



## Chapter 4 PROPERTY REGULATIONS

### 4.1 Introduction

Property records within the City of Knoxville and Knox County are recorded and maintained by the Knox County Register of Deeds (2<sup>nd</sup> floor City County Building). Other offices also maintain valuable records related to property in the City of Knoxville. Those of particular importance include the Knox County Property Assessor's office (2<sup>nd</sup> floor, City County Building), the Metropolitan Planning Commission (4<sup>th</sup> floor, City County Building), and the City Engineering Department's Technical Services Section (4<sup>th</sup> floor, City County Building).

The Property Assessor's Office maintains property maps (usually referred to as CLT maps or tax maps) for the entire county. These maps reflect property boundaries as described in recorded deeds. The Metropolitan Planning Commission (MPC) administers the local subdivision regulations entitled *Knoxville-Knox County Minimum Subdivision Regulations*. MPC can provide copies of these regulations, the Major Road Plan, Zoning Maps, and other planning maps and documents. The City Engineering Department (Technical Services Section) maintains ward maps, survey plats, deeds, easements, state and local highway plans, storm drainage plans, site plans, site development permits, and other engineering-related information. Ward maps differ from tax maps because ward maps reflect property boundaries as shown on recorded surveys.

Most city and county agencies have access to a centralized and well-managed computer mapping tool called the Knoxville-Knox County-Knoxville Utilities Board Geographic Information System (KGIS). Basic topographic maps can be purchased at the Technical Services Section for a nominal fee. Specialized maps can be ordered through the KGIS offices.

Real property cannot be sold, conveyed, or otherwise encumbered in part, in lieu of the subdivision regulations. In addition to establishing new subdivided lots, land developers often must dedicate rights-of-way and certain kinds of easements. Typical property issues that occur during land development include:

- Dedication of utility easements
- Dedication of drainage and detention basin easements
- Dedication of access easements to property and certain facilities
- Dedication of road rights-of-way
- Abandonment of public road, streets, and alleys
- Abandonment of easements when no longer needed

There are many exceptions and many unusual cases when dealing with official land records, since standards, language, measurement units, utilities, and types of activities have been changing continuously for decades. Initial consideration in the preparation of plats is the research and depiction of all known land restrictions. When surveying property within the City of Knoxville,

the records available through the Technical Services Section of the City Engineering Department should be researched.

As a reminder, the words "property", "lot", "parcel" and "plot" may be used interchangeably to refer to a single undivided portion of land that is either legally recorded in the Knox County property records or is being proposed in good faith by well-prepared plan drawings. The following words, essential to understanding property regulations, are defined in either the Knoxville Zoning Ordinance or the Minimum Subdivision Regulations (as listed in Chapter 15):

alley	block	easement	lot
parcel	plat, final	Register of Deeds	right-of-way
street	subdivision	surveying	surveyor
utility	utility agency	zoning district	

#### 4.2 Origin of Zoning Powers

The state of Tennessee grants powers to county and municipal governments to establish zoning regulations under TCA Title 13, Chapter 7. This law contains the overall procedures for forming zoning commissions and for zoning plans. In addition, it allows the creation of historic districts with specialized requirements. These zoning powers reside in a joint governmental body (Knox County plus the City of Knoxville) called the Metropolitan Planning Commission (MPC). In addition to maintaining zoning ordinances and regulations, MPC also maintains the Knoxville-Knox County Minimum Subdivision Regulations for the purpose of having a uniform set of design standards and submission requirements for subdivision plans. The following portion of the state regulations indicates the broad purposes of zoning, from TCA Title 13 (Public Planning and Housing) and Chapter 7 (Zoning). In addition, the following section of the Knoxville Zoning Ordinance indicates the stated purposes of zoning within Knoxville. See the following two websites for state regulations and MPC regulations:

<http://www.tennesseeanyttime.org/main/government/laws.html>

<http://www.knoxmpc.org/zoning/zonhome.htm>

TCA Title 13, Chapter 7, Section 103. Purposes of zoning regulations.

"Such regulations shall be designed and enacted for the purpose of promoting the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of the state and of its counties, including, among other things, lessening congestion on the roads or reducing the wastes of excessive amount of roads; securing safety from fire and other dangers; promoting adequate light and air, including protecting and encouraging access to sunlight for solar energy systems; preventing, on the one hand, excessive concentrations of population and, on the other hand, excessive and wasteful scattering of population or settlement; promoting such distribution of population and such classification of land uses and distribution of land development and utilization as will tend to facilitate and conserve adequate provisions for transportation, water flowage, water supply, drainage, sanitation, educational opportunity, recreation, soil fertility, food supply and the protection of both urban and non-urban development."

[Acts 1935, ch. 33, § 3; C. Supp. 1950, § 10268.3; Acts 1979, ch. 259, § 8; T.C.A. (orig. ed.), § 13-403.]

Knoxville Zoning Ordinance, Article 1, Section 3, Purpose.

"WHEREAS, the Council of the City of Knoxville is empowered to regulate the use of land and buildings, the height of buildings, the size of open spaces, surrounding buildings and the density of population, and

WHEREAS, the Council of the City of Knoxville deems it necessary to exercise the power so granted in order to encourage the most appropriate use of land; to maintain and stabilize the value of property; to secure safety from fire, flood, panic, and other hazards; to prevent undue concentration of population; and to create a comprehensive and stable pattern of land uses upon which to plan for transportation, water supply, sewerage, schools, parks, public utilities, and other facilities; to promote the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants."

### 4.3 State Regulations for Land Surveyors

Work to locate and define property boundaries, topographic features, structures, and other improvements to land must be conducted under the direct supervision of a Registered Land Surveyor currently licensed to practice in the State of Tennessee. In Tennessee, land surveyors are licensed by the State Board of Examiners for Land Surveyors. The minimum statewide standards and many of the laws and regulations that govern the surveying profession can be found in a booklet prepared by the Board. It is entitled "*Tennessee Land Surveyors Laws and Regulations*". Excerpts from this publication and other regulations affecting surveyors are listed below for quick reference. The full text can be downloaded from the following two websites:

<http://www.tn.gov/commerce/topic/surveyor-rules-and-laws>

<http://share.tn.gov/sos/rules/0820/0820.htm>

- A. TCA Title 62 (Professions, Businesses and Trades), Chapter 18 (Land Surveyors)  
Registration requirements, definitions, State Board of Examiners, rosters, requirements for education and experience, manner of testing, reciprocity, renewals, use of surveyor's seal, disciplinary actions, violations, right-of-entry, liability, notice to affected landowners, types of registration fees, etc.
- B. TCA Title 66 (Property), Chapter 6 (Tennessee Coordinate System)  
Official coordinate systems for the State of Tennessee adopted and defined (Tennessee Coordinate System of 1927 and Tennessee Coordinate System of 1983), U. S. Survey Foot, English-metric conversion factors, minimum proximity to horizontal control monuments.
- C. TCA Title 66 (Property), miscellaneous chapters:
  - 1. Section 66-11-102: Liens
  - 2. Section 66-24-103: Conveyances of land
  - 3. Section 66-24-113: Metropolitan identification map
  - 4. Section 66-24-116: Filing and recording restrictions for maps, plats and surveys
  - 5. Section 66-24-121: Name, address and license number of surveyor on instruments
  - 6. Chapter 66-27: Horizontal property act (apartments, townhouses, common areas)

D. Rule 0820 (Rules of the Tennessee Board of Examiners for Land Surveyors)

Chapter 0820-3, Standards of Practice:

Definitions, nomenclature, abbreviations, accuracy of surveys, preparations of maps, computation of areas, types of surveys, requirements for property surveys, requirements for topographic surveys, requirements for GPS surveys, requirements for hydrographic surveys, marking property boundaries, terminology for descriptions, minimum accuracy of surveying instruments and apparatus.

Chapter 0820-4, Rules of Professional Conduct:

Proper conduct, protection of public safety and welfare, areas of competence, public statements, truthfulness, conflicts of interest, acceptance of work, misrepresentation of academic or professional experience, misconduct, use of seals and signatures, definition of personal supervision.

#### **4.4 Subdivision Requirements**

See the Knoxville-Knox County Minimum Subdivision Regulations for the requirements for the subdivision of land. Before being officially recorded at the Knox County Register of Deeds office, a final plat (informally called a subdivision plat) must be approved by the Metropolitan Planning Commission (MPC). Contact the MPC staff concerning submission requirements and deadlines for the consideration of Concept Plans and Final Plats at the MPC meetings. MPC at its monthly meeting (2<sup>nd</sup> Tuesday of each month) will review:

- Subdivision Concept Plans
- Final Plats based on an approved Concept Plan (also requires design plan approval by City Engineering Department and KUB)
- Final Plats for minor subdivisions (subdivision of less than 6 lots with no construction or dedication of a public street)
- Final Plats where a variance is requested from the Minimum Subdivision Regulations.

A final plat may be reviewed by MPC staff internally as an administrative plat if it meets one of the following conditions:

- Divides a tract of land into two lots, thereby creating only one new lot.
- Combines existing lots into no more than two lots.
- Adjusts the lot line or lines between two existing recorded lots.
- A plat is required to record an easement, and no additional information or subdivision of land is involved.
- A plat meets the requirements for an exempt or corrected plat

#### **4.5 Easement and Right-Of-Way Dedications**

Final plats must be submitted to MPC for complete approval before being recorded with the Knox County Register of Deeds; see the MPC front desk for additional information. Detailed plat requirements are given in the *Knoxville-Knox County Minimum Subdivision Regulations*. An approved and recorded final plat is the official instrument used to subdivide land and to locate, describe, dedicate, and reserve road rights-of-way and various types of easements. All existing and proposed easements, reservations, or other encumbrances must be shown and identified.

The Minimum Subdivision Regulations require standard utility and drainage easements to be dedicated along all roads and property lines, both exterior and interior. However, final plats must often dedicate easements related to engineering issues as well. These dedications must be approved by the City Engineering Department. Many of them involve facilities needed to control storm water runoff and to prevent unnecessary contamination of Knoxville public waters. The following is a list of some typical easements and standard names to be used on survey plats:

- Detention Basin Easement (for dry or wet detention basins)
- Retention Basin Easement (for retention or infiltration basins)
- Water Quality Facility Easement (for oil/water separators, sand filter units, etc.)
- Access Easement for Detention Basin (or Retention Basin, or Water Quality Facility)
- Drainage Easement (for pipes, culverts, streams, ditches, swales)
- Utility Easement (specify sanitary sewer, electrical, telephone, TV cable, gas, water, etc.)
- Wetlands Easement (for natural or manmade wetlands)
- Greenway Easement

When a final plat is prepared for official recording at the Knox County Register of Deeds, the abutting public streets must comply with the Major Road Plan (maintained by MPC). The Major Road establishes minimum right-of-way widths and other parameters for all streets and roads within the City of Knoxville and Knox County. The property owner must dedicate any additional right-of-way necessary to meet the requirements of the Major Road Plan. The property owner will be asked to dedicate additional right-of-way only on his side of the road centerline.

#### **4.6 Engineering Plat Review**

MPC relies on various other agencies, including the City Engineering Department, for review of certain issues and features. The diagram in Figure 2-3 shows the plat review process from the perspective of the Stormwater Engineering Division. The checklist in Appendix A is used during the review of each plat. If a site development plan is required, the plat will be compared to the approved site development plan for complete agreement. When the plat review is complete, a list of any corrections and deficiencies will be sent to the Registered Land Surveyor in responsible charge of the survey.

#### **4.7 Right-Of-Way Closure**

A developer or landowner may request that a right-of-way should be closed due to a street realignment, property consolidation, or other considerations. Getting a street or alley closure is a

slow and lengthy process, typically taking months, and is regulated by MPC on behalf of the city and state. MPC accepts applications for street and alley right-of-way closures, and then distributes copies to the City Fire Department, City Engineering Department, Knoxville Utilities Board, U.S. Post Office, and other organizations with a potential interest. Sometimes a right-of-way has not been used for many years, with no visible trace of any previous street or road. In rare cases, a right-of-way may even predate all types of local government, so that there is no record of right-of-way dedication.

Road rights-of-way are classified as either "open" or "closed", and are also classified as either public or private. A public right-of-way is "open" if it has been dedicated for public use, even if a roadway has never been built within it. A public right-of-way is said to be "closed" if the public (represented by City Council in Knoxville) has abandoned all rights to use it as an access route. Easements are normally reserved for any existing utilities when a right-of-way is closed.

Frequently, a public right-of-way closure will be subject to certain conditions before approval is granted. Within the City of Knoxville, public right-of-ways can be closed by City Council only. Outside the city limits, public rights-of-ways can be closed by Knox County Commission only. Neither body will normally approve a closure unless the closure has been thoroughly investigated and approved by MPC first. MPC relies on the Engineering Department and Law Department to research the old records for each right-of-way closure. Within the city, the City Recorder prepares and maintains an ordinance for each right-of-way closure; the ordinance documents City Council's official action, describes the extent of the closure, and stipulates any reservations or conditions.

When a public right-of-way is closed (abandoned), the property reverts to the legal owner of the underlying fee interest. Most interior subdivision roads revert to the abutting property owners on each side up to the centerline (half-and-half). Property recipients may seek to obtain a quitclaim deed from the City by filing an application and paying a fee to the City Law Department.

Closing a public right-of-way, and thus obtaining the enclosed property, can sometimes greatly benefit a proposed land development. Right-of-way closures must not create any landlocked properties, substandard lots, or otherwise negatively affect access issues for nearby property owners. Nevertheless, right-of-way closures can be beneficial to all parties in some instances, including the local government which no longer has to maintain a right-of-way that is not needed. As part of the right-of-way closure application, the developer must obtain approval signatures from all affected persons and landowners. Right-of-way closure must be sufficiently advertised at the proposed right-of-way closure site and before the MPC monthly meeting.

City ward maps are the primary source for information concerning street and alley rights-of-way within the City. The ward maps typically show which rights-of-way are closed and associated city ordinances that closed them. The ward maps may be viewed at the Technical Services Section (Room 462, City County Building, telephone 865-215-2103).