

**ARTICLE 1. SHORT TITLES**

This Ordinance may also be known as the Hampshire County Subdivision Regulations or Hampshire County Subdivision Ordinance.

**ARTICLE 2. AUTHORITY AND PURPOSE**

**Section 2.0 General Authority**

This Ordinance was adopted by the authority of the West Virginia Code §8-24-1 et seq.

**Section 2.1 Purpose**

This Ordinance was adopted for the following purposes:

- a. To protect and provide for the public health, safety, and general welfare of Hampshire County;
- b. To assist in the orderly and efficient subdivision of land;
- c. To coordinate existing streets, roads, and utilities with new streets, roads, and utilities;
- d. To ensure that roads are safe and adequate for the type of subdivision selected and that adequate provision has been made for road maintenance;
- e. To safeguard lives and property from loss by fire, flood, and erosion;
- f. To protect water supplies and other natural resources;
- g. To protect prospective purchasers of land in subdivisions.

**ARTICLE 3. SUBDIVISIONS: DEFINITION AND EXEMPTIONS**

**Section 3.0 Definition of Subdivision**

For purposes of this Ordinance, a subdivision shall be any parcel of land which has been divided into two or more separate parcels.

**Section 3.1 Installment Sales Contracts for Land**

- a. An installment sales contract is a written agreement for the sale of land, with payment to be made in installments over a period of time, and with title to the land not to pass until the final payment has been made or as otherwise stipulated in the said contract.

- b. Any land subdivided and sold pursuant to an installment sales contract is governed by the provisions of this Ordinance, unless exempt under Section 3.2 below.
- c. Every installment sales contract for real estate shall be in such a form as to make it recordable among the land records of Hampshire County and shall be recorded in the Office of the County Clerk within twenty-one [21] days from the effective date of the sales contract. Responsibility for recording shall be that of the vendor.

### **Section 3.2 Exemptions**

All exemptions shall require Health Department approval and Department of Highways entrance permits except D, E, F, G, H, I, L and M. Plats are required to be at least 8 ½ by 14 inches in size. Plat margins have to be ½ to ¾ inches.

- a. The first two (2) parcels of less than twenty (20) acres each subdivided from a piece of land, provided said parcels adjoin an existing road maintained by the West Virginia Department of Highways, remainder can be less than twenty (20) acres but no less than two (2) acres (Any further subdivision either of those two parcels or the remainder comes under the provisions of this ordinance and shall be reviewed by the Hampshire County Planning Commission.).
- b. The formation of parcels of land which are twenty (20) acres or larger in size. A minimum 30 foot right of way will be required. Any further subdivision comes under the provisions of this ordinance. A remainder of less than twenty (20) acres is allowed with a twenty (20) acre exemption. Roads may not exceed 15 percent grade except in certain spots that may be 17 percent but cannot be longer than 60 feet. The roads have to be at least 16 feet in width and shall include requirements set forth for final plat approval with regards to grading of side roads. Article 12 section 12.0 page 23, Table 1.
- c. The formation of parcels of any size provided such lot is transferred by deed to a parent, child, grandparent, grandchild, or a stepchild of the landowner. The deed shall identify the relationship between grantor and grantee and the deed and plat shall contain the statement that “IF THE PROPERTY IS TRANSFERRED WITHIN FOUR [4] YEARS FROM THE DATE THE DEED IS CONVEYED SHALL CONSTITUTE A SUBDIVISION AND SHALL COMPLY WITH ALL PROVISIONS OF THE ORDINANCE.” The grantee may receive only one [1] such exempt lot within the county.  
As used in this Section [3.2-c], the word “transferred” shall not include:
  - 1. Deeds to Trustees to secure debt, except that no foreclosure can be had there under except at public auction and this provision must appear in the deed of trust;

2. Judicial sales or tax sales;
  3. Mortgages;
  4. Real estates transferred by will or intestacy.
- d. Division of land among heirs by will or court order of partition.
  - e. Transfer of parcels of land to achieve boundary line settlement.
  - f. The formation of cemetery lots.
  - g. Subdivisions or individual lots of which plats or deeds were recorded with the Clerk of the County Commission prior to the effective date of this Ordinance, provided such plats or deeds are of sufficient survey accuracy to permit the clear conveyance of lots by direct or deed reference without modification or addition.
  - h. When two or more contiguous parcels of land are merged for the sole purpose of enlarging an existing lot, tract, or parcel, the grantee agrees to merge the parcel being acquired with a parcel he presently owns, the parcel merged will not be counted as an out-sale against the grantor, provided the following conditions are met:
    1. The remaining portion of the parent tract does not violate any existing Hampshire County land use ordinance.
    2. The following merger statement must appear on the Plat representing the addition: "The \_\_\_ acre tract is to be merged with [give a brief property description including acreage, lot #, section and name of subdivision if applicable]. Any further modification of this land area shall be in compliance with the county subdivision ordinance."
  - i. Utility lots or areas created for the purpose of facilitation, metering or transmission of a legal utility such as gas, power, telephone, or rail transportation. The deed and plat shall contain the following statement: "The property here on described shall not be used for residential or commercial purposes other than the legal utility lots consistent with the Subdivision Ordinance." In order to convert such a lot to residential or commercial usage, it shall be considered as a new lot and be subject to the provisions of the Subdivision Ordinance, the rules and regulations of the Hampshire County Health Department and The West Virginia Department of Highways and other applicable rules, regulations and ordinances.
  - j. Exempt title transfers.
  - k. Right of ways and easements need a Department of Highways permit or written approval when right of ways or easement is involving a new parcel or parcels of land and adjoining a state maintained road.

1. Survey of existing parcels that does not alter boundary or prompt a subdivision in any manner.

Any divisions of real estate that fall under the aforesaid exemptions shall be stamped as exempt by the Planning Office. The stamp shall indicate which exemption was applied.

### **Section 3.3 Exemption Procedure**

All out sales from a tract or parcel of land shall be accompanied by a plat when recorded in the office of the County Clerk. All such plats recorded shall be approved by the Hampshire County Planning Commission as a subdivision, or stamped by the Planning Office as exempt from the Ordinance. The following exemption procedure will be used:

- a. Application for exemption from the Subdivision Regulations will be made to the Hampshire County Planning Commission, with a copy of the Hampshire County Health Department approval and a copy of the West Virginia Highway entrance permit being attached. [Applications having incorrect or incomplete information will not be processed.]
- b. The Hampshire County Planning Commission shall make every effort to see that the research and investigation process will take not more than two working days;
- c. Upon completion of investigation, a fee will be charged for exempt lots, according to a schedule of fees approved by the County Commission and available in the Hampshire County Planning Office.
- d. The developer may apply for a bond on the project by requesting bond approval from the Hampshire County Planning Commission on parcels which are twenty acres or larger in size.

#### **Bonding Process for Exemption 3.2b, The formation of parcels of land which are twenty acres or larger in size.**

- I. The developer requests bond approval by Hampshire County Commission.
- II. The Planning Commission will retain an independent engineering firm of their choice to study the development and provide a cost estimate for completion of the project to meet the Hampshire County Subdivision Ordinance.
- III. The developer presents a performance bond to the Hampshire County Planning Commission.
- IV. The Planning Commission approves the subdivision provided all relative material meets Hampshire County Planning Commission's standards.

- V. Upon completion of work and the final inspection meets Hampshire County Subdivision Ordinance a letter releasing the bond will be presented to the developer.

## **ARTICLE 4. PROCEDURE**

### **Section 4.0 General**

Any person desiring to establish a subdivision shall, for purposes of this Ordinance, be referred to as a subdivider.

The steps by which a subdivider shall obtain Planning Commission approval for a subdivision are as follows:

- a. Pre-application Conference - Staff
- b. Preliminary Plat Conference – Staff
- c. Preliminary Plat Public Hearing and Evaluation - Planning Commission
- d. Final Plat Review - Planning Commission

### **Section 4.1 Pre-Application Conference**

The Staff of the Planning Commission will welcome an opportunity to meet informally with a prospective subdivider at an early stage to give guidance as to how the requirements of this Ordinance will be met. The prospective subdivider should bring to this pre-application conference a rough sketch plat of his proposed subdivision and should be able to provide information regarding such subjects as soil types, intended method of sewage disposal, number and size of lots, location and size of streets and access roads, land to be held in common, provisions for utilities, existing and proposed drainage of surface water, and proposed method of road maintenance.

### **Section 4.2 Application**

The subdivider shall fill out and sign an Application for a Permit to Establish a Subdivision in Hampshire County, West Virginia. This application shall be on a printed form provided by the Planning Commission and shall elicit from the subdivider such information regarding the proposed subdivision as may be reasonably expected to accomplish the purpose of this ordinance. The information to be set forth on the form shall include, but not be limited to, the following:

- a. The name, address, and telephone number of the subdivider;
- b. The name of the proposed subdivision;

- c. The type of subdivision selected; [Note: The type of subdivision selected is entirely up to the subdivider.]
- d. The name of any attorney, land surveyor, or professional civil engineer to be involved in the subdivision;
- e. Total area of the subdivision.

### **Section 4.3 Accompanying Material**

Accompanying the application form shall be the following:

- a. A Preliminary Plat as described in Article 13 of this Ordinance;
- b. A letter from the owner, if different from the subdivider, authorizing the subdivider to act as his agent with full authority;
- c. Written provisions for the property owners association to eventually take over responsibility for the maintenance and operation of community facilities, especially roads, within the subdivision. The Planning Commission can provide suggested forms for these provisions;
- d. If an application for a waiver of the central sewer water requirements of the WV Department of Health has been made, include copies of all data furnished to the State;
- e. A proposed plan for control of erosion and sediment during and after road construction. The plan will be prepared in accordance with standards and specifications of the "Erosion and Sediment Control Handbook of West Virginia" and shall include at a minimum the details and information requested in Article 10.0 Section 10.6 of this Ordinance. The Planning Commission may implement more specific guidelines to be used.

### **Section 4.4 Preliminary Plat Conference**

The staff examines the application and the accompanying material and consults with the subdivider about any apparent deficiencies. If deficiencies are noted the subdivider must present the Planning Commission Office with the corrected material before the scheduled deadline. If the deadline is not met then the Subdivision's Public Hearing will not be held until the next meeting.

The subdivision preliminary plat hearing and evaluation will not be scheduled and advertised until all required material, documents, etc are filed with the Planning Commission. This includes three copies of the preliminary plat. Deadlines posted are

mandatory.

Subdivisions submitted after the deadline will be accepted, however the preliminary hearing will be scheduled for the following months meeting.

#### **Section 4.5 Preliminary Plat Public Hearing and Evaluation**

The subdivider and any representative or witnesses on his behalf may speak at this hearing regarding the application. So may members of the public. The Planning Commission shall then vote, a majority of its members present being required for any action. All proceedings will be transcribed. The decision to conditionally approve or to disapprove an application shall be based on the following criteria:

- A. That the proposed subdivision meets the technical requirements and standards set forth in this Ordinance.

The Planning Commission, in making any decision upon an application shall be guided by the general purpose of directing and accomplishing a coordinated, adjusted and harmonious development of the county which will, in accordance with the present and future needs and resources, best promote the health, safety, order, convenience, and general welfare of the public, as well as efficiency and economy in the process of development.

If the decision of the Planning Commission is to disapprove an application the subdivider shall be provided in writing within ten [10] days of such decision, a written notice of decision which lists the reasons for the decision.

No construction of roads shall begin before Preliminary Plat approval.

#### **Section 4.6 Final Material**

At least fourteen [14] days prior to the Final Plat Review, the subdivider shall provide to the Planning Commission:

- a. A final plat;
- b. Organizational papers for a property owners association, as more fully described in Article 10 of this Ordinance;
- c. Copy of access permit from the Department of Highways;
- d. A copy of a Hampshire County Health Department percolation test for each proposed lot in the subdivision. This permit shall guarantee one suitable area to establish a residence, well, and septic system area of a minimum of 10,000 sq. ft. [100' x 100' or 80' x 125'] the location of which is to be shown on the final plat

within the boundaries of the lot. The size of the septic system shall meet the standards determined by the County Health Department. Health Department permits issued of this nature will be valid for one year, as long as the specific locations do not change. If lot owner wishes to build in a location other than that specified, he shall reapply for a new permit;

- e. If an alternate septic system is required for a lot or lots within a given subdivision, this shall be so stated and shown on the final plat;
- f. A certification prepared by a licensed land surveyor or civil engineer certifying that roads are built to not exceed the maximum grade required in regard to each classification of subdivision; and
- g. Copies of existing and proposed deed restrictions or protective covenants.

#### **Section 4.7 Final Plat Review**

The approval or disapproval of the development was determined at the Preliminary Plat Public Hearing and Evaluation. The purpose of the Final Plat Review is to determine if the development work has been properly done, that adequate provisions have been made to ensure completion of remaining development work and that there is not reason to delay the sale of lots.

If the material submitted is technically satisfactory and all conditions have been met, and if all construction work has been satisfactorily performed in the opinion of the Planning Commission, final approval will be granted and permit issued at this review.

#### **Section 4.8 Approval and Permit**

Approval of a subdivision shall be evidenced by a permit in the form of a rubber stamp. This rubber stamp, to be applied by the Planning Commission, shall contain [1] the title, Permit to Establish a Subdivision in Hampshire County, West Virginia; [2] the date of issuance; and [3] the signature of the President or Vice President of the Hampshire County Planning Commission. This stamp shall be placed on the final plat of the subdivision.

### **ARTICLE 5. ENFORCEMENT OF THIS ORDINANCE**

#### **Section 5.0 Violation**

- a. It shall be unlawful for the owner or any other person, firm, or corporation owning or controlling any land subject to the provisions of this Ordinance in the unincorporated territory of Hampshire County to sell, lease, transfer, or agree to sell, any lot, tract, or parcel of land within a subdivision or land development unit, until the final plats of such subdivision or land development unit shall [1] have been prepared and signed by and sealed by a professional civil engineer or land

surveyor duly and currently licensed by the State of WV; [2] submitted to and approved in writing thereon and sealed by the Hampshire County Planning Commission; and [3] recorded in the Office of the Clerk of the County Court of Hampshire County.

- b. It shall be unlawful to receive or record in the Office of the Clerk of the County Commission any plat unless the plat shall bear thereon the seal of the Hampshire County Planning Commission.
- c. It shall be unlawful for any person or corporation or other legal entity to describe a lot or parcel of real estate, subject to this ordinance, in the instrument of transfer or other legal document used in the process of selling or transferring, by metes and bounds, with the intent to evade, avoid, and circumvent this Ordinance.

### **Section 5.1 Penalty**

Any person, corporation, or other legal entity who violates any provision of this Ordinance shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than Ten Dollars [\$10.00] nor more than Three Hundred Dollars [\$300.00] for each and every offense. Each day of continuing violation after notification shall constitute a separate offense under this section.

In addition to the penalties above, the Hampshire County Planning Commission, through its President or other officer, is authorized to seek a temporary restraining order or a permanent injunction in the Circuit Court of Hampshire County to restrain or prohibit a person or legal entity from violating the provisions of this Ordinance.

## **ARTICLE 6. WAIVERS**

### **Section 6.0 General**

The Planning Commission may waive any provision of this Ordinance when evidence is presented showing that such a waiver will not affect the implementation of this Ordinance. A request for waiver must be in writing on a form provided by the Planning Commission.

The application for a waiver shall be submitted with the application for the proposed subdivision and notice shall be included in the advertisement for the Preliminary Plat Public Hearing & Evaluation.

Where the Planning Commission finds that undue hardship may result from strict compliance with these regulations, it may modify the regulations so that substantial justice may be done and the public interest secured, provided that such modification will not have the effect of nullifying the intent and purpose of the goals and policies of the Hampshire County Comprehensive Plan or of these regulations. The Planning Commission shall determine extraordinary hardship only if it finds the following facts in

regard to the proposed subdivision or land development unit.

- a. That the land is of such shape or size, or is affected by such topographical conditions, or is subject to such title limitations of record that it is impossible or impractical for the subdivider to comply with all of the regulations of this Ordinance;
- b. That the granting of the modification will not be detrimental to the public welfare or injurious to other property in the vicinity of the subject property.

## **ARTICLE 7. TIME LIMITS**

### **Section 7.0 General**

The consequences of failure to act within specified time periods shall be as follows:

### **Section 7.1 Planning Commission Time Limits**

If the Planning Commission fails to hold a public hearing or take other action resulting in approval or disapproval of a Preliminary Plat within sixty days [60] days following the submission of said plat and all required supporting material and payment of required fees, then the Preliminary Plat shall be considered to be approved.

If the Planning Commission fails to take action resulting in approval or disapproval of a Final Plat within sixty [60] days following the submission of said plat and all required supporting materials [the supporting materials must include a statement that all proposed improvements, such as streets and sewers, have been completed], and payment of required fees, then the Final Plat shall be considered to be approved and a Permit shall be issued and said plat stamped as approved.

The above deadlines shall not apply if the Planning Commission has notified the subdivider in writing of specific items which must be submitted or completed before further action will be taken. The deadlines shall not apply if the subdivider submitted all material but the submittal deadline was not met, thus resulting in a duration of time exceeding sixty (60) days before a preliminary plat hearing may take place.

### **Section 7.2 Subdivider Time Limits**

If the Planning Commission decides that the subdivider has not submitted all required data in proper form and cannot proceed with the approval process, it may request this additional material from the subdivider. If the subdivider fails to respond within sixty [60] days, then the application for the Preliminary Plat Hearing and Permit shall be considered to be withdrawn.

The subdivider shall have one year from the time of approval of the Preliminary Plat to complete all work and submit a satisfactory Final Plat, unless a greater time period is requested in the application [or at a later date] and is approved by the Planning Commission. The application for the Permit to Establish a Subdivision shall be considered withdrawn and the entire process [including submission of the Preliminary Plat] must be repeated if the subdivider fails to meet the specified time of completion.

Any of the above time periods binding upon either the Planning Commission or the subdivider may be waived by mutual consent.

## **ARTICLE 8. APPEALS**

### **Section 8.0 General**

Any person or persons jointly or severally aggrieved by any decision or order of the Planning Commission may present to the Circuit Court of Hampshire County a Petition duly verified, setting forth that such decision or order is illegal in whole or in part, and specifying the grounds of the alleged illegality. The Petition must be presented to the Court within thirty [30] days after the date of the decision or order of the Planning Commission complained of.

## **ARTICLE 9. FORMS AND FEES**

### **Section 9.0 General**

The Planning Commission shall have the authority to devise such printed forms as will reasonably assist in the implementation of this Ordinance.

Reasonable fees for examining plat and other required material, and for making inspections, shall be proposed by the Planning Commission and approved by the Hampshire County Commission. The amount of the fee will approximate, as closely as possible, the cost of performing the review work and the inspection.

The base fee is payable upon submission of the application and is nonrefundable. If the subdivider wishes to submit the subdivision in sections, either for preliminary or final approval, the base fee shall be applicable for each section. Preliminary Plat approval is

not official until the per lot fee is paid.

## **ARTICLE 10. GENERAL PROVISIONS**

### **Section 10.0 Independent Review of Subdivision Sections**

Review and approval of any section of a subdivision does not constitute an intention or responsibility on the part of the Planning Commission to approve future sections of the subdivision. This provision shall apply regardless of improvements, expenditures, or efforts a subdivider may make [at his own risk] in anticipation of future approval by the Planning Commission.

### **Section 10.1 Private Contracts**

Unless specified otherwise, approval of a subdivision by the Planning Commission bears no relation to any private easement, covenant, agreement, restriction, or condition accompanying said subdivision, nor is the responsibility of enforcing such private easement, covenant, agreement, restriction, or condition assumed by the County Commission or the Planning Commission.

### **Section 10.2 Sources of Information**

In order to permit a complete review and evaluation of subdivision proposals, the Planning Commission may request information from any individual or agency. Such requests may be made through correspondence, by telephone, or at meetings conducted for that purpose. All information received shall become a part of the official record for the subdivision under consideration.

### **Section 10.3 Access to Public Roads**

Any proposed subdivision that is not adjacent to a public road shall be connected to a public highway by a right-of-way and road that meet the standards required for rights-of-way and roads within the proposed subdivision. This provision may require upgrading of rights-of-way and roads that are not owned by the subdivider and that were platted and recorded prior to the date the subdivider filed a subdivision application. Subdivision road entrances onto public roads must be approved by the West Virginia Department of Highways, as to location, number of entrances, drainage provisions, traffic safety, and general design. It shall be the sole responsibility of the subdivider to provide ingress and egress from the proposed subdivision to a public highway by securing adequate rights of way or easement.

### **Section 10.4 Flood-Prone Areas**

If a subdivision lot lies within a flood-prone area designated on the official maps prepared by the Federal Emergency Management Agency Flood Insurance Rate Map of Hampshire County, copies of which are available in the Planning Commission office, it is the duty of the subdivider to examine said maps. The subdivider shall provide each prospective purchaser of such a lot, before any commitment to purchase is made, a written statement as follows:

“ALL OR SOME of this real estate lies within an officially designated flood zone. The legal ramifications of this are significant and use of this land may be limited. Details may be obtained from the Hampshire County Planning Commission. In addition, a copy of Hampshire County Ordinance No.1 [dated June 3, 1997] is available in the office of the Clerk of the County Commission in Fiscal and Police Order Book 21 at page 199 and continuing.”

An identical provision shall appear or be referenced in every deed by which any such lot is conveyed, either by the subdivider or by a future owner.

Where designated flood zones occur as approximated A zones on the FIRM it is asked that plats show elevations at centerline of the streambed so Hampshire County Compliance Officer may better determine the actual one percent floodplain, with cooperation of the surveyor's or professional engineer's assistance.

### **Section 10.5 Inspections**

All subdivisions reviewed under this Ordinance are subject to announced and unannounced inspections, from the time of original application until the final permit has been issued and all work is satisfactorily completed, by any person acting on behalf of the Planning Commission. Such inspections may be for the purpose of; reviewing compliance of this Ordinance, determining the progress of construction, examining the construction of parks, roads, or drainage, water and sewage systems, and for other reasonable purposes.

### **Section 10.6 Erosion Control**

The subdivider must submit an erosion control plan prepared in accordance with standards and specifications of the “Erosion and Sediment Control Handbook of West Virginia.” The plan shall include sediment and erosion control details showing devices and methods of installation. Required details and information shall include but not be limited to the following:

1. A sequence of construction
2. A plan showing the distribution and handling of top soil.
3. Straw bale dike installation.
4. Siltation fence installation.
5. Riprap placement for drainage ditches and culvert applications including type, size, and depth of undercut.

6. Seeding and mulching plan.

The plan shall include showing the areas of implementation and the devise or method of control to be applied. Typical areas include all disturbed, unstable soils susceptible to erosion by rain water run off, particularly fill slopes and culvert outlets.

**Section 10.7 Property Owners Association**

Each subdivision must have an association composed of its property owners, the stated purposes of which shall be to maintain the roads and other mutually beneficial facilities within the subdivision, to enforce the restrictive deed covenants for the lots within the subdivision, to regulate activities specified within the restrictive deed covenants carried on within the subdivision by lot owners and their guests, and to otherwise act for the common welfare of all the landowners within the subdivision as may be specified within the deed covenants.

Before final plat approval such legal documents providing for the establishment of a home owners association or trust shall be reviewed and approved by the Planning Commission. All property owners associations shall comply with Chapter 47 Section 9A1 et. al. of the West Virginia code as amended.

**Section 10.8 Utility Rights-of-Way**

A utility right of way/easement will be provided for underground utility lines and utility poles only. Such right of way/easements and building set back lines will be 20 feet adjacent to all roads (interior and exterior) and all exterior boundary lines. The setback right of way/easement lines will be 10 feet on all interior lot lines not falling in any of the above categories. It shall be the responsibility of the subdivider to serve legal access to the proposed subdivision for utility and cable TV rights-of-way easements.

**Section 10.9 Property Owners Association to Provide Trash Collection**

For every subdivision hereunder, the Property Owners Association shall provide for trash collection from each lot, whether or not occupied full or part time. Collection from a particular lot shall begin at the time of the first activity producing any trash, whether or not an improvement has been built on the lot, and collection shall continue permanently from then on. It shall be the responsibility of the property owners association to determine the frequency of trash pickup.

Collection shall be a collector which complies with all county ordinances and state regulations pertaining to trash collection and disposal. Trash collection charges shall be collectible by the Property Owners Association from each residence through lien process if not timely paid.

The final plat shall not be approved in whole or part until all trash generated by the development process has been disposed of in compliance with such ordinance and regulations.

### **Section 10.10 Severability**

If any provision of this Ordinance be held invalid or void, all remaining provisions shall continue to have full force and effect.

## **ARTICLE 11. TYPES OF SUBDIVISIONS: STANDARDS.**

### **Section 11.0 Types of Subdivisions**

Every subdivision established in Hampshire County after the enactment of this Ordinance shall be classified by the subdivider [pursuant to Section 4.2] as one of the following six types:

- a. High Density Housing
- b. Class I - Residential
- c. Class II - Residential
- d. Trailer Parks or Mobile Home Parks
- e. Industrial Parks
- f. Combination [Planned Unit Development]

### **Section 11.1 High Density Housing**

High Density Housing Subdivisions are expected to have most of the facilities commonly found in towns. Fire hydrants must be provided. Roads must be designed so that they could be taken over by the Department of Highways without further upgrading.

Single family dwellings, town or row houses, apartments, condominiums, or mixtures thereof may be included in such subdivisions.

The following standards shall apply to subdivisions in this category:

1. **Lot Size:** Minimum lot size will be 1/8 acre, excluding roads and utilities and cable TV rights-of-way.
2. **Roads:** All roads must provide all weather access by school buses, fire trucks, service trucks, and passenger cars. All roads shall be paved with a minimum of 3 inches of asphaltic pavement. Road dimension and construction shall be in accordance with Article 12. "General Standards for Roads," however Collector and Local Class roads are limited to 10 percent maximum grade and must have a paved road surface 20 feet wide exclusive of parking areas. Side Class roads are limited to 12 percent maximum grade and must have a paved road surface 18 feet wide exclusive of parking areas.

3. **Water and Sewage:** Central water and sewage systems are required.
4. A minimum of two off-street parking spaces must be provided for each family unit. Screening is required around sewage lagoons and trash bins. All 20 foot setback lines must be reserved for utility lines and utility poles only. A utility right of way/easement will be provided for underground utility lines and utility poles only. Such right of way/easements and building set back lines will be 20 feet adjacent to all roads (interior and exterior) and all exterior boundary lines. The setback right of way/easement lines will be 10 feet on all interior lot lines not falling in any of the above categories. The set back does not apply to the interior of town houses which utilize party walls as property lines.

### **Section 11.2 Class I - Residential**

This type of subdivision provides facilities commonly associated with suburban communities. All roads must be adequate for all weather operation of school buses, fire trucks, service trucks, and passenger cars, and must be designed so that they could be taken over by the Department of Highways without further upgrading.

The following standards shall apply to subdivisions in this category:

1. **Lot Size:** Minimum lot size will be 1/2 acre excluding roads and utilities and cable TV rights-of-way. All lots that will be serviced by a well or septic tank [with approval of Hampshire County Health Department] are required to show location of well, septic tank, and buildings to be serviced by these on the plat. In addition, these locations must be referenced in a deed covenant. All lot dimensions shall have a maximum 3 to 1 length to width ratio with a 70 foot minimum frontage. The cul-de-sac lot design shall require a minimum 30 foot chord length between the diverging property lines and the right of way lines.
2. **Roads:** All roads must be accessible year-round by school buses, fire trucks, service trucks, and passenger cars. All roads shall be paved with a minimum of 3 inches of asphaltic pavement. Road dimension and construction shall be in accordance with Article 12. "General Standards for Roads."
3. **Water and Sewage:** The Planning Commission encourages central or public service systems, but individual wells and septic tanks are acceptable. If the lots are not served by a central sewer facility each lot shall be capable of providing space for a conventional septic system approved by the Hampshire County Health Department. Lots requiring a Home Aeration Unit or other mechanical methods of treatment shall not be approved on an individual basis.
4. A utility right of way/easement will be provided for underground utility lines and utility poles only. Such right of way/easements and building set back lines will be 20 feet adjacent to all roads (interior and exterior) and all exterior boundary lines.

The setback right of way/easement lines will be 10 feet on all interior lot lines not falling in any of the above categories.

### **Section 11.3 Class II - Residential**

The following standards shall apply to subdivisions in this category:

1. **Lot Size:** Minimum lot size is 2 acres unless common ground is provided. Lots smaller than 2 acres shall be permitted in cluster type development. A cluster development is one in which small size lots are grouped together and each is adjacent to common ground owned by the Property Owners Association. The total area of the subdivision [lots and common ground] must equal at least two acres for each dwelling unit. Individual wells and sewage systems cannot be located on common ground. A subdivision may use lots with pipe stems if prior approval is received from the Hampshire County Planning Commission. All lots shall have a minimum road frontage of 170 feet and a minimum 150 feet of depth. Lots extending from a cul-de-sac radius shall have a minimum 50 foot chord length between the intersections of the property lines and the right of way line.
2. **Roads:** All roads must be accessible by fire trucks and passenger cars under normal weather conditions. All road dimension and construction shall be in accordance with Article 12. "General Standards for Roads." The road surface shall be paved with crushed lime stone if asphalt pavement is not being proposed.
3. **Water and Sewage:** Individual wells and septic tanks are acceptable with Health Department approval. If lots are not served by a central sewer facility each lot shall be capable of providing space for a conventional septic system approved by the Hampshire County Health Department. Lots requiring a Home Aeration Unit or other mechanical methods of treatment shall not be approved on an individual basis.
4. A utility right of way/easement will be provided for underground utility lines and utility poles only. Such right of way/easements and building set back lines will be 20 feet adjacent to all roads (interior and exterior) and all exterior boundary lines. The setback right of way/easement lines will be 10 feet on all interior lot lines not falling in any of the above categories.

### **Section 11.4 Manufactured Home or Mobile Home Parks**

A mobile home park is any site, area, tract or parcel of land, upon which two or more mobile homes used or occupied for dwelling purposes are parked either free of charge or for monetary consideration and shall include any roadway, building, structure, installation, enclosure or vehicle used or intended for use as a part of the facilities of said mobile home park. For the purpose of this ordinance a manufactured home or mobile home shall be defined as a portable dwelling that is manufactured as a unit or in sections at a factory and transported on its own chassis [frame and wheels] to a lot or site for location. A manufactured or mobile home may contain parts that can be folded, collapsed, or telescoped when being towed and expanded to provided additional living area. A manufactured or mobile home is so defined whether or not the wheels have been removed and whether or not resting a permanent foundation. This is not to include modular homes or sectional homes that are built on a permanent foundation of continuous masonry construction. The sectional homes must be at a minimum 24 feet wide when completed.

1. **Lot Size:** The minimum lot size must be 4,500 square feet. The lot dimension shall be a minimum of 45 feet x 100 feet. Each mobile home site shall have a minimum road frontage [width] of 45 feet along a platted right-of-way. All lots shall have a minimum 10 foot building set back from the property lines.
2. **Roads:** All roads must be accessible to school buses, fire trucks, and service vehicles. All road dimensions shall be in accordance with Article 12. "General Standards for Roads." All roads shall be paved 18 feet wide, at a minimum, with WVDOH specification double prime and seal [tar and chip] and shall not exceed a maximum grade of 12 percent.
3. **Water and Sewage:** All systems will be approved central or public service systems, unless prior approval for alternate system is obtained from the Hampshire County Health Department.
4. **Special Provisions:** At least two parking spaces shall be provided for each lot. They may be either on the lot or along the road shoulder, provided that this does not reduce access by vehicles [See Section 12.3].
5. No permanent building being occupied as a dwelling or residence may be placed on any lot in a trailer park or mobile home park.
6. Screening is required for all sewage lagoons and central garbage bins.

## **Section 11.5 Industrial Parks**

The following standards shall apply to subdivisions in this category:

1. **Roads:** All roads must have a road surfaced at least 20 feet wide and maximum grade must not exceed 10 percent. All roads must be constructed as heavy duty and capable of supporting tractor trailer trucks.
2. **Special Provisions:** Adequate buffer zones and fencing are required.

### **Section 11.6 Combination [Planned Unit Development]**

The Planning Commission recognizes that a single subdivision may combine several different types of land use. Such a subdivision is sometimes referred to as a Planned Unit Development or P.U.D.

For subdivisions of this type, the subdivider must:

1. Clearly delineate on each plat submitted to the Planning Commission, or shown to any prospective purchaser, which areas of the subdivision are to fall in each particular category of development.
2. So construct each particular area that the above stated requirements for each area are met.
3. So construct the entire subdivision, including the roads and facilities connecting one type of land use with another, so that there is a harmonious blend between the various areas.

### **Section 11.7 Recreational Vehicle Parks or Campgrounds**

These provisions are not to be applied to the use or locating of mobile homes or manufactured homes for recreational use. These applications shall follow the provisions as outlined in Section 11.4. Any existing operations recognized as campground facilities by the State Tax Department and the Hampshire County Health Department prior to the date of the adoption of this amendment shall be exempt.

1. The area of each campsite shall be a minimum of 1500 square feet not to include road right-of-ways. Each campsite shall have a minimum road frontage [width] of 20 feet along a platted road right-of-way.
2. Each campsite shall provide an adequate stand for the placement of a camping unit. A campsite stand shall be at least 15 feet X 25 feet in size, shall be flat and shall not exceed a three percent slope in any direction. No more than one camping unit shall be placed on or above a campsite.
3. A campsite may contain any combination of water, sewerage or electrical

connections. If not provided at campsites, water and sewerage facilities must be provided at convenient comfort stations as determined by the Planning Commission.

4. Main entrance and primary looping roads within a campground shall be constructed in accordance with Article 12. "General Standards for Roads." The road surface shall be paved with crushed limestone if asphalt pavement is not being proposed.
5. Convenient off-street parking [on each campsite or in designated parking areas] shall be provided at the rate of 1 1/2 spaces per campsite. Each parking space shall have a minimum dimension of 10 feet X 20 feet. Designated parking areas may not be used for overnight camping or occupancy.
6. Each campsite shall be provided with a sanitary, covered garbage can.
7. A tent may be placed on any campsite. In addition, however, a special tent area may be set aside and marked in a campground for the random location of tents. The capacity of a tent area shall be limited to 25 percent of the number of designated campsites within a campground. A tent area need not be served directly by water or sanitary facilities, provided a comfort station is located nearby. The size of a tent area shall be based on 500 square feet per eligible tent.
8. A campground shall provide at least one sanitary sewerage dump station, one water refill station and one solid waste disposal collection facility.
9. All power lines shall be installed underground. The installation of over head main feeder lines may be allowed, however, individual service lines shall be installed underground.

### **Section 11.8 Minor Subdivision Process and Requirements**

- A. **Purpose:** The minor subdivision process is established to allow subdivisions which are small and would have little impact on the County to be processed in the minimum amount of time for subdivisions approved by the Planning Commission.
- B. **Criteria:** In order for a subdivision proposal to be classified as a minor subdivision, the proposal must meet the requirements and standards set forth below. Where, in the opinion of the Planning Commission staff; the proposal does not comply with these requirements or to the intent of this ordinance, the proposed subdivision shall be classified as a conventional subdivision. Such a determination may be appealed to the Planning Commission for consideration and classification.

1. Only three [3] lots [including the remainder of the parent parcel if the residue is less than twenty (20) acres] shall be permitted from contiguously owned parcels of record during any five year period. Applications which exceed this number during any five year period shall be classified as a conventional subdivision and processed accordingly. Only the residue parcel is entitled to further subdivision under this article.
2. All proposed lots shall:
  - a. Front on an existing State maintained road; or,
  - b. Only have motor vehicle access to a State maintained road via a road and right of way meeting the specifications of this Ordinance; or,
  - c. Only have motor vehicle access to a State maintained road via a road that meets, at a minimum, the Subdivision Ordinance specifications for Side Road except that the graveled width may be a minimum of 12 feet instead of 16 feet. A minimum 30 foot right of way shall be provided. Only one lot may be applied for under this clause.
3. A minor subdivision shall not include the extension of public or central utilities, or the creation of common areas.
4. Each lot created shall be intended and restricted, as a condition of the Planning Commission approval, to one single family residence only, unless otherwise processed in conformance with the prevailing County land development laws.
5. All lots created shall meet the lot design and set back requirements as specified in this Ordinance.
6. All driveways and entrances onto public roads must be acceptable to the Planning Commission staff and to the WVDOH, as to location, number of entrances, drainage provisions, traffic safety and general design.
7. Any subdivision proposal which includes areas with a slope in excess of twenty [20] percent, shall be classified as a conventional subdivision.

**Minor Subdivision Process:** The minor subdivision review process described in this section outlines the step-by-step activities that take place during the routine processing of a minor subdivision proposal. Any changes in the review process that are made by the Planning Commission shall be put in written form and shall identify the nature and the date the change was voted upon. Written changes in this review process shall be attached to this ordinance and shall be distributed to the public as supplemental material.

1. Subdivider submits a sketch plat to the Planning Commission Office and schedules a meeting with the Planning Commission Staff.
2. Subdivider and staff meet to discuss the proposed subdivision and the criteria used to classify the proposal as a minor subdivision. Emphasis is placed on the project design, site layout and access. Any modifications to the sketch plat are made by the subdivider at this time, if appropriate.
3. Staff makes a site inspection of the proposed subdivision, reviews and classifies the proposal using the criteria set forth in Section 11.8, A & B.
4. Upon receipt of the three copies of the proposed minor plat (plats are required to be at least 8 ½ X 14 inches in size), the staff places a notice in the Hampshire Review advising the public of the Minor Subdivision Public Hearing before the Planning Commission. The notice is placed in the Hampshire Review at least 30 days before the date of the intended Public Hearing.
5. Planning Commission staff notifies subdivider of additional information required or corrections that must be made to the subdivision proposal and final plat.
6. Subdivider submits to the Planning Commission Office three paper copies of the reviewed final plat, if necessary.
7. Final Plat Public Hearing is held before the Planning Commission during a regular meeting. New or revised information not previously considered is solicited from the public. The Planning Commission, after considering public comment, all previous information and comment, the provisions of the Ordinance, and the provisions of Section 8-24-30 of the West Virginia Code, approves, approves with conditions, or disapproves the subdivision proposal and Final Plat.
8. The Planning Commission shall approve, approve with conditions, or disapprove a subdivision proposal and Final Plat within 60 days from the day the Final Plat and support material are submitted to the Planning Commission Office. Failure to take action within the 60 day period shall result in final approval, unless a waiver of the 60 day period is granted to the Planning Commission by the subdivider.
9. If the subdivision proposal and Final Plat are approved, the seal of the Planning

Commission is placed on the appropriate prints of the Final Plat.

- 10. If the subdivision proposal and Final Plat are approved subject to conditions, the conditions must be addressed or placed on the Final Plat prior to the seal of the Planning Commission.
- 11. If the subdivision proposal and Final Plat are disapproved, the subdivider is advised in writing of the Planning Commission action and specific reasons upon which the action was based.

**ARTICLE 12. GENERAL STANDARDS FOR ROADS**

**Section 12.0 Road Classes and Design**

All roads within a subdivision must meet the following standards:

- a. If a subdivision abuts a heavily traveled State road, the number of subdivision roads feeding into the State road should be kept to an absolute minimum. Individual lots, to the fullest extent possible, should have access to subdivision roads rather than direct access to State Roads; however, a highway entrance permit shall be obtained from the West Virginia Highway Department. All lots that shall utilize direct access to the State roads shall have the approved entrance constructed by the developer in accordance with the specifications as provided in the WV DOH entrance permit for the particular lot or lots. Construction shall be completed prior to final plat approval. General dimensions and grade requirements for the road classes defined below are shown in this Section on Table 1.

TABLE 1

ROAD TYPE	MINIMUM DEPTH OF GRAVEL/ ASPHALT (inches)	MINIMUM WIDTH OF GRAVEL OR PAVED SURFACE (feet)	MINIMUM WIDTH OF SHOULDER (feet)	MINIMUM WIDTH OF RIGHT OF WAY (feet)	MAXIMUM GRADE (%)
	[A]	[B]	[C]	[D]	
COLLECTOR	4/3	18	4	50	12
LOCAL	2/3	18	2	40	12
SIDE	1/3	16	1	30	15

A minimum 30 foot right of way shall be allowed for access roads between the project

and the State maintained road.

1. Collector - Roads shall be designed and minimum as a constructed at a Collector if the road is providing service to more than 40 lots. A Collector class road may be required by the Planning Commission if the location indicates that further development or expansion may cause the road to link or connect two existing county or state roads causing a favorable “short cut.”
  2. Local - Roads shall be designed and constructed at a minimum as a Local if the road is providing service to greater than 10 lots but no more than 40 lots.
  3. Side - Roads shall be designed and constructed at a minimum as a Side if the road is providing service to 10 or fewer lots.
- b. Subdivision roads should be designed to minimize through traffic; however, care must be exercised so that no parcel of land is left land locked.
- c. Dead-end roads shall terminate in turn-arounds with:
1. A right-of-way diameter of 100 feet;  
A finished road diameter of 80 feet;  
A fillet radius on the finished road of 30 feet.  
The centers of turn-arounds may be landscaped with suitable vegetation; or
  2. A “T” dead end, with the lengths of the crossroads to be 40 feet, and the fillet radii to be 30 feet.
- f. Subdivision roads shall be constructed with a minimum fillet curve radius of 30 feet at intersections;
- g. Signs will be posted at all entrances of the subdivision, giving the name of said subdivision, size and composition of which must be approved by the planning commission.
- h. All streets, roads, lanes, etc. will be identified with signs designating the name of said street, road, lane, etc.;
- i.
1. High Density Housing and Class I - Residential shall have a minimum of 40 foot wide road right-of-way within the subdivision. However, if required for construction purposes, a construction easement of sufficient width shall be provided.
  2. Class II - Residential shall have a minimum of 30 foot wide road right of way within the subdivision. However, if required for construction purposes, a construction easement of sufficient width shall be provided.

- j. All roads shall be designed to prevent wash-out erosion.
- k. All roads shall not have grades greater than 8 percent, leaving an intersection for a distance of 100 feet.
  - l. Collector and local roads shall have minimum horizontal radii of 150 feet and a minimum stopping site distance of 150 feet. Side roads shall have minimum horizontal radii of 75 feet and a minimum stopping site distance of 100 feet. If deemed necessary by the Planning Commission, these minimums shall be increased as necessary for safety reasons.

If lots are served by driveways off of a West Virginia State Department of Highways maintained road then said driveways shall be constructed according to side road requirements as contained in Ordinance Section 12 for a minimum distance of Fifty (50) feet from the DOH maintained road.

### **Section 12.1 Specifications for Heavy Road Construction**

All subdivision roads shall be paved with a gravel base constructed on a well-compacted subgrade free of organic matter and having desirable engineering characteristics for subgrade use. Compacting shall be performed by using a suitable roller to get optimum compaction. All fills shall be constructed in compacted 6 to 8 inch layers. If the material at the location of the proposed road is not acceptable for subgrade use, acceptable material shall be brought from another source. Gravel shall be a well-graded, crushed stone aggregate such as 3/4 inch crusher run, which shall be placed and rolled in a moist condition so that fines remain mixed with the more coarse material. The gravel surface shall be smooth, uniform and tightly packed. Limestone "dust" may be required to achieve a satisfactory road surface. The Planning Commission may approve the use of appropriate gravel or other related material instead of crushed stone.

Asphaltic Concrete Heavy Duty Road shall have 4" crushed stone base and 2" of Asphaltic concrete.

Double Surface treatment "Tar & Chips," Heavy Duty Road shall have 6" crushed stone base covered with Double Surface treatment to WV Department of Highways specifications.

### **Section 12.2 Structural Design and Drainage**

#### **A. Earthwork**

- 1. All cuts and fills shall have side slopes that are stable for the soil or soil material involved.
- 2. Side slopes of earth fills shall be not steeper than 2 to 1. Rock fills will be no

steeper than 1.5 to 1.0.

3. Cut slopes shall be no steeper than 2.0 to 1.0 or if in hard shale may be 1.5 to 1.0 or if in rock may be 1.0.
4. The subgrade of a Heavy Duty road shall have a minimum of 1/4 inches per foot cross slope. The subgrade of a Light Duty Road shall have a minimum of 1/2 inch per foot cross slope.

## **B. Drainage**

1. Side ditches will be installed on all sections of road where surface drainage impinges on or may cause damage to the roadbed. Ditches will be required in all poorly drained soils.
  - a. Side ditches will be trapezoidal with minimum side slopes of 2 to 1 except the hillside may be 1.5 to 1.0 to conform to slope of cut.
  - b. Elevation of bottom of ditch shall be at least 1.0 foot below that of the finished road surface.
  - c. Side ditches will be designed to handle the runoff from a 1-year frequency storm as determined from WV Erosion and Sediment Control Manual.
  - d. Ditch capacity will be determined [where possible] by Manning's Formula or applicable drawings in WV Erosion and Sediment Control Manual. The ditches will be lined, paved, or other mechanical measures installed to prevent undue erosion as follows:
    - 1) 0 to 3 percent slopes; seeded and mulched.
    - 2) Greater than 3 percent but less than 9 percent will be jute netting.
    - 3) Or 9 percent or greater shall be rippedraped.
2. Culverts will be installed under the road in all major drainage ways unless a bridge is more economical or where two or more drainage ways may be brought together in one culvert. The number of road culverts and the spacing required will be determined by the formula 1000 feet divided by percent of grade of the road.
  - a. Culverts must have a capacity to carry the runoff from a 1-year frequency storm drain as determined from WV Erosion & Sediment Control Manual.
  - b. Culverts in all major drainage ways shall be sized to carry the peak runoff resulting from a 25-year frequency storm occurring over the entire contributing watershed.
  - c. A headwall or drop inlet will be installed. Headwalls will extend at least 2

feet from the outside of the pipe, except the top elevations will not exceed that of the roadway. Headwalls will be constructed of concrete or hand placed rock riprap or a standard end section may be used.

- d. The minimum diameter of the culvert pipe shall be 15 inches. The following kinds of pipe are acceptable: steel, corrugated metal or concrete. All pipes must meet standard commercial specification. All corrugated metal pipe [CMP] shall be a minimum 16 gauge steel.
  - e. Culverts shall be installed at a depth of 1 1/2 times the diameter of pipe or a minimum of 12 inches below the subgrade of the road. Culverts shall be installed with grade equal to fall of existing ground but not less than 1 percent slope. All materials shall be compacted around the culvert. Culverts shall be installed so as to extend across the entire width of the cut and fill.
3. Roadbed drainage will be provided at all seep areas and high water table areas. The depth, spacing, outlets, and size of roadbed drains shall be such as to keep the water table at least 24 inches below the surface. Closed drains shall be designed and installed in accordance with the West Virginia Standards for Subsurface Drain where applicable.
  4. Bridges will be installed on the larger drainage ways where culverts are not deemed economical or practical. A bridge is usually required when an opening width of 20 or more feet is necessary.
    - a. The type of bridge [timber, steep, or concrete] will conform to the surroundings, landscape, etc.
    - b. Bridge capacity shall be designed for at least an H - 15 live load [15 tons] in accordance with approved engineering procedures. Standard designs will be used where possible.
    - c. The bridge opening will be designed with a capacity that will carry at least a 25-year frequency for a Heavy Duty Road and a 5-year frequency storm for a Light Duty Road as determined by WV Erosion & Sediment Control Manual.

### **C. Diversions**

Diversions will be installed where runoff from adjacent lands will damage the road or cause undue erosion on cut or fill slopes. Such diversions shall be designed and installed in accordance with the West Virginia Standards for Diversion.

### **D. Storm Water Management**

No person shall develop any land for residential, commercial, industrial, or

institutional uses without providing adequate Storm Water Management measures that control and manage runoff from such developments, except as provided within this section.

1. Exemptions

The following development activities are exempt from the provisions of the Storm Water Management requirements:

- a. Agricultural land management activities;
- b. Additions or modifications to existing single family detached residential structures;
- c. Developments that do not disturb over 3,000 square feet of land area;
- d. Residential developments consisting of single family houses, each on a lot of two acres or greater.

2. Waivers

The Planning Commission may grant a waiver of the Storm Water Management requirements for individual developments provided that a written request containing descriptions, drawings, and any other information that is necessary to evaluate the proposed development is submitted by the applicant. A separate written waiver request shall be required in accordance with the provisions of this section if there are subsequent additions, extensions, or modifications to a development receiving a waiver. Eligibility for a waiver shall be determined if the applicant can conclusively demonstrate that:

- a. The proposed development will not generate more than a 10 percent increase in the 2-year 24-hour post-development peak discharge rate over a 2-year 24-hour pre-development peak discharge rate and that development will not cause an adverse impact on the receiving wetland, watercourse, waterbody, or adjacent property owners, of which shall receive 30 days notice of proposed waiver by certified mail and return receipt.
- b. A site is completely surrounded by existing developed areas which are served by an existing network of public storm drainage systems of adequate capacity with stable outfalls to accommodate the runoff from the additional development;
- c. The proposed development is not in a mapped local flood hazard zone.

3. Variances

The Planning Commission may grant a written variance from any requirement of the Storm Water Management requirement if there is exceptional circumstances applicable to the site such that strict adherence to the provisions of these regulations will result in an unnecessary hardship and not fulfill the intent of these requirements. The subdivider shall submit a written request to the Planning Commission stating the specific variances sought and reason for the request. The Planning Commission shall not grant a variance unless and until specific justifying reasons are provided by the subdivider.

4. Storm Water Management Plans

a. Review and Approval of Storm Water Management Plans

The Storm Water Management Plan shall contain supporting computations, drawings, and sufficient information describing the manner, location, and type of measures in which storm water runoff will be managed from the entire development. The Planning Commission shall review all plans and make a recommendation to the Planning Commission for action on the plan. Reasons for the recommendation shall be submitted in writing. The approved plan shall serve as the basis for all subsequent construction. Any deviations from the plan must be in writing.

b. Contents of the Storm Water Management Plan

The subdivider is responsible for submitting a Storm Water Management Plan which meets the requirements contained herein. The Plan shall include sufficient information to evaluate the environmental characteristics of the affected areas, the potential impacts of the proposed development on water resources, and the effectiveness and acceptability of measures proposed for managing runoff. The minimum information submitted for a Storm Water Management Plan or request for a waiver shall be as follows:

1. Site Characteristics:

[a] Topographic information.

[b] A description of all watercourses, impoundments, etc. on or adjacent to the site or into which storm water flows.

[c] Soil investigation including borings if applicable and/or available, and

infiltration tests if required by the Planning Commission.

[d] Delineation of the 100-year Flood Plain if applicable.

2. Computations:

[a] Hydrology; Hydraulic; and Storm Water Management structures

In addition to information required above, Storm Water Management design plans shall include:

[b] Storm Water Management Plans:

1. Vicinity Map

2. Drainage area map showing:

[a] Existing and proposed contours.

[b] Location of building and other structures.

[c] Impervious areas.

[d] Storm drainage facilities.

[e] Watershed boundaries [including extent of any offsite watersheds flowing through the developed area].

[f] Drainage areas.

[g] Storm water flow paths broken into separate area for type of flow, i.e. sheet, shallow concentrated, channel flow, etc.

3. Location of bench marks used for design.

4. Structural details for all components of the proposed drainage systems and Storm Water Management facilities.

5. Location of existing and proposed easements and/or rights-of way.

5. Construction specifications.

[c] Other information as may be required.

5. Storm Water Management Criteria

A. Minimum Control Requirements

It shall be required that all developments provide management measures necessary to maintain the post-development peak discharges for a 24-hour, 2-year frequency storm event at a level that is equal to or less than the respective, 24-hour 2 year pre-development peak discharge rates, through Storm Water Management practices that control the volume, timing, and the rate of flows.

B. Specific Design Criteria

Infiltration systems shall be designed in accordance with accepted standard engineering practices and published design criteria and shall meet the following requirements:

[a] Infiltration systems greater than 3 feet deep shall be located at least 10 feet from basement wall;

[b] Infiltration systems designed to handle runoff from commercial or industrial impervious parking areas shall be a minimum of 100 feet from any water supply well and shall have proof of a minimum of 5 feet of soil over any bedrock from the bottom elevation of the infiltration structures;

[c] Infiltration systems may not receive runoff until the entire contributory drainage area to the infiltration system is stabilized or the system protected by a satisfactory sediment control practice; and

[d] The Storm Water Management facility design shall provide an overflow system with measures to provide a non-erosive velocity of flow along its length and at the outfall.

C. Retention and detention ponds shall be designed and constructed in accordance with the criteria of the U.S. Department of Agriculture, Natural Resource Conservation Service [formerly Soil Conservation Service] or as published in the “Storm water Management Pond Design Manual” as published by Maryland Association of Soil Conservation Districts and shall include the following items:

[1] Velocity dissipation devices shall be placed at the outfall of all retention or detention structures and along the length of any outfall

channel as necessary to provide a non-erosive velocity of flow from the structure to a watercourse.

[2] If determined to be necessary to the Planning Commission the subdivider shall submit to the Planning Commission an analysis to the impact of storm water flows downstream in the watershed. The analysis shall include hydrologic and hydraulic calculations necessary to determine the impact of hydrograph timing modifications of the proposed development upon a dam, highway, structure, or natural point of stream flow restriction, established with the concurrence of the Hampshire County Planning Commission downstream to a tributary of the following size:

[a] The first downstream tributary whose drainage area equals or exceeds the contributing area to the pond; or

[b] The first downstream tributary whose peak discharge exceeds the largest designed release rate of the pond.

[3] The designed release rate of the structure shall be modified if any increase in flooding or stream channel erosion would result at the downstream point.

- D. The pre-development peak discharge rate shall be computed assuming that all land uses in the site to be developed are in good hydrologic condition and shall be based on the average use of the land in question for the five (5) years preceding the proposed change in the utilization of said land.
- E. Where a Storm Water Management plan involves direction of some or all runoff off the site, it shall be the responsibility of the subdivider to obtain from adjacent property owners an easement or other necessary property interests concerning flowage of water. Approval of Storm Water Management Plan does not create or affect any such rights nor does it relieve the developer from any liability incurred due to flooding.
- F. The basic design criteria, methodologies, and construction specifications shall be those of the Natural Resource Conservation Service [formerly Soil Conservation Service and Maryland Water Resources Administration [or equal] generally found in the most current edition of the following publications or subsequent revisions:
  - 1. "Urban Hydrology for Small Watersheds," Technical Release No.55,

June, 1986, Second Edition.

2. "Storm Water Management Pond Design Manual," Maryland Association of Soil Conservation Districts, November, 1978.
3. "Soil Conservation Service Engineering Field Manual," latest edition.
4. "Soil Conservation Service Standards and Specifications for Ponds," Specification No.378, July 1981.
5. "Maryland Standards and Specifications for Storm Water Management Infiltration Practices," February 1984.

## **6. Inspection**

- A. Construction of all Storm Water Management facilities shall be subject to inspection by the Planning Commission or Soil Conservation Service.
- B. The Planning Commission shall be responsible for keeping a record of any inspections made on Storm Water Management facilities. Any deficiencies noted will be forwarded to the owner in writing for correction.
- C. If directed by the Planning Commission, either by virtue of the nature of the Storm water System or by a subdivider's lack of performance in accordance with the plans may require the subdivider to hire a certified engineer to provide inspection on the project and provide a report to the Planning Commission. The report shall contain the subdivider's engineer's certification of compliance as well as any "as built" plans, supplementary inspection reports, and laboratory or field testing results.

## **7. Maintenance**

- A. Prior to granting final approval to a project the Planning Commission shall require the owner to enter into an "Inspection and Maintenance Agreement of Private Storm Water Management Facilities." (See page 34 & 35)
- B. The Planning Commission may from time make maintenance inspections on Storm Water Management structures. The Planning Commission may inspect Storm Water Management structures when complaints are received. Records of such inspections will be kept in the Planning Office and any deficiencies shall be sent to the owner for correction.
- C. If the owner shall assign his rights of ownership of a Storm Water Management structure to another person or entity, notice of such change of ownership must be made to the Planning Commission in writing within

10 days of such assignment.

**INSPECTION & MAINTENANCE AGREEMENT OF PRIVATE STORM  
WATER MANAGEMENT FACILITIES**

THIS AGREEMENT, made this \_\_\_\_ day of \_\_\_\_\_ by and between \_\_\_\_\_ hereinafter referred to as the “OWNER[S]” of the following property: \_\_\_\_\_ and the Hampshire County Planning Commission, hereinafter referred to as the “Commission.”

**WITNESSETH:**

We, the OWNERS[S], with full authority to execute deeds, mortgages, other covenants, all rights, titles, and interests in the property described above, do hereby covenant with the Commission and agree as follows:

1. THE OWNERS[S] shall provide for the maintenance of the storm water management facility to ensure that the facility is and remains in proper working condition in accordance with approved design standards, rules and regulations, and applicable laws. The OWNER[S] shall perform necessary landscaping [grass cutting, etc.] and trash removal as part of regular maintenance.
2. If necessary, the OWNER[S] shall levy regular or special assessments against all present or subsequent owners of property served by the facility to ensure that the facility is properly maintained.
3. The OWNER[S] shall grant the Commission or its agent and contractor the right of entry at reasonable times and in a reasonable manner for the purpose of inspecting, operating, installing, constructing, reconstructing, maintaining, or repairing the facility.
4. Should the OWNER[S] fail to maintain the facility or correct any defects within a reasonable period of time [30 days maximum] after proper written notice by the Commission, the Commission is authorized to perform the necessary maintenance or repairs and may assess the OWNER[S] served by the facility for the cost of the work and any applicable penalties. Said assessment shall be a lien against all properties served by the facility. The OWNER[S] shall maintain perpetual access from public rights-of-way to the facility for the Commission or its agent and contractor.
5. The OWNER[S] shall indemnify and save the Commission harmless from any and all claims for damages to persons or property arising from the

construction, maintenance, and use of the facility.

- 6. The agreement and covenants contained herein shall apply to and bind the OWNER[S] and the OWNER[S] heirs, executors, successors, and assigns, and shall bind all present and subsequent owners of the property served by the facility.
- 7. The COMMISSION shall record this AGREEMENT in the land records of the COUNTY.

IN WITNESS WHEREOF, the OWNER[S] and the COMMISSION execute this AGREEMENT as of this \_\_\_\_ day of \_\_\_\_\_.

ATTEST:

FOR THE OWNER[S]

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

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

ATTEST:

FOR THE COMMISSION

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

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

STATE OF WEST VIRGINIA

COUNTY OF \_\_\_\_\_

I hereby certify that on this \_\_\_\_ day of \_\_\_\_\_ before the subscriber, a Notary Public of the State \_\_\_\_\_ and for the County of \_\_\_\_\_ aforesaid, personally appeared \_\_\_\_\_ and did acknowledge the foregoing instrument to be their Act.

In testimony whereof,  
I have affixed my official seal,

\_\_\_\_\_

My Commission Expires \_\_\_\_\_

### **Section 12.3 Definitions of Accessibility**

#### **Accessibility - Vehicles**

**School Buses** will be able to safely pick up and discharge passengers, to turn corners and to enter and leave the subdivision while all parking spaces are occupied and without having to back up.

**Fire Trucks** will be able to travel to any point on a road without backing up even if all parking spaces are occupied, and can complete turn-around without having to back up more than 100 feet.

**Service Trucks** will be able to perform their functions in all seasons without stopping the flow of traffic.

**Normal Passenger Vehicles** [excluding those of very low ground clearance] will be able to operate without chains, using tires appropriate for the season.

**Normal** - Accessible under normal conditions, excluding periods of ice and snow.

**Limited** - Accessible during good weather after normal maintenance work in the spring.

**Parking Spaces** are not to include the area of road required to meet width or corner radius minimums.

## **ARTICLE 13. PLAT REQUIREMENTS**

### **Section 13.0 Sketch Plat [Optional]**

If the subdivider elects to prepare a rough sketch plat for a pre-application conference with the Planning Commission Staff, it should include:

- a. A vicinity location map, indicating the general location in Hampshire County where the subdivision is to be established;
- b. The proposed layout of streets, lots and other improvements in relation to existing features;
- c. Existing and proposed drainage of surface water, including drainage devices;
- d. Plans for use of remaining lands;
- e. Contour lines.

### **Section 13.1 Preliminary Plat**

- a. General. The preliminary plat shall be submitted on durable paper and shall be clear and legible. The scale shall be fifty [50] feet or less to the inch for lots averaging less than two [2] acres, and once hundred [100] feet or less to the inch for lots averaging two [2] acres or more. The size of sheets shall be twenty-four [24] by thirty six [36] inches including a one and one-half [1 1/2] inch margin for binding along the left [24] edge. When more than one sheet is required, an index sheet of the same size shall be submitted showing the entire subdivision drawn to an appropriate scale. The preliminary plat shall be labeled "Preliminary Plat" in large letters.
  
- b. Required Information. The preliminary plat shall contain the following information:
  1. An insert vicinity map showing the location of the property, drawn to an appropriate scale, generally between 1,000-5,000 feet to the inch. The vicinity map should show the location of the proposed development in relation to state roads, geographical features, and other lands held by the applicant in the area;
  2. The names of all adjoining property owners, and the type of land use existing on all adjoining properties;
  3. The proposed name of the subdivision as approved by the Hampshire County Planning Commission.
  4. The name and address of the owners of the land being developed;
  5. North arrow, scale, and date;
  6. Show total area of the subdivision; Show total area within roads;
  7. A proposed re-plat of an existing subdivision shall include the name of the existing subdivision and the place where it is recorded in the Deed Books or Map Books;
  8. The bearings and distances of the boundary lines, and all existing easements, railroad, and utility rights-of-way;
  9. All existing pertinent features, within 100 feet of the subdivision, either natural or man-made, that may influence the design of the subdivision, such as watercourses, tree groves, swamps, rock outcrops, outstanding topographical features, utility lines, existing buildings, historic areas, cemeteries, drainage structures, year-round springs and existing wells;

10. Existing topography, with five-foot contour intervals for lots averaging less than one-half [1/2] acre each, or for any subdivision with proposed central sewer system, and twenty-foot contours for all other subdivisions;
11. Locations, widths, and names of all existing streets or alleys within 100 feet of the proposed subdivision. Recorded but unimproved streets should be shown with dotted lines;
12. Any areas specifically delineated by the United States Corp of Engineers or the United States Geological Survey as flood plain areas shall be shown;
13. The layout of all proposed and existing lots, clearly numbered and marked, with approximate dimensions and area, and showing setback lines, proposed well locations and septic systems reserve areas. Each lot shall be clearly numbered in the field.
14. Proposed locations, widths and names of streets and alleys, as approved by the Hampshire County Planning Commission. A plan-profile design of each street or road if required by the Planning Commission shall be submitted at the same or larger scale as the plat, with existing and proposed centerline grades shown. If applicable, existing and proposed sewer, water, and storm drainage systems designs shall be submitted. Elevations for the existing centerlines shall not be interpolated from 20 foot contour interval maps. A typical cross section of each type of street shall be included. A cross section shall be provided at each culvert. However, before final plat approval an as-built plan profile shall be submitted to the Planning Commission prior to final inspection.
15. Proposed sewer and water supply. Any design or plans submitted to the Hampshire County Health Department shall be included;
16. Any earthwork other than for streets or roads shall be shown on preliminary plat as proposed contours.
17. Sediment and erosion control plan including details and information as described in Article 10.0 Section 10.6 of this ordinance.

**Section 13.2 Final Plat**

a. General

1. Three clear and legible prints for recording in the Office of the Clerk of the Hampshire County Commission of the final plat shall be submitted. The scale shall be fifty [50] feet or less to the inch for lots averaging less than two acres, and one hundred [100] feet or less to the inch for lots averaging two [2] acres or more. The size of sheets shall be twenty-four [24] by thirty six [36] inches including a one and one-half [1 1/2] inch margin for binding along the left [24] edge. When more than one sheet is required, an index sheet of the same size shall be submitted showing the entire subdivision drawn to an appropriate scale;
2. All final plats shall adhere to the plat requirements listed in Section 9 of the "Rules and Regulations for the Practice of Land Surveying in W.Va.," State Board of Examiners of Land Surveyors, Chapter 30-12A, Series I. [1969] as amended, or corresponding parts of any such regulations adopted in the future;
3. Contour lines need not be shown on a final plat.

b. Required Information. The final plat shall show:

1. The location of the proposed development by inserting on the plat a location vicinity map at a scale of 1000 feet or more to the inch, indicating the location of the property with respect to surrounding property and roads;
2. Subdivision Name; Total area within the subdivision; Total area within roads;
3. The name and address of the owner of the land and the name and address of the subdivider, if other than the owner;
4. If the final plat under review is a re-plat of a subdivision on record, there shall be shown the following statement on the final plat with the applicable entries made thereon:

This is a re-plat of \_\_\_\_\_  
[Name of Subdivision]  
recorded on \_\_\_\_\_ in Deed Book # \_\_\_\_\_ Page# \_\_\_\_\_,  
[Date of Recording]  
owned by \_\_\_\_\_  
[Name]  
at the time of recording.

\_\_\_\_\_  
Signature of Present Owner

If the subdivision is recorded in other Hampshire County Records, such record and date of recording should also be shown.

5. In the case of a re-plat of a subdivision of record, the Planning Commission may require that dotted or dashed lines be used to show features or locations to be abandoned and solid lines to show the currently proposed features or locations;
6. The exact layout for the subdivision, including:
  - a. Street and alley lines; their names, bearings, or angles of intersections and widths, including widths along the line of any obliquely intersecting street;
  - b. The data for all curves shall be shown in detail at the curve or in a curve data table;
  - c. All easements or rights-of-way, when provided for or owned by public utilities, with the limitation of the easement right definitely stated on the plat.
7. Bearings and distances of flood plain areas on each lot where applicable;
8. Lots numbered in numerical order, and blocks lettered in alphabetical order throughout the entire subdivision;
9. Area of each lot. If applicable, approximate area of flood plain easement of each lot shall be calculated and shown separately;
10. All setback building lines, and any other setback lines or street lines established by public authority, and those stipulated in deed restrictions;
11. Accurate outlines of any areas to be reserved or dedicated for common use by the residents of the subdivision or land development unit, or for the general public use with the purposes indicated thereon;
12. Space for subdivision approval permit;
13. Each subdivision final plat approved as one of the following types of subdivisions shall contain the statement listed for the type of subdivision:

**High Density Housing.** “This subdivision has been approved by the Hampshire County Planning Commission as a High Density Housing subdivision. The roads are considered adequately designed and constructed for year-round access by passenger, emergency, and service vehicles.”

**Class I – Residential.** “This subdivision has been approved by the Hampshire County Planning Commission as a Class I - Residential subdivision. The roads are considered adequately designed and constructed for year-round access by passenger, emergency, and service vehicles.”

**Class II – Residential.** “This subdivision has been approved by the Hampshire County Planning Commission as a Class II-Residential subdivision. Some of the roads may not be designed and constructed for year-round access.”

**Trailer or Mobile Home Park.** “This subdivision has been approved by the Hampshire County Planning Commission as a Trailer or Mobile Home Park subdivision. The roads are considered adequately designed and constructed for year-round access by passenger, emergency, and service vehicles.”

14. An owner certification indicating that the plat is in conformance to any covenants and restrictions affecting the property and that all rights-of-way and easements affecting the property have been shown;
15. Location of proposed building site and proposed well and septic system reserve area shall be indicated on the Final Plat.

**ARTICLE 14. FEE SCHEDULE**

Base Fee for Each Section    \$\*  
Per Lot Fee                        \$\*

\*for fee schedule refer to next page

**FEE SCHEDULE FOR EXEMPTION OF LOTS**

Creation of New Lots If exempt under Section 3.2 A or B.	\$300.00 per lot
Transfer to Relative If exempt under Section 3.2 C.	\$300.00 per lot
Division among heirs or by court order of partition If exempt under Section 3.2 D.	\$300.00 per plat
Lots created to achieve boundary line settlement, or for the formation of a cemetery lot or if recorded prior to February 1, 1990 If exempt under Section 3.2 E, F or G.	\$25.00 per plat
Mergers If exempt under section 3.2 H.	\$25.00 per plat
Utility Lots If exempt under section 3.2 I.	\$25.00 per plat
Exempt Title Transfers If exempt under section 3.2 J.	\$25.00 per plat
Right of Ways and Easements If exempt under section 3.2 K.	\$50.00 per plat

**SUBDIVISION AND MISCELLANEOUS FEES**

Minor Plats	\$75.00 + \$25/Parcel
Copies	\$2.00 for first page and \$.75 for each additional page
Subdivision Regulations	\$20.00
Public Hearing Fee	\$25.00

Major Subdivision	
Preliminary Plat [per section or phase submitted]	\$300 + \$50/lot
Preliminary Plat Engineer Review Fee	\$45/lot
Salvage Yards [includes landfills]	\$25 + site plan review
Re-issue of Plat or Plat Correction	10% of previous fee, no less than \$25
Inspection Fee/Visit after Second Inspection	\$50.00/visit
Recreational Vehicle Parks or Campgrounds	\$75.00 + \$25/lot or campsite