reserves the right to determine and require certain placement and depth of sanitary sewer installation within the project to meet future service needs.

The Water and Sewer System further reserves the right to require excess capacity construction, at the developer's full expense, within the development if the developer creates a future need for such sewer line, interceptor or outflow to the Town's overall development.

- c. The developer shall be responsible for either directly providing, or reimbursing the Town of Newbern, the cost of any off-site improvements directly related to his development, i.e. the added capacity necessary due to that project. This may be for excess capacity lines, lines to meet needs of the project, or lift station improvements.

In those instances of mutual agreement, the Town may design and construct such off-site improvements, as provided herein.

- d. On major sewer outfalls, lift stations, interceptors, including excess capacity, where the Town requires improvements off-site the developer shall be responsible for the cost of such off-site improvements on the total system at full expense.

In those instances of mutual agreement, the Town may design and construct such off-site improvements, as provided herein.

3. Electric System

- a. The size and location of lines, poles, transformers, insulators, and other features of the installation shall be as reviewed by the Electric System and shall conform to accepted standards of good practice for municipal electric systems.
- b. All electric system construction plans and specifications shall be approved by the appropriate federal or state officials. Copies of comments and certificates of approval for the appropriate agency shall be forwarded to the Electric System Superintendent.

4. Gas System

- a. The size and location of lines, regulators, warning signs, and other features of the installation shall be as reviewed by the Gas System and shall conform to accepted standards of good practice for municipal gas systems.
- b. All gas system construction plans and specifications shall be approved by the appropriate federal or state officials.

Copies of comments and certificates of approval for the appropriate agency shall be forwarded to the Gas System Superintendent.

J. OTHER UTILITY PLANS OR AS BUILT DRAWING REQUIRED FOR NON-MUNICIPAL UTILITIES

In order to coordinate and prevent conflicts between Newbern municipal and other utility providers, the developer shall show the location of all existing or planned utilities and easements during the Preliminary Plat process. These utilities shall include but not be limited to gas, electric, telephone, cable television, and any other utility providers, whether public or private. These documents should include documentation as to approval of the facilities, locations, and other conditions.

K. SCREENING AND LANDSCAPING

Where required by the Planning Commission and these Regulations, fences and vegetative screening and landscaping shall be provided along the perimeter of certain developments to protect residential districts from undesirable views, lighting, noise, and other adverse influences. Other landscaping may be required for open space reserved as a part of the storm drainage system, for recreational areas, and for erosion control and preservation of environment and of historical landmarks. Landscaping shall not be placed within a public right-of-way.

1. Residential Development

- a. Where a residential development has lots which have double frontage on a public streets that has been designated on the major road plan as an arterial or has the status of an arterial (alleys excepted), there shall be continuous screening along the rear line of these lots. Visibility areas required for traffic

safety as designated by the Street Superintendent shall not be screened.

- b. Where a residential development abuts against a nonresidential use, a continuous screening shall be required.

2. Non-Residential Development

Where a nonresidential development abuts against a residential use, a continuous screening shall be required.

3. Other Landscaping

The Planning Commission may specify to the developer those areas within the subdivision which require landscaping. The developer shall present to the Planning Commission, a detailed landscaping plan and planting schedule if required.

L. TECHNICAL SPECIFICATIONS INCLUDED BY REFERENCE

The Technical Specifications of the Town of Newbern as set forth in Article VI and Article VII are included in all of the foregoing requirements of this article and these regulations by reference. Unless these regulations state otherwise, deviations to the Technical Specifications may be allowed only with the prior approval of the Planning Commission.

## ARTICLE VII

### LEGAL STATUS PROVISIONS

#### A. POWERS OF THE PLANNING COMMISSION

These regulations are in accordance with the provisions of Chapter 3 and 4 Title 13, Tennessee Code Annotated, which grants to the Planning Commission the powers to regulate the subdivision of land within the Town and Planning Region of Newbern. In accordance with Sections 13-3-104 and 13-4-103, Tennessee Code Annotated, the Planning Commission, its members and employees, in the performance of its work, may enter upon any land and make examinations and surveys and place and maintain necessary monuments and marks thereon. The code further provides that, in general, the Planning Commission shall have powers as may be necessary to enable it to perform its purposes and to promote Municipal- Regional planning.

#### B. ENFORCEMENT OF SUBDIVISION REGULATIONS

The enforcement of these regulations is provided for by State law in the authority granted by public acts of the State of Tennessee.

##### 1. Submission of Subdivision Plat for Approval

No plat of a subdivision of land into (2) or more lots or tracts located within the planning region of Newbern, shall be admitted to the land records of Dyer County or received or recorded by the County Register of Deeds until such plat shall have been submitted to and approved by the Planning Commission and such approval entered in writing on the plat by the Secretary of the Commission as provided in Section 13-3-402 and 13-4-302, Tennessee Code Annotated.

2. Acceptance of and Improvements of Unapproved Streets

No board, public official, or authority shall accept, layout, open, improve, grade, pave or light any street or lay or authorize water mains or sewers or connection to be laid in any street within the Planning Region of Newbern unless such shall have otherwise received the legal status of a public street prior to adoption of these regulations, or unless such street corresponds in its location and lines to a street shown on a subdivision plat approved by the Planning Commission as provided in Sections 13-3-406 and 13-4-307, Tennessee Code Annotated; however, the Board of Mayor and Aldermen or County Commission within the Planning Region may locate and construct or may accept any other street, provided that the Ordinance or other measure for such location and construction or for such acceptance be first submitted to the Planning Commission for its approval, and if disapproved by the Commission, be passed by a majority of the entire membership of the Mayor and Board of Alderman or County Commission; and a street approved by the Planning Commission or constructed or accepted by said majority vote after disapproval by the Commission, shall have the status of an approved street as fully as though it had been originally shown on a subdivision plat approved by the Commission or on a plat made and adopted by the Commission.

3. Issuance of Building Permits

No building permit shall be issued and no building shall be erected on any lot within the Planning Region of Newbern, unless the street giving access to the lot upon which said building is proposed to be placed shall have been accepted or opened as or shall have otherwise received the legal status of a public street prior to the adoption of these regulations or unless such street corresponds in its location and lines with a street shown on a subdivision plat approved by the Planning Commission or on a street plat made and adopted by the Commission, or with a street located or accepted by

the Board of Mayor and Aldermen or County Commission as provided in Section 13-4-308 and 13-3-411, Tennessee Code Annotated. A building permit may be issued on a lot shown on a subdivision plat, approved by the Planning Commission, provided that the roadbed base has been applied and the subdivision development is substantially complete.

4. Access To Lots By Public Way or Private Easement

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 except in conformance with these regulations.

C. PENALTIES FOR VIOLATION

The penalties for the filing or recording of a plat, transfer or sale of land, and erection of a building, in violation of these regulations, are provided for by State law in authority granted by Public Acts of the State of Tennessee.

1. Recording of Unapproved Subdivision Plat

No County Register shall receive, file, or record a plat of a subdivision within the Town of Newbern or its planning region, without the approval of the Planning Commission as required in Section 13-4-302, Tennessee Code Annotated.

2. Transfer or Sale of Land Without Prior Subdivision Approval

Sections 13-3-410 and 13-4-306, Tennessee Code Annotated, 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 such 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 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 Town of Newbern through its Attorney or other official designated by the Board of Mayor and Aldermen may enjoin such transfer or sale or agreement by action or injunction.

3. Unlawful Structures

Any building erected or to be erected in violation of these regulations shall be deemed an unlawful structure, and the Building Inspector or the Attorney of the Town of Newbern or other official designated by the Board of Mayor and Aldermen may bring action to enjoin such erection or cause it to be vacated or removed as provided in Sections 13-3-411 13-4-308, Tennessee Code Annotated.

D. PROVISIONS OF REGULATIONS DECLARED TO BE MINIMUM REQUIREMENTS

In their interpretation and application, the provisions of these regulations shall be held to be minimum requirements, adopted for the public interest and orderly development of the Town of Newbern. Wherever the requirements of these regulations are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, or deed restrictions, the most restrictive, or that imposing the higher standards shall govern.

## ARTICLE VIII

### VARIANCES, APPEALS AND AMENDMENTS

#### A. VARIANCES

Variances to the general requirements, design standards and other improvements from the terms of these regulations may be granted or imposed by the Planning Commission. All requests for variances shall be submitted in writing to the Code Enforcement Office at least fifteen (15) days prior to the meeting date at which the variance is to be reviewed. The Planning Commission may grant variances provided the following conditions can be complied with:

1. 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.
4. The variance will not in any manner alter the provisions of the Land Use Plan, the Major Road Plans, or any 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.

B. AMENDMENT

The procedures, policies, design standards, requirements and restrictions set forth in these regulations may from time to time be amended, supplemented, changed, or rescinded by the Planning Commission. Before adoption of any amendment a public hearing thereon shall be held by the Planning Commission in accordance with Sections 13-3-402 and 13-4-303, Tennessee Code Annotated. The public hearing, giving the time and place of such, shall be published in a newspaper of general circulation in the Town of Newbern and Dyer County at least thirty (30) days prior to the meeting at which it is to be held.

## ARTICLE IX

### SEVERABILITY

Should any section or provisions of these Subdivision Regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

ARTICLE X

ADOPTION AND EFFECTIVE DATE

A. PUBLIC HEARING

Before adoption, amendment, revision, or rescission of all or part of these Subdivision Regulations, a Public Hearing as required by Sections 13-3-403 and 13-4-303, Tennessee Code Annotated, was afforded any interested person or persons.

B. EFFECTIVE DATE

The attachment of the Planning Commission's subdivision jurisdiction and these Subdivision Regulations shall be in full force and effect from and after their adoption and effective date. The effective date of any amendment, revision or rescission of those Subdivision Regulations shall be the date such amendment, revision or rescission shall have been adopted by the Planning Commission.

Adopted by the Planning Commission on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Chairman, Newbern Municipal-Regional Planning Commission

Attest

\_\_\_\_\_  
Secretary, Newbern Municipal-Regional Planning Commission

APPENDIX I

PRELIMINARY PLAT CERTIFICATES

CERTIFICATE OF ACCURACY OF ENGINEERING AND DESIGN

I, (printed name of signer), do hereby certify that I am a registered Professional Civil Engineer and hereby certify that the plans, engineering and designs governing the construction of this subdivision are true and correct, and conform to the requirements set forth in the Subdivision Regulations and Technical Specifications of the Town of Newbern

In witness where of, I, \_\_\_\_\_ (printed name of signer) \_\_\_\_\_, the said Professional Civil Engineer, hereunto set out my hand and affix my seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Professional Civil Engineer

State of Tennessee

Certificate No. \_\_\_\_\_

(SEAL) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

CERTIFICATE OF ADEQUACY OF STORM DRAINAGE

I, \_\_\_\_\_ (printed name of signer) \_\_\_\_\_, do hereby certify that I am a registered Professional Civil Engineer, and that I have designed all storm water drainage for the \_\_\_\_\_ (name of subdivision) Subdivision to assure that neither said

subdivision nor any adjoining properties will be damaged or the character of land use affected by the velocity and volume of water entering or leaving same.

In witness where of, I, \_\_\_\_\_ (printed name of signer) \_\_\_\_\_, the said Professional Civil Engineer, hereunto set out my hand and affix my seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Professional Civil Engineer  
State of Tennessee  
Certificate No. \_\_\_\_\_

(SEAL)

APPENDIX II

FINAL PLAT CERTIFICATES

CERTIFICATE OF OWNERSHIP AND DEDICATION

I (we) hereby certify that I am (we are) the owner(s) of the property shown and described hereon as recorded in Deed Book \_\_\_page \_\_\_in the Office of the Register of Dyer County, Tennessee and that I (we) adopt this plan of subdivision with my (our) free consent, establish the minimum building restriction lines, and dedicate the streets, easements, rights-of-way, rights of access and all areas of public and private use as noted and hereby certify that I am the owner in fee simple, duly authorized so to act, and that said property is unencumbered by any taxes that have become due and payable.

\_\_\_\_\_, 20 \_\_\_\_

\_\_\_\_\_  
Date Owner

\_\_\_\_\_  
Owner

STATE OF TENNESSEE  
COUNTY OF DYER

Before me, the undersigned, a notary public in and for the State and County aforesaid, duly commissioned and qualified, personally appeared (printed name of signer), with whom I am personally acquainted and who, upon oath, acknowledge himself to be owner of the (printed name of subdivision) Subdivision, and he as such owner, executed the foregoing instrument for the purpose therein contained by signing his name as owner.

In witness whereof, I hereunto set out my hand and affix my seal this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

MORTGAGEE CERTIFICATE

We, the undersigned, \_\_\_\_\_ (printed name of Mortgagee) \_\_\_\_\_, Mortgagee of the property shown and described hereon as recorded in Deed Book page \_\_\_ in the Office of the Register of Dyer County, Tennessee and that I (we) adopt this plan of subdivision with my (our) free consent, establish the minimum building restriction lines, and dedicate the streets, easements, rights-of-way, rights of access and all areas of public and private use as noted and hereby certify that I am the owner in fee simple, duly authorized so to act, and that said property is unencumbered by any taxes that have become due and payable.

\_\_\_\_\_  
Mortgagee

STATE OF TENNESSEE  
COUNTY OF DYER

Before me, the undersigned a notary public in and for the State and County aforesaid, duly commissioned and qualified, personally appeared \_\_\_\_\_ (printed name) \_\_\_\_\_ of \_\_\_\_\_ (printed name of subdivision) \_\_\_\_\_ Subdivision, and he as such representative executed the foregoing instrument for the purpose therein contained by signing his name as representative of the mortgagee.

In witness whereof, I hereunto set out my hand and affix my seal this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

CERTIFICATE OF SURVEY

I, \_\_\_\_\_ (printed name of signer) \_\_\_\_\_, do hereby certify that I am a registered Land Surveyor, and that I have surveyed the lands, embraced within the plat or map designated as the (name of subdivision) \_\_\_\_\_ Subdivision, a subdivision lying within the corporate limits or planning region of the Town of Newbern, Tennessee; said plat or map is a true and correct plat or map of the lands embraced therein, showing the subdivision thereof in accordance with the Subdivision Regulations of the Town of Newbern, Tennessee; I further certify that the survey of the lands embraced within said plat or map have been correctly monumented in accordance with the Subdivision Regulations of the Town of Newbern, Tennessee.

In witness where of, I, \_\_\_\_\_ (printed name of signer) \_\_\_\_\_, the said Registered Land Surveyor, hereunto set out my hand and affix my seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Registered Land Surveyor  
State of Tennessee  
Certificate No. \_\_\_\_\_

(SEAL)

CERTIFICATE OF THE APPROVAL OF SEWER AND WATER SYSTEMS

I \_\_\_\_\_ (printed name of signer) \_\_\_\_\_, hereby certify: (1) that all improvement, including but not limited to water mains, sewer mains, fire hydrants, lift stations, pumps, and/or other required or necessary improvements have been installed in accordance with these regulations and the Technical Specifications adopted by Town of Newbern, or (2) that a surety instrument has been provided to the Planning Commission which would assure completion of all required improvements for this subdivision, in case of default.

\_\_\_\_\_, 20

\_\_\_\_\_  
Date  
Works

\_\_\_\_\_  
Water & Sewer System Superintendent/Public

CERTIFICATE OF THE APPROVAL OF STREETS

I \_\_\_\_\_ (printed name of signer) \_\_\_\_\_, hereby certify: (1) that all improvements, including but not limited to streets and drainage treatments have been installed in accordance with these regulations and the Technical Specifications adopted by Town of Newbern, or (2) that a surety instrument has been provided to the Planning Commission which would assure completion of all required improvements for this subdivision, in case of default.

\_\_\_\_\_, 20

\_\_\_\_\_

Date

Street Superintendent

CERTIFICATE OF THE APPROVAL OF ELECTRICITY

I \_\_\_\_\_ (printed name of signer) \_\_\_\_\_, hereby certify: (1) that all improvements, including but not limited to transmission lines, transformers, insulators, poles, and any other improvements have been installed in accordance with these regulations and the Technical Specifications adopted by Town of Newbern, or (2) that a surety instrument has been provided to the Planning Commission which would assure completion of all required improvements for this subdivision, in case of default.

\_\_\_\_\_, 20

Date

\_\_\_\_\_

Electric System Superintendent

CERTIFICATE OF THE APPROVAL OF GAS

I \_\_\_\_\_ (printed name of signer) \_\_\_\_\_, hereby certify: (1) that all improvements, including but not limited to gas mains, regulators, warning signs, and other required improvements have been installed in accordance with these regulations and the Technical Specifications adopted by Town of Newbern, or (2) that a surety instrument has been provided to the Planning Commission which would assure completion of all required improvements for this subdivision, in case of default.

\_\_\_\_\_, 20

\_\_\_\_\_  
Date

\_\_\_\_\_  
Gas Department Superintendent

CERTIFICATE OF APPROVAL OF SUITABILITY OF SOILS FOR SEPTIC TANKS

(Language and septic restrictions to be supplied by Tennessee Department of Environment and Conservation. Any required restrictions are to be on the face of the plat signed by the County Environmentalist. Proof of existing septic tanks, references to existing septic facility locations or additional information may be required by the Planning Commission prior to subdivision plat approval, which may be noted on the plat or documented in attachments.)

CERTIFICATE OF ADEQUACY OF STORM DRAINAGE

I, \_\_\_\_\_ (printed name of signer) \_\_\_\_\_, do hereby certify that I am a registered Professional Civil Engineer, and that I have designed all storm water drainage for this subdivision in accordance with the Town of Newbern Subdivision Regulations to assure that in my professional opinion neither said subdivision or the adjoining properties will be damaged.

In witness where of, I, \_\_\_\_\_ (printed name of signer) \_\_\_\_\_, the said Professional Civil Engineer, hereunto set out my hand and affix my seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Professional Civil Engineer  
State of Tennessee  
Certificate No. \_\_\_\_\_ (SEAL)

CERTIFICATE OF ACCURACY OF ENGINEERING AND DESIGN

I, \_\_\_\_\_ (printed name of signer) \_\_\_\_\_, a professional Civil Engineer, do hereby certify that the plans, engineering and designs governing the construction of this subdivision are true and correct, and conform to the requirements set forth in the Subdivision Regulations and Technical Specifications of the Town of Newbern.

In witness where of, I, \_\_\_\_\_ (printed name of signer) \_\_\_\_\_, the said Professional Civil Engineer, hereunto set out my hand and affix my seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Professional Civil Engineer  
State of Tennessee

Certificate No. \_\_\_\_\_

(SEAL)

CERTIFICATE OF APPROVAL OF AVAILABILITY OF WATER(Minor Plat Only)

I, \_\_\_\_\_(printed name of signer)\_\_\_\_\_, do hereby certify that I have reviewed the proposed minor subdivision and certify that public water is available.

\_\_\_\_\_, 20 \_\_\_\_\_

\_\_\_\_\_  
Date Water and Sewer System  
Superintendent

CERTIFICATE OF APPROVAL OF AVAILABILITY OF SEWER(Minor Plat Only)

I, \_\_\_\_\_(printed name of signer)\_\_\_\_\_, do hereby certify that I have reviewed the proposed minor subdivision and certify that public sewer is available.

\_\_\_\_\_, 20 \_\_\_\_\_

\_\_\_\_\_  
Date Water and Sewer System  
Superintendent

CERTIFICATE OF APPROVAL OF AVAILABILITY OF ELECTRICITY (Minor Plat Only)

I, \_\_\_\_\_(printed name of signer)\_\_\_\_\_, do hereby certify that I have reviewed the proposed minor subdivision and certify that electricity is available.

\_\_\_\_\_, 20 \_\_\_\_\_

\_\_\_\_\_  
Date Electric System Superintendent

CERTIFICATE OF APPROVAL OF AVAILABILITY OF GAS (Minor Plat Only)

I, \_\_\_\_\_(printed name of signer)\_\_\_\_\_, do hereby certify that I have reviewed the proposed minor subdivision and certify that gas is available.

\_\_\_\_\_, 20 \_\_\_\_\_

Date

Gas System Superintendent

CERTIFICATE OF APPROVAL OF ACCESS TO A PUBLIC STREET (Minor Plat Only)

I, \_\_\_\_\_ (printed name of signer) \_\_\_\_\_, do hereby certify that I have reviewed the proposed minor subdivision and certify that all lots have access to an adopted public way.

\_\_\_\_\_, 20 \_\_\_\_\_

Date

\_\_\_\_\_  
Street Superintendent or Dyer  
County Superintendent of  
Highways

PLANNING COMMISSIONS CERTIFICATE OF APPROVAL OF THE FINAL PLAT

I, \_\_\_\_\_ (printed name of signer) \_\_\_\_\_, do hereby certify that the Newbern Municipal-Regional Planning Commission has approved this Final Plat of subdivision for recording.

\_\_\_\_\_, 20 \_\_\_\_\_

Date

\_\_\_\_\_  
Secretary of the Newbern  
Municipal-Regional Planning  
Commission

APPENDIX III

SCHEDULE OF FEES (ESTABLISHED BY LEGISLATIVE BODY)

1. Plans Review

0 to 50 Lots	\$ .00
51 to 100 Lots	\$ .00
101 to 250 Lots	\$ .00
251 to 500 Lots	\$ .00
Over 500 Lots Negotiated	Fee  with the Consulting Engineer

2. Services

Water Connection Fee	\$ .00
Sewer Connection Fee	\$ .00
Gas Connection Fee	\$ .00
Inspection Fee Per Lot	\$ .00

Recording Fee at Courthouse