

April 22, 2012

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GENERAL PROVISIONS

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1-101 TITLE

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

1-102 AUTHORITY

These subdivision regulations are adopted by the Signal Mountain Planning Commission (hereinafter referred to as "Planning Commission"), pursuant to the authority and powers granted by the State of Tennessee in TCA Sections 13-4-301 through 13-4-310 (Public Acts of Tennessee, 1935, as amended). The Planning Commission has fulfilled the requirements set forth in state law as prerequisites to adopt these regulations by designating a major street plan for the jurisdictional area; filing a certified copy of said plan with the Hamilton County Register of Deeds (hereinafter referred to as "County Register"), as required by Sections 13-3-402 and 13-4-302, Tennessee Code; and holding a public hearing as indicated in Subsection 1-108.1 of these regulations. .

1-103 JURISDICTION

These Subdivision regulations shall apply to all Subdivisions of land, as defined herein, located within the limits of the Town of Signal Mountain.

"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 subdividing or to the land or area subdivided." (T.C.A. 13-4-301)

The regulations shall not apply to the Subdivision of land that will produce tracts of land, all of which are greater than five (5) acres in size with frontage, on a public street. (T.C.A. 13-4-301)

1-104 POLICY

The policy of the Town of Signal Mountain is that the subdivision of land and development of a subdivision plan shall conform to the principles of the adopted Land Use Plan for the Town of Signal Mountain for orderly, planned, and efficient physical and economical development.

Land to be subdivided shall be of such character that it can be used for building purposes without danger of fire, flood, or other menace. Land shall not be subdivided until proper provisions have been made for drainage, water, sewerage, other public utilities, and for other required public services.

The regulations herein shall supplement and facilitate enforcement of the provisions and standards contained in the Zoning Ordinance of Signal Mountain, Tennessee.

1-105 PURPOSE

1-105.1 Conformance

In conformance with the Town Land Use Plan and with state enabling legislation, the purpose of these regulations shall:

1. Provide for the harmonious development of the Town of Signal Mountain and to retain its small town character.
2. Promote the public health, safety, and general welfare of the jurisdictional area.
3. Guide 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.
4. Provide for conservation and maintenance of open land, including those areas containing unique and sensitive natural features such as woodlands, steep slopes, streams, floodplains and wetlands by setting them aside from development.
5. Provide greater design flexibility and efficiency in the siting of infrastructure, including the opportunity to reduce length of roads, utility runs, site grading, and the amount of paving required for residential development thus minimizing costs to developers, landowners and citizens.

6. Minimize impacts on environmental resources (sensitive lands such as wetlands, floodplains and steep slopes) and disturbance of natural or cultural features such as mature woodlands, hedgerows and tree lines, critical wildlife habitats, historic buildings, and fieldstone walls.
7. Provide opportunities to enhance or restore existing resources that have been diminished or degraded through past land management practices.
8. 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 and roads.
9. Establish reasonable standards of design and procedures for subdivisions and re-subdivisions, to further the orderly layout and use of land; and to ensure proper legal descriptions and proper monumentation of land.
10. Provide for a diversity of lot sizes, building densities, housing choices to accommodate a variety of age and income groups, as well as residential preferences to maintain the community's population diversity.
11. Enhance the character, economic stability and encourage the orderly, beneficial development of the jurisdictional area.
12. Ensure that public facilities are available and will have sufficient capacity to serve all proposed subdivisions.
13. Prevent pollution of air, streams, and ponds; to assure adequacy of drainage facilities; to safeguard the water table; and to preserve the integrity, stability, beauty, and value of land within the jurisdictional area.
14. Preserve the natural beauty and topography of the jurisdictional area including establishing substantial buffers with scenic roadways, existing protected lands and actively worked farmland and to ensure appropriate development with regard to these natural features.
15. Promote the infiltration of storm water on-site to recharge groundwater supplies.
16. Conserve scenic views and elements of the Town's rural character by minimizing views of new development from existing roads.
17. Provide for environmental protection and interconnected networks of open spaces, to sustain a diversity of native vegetation and wildlife through efficient design and layout of the land, including use of a yield plan to provide for reductions in minimum width and area of lots.
18. Coordinate roads within the subdivided land with other existing or planned roads or with state or regional plans or with the plans of municipalities in or near the Town.
19. Encourage landowners to provide positive environmental outcomes through such processes including, but not limited to, natural hydrology, retaining

and planting native species and avoiding disturbance of old waste and mine sites.

1-106 INTERPRETATION, CONFLICT, AND SEVERABILITY

1-106.1 Interpretation

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

1-106.2 Conflict with Public and Private Provisions

1-106.201 Public Provisions

These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule, or regulation, statute, or other provision of law adopted by the Signal Mountain Town Council or the state or federal government and regulatory agencies. Where any provision of these regulations imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

1-106.202 Private Provisions

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

1-106.3 Severability

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

1-107 SAVING PROVISION

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

rights obtained by any person by lawful action of the governing body, except as expressly provided otherwise in these regulations.

1-107.1 Previously Approved Subdivisions

1-107.101 Unexpired Preliminary Plans

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

1-107.102 Expired Preliminary Plans

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

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

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

1-107.2 Filing of Approved Plats

All previously approved final plats shall be filed with the county register's office within one (1) year following adoption of these subdivision regulations. In the event the owner fails to file a plat within the one (1) year time period stipulated herein the approval shall become void and no building permit may be issued for any lot located therein until action is taken to reinstate the plat. All Final Plats approved following adoption of these regulations shall be filed with the county register's office as provided in Subsection 2-107.602 (Recording of Plat) of these regulations.

1-108 AMENDMENTS

1-108.1 Enactment – For the purpose of providing for the public health, safety, and general welfare, the Planning Commission may from time to time amend these regulations. Before adoption of any amendment to these regulations, the Planning Commission shall hold a public hearing as required by Article 4, Title 13, Tennessee Code Annotated.

1-108.2 Codification and Distribution

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

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

1-109 RE-SUBDIVISION OF LAND

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

1-110 CONDITIONS FOR APPROVAL

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

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

1-111.1 Vacation of Plats

Any plat or any part of any plat may be vacated by the owner, at any time before sale of any lot described therein, by a written instrument, to which a copy of such plat shall be attached, declaring the plat or part of the plat to be vacated. In approving the vacation of plats the Planning Commission shall follow the same procedure for approval of plats. The Town Council may reject any such instrument that abridges or destroys any public rights in any of its public uses, improvements, or public ways. Such an instrument shall be executed, acknowledged, or approved, and duly recorded or filed; the instrument shall operate to void the recorded plat and divest all public rights in the public ways

and public grounds and all dedications described in such plat. When any lot or lots shown on a plat have been sold, such plat may be vacated in the manner indicated herein, provided however, all owners of lots located in such platted area must join in the execution of such writing.

1-111.2 Abandonment of Right-of-Way Dedications

Any dedicated right-of-way shown on a recorded subdivision plat can be abandoned only through the re-subdivision of such plat, or through the re-subdivision of the affected section of such plat, according to the procedures stated in Subsection 1-111.1, (Vacation of Plats) of these regulations. Thereby, the Planning Commission must approve the re-subdivision of the initially recorded plat that depicts the dedicated right-of-way or future public way access area, in such a manner wherein such dedicated right-of-way is deleted from said plat. Once this revised plat is officially recorded, it acts to supersede the originally recorded plat, and accordingly abandons the respective dedicated right-of-way or future public way access area. No official action shall be made by the Planning Commission in relation to the abandonment of any dedicated right-of-way, pending public notification of adjacent property owners by registered mail as to the time and place of the Planning Commission meeting to officially address such action.. Any public way access area or dedicated right-of-way that is abandoned as per the procedures cited herein, shall require action by the Town Council to permanently abandon such dedicated right of way which shall be filed and recorded in the County Register's Office.

1-112 VARIANCES

1-112.1 General

A variance from these regulations may be granted; provided, such variance shall not have the effect of nullifying the general intent and purpose of these regulations and provided, further, that the Planning Commission shall not grant variances unless it finds, based upon written evidence presented in each specific case, that all of the requirements below are met:

1. Granting of the variance will not be detrimental to the public safety, health, or welfare, or be injurious to other property or improvements in the neighborhood where the property is located.
2. Conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property. **An example may be if the Planning Commission finds that a development is infill in nature and use of the conservation subdivision model would not result in compatible density and form. Remove. We do not require conservation subdivision as an option for parcels less than 3 acres. See Attachment to this email "NOTES FOR ZONING".**
3. A particular hardship (not self-imposed) would result because of the particular physical surroundings, shape, or topographical condition of the specific property involved, as distinguished

from a mere inconvenience, if the strict letter of these regulations were carried out.

4. The variance shall not in any manner violate the spirit of the Land Use Plan or conflict with the zoning ordinance.

1-112.2 Procedures

The applicant for a variance shall identify in writing the numerical section(s) of the subdivision regulations for which a variance is sought. **A separate form provided by the town manager shall be used to list any and all variance(s) being requested. This form shall accompany the Development Plan.** Any condition shown on the plan that would require a variance shall constitute grounds for disapproval of the plan unless application for a variance is made. In approving any variance the Planning Commission shall state fully in its minutes the grounds on which the variance was granted. The minutes of the meeting that occurs when the action approving the variance(s) is taken shall reflect the specific nature and content of such variance(s). If a variance is denied, reason shall be clearly stated in the minutes.

1-112.3 Conditions

In approving variations or variances, the Planning Commission may impose conditions that it deems will secure substantially the objectives, standards, and requirements of the regulations.

1-113 ENFORCEMENT, VIOLATION AND PENALTIES

1-113.1 General

1-113.101 Authority

The enforcement of these regulations and the penalties for violations are provided pursuant to Section 13-4-306, Tennessee Code Annotated.

1-113.102 Enforcing Officer

It shall be the duty of the Town Manager to enforce these regulations and to bring to the attention of legal counsel any violations or lack of compliance herewith.

1-113.103 Recording of Plats

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

1-113.104 Use of Unapproved Plats

Pursuant to Section 13-4-306, Tennessee Code Annotated, no owner, or agent of the owner, of any land shall convey such land contrary to the provisions stated herein and the Town Attorney may enjoin any such transfer or sale or agreement by action for injunction.

1-113.105 Public Ways and Utilities

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

1-113.106 Building Permits

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

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

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

1-113.2 Penalties for Violations

1-113.201 Use of Unapproved Plats

Section 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, exhibition of or by other use of a plat of subdivision of such land without having submitted a plat of such subdivision to the Planning Commission and obtained its approval as required before such plat be recorded in the office of the appropriate county register, shall be deemed guilty of a misdemeanor punishable as other misdemeanors as provided by law; and the description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties. The Town through its attorney may enjoin such transfer or sale or agreement by action of injunction.

1-113.202 Illegal Buildings

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

1-113.3 Civil Enforcement

1-113.301 General

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

1-113.302 Specific Statutory Remedies

- a. Use of Unapproved Plats – The Town, through its attorney or other official designated by the Town, may enjoin by action for injunction any transfer of, sale of, or agreement to sell any land in violation of Subsection 1-113.104 (Use of Unapproved Plats), of these regulations.
- b. Erection of Unlawful Buildings – Where any building or structure is erected or being erected on any lot in violation of the street or easement frontage requirements of Subsection 1-113.107, (Access to Lots by Public Way or Private Easement), of these regulations, the building official or the Town attorney or other official designated by the Town Council may bring action to enjoin such erection or cause the building or structure to be vacated.

1-114 REPEAL OF PREVIOUS REGULATIONS

Upon the adoption and effective date of these regulations, the Subdivision Regulations, of Signal Mountain, Tennessee, adopted June 6, 1991, as amended, are, hereby, repealed.

1-115 FEES FOR PLAN REVIEW

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

1-116 APPEALS

Any person, firm, or corporation that feels aggrieved by a decision of the Planning Commission in approving, denying, deferring, or granting a conditional approval of a plat may present their petition to a court of competent jurisdiction.

Regulation of the subdivision of land and the attachment of reasonable conditions to land subdivision is an exercise of valid police power delegated by the State to the Signal Mountain Planning Commission (TCA 13-4-302.) The developer has the duty of compliance with reasonable conditions laid down by the Planning Commission for design, dedication, improvement and restrictive use of the land so as to conform to the physical and economic development of the Town of Signal Mountain and to the safety and general welfare of the future lot owners in the subdivision and the community at large.

