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Duties and Powers of Planning Commission

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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The regional planning commission is charged with several specific duties. It is required to adopt a general plan, and any amendments thereto, for the physical development of the region, copies of which must be certified to the Department of Economic and Community Development and to the legislative bodies of each county and municipality in the region. T.C.A. §§ 13-3-301, 13-3-304. The general plan, and any amendments thereto, must be approved by the county legislative body to be operative. Furthermore, the county legislative body can amend the general plan on its own initiative. General plans must be consistent with the county's growth plan and may be adopted as part of the county's growth plan.

The planning commission is also to advise county and municipal governing bodies in such areas as public improvement programs and construction of roads, bridges, and other public structures. The regional planning commission should coordinate its efforts with those of any municipal planning regions within its area, cooperate with authorities in neighboring states and regions, and, in general, perform any functions needed to promote regional planning. T.C.A. § 13-3-104. In exercising several of its duties, including the adoption of a regional plan, subdivision regulations and zoning ordinances, planning commissions are charged with identifying areas with inadequate or nonexistent public or private services and facilities necessary for development to occur and including such considerations in the plans, regulations and ordinances.

One of the most important duties of the regional planning commission involves plat approval. After the commission has developed and filed a regional plan, subdivisions, except ones lying inside municipal borders, must be approved by the regional planning commission before it may be recorded by the county register. Plats dividing a tract into no more than twenty-five lots, if the development received preliminary plan approval through the planning commission, or five lots if the development did not require preliminary plan approval through the planning commission, do not require planning commission approval. Such plats may be endorsed by the secretary or other designee of the planning commission. The regional planning commission may delegate its plat approval authority to the commission's staff under certain conditions. T.C.A. § 13-3-402.

Regional planning commissions must approve or disapprove a plat within 60 days after the initial consideration by the commission at a regularly scheduled session, with an exception for holidays and unexpected office closings. Plats must be placed on the commission's agenda within thirty (30) days of the plat's filing or placed on the agenda for the next regularly scheduled commission meeting after the thirty (30) day period. These deadlines may be waived by the applicant. T.C.A. § 13-3-404. What constitutes a subdivision is defined in T.C.A. §§ 13-3-401(4) and 13-4-301(4). A representative of the commissioner of the state Department of Environment and Conservation (usually the county health officer) must approve subdivision plats when subsurface sewage disposal is to be used before the planning commission approves the plat. T.C.A. § 68- 221-407. A plat may be submitted only by the owner of the land (as defined in T.C.A. § 13-3-402) or by a governmental entity, and all plats must include the most recently recorded deed book and page numbers for all property included in the plat. T.C.A. § 13- 3-402. A plat must contain the personal signature and seal of a registered land surveyor or a registered engineer before the plat is eligible for filing in the register's office. T.C.A. § 66-24-116. Amendments, modifications, and corrections to recorded subdivision plats must have the approval of the appropriate regional or municipal planning commission to be eligible for recording with the county register of deeds, except that a survey of an easement or survey attached to an easement granted to a governmental entity may be recorded without planning commission approval, even if it modifies a plat of a recorded subdivision. T.C.A. §§ 13-3-402, 13-4-302.

All of these matters – platting regulations, road and utility requirements, and procedures for submission of plats – are addressed more specifically in T.C.A. § 13-3-403 *et seq.* However, these provisions do not apply to any subdivision plat registered prior to February 14, 1935, or to land partitioned by a court of competent jurisdiction. T.C.A. §§ 13-3-407, 13-3-408. Furthermore, these sections do not repeal or impair private acts relating to planning requirements. T.C.A. § 13-3-409.

Additionally, regional planning commissions are required to adopt rules for the transaction of their business which must include the selection of additional officers from among its members it deems appropriate to fulfill the organizational needs of the regional planning commission, the requirements for the regional planning commission to make findings of fact, statements of material evidence and reasons for its actions as part of each motion or action of the regional planning commission and the keeping of a record of its resolutions, transactions, motions, actions, and determinations. T.C.A. § 13-3-103.

In order that the regional planning commission may accomplish its functions, it is granted certain

statutory powers. One of the most significant is the authority to adopt regulations governing the subdivision of land within its jurisdiction; these regulations provide the requirements for plat approval. Counties may require legislative body approval of subdivision regulations or amendments enacted by the regional planning commission. T.C.A. § 13-3-403. Additionally, T.C.A. § 13-3-403(b) authorizes regional planning commissions to condition final plat approval on the completion of infrastructure improvements or in lieu of such completion, submittal of a bond, letter of credit, or other method of assurance, in form, in amount, and with conditions and surety satisfactory to the regional planning commission. The bond, letter of credit, or other method of assurance shall provide for and secure to the public and the local government the actual construction and installation of the infrastructure improvements within a period specified by the regional planning commission and expressed in the bond, letter of credit, or other method of assurance. The county attorney is required to enforce any bond, letter of credit, or other method of assurance by all appropriate legal and equitable remedies, and moneys collected on the bond, letter of credit, or other method of assurance shall be paid into the county's treasury. Upon the order of the regional planning commission, the moneys must be applied to the construction and installation of the infrastructure improvements. Planning commissions must include as part of their subdivision regulations provisions stating that they will only exercise their authority in accordance with the legal standards set forth in United States Supreme Court cases, *Nollan v. California Coastal Comm'n* and *Dolan v. City of Tigard*. T.C.A. § 13-3-403.

Also, the planning commission is entitled to relevant information from local officials, and its members may enter upon property for examination or survey. T.C.A. §13-3-104. The commission may hire employees, with some restrictions, and it may contract with planners and other experts. Expenditures of the commission are governed by T.C.A. § 13-3-103. Under certain circumstances the planning commission also has the power to combine substandard lots under one owner into one standard lot. T.C.A. § 13-3-402. The planning commission may also grant variances to subdivision regulations. T.C.A. § 13-3-402.

Additionally, T.C.A. §13-3-413 authorizes regional planning commissions to promulgate provisions in subdivision regulations and recommend zoning ordinance amendments for the establishment of review and approval powers for site plans and the establishment under the zoning provisions for review and approval of planned unit developments, overlay districts, mixed use developments, condominiums and other types of sustainable design and development of property. Infrastructure and internal development improvements such as public and non-public roads, water and sewer lines, landscaping, green space, sustainable design features and other improvements as required by the planning commission, either through its subdivision regulation or through the local government's zoning ordinance, shall be subject to bonding or other methods of guaranteeing their installation. The planning commission may set and hold the guaranteeing instruments or may designate another governmental body that duty and function.

T.C.A. §13-3-413 also provides for vested rights in preliminary development plans or final development plans or building permits if preliminary plans are not required. Under §13-3-413, the vesting period for building permits is as specified in the permit and the vesting period for development plans is three years from the date of preliminary plan approval. If an applicant receives final development plan approval, then the applicant is eligible to receive two additional years. Section 13-3-413 also specifies that the total vesting period may not exceed 10 years unless the local government grants an extension and the maximum vesting period for multi-phase developments is 15 years (for all phases); however, this time period can also be extended by the local government. Additionally, §13-3-413 provides that the development standards in effect at the time of plan or permit approval will apply to the property during the vesting period. Section 13-3-413 also specifies certain circumstances in which vesting rights can be terminated.

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