

HAMPSHIRE COUNTY

SUBDIVISION AND LAND DEVELOPMENT ORDINANCE

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Hampshire County, West Virginia

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Article 1. Short Title

This Ordinance may also be known as the Hampshire County Subdivision and Land Development Ordinance.

Article 2. Authority and Purpose

Section 2.1 Authority

This Ordinance was adopted in accordance with Chapter 8A, Article 4 of the West Virginia Code.

Section 2.2 Purpose

This Ordinance was adopted for the following Hampshire County benefits:

- a. To protect and provide for the public health, safety, and general welfare of the residents 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 their 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. Definitions

Aggrieved or aggrieved person: means a person who:

- a) Is denied by the planning commission or Board of Appeals, in whole or in part, the relief sought in any application or appeal;
- b) Has demonstrated that he or she will suffer a peculiar injury, prejudice or inconvenience beyond that which other residents of the county or municipality may suffer.

Agriculture: is defined as:

- a. "Agriculture" shall mean the production of food, fiber and woodland products, by means of cultivation, tillage of the soil and by the conduct of animal, livestock, dairy, apiary, equine or poultry husbandry, and the practice of forestry, silviculture, horticulture, harvesting of silviculture products, packing, shipping, milling, and marketing of agricultural products conducted by the proprietor of the agricultural operation, or any other legal plant or animal production and all farm practices.
- b. "Agricultural land" shall mean any amount of land and the improvements thereupon, used or usable in the production of food, fiber or woodland products of an annual value of \$1,000 or more, by the conduct of the business of agriculture, as defined in subsection (a) of this section.

- c. "Agricultural operation" shall mean any facility utilized for agriculture.

Campground: A tract of land established, maintained, and offered to the public for payment (either for camping or any activity that may utilize camping as an accessory to the primary use) for the location or placement of two or more camping units.

Camping Unit: Any tent, camping vehicle, cabin, or similar vehicle or structure designed or intended to be used for camping purposes.

- a. A camping unit means and includes, but is not limited to, tents, tent campers, fold down campers, pop up campers, travel trailers, camping vans, motor homes, pick up campers, cabin, or any other unit built or mounted on a vehicle or chassis and capable of being self-propelled or towed.
- b. A camping unit shall not include any unit kept by its owner on land occupied by the owner in connection with his or her dwelling, or any unoccupied camping unit kept and stored at a location that has been reserved for storage within a campground.

Campsite: Any plot of land within a campground used or intended to be used for the location or placement of a camping unit.

Comprehensive plan: means a plan for physical development, including land use, adopted by a governing body, setting forth guidelines, goals and objectives for all activities that affect growth and development in the governing body's jurisdiction.

Improvement location permit: means a permit issued by a municipality or county, in accordance with its subdivision and land development ordinance, for the construction, erection, installation, placement, rehabilitation or renovation of a structure or development of land, and for the purpose of regulating development within flood-prone areas.

Industrial Scale Solar Energy Facilities: means a facility that generates electricity from sunlight by utilization of photovoltaic (PV) technology and distributes the generated electrical power. On-site components of the facility may include solar panels and other accessory components including, without limitation, Essential Utility Equipment, transformers, inverters, cabling, electrical lines, substations, and other improvements necessary to support generation, collection, storage, and transmission of electrical power. An Industrial Scale Solar Energy Facility shall not exceed five hundred (500) acres. Industrial scale solar energy facility is defined as greater than 100 KW. This does not include solar facilities powering poultry or other agricultural farm facilities which may reverse meter into the electrical grid excess electricity.

Land development: means the development of one or more lots, tracts or parcels of land by any means and for any purpose, but does not include easements, rights-of-way or construction of private roads for extraction, harvesting or transporting of natural resources.

Not-for-profit entity: means any organization such as a private family gathering, 501c non-profit, government entity, or any service organization which raises money for charity.

Parent Tract: A parcel of land that is subdivided, thereby creating two or more smaller parcels consisting of one (1) or more new parcels and the residue parcel.

Plan: means a written description for the development of land.

Plat: means a map of the land development that becomes its official recorded representation in the office of the clerk of the county commission where a majority of the land to be developed lies.

Public place: means any lots, tracts or parcels of land, structures, buildings or parts thereof owned or leased by a governing body or unit of government.

Residue Parcel (Remainder): The portion of a parent tract remaining after the division of one (1) or more new parcels from the parent tract by subdivision.

Subdivision or partition: means the division legal survey of a lot, tract or parcel of land into two or more lots, tracts or parcels of land, or the recombination of existing lots, tracts, or parcels.

Urban area: means all lands or lots within the jurisdiction of a municipal planning commission, council or board.

Utility: means a public or private distribution service to the public that is regulated by the Public Service Commission.

Wildlife Corridor: A wildlife corridor is a link of wildlife habitat, generally native vegetation, which joins two or more larger areas of similar wildlife habitat.

Article 4 General Provisions

Section 4.1 Jurisdiction

The provisions of this Ordinance shall apply to all lands within Hampshire County, West Virginia, excepting only lands that are within incorporated areas; *provided that*, nothing herein shall be deemed to prevent a municipality from adopting, by reference, this Ordinance in accordance with Section 8A-4-1 of the West Virginia Code.

Section 4.2 Administration

The Hampshire County Planning Commission shall administer this Ordinance. The Planning Commission may delegate to its staff ministerial duties and the responsibility to make recommendations to the Planning Commission.

Section 4.3 Plat Approval Requirement

No subdivision or development of land in Hampshire County shall be commenced unless and until: (a) the Hampshire County Planning Commission (or its staff with respect to Minor Subdivisions or Land Developments) has approved, and so stamped, a final subdivision or land development plat for the subject subdivision or land development; and (b) the approved final subdivision or land development plat has been duly recorded in the Office of the Clerk of the Hampshire County Commission. It shall be unlawful for any person or entity that owns or controls any land subject to the provisions of this Ordinance to sell, lease, transfer, advertise for sale or lease, or agree to sell or lease, any lot, tract, or parcel of such land within a subdivision or land development, or to be created by subdivision or developed by such person, until the final plat of such subdivision or land development shall have been so approved and recorded. 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 stamp of the Hampshire County Planning Commission. It shall be unlawful for any person or entity to describe by metes and bounds a lot or parcel of real estate subject to this Ordinance, in an instrument of transfer or other legal document used in the process of selling or transferring, with the intent to evade, avoid, and circumvent this Ordinance.

Section 4.4 Effect of Non-Approved Plans and Plats

A land development plan or plat that has not been approved by the Hampshire County Planning Commission is without legal effect.

Section 4.5 Vested Property Right

The right to undertake and complete a land development is established as a vested property right when the subject land development plan and plat is approved by the Planning Commission. The right is only applicable under the terms and conditions of the approved land development plan and plat. Failure to abide by the terms and conditions of the approved plan and plat will result in forfeiture of the right. The vesting period for an approved development plan and plat is five years from the time said plan and plat was approved by the Planning Commission.

Section 4.6 Amendment of Approved Plans and Plats

Approved final subdivision or land development plans and plats may be amended only if the proposed amendment is approved by the Planning Commission, which approval shall be made upon a determination by vote that the original plan and plat, as amended by the proposed amendment, meets the requirements of this Ordinance. The Planning Commission may require a public hearing (held and advertised consistent with the procedures in Section 7.3 hereof) regarding the amendment when it determines by vote that the nature of the proposed amendment, and the degree to which it modifies the previously approved plan and plat, create a legitimate interest of the public in the amendment.

Section 4.7 Improvement Location Permit Process

The construction, erection, installation, placement, rehabilitation, or renovation of any structure, or the development of any land, in Hampshire County is prohibited and shall not be commenced unless and until an improvement location permit is obtained from the Hampshire County Planning Office. An improvement location permit will be issued by the Planning Office or its staff following receipt in the Planning Office of: (a) a completed application for such permit, in the form prescribed by the Planning Office; (b) a final plat for the subject subdivision or land development, stamped as approved by the Planning Commission; and (c) any bond or letter of credit required pursuant to Section 7.4 hereof.

Section 4.8 Deadlines

The Hampshire County Planning Commission is authorized, from time to time, to establish by vote reasonable deadlines for submission of information relative to proposed subdivisions or land developments. The purpose of such deadlines is to facilitate appropriate notification and planning for the benefit of the citizens of Hampshire County and necessary to the Planning Commission's proper performance of its functions in compliance with state and federal law. These deadlines shall be posted in the Hampshire County Planning Office and copies will be available to the general public. These deadlines will be strictly adhered to. Late submission of information to the Planning Office will result in delay of review and consideration of the project.

Section 4.9 Exclusions

The following actions shall not constitute subdivisions or land developments, or otherwise be, subject to the requirements of this Ordinance: (a) the sale or other transfer of one or more parcels or lots from subdivisions for which plats or deeds were recorded with the Clerk of the Hampshire County Commission prior to the effective date of any Hampshire County Ordinance regulating subdivision or development of land, but only if such previously recorded plats or deeds are of sufficient survey accuracy to permit the clear conveyance of the subject lots by direct plat or deed reference without modification or addition; *provided that*, any resurvey or amended, modified, or corrective plat shall be subject to the requirements of this Ordinance, and/or (b) granting of rights of way or easements that do not provide access to a public road.

Section 4.10 Waiver/Variance Process

Waivers from, or variances of, the minimum standards of this Ordinance may be granted by the Planning Commission following: (a) submission to the Planning Office of a completed waiver/variance application, in the form prescribed by the Planning Commission; (b) a public hearing held and advertised consistent with the procedures in Section 7.3; and (c) determination by the Planning Commission by vote after such public hearing that: (i) the requested waiver/variance is not contrary to the public interest but is instead consistent with or will enhance the public interest; (ii) literal enforcement of this Ordinance will result in undue hardship to the applicant; (iii) the conditions requiring the waiver/variance are not the result of direct physical action taken by the applicant; and (iv) consistency and fairness in application of this Ordinance will not be compromised by granting the requested waiver/variance.

Section 4.11 Appeal Process

An appeal may be made by an aggrieved person from any decision or ruling of the Planning Commission by petition for writ of certiorari presented to the Circuit Court for Hampshire County pursuant to the provisions of Chapter 8A, Article 9 of the West Virginia Code. Said appeal must be filed within thirty (30) days after the date of the decision or ruling challenged. The petition must set forth that the decision or ruling of the Planning Commission is illegal in whole or in part, and specify the grounds of the alleged illegality.

Section 4.12 Cooperation and Coordination with Other Agencies

The Hampshire County Planning Commission shall cooperate and coordinate with other governmental agencies affected by the subdivision and development of land. A Final Plat shall not be approved by the Planning Commission until it has been stamped or certified as approved by all regulatory agencies whose jurisdiction involves items related to the proposed subdivision or land development.

Section 4.13 Interpretation

In the interpretation and application of the provisions of this Ordinance, the provisions of this Ordinance shall be deemed to be the minimum requirements necessary for the promotion and protection of public health, safety and welfare. Where the provisions of this Ordinance and all implementing standards and specifications which are more restrictive than those of any other Hampshire County Ordinance or regulation or any applicable land development agreement, the provisions of this Ordinance and its standards and specifications shall be controlling. Where the provisions of any state statute, regulation, other Hampshire County Ordinance or regulation, or applicable land development agreement impose greater restrictions upon land development than this Ordinance, the provisions of such statute, regulation, other Ordinance or regulation, or applicable land development agreement shall be controlling.

Section 4.14 Severability and County Liability

If any section, subsection, or paragraph, sentence, clause, phrase, or word of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance which shall remain in full force and effect, and for this purpose the provisions of this ordinance are hereby declared to be severable.

The granting of a permit or approval shall not constitute a representation, guarantee, or warranty of any kind by the Hampshire County Commission, Hampshire County Planning Commission or by any other official, employee, or individual or company contracted thereof of the practicability or safety of the proposed use, and shall create no liability upon Hampshire County.

Article 5. Minor Subdivisions and Land Developments

A minor subdivision or land development is a subdivision or land development that will have no or little impact upon the resources of Hampshire County. Members of the staff of the Hampshire County Planning Commission, as designated by the Planning Commission by job title, are authorized by this Ordinance to approve minor subdivisions or land developments.

Section 5.1 Types of Minor Subdivisions and Land Developments

The following shall be considered minor subdivisions or land developments:

- i. The division of no more than two (2) new parcels from a parent tract; *provided that:* (i) each new parcel will adjoin an existing road maintained by the West Virginia Department of Highways and not require off-tract infrastructure to be developed or extended; and no more than a total of three (3) parcels will result from the proposed subdivision and all prior subdivisions of any tract from which the subject parcel resulted that occurred after the effective date of any Hampshire County Ordinance regulating subdivision or development of land. Any subdivision that would exceed the foregoing three (3) parcel limitation shall come under the Major Subdivision provisions of this Ordinance and shall be reviewed by the Hampshire County Planning Commission. The parcels created under Section 5.1b. of the current ordinance and Section 3.2c. of the pre-2009 ordinance does not count toward the maximum three (3) parcels created under this section. No more than three (3) lots shall be created including the remainder/residue without full compliance of the right-of-way and road standards set forth in Article 9 of this ordinance. Transaction must take place between two living persons and conveyances pertaining to wills shall follow Section 5.1c.
- ii. The formation of parcels of any size provided the lot is transferred by deed to the landowner's spouse or a parent, child, grandparent, or grandchild of the landowner or of the landowner's spouse. The deed shall identify the relationship between the grantor and grantee and the deed and plat shall contain the following statement: "THE SUBJECT PROPERTY IS SUBJECT TO MINOR SUBDIVISION CLASSIFICATION AS A FAMILY TRANSFER UNDER THE HAMPSHIRE COUNTY SUBDIVISION AND LAND DEVELOPMENT ORDINANCE. IF THE PROPERTY IS RE-TRANSFERRED TO A NON-FAMILY MEMBER WITHIN FOUR (4) YEARS FROM THE DATE OF RECORDATION OF THE SUBJECT DEED, THE PRIOR MINOR SUBDIVISION SHALL BE VOID AND DEEMED NOT TO HAVE OCCURRED AND THE RE-TRANSFER SHALL BE DEEMED TO CONSTITUTE THE SUBDIVISION OF THE PROPERTY, WHICH MUST COMPLY WITH ALL PROVISIONS OF SAID ORDINANCE." Any individual may receive only two (2) parcels of land within the county under this provision.
 1. As used in this Subsection 5.1(b), the word "re-transferred" shall not include transfers under or by:
 2. Deeds of Trust 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;
 3. Judicial sales or tax sales;
 4. Mortgages; or
 5. Wills or the laws of intestacy.

- iii. Division of land among devisees by will or heirs by intestacy.
- iv. Division of land pursuant to court order.
- v. Minor boundary line adjustments, including transfer of parcels of land to achieve a boundary line settlement.
- vi. The formation of cemetery lots.
- vii. The granting of rights-of-way or easements that provide access to a public road. A department of highways entrance permit shall be required for approval of any such right-of-way or easement.
- viii. Surveys of existing lots that do not alter boundary lines (although the metes and bounds descriptions of such lines may vary insignificantly from prior descriptions of such lines) or reflect a subdivision in any manner.
- ix. When two or more contiguous parcels of land are merged for the sole purpose of enlarging an existing lot, tract, or parcel, and the grantee agrees to merge the parcel being acquired with a parcel the grantee presently owns, the parcel merged will not be counted as a subdivision of the grantor's parent tract, provided the following conditions are met:
 1. The residue parcel does not violate any existing Hampshire County ordinance pertaining to land use.
 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 SHALL BE IN COMPLIANCE WITH THE HAMPSHIRE COUNTY SUBDIVISION OR LAND DEVELOPMENT ORDINANCE."
- x. Utility lots or areas created for the purpose of facilitation, metering or transmission of a legal utility such as water, sewer, electric, gas, power, telephone, or rail transportation. This minor subdivision may also be utilized for construction of police, fire, and ambulance facilities. The deed and plat shall contain the following statement: "THE PROPERTY HERE DESCRIBED SHALL NOT BE USED FOR RESIDENTIAL OR COMMERCIAL PURPOSES OTHER THAN THE LEGAL UTILITY THE LOT WAS DESIGNED FOR." 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 this 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.
- xi. Parcels not served by direct state-maintained road access shall have the availability to create one new parcel from each parent parcel in effect at the same time of approval of the ordinance provided that the parcel is served by a legal right-of-way.

Section 5.2 Approval Process for Minor Subdivisions and Land Developments

Review and approval of minor subdivisions and land developments shall be conducted in all respects in accordance with the requirements of Chapter 8A, Article 5 of the West Virginia Code, as amended.

- i. Application for Approval of a Minor Subdivision or Land Development:** A complete application consisting of the following must be presented to the Office of the Hampshire County Planning Commission before the process of review and approval may begin.

Application	A written application for approval of a minor subdivision or land development, in the format developed and approved by the Planning Commission, completed and signed by the applicant.
Plat	Size of at least eight and one-half (8 ½”) inches by fourteen (14”) inches having margins of one-half (½) to one (1) inch and following general surveying and engineering practices for plats. They must also include general location information and a general location map and any additional information or statements as required by this ordinance. Approval of the plat by the Health Department, the Public Service District, the 911 office, the applicable electric utility, and the West Virginia Department of Highways shall also accompany the application.
Entrance Permits	A West Virginia Department of Highways Entrance Permit is required for minor subdivisions creating a new lot or parcel.
Sewage Disposal	A letter from the Hampshire County Health Department, Public Service District, or applicable Homeowners Association stating adequate sewage disposal is available for the lot or parcel. This is required for the creation of any new lot or parcel.
Fees	The appropriate fees specified in Article 23 hereof for the subject subdivision or land development.

- ii. Classification as a Minor Subdivision or Land Development:** Within seven (7) days of receipt of a complete application, the Planning Commission staff shall meet with the applicant to discuss the proposed subdivision or land development and the criteria proposed for its classification as a minor subdivision or land development. Within ten (10) days of receipt of the complete application, the Planning Commission staff shall notify the applicant in writing whether the proposed subdivision or land development has been classified as a minor subdivision or land development.

- iii. Approval/Denial:** Within ten (10) days after classification as a minor subdivision or land development, the Planning Commission or its staff shall approve or deny the subject plat. A plat will be approved if the application is complete and all criteria required in this Ordinance and Chapter 8A, Article 5 of the West Virginia Code, as amended, are satisfied. Upon approval of a plat, the Planning Commission staff shall place upon the plat the Planning Commission’s stamp, an indication of the category of minor subdivision under which approval was given, and the date of approval. If a plat is approved with conditions, the Planning Commission shall provide the conditions in writing to the applicant and attach the same to the plat. If a plat is denied, the applicant shall be notified in writing of the reason for denial.

- iv. Recordation:** The subdivision or development of land shall not be commenced until the approved plat is recorded in the Office of the Hampshire County Clerk.

Article 6. Major Subdivisions and Land Developments

A major subdivision or land development is any subdivision or land development that does not meet the criteria specified in this Ordinance for classification as a minor subdivision or land development.

Section 6.1 Categories of Major Subdivisions and Land Developments

Every major subdivision or land development established in Hampshire County after the enactment of this Ordinance shall be classified by the applicant as in one of the following nine (9) categories of subdivision/development:

- i.** High Density Housing
- ii.** Class I – Residential
- iii.** Class II – Residential
- iv.** Class III – Low Density Residential
- v.** Manufactured Home or Mobile Home Parks
- vi.** Commercial/Industrial/Manufacturing Parks
- vii.** Combination (Planned Unit Development)
- viii.** Recreational Vehicle Parks or Campgrounds
- ix.** Industrial Scale Solar Energy Facilities

Section 6.2 High Density Housing Standards

High Density Housing subdivisions or land developments shall have the facilities specified below. 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 and land developments, rental and/or leased units apply.

The following standards shall apply to subdivisions and land developments in this category:

- i. Lot Size:** No minimum or maximum lot size is applicable.
- ii. 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 four and one half (4 ½) inches of asphalt pavement, three (3) inches of base and one inch and a half (1 ½) of top coat. Road dimension and construction shall be in accordance with Article 9 of this Ordinance, "General Standards for Roads," however Collector Class roads are limited to ten (10) percent maximum grade and must have a paved road surface twenty-four (24) feet wide exclusive of parking areas. Local roads shall be ten (10) percent maximum grade with a paved surface of twenty-two (22) feet, exclusive of parking areas. Side Class roads are limited to twelve (12) percent maximum grade and must have a paved road surface twenty (20) feet wide exclusive of parking areas. If on street parking is provided, widths shall be verified by the planning office using general engineering standards. Roads shall adhere to Article 9 of this ordinance. Roads shall extend to the state-maintained road.
- iii. Water and Sewage:** Central water and sewage systems are required.
- iv. General Requirements:** A minimum of two off-street parking spaces must be provided for each residential unit in accordance with standard engineering practices. Screening is required around sewage treatment facilities and trash bins. All twenty (20) foot setback lines must be reserved for utility lines. A utility right of way/easement will be provided for underground utility lines. Such right of way/easements and building set back lines will be twenty (20) feet adjacent to all roads (interior and exterior) and all exterior boundary lines. The setback right of

way/easement lines will be ten (10) feet on all interior lot lines not falling in any of the above categories. The setback does not apply to the interior of town houses which utilize party walls as property lines.

- v. **Rights-of-way:** A fifty (50) foot right-of-way for roads will be required within the development. Right-of-way access to the state-maintained road shall be required for road upgrades.
- vi. **Other Facilities:** Curb, gutter, storm water management, street lighting, underground utilities, fire hydrants, and pedestrian and bicycle traffic thruways with a minimum of four (4) feet of concrete on both sides shall be required.
- vii. **Open Space:** Adequate Open Space will be required at a level to provide adequate recreational opportunities to the inhabitants of the development.

Section 6.3 Class I - Residential Standards

This type of subdivision or land development 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 and land developments in this category:

- i. **Lot Size:** Minimum lot size will be one (1) acre excluding roads and utilities and cable TV rights-of-way. All lot dimensions shall have a maximum three (3) to one (1) length to width ratio with a seventy (70) foot minimum frontage. The cul-de-sac lot design shall require a minimum thirty (30) foot chord length between the intersections of the diverging property lines and the right of way line
- ii. **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 three (3) inches base and one and one half (1 ½) inch wear of asphalted pavement, totaling four and a half (4 ½) inches. Road dimension and construction shall be in accordance with Article 9 hereof, "General Standards for Roads", however Collector Class roads are limited to ten (10) percent maximum grade and must have a paved road surface twenty-four (24) feet wide exclusive of parking areas. Local roads shall be limited to a ten (10) percent maximum grade with a paved surface of twenty-two (22) feet exclusive of parking areas. Side Class roads are limited to twelve (12) percent maximum grade and must have a paved road surface twenty (20) feet wide exclusive of parking areas. If on street parking is provided widths shall be verified by the planning office using general engineering standards.
- iii. **Water and Sewage:** The Planning Commission encourages central or public service sewer systems, but individual septic tanks are acceptable with Health Department approval for lots greater than one (1) acre in size. If the lots are not served by a central sewer facility each lot shall be capable of providing space for a septic system approved by the Hampshire County Health Department. Lots must be served by public water, except that individual wells serving a single lot may be used if approved by the Health Department. Dwelling locations must be referenced in a deed covenant as well as on final plat. The plat must also have the following general statement: "ALL CONSTRUCTION OF HOUSING MUST ADHERE TO FINAL PLAT LAYOUT UNLESS DEVIATION IS APPROVED BY THE HAMPSHIRE COUNTY HEALTH DEPARTMENT AND THE HAMPSHIRE COUNTY PLANNING COMMISSION."
- iv. **Rights-of-way:** A minimum forty (40) foot right-of-way inside the development will be

required for roads and storm water management. A utility right of way/easement will be provided for underground utility lines. Such right of way/easements and building set back lines will be twenty (20) feet adjacent to all roads (interior and exterior) and all exterior boundary lines. The setback right of way/easement lines will be ten (10) feet on all interior lot lines not falling in any of the above categories.

- v. **Utility Service:** Underground utilities shall be required.

Section 6.4 Class II - Residential Standards

The following standards shall apply to subdivisions and land developments in this category:

- i. **Lot Size:** Minimum lot size is two and a half (2.5) acres. 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 one hundred seventy (170) feet and a minimum one hundred fifty (150) feet of depth. Lots extending from a cul-de-sac radius shall have a minimum fifty (50) foot chord length between the intersections of the diverging property lines and the right of way line.
- ii. **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 9 hereof, "General Standards for Roads." The road surface shall be paved with crushed lime stone if asphalt pavement is not being proposed. Collector roads shall be surfaced twenty-four (24) feet in width with a maximum grade of ten (10) percent. Local roads shall have a maximum grade of ten (10) percent with a road surface of twenty-two (22) feet in width. Side roads shall be twenty (20) feet in width with a maximum grade of twelve (12) percent.
- iii. **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.
- iv. **Rights-of-way:** A utility right of way/easement will be provided for underground utility lines. Such right of way/easements and building set back lines will be twenty (20) feet adjacent to all roads (interior and exterior) and all exterior boundary lines. The setback right of way/easement lines will be ten (10) feet on all interior lot lines not falling in any of the above categories.
- v. **Utility Service:** Underground utilities shall be required.

Section 6.5 Class III - Low Density Residential Standards

The formation of parcels of land which are ten acres or larger in size shall be classified as low-density residential subdivisions or land developments.

- i. **Lot Size:** Minimum lot size will be ten (10) acres in size; however, a residue parcel of less than ten (10) acres will be allowed provided it is adequate for well and septic disposal in accordance with regulations set forth in this Ordinance and by the State of West Virginia.
- ii. **Roads:** Roads shall be at least twenty (20) feet in width and no greater than twelve (12) percent grade. The roads shall comply with all other road requirements outlined within this Ordinance under Article 9 hereof, "General Standards for Roads".
- iii. **Water and Sewage:** All lots will be served by individual well and septic unless further infrastructure is provided by the developer. Regardless of sewage disposal, a Hampshire County Health Department approval must be obtained for each individual lot or parcel.

- iv. **Rights-of-way:** Roads will be situated at least a thirty (30) foot right-of-way.
- v. **Utility Service:** Underground utilities shall be required.

Section 6.6 Manufactured Home or Mobile Home Parks Standards

A manufactured home or mobile home park is any site, area, tract or parcel of land, upon which two (2) or more manufactured homes or 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 provide 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 placed on a permanent foundation of continuous masonry construction. Sectional homes must be at a minimum twenty-four (24) feet wide when completed.

- i. **Lot Size:** The minimum lot size must be four thousand five hundred (4,500) square feet. The lot dimension shall be a minimum of forty-five (45) feet by one hundred (100) feet. Each mobile home site shall have a minimum road frontage (width) of forty-five (45) feet along a platted right-of-way. All lots shall have a minimum ten (10) foot building set back from the property lines.
- ii. **Roads:** All roads must be accessible to school buses, fire trucks, and service vehicles. All road dimensions shall be in accordance with Article 9 hereof, "General Standards for Roads." Collector roads shall be asphalted pavement twenty (24) feet in width with a maximum grade of ten (10) percent; local roads shall be paved twenty-two (22) feet in width with a maximum grade of ten (10) percent; side roads shall be paved twenty (20) feet in width with a maximum grade of twelve (12) percent.
- iii. **Water and Sewage:** All systems will be approved by central or public service systems or approved by the West Virginia or Hampshire County Health Departments.
- iv. **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 and complies with general engineering practices for parking design. No permanent building being occupied as a dwelling or residence may be placed on any lot in a trailer park or mobile home park. Screening is required for all sewage lagoons and central garbage bins.
- v. **Utility Service:** All utilities shall be provided by underground service.

Section 6.7 Commercial/Industrial/Manufacturing Parks Standards

The following standards shall apply to subdivisions and land developments in this category:

- i. **Roads:** All roads must have a road with an asphalted surface at least twenty-four (24) feet wide with a four (4) inch base and a two (2) inch top wear coat and maximum grade must not exceed ten (10) percent. All roads must be constructed as heavy duty and capable of supporting tractor trailer trucks. Article 9 hereof, "General Standards for Roads", shall be adhered too for road construction.
- ii. **Special Provisions:** Adequate buffer zones and fencing are required as necessary to

substantially screen, both visually and aurally, the subdivision or land development from neighboring residential areas.

- iii. **Utility Service:** Overhead or underground lines for electric power, telephone, and cable are allowed.

Section 6.8 Combination (Planned Unit Development) Standards

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

The following standards shall apply to subdivisions and land developments in this category:

- i. Each plat submitted to the Planning Commission or shown to any prospective purchaser shall clearly delineate which areas of the subdivision or land development are to fall in each particular category of subdivision/development specified in this Article 6.
- ii. Each particular area shall be designed and constructed in accordance with the above stated requirements for the specified category of subdivision/development.
- iii. The entire subdivision, including the roads and facilities connecting one type of land use with another, shall be designed and constructed so that there is a harmonious blend between the various areas.
- iv. Overhead power distribution lines are allowed only in industrial and commercial areas.

Section 6.9 Recreational Vehicle Parks or Campgrounds Standards

These provisions are not to be applied to the use or locating of mobile homes or manufactured homes for recreational use, and any such applications shall follow the provisions of Section 6.5 hereof. 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 from the requirements of this Ordinance unless such operation is abandoned for a period of at least one (1) year. These provisions do not apply to family-owned property for enjoyment of family and friends at no cost.

- i. The area of each campsite shall be a minimum of one thousand five hundred (1500) square feet not to include road right-of-ways. Each campsite shall have a minimum road frontage (width) of twenty (20) feet along a platted road right-of-way.
- ii. Each campsite shall provide an adequate stand for the placement of a camping unit. A campsite stand shall be at least fifteen (15) feet by twenty-five (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.
- iii. 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.
- iv. Main entrance and primary looping roads within a campground shall be constructed in accordance with Article 9 hereof, "General Standards for Roads." The road surface shall be paved with crushed limestone if asphalt pavement is not being proposed. Collector roads shall be surfaced twenty-four (24) feet in width with a maximum grade of ten (10) percent. Local

roads shall have a maximum grade of ten (10) percent with a road surface of twenty-two (22) feet in width. Side roads shall be twenty (20) feet in width with a maximum grade of twelve (12) percent.

- v. Convenient off-street parking (on each campsite or in designated parking areas) shall be provided at the rate of two (2) spaces per campsite. Each parking space shall have a minimum dimension of ten (10) feet by twenty (20) feet. Designated parking areas may not be used for overnight camping or occupancy.
- vi. Each campsite shall be provided with a sanitary, covered garbage can.
- vii. 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 number of tents allowed in a tent area shall be limited to twenty-five (25) percent of the number of designated campsites (including the maximum number of such tent sites) 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 five hundred (500) square feet per eligible tent.
- viii. A campground shall provide at least one sanitary sewerage dump station; one, water refill station and one solid waste disposal collection facility, or as determined necessary for the camping type. These provisions may be waived for overnight camping only.
- ix. All power lines to individual lots must be underground. The installation of over head main lines may be allowed.
- x. The developer of recreational vehicle parks or campgrounds may coordinate with Planning Office staff for proof roll testing in lieu of compaction testing on roads and parking pads.

6.9A Primitive Camping, Small Gatherings, and Mass Gatherings

- a. Primitive camping will be defined as groups of twenty-five or less (<25) individual people involved in commercial for-profit overnight camping. Permits will be granted on a yearly basis provided all required documentation is submitted to the Hampshire County Planning Office.
- b. Small Gatherings will be defined as groups of twenty-six to fifty (26-50) individual people involved in commercial for-profit overnight camping. Permits will be granted on a per event basis provided all required documentation is submitted to the Hampshire County Planning Office.
- c. Organizers and/or landowners of Mass Gatherings (fifty-one or more (>50) individual people) involved in commercial for-profit overnight camping who fail to file an application for a Mass Gathering with the Hampshire County Planning Office will be assessed a clean-up fee of \$5,000.00. Not-for-profit entities are exempt from this fee. This fee will be used for any additional clean-up of the event area. The Hampshire County Prosecuting Attorney will file all necessary lien paperwork on the property used for the Mass Gathering should the organizers fail to pay the penalty fee.

Procedures to apply for a Primitive Camping, Small Gathering, or Mass Gathering permit:

1. Applicants must submit an application completed in full to the Hampshire County Planning Office for review fourteen days in advance of the event.
2. Application will be accompanied by letters from Law Enforcement and EMS that an adequate level of support is available for the type of event planned. This may require a financial burden on the event organizer to provide for said adequate level if staffing levels for security and the health, safety, and well being of the participants may not be adequately covered by existing services provided by state or county resources.
3. Sanitary conditions will be required to be met on the part of the organizer; a letter from the Hampshire County Health Department will be submitted with approved plans for sanitary

human waste disposal. Solid waste (trash) will be properly disposed of and receipts from an approved land fill, transfer station, or solid waste hauler may be requested. Failure to properly dispose of all waste may result in a fine from the appropriate authorities following a post event inspection.

Fees Due upon Application submittal, no refunds possible.

\$25.00 Primitive Camping permit fee per year.

\$25.00 Small Gathering permit fee per event.

\$250.00 Mass Gathering permit fee per event.

Article 7. Procedure for Approval of Major Subdivisions and Land Developments

Review and approval of major subdivisions and land developments shall be conducted in all respects in accordance with the requirements of Chapter 8A, Article 5 of the West Virginia Code, as amended.

Section 7.1 Application for Approval of a Major Subdivision or Land Development

An applicant for approval of a major subdivision or land development plan and plat shall submit to the Planning Commission an application, which shall consist of: (a) a written application in the format developed and approved by the Planning Commission, completed and signed by the applicant; (b) a copy of the proposed subdivision or land development plan and plat compliant with the requirements of Article 22 hereof and including everything required by this Ordinance; and (c) the appropriate fees specified in Article 23 hereof for the subject subdivision or land development. Approval of the plan and plat by the Health Department, the Public Service District, the 911 office, the applicable electric utility, and the West Virginia Department of Highways shall also accompany the application.

Section 7.2 Determination of Complete Application

- i. Upon written request of the applicant for a determination of completeness, but in any event within forty-five (45) days after receipt of the application, the Planning Commission shall review the application for completeness and determine by vote at the next regular meeting or at a special meeting whether the application is complete based upon a finding that the application meets the requirements set forth in this Ordinance, in which case the application is accepted for further review, or whether it is not complete. As part of its review, the Planning Commission shall determine whether the applicant has appropriately categorized the subdivision or land development under Article 6.
- ii. If the application is not complete or if the Planning Commission determines the applicant has not appropriately categorized the subdivision or land development under Article 6, then the Planning Commission shall deny the application and must notify the applicant in writing stating the reasons for the denial. Any such denial shall not prevent the applicant from re-submitting a complete application for the same project.

Section 7.3 Approval of Major Subdivision or Land Development Plans and Plats

- i. At the meeting at which an application is determined to be complete, the Planning Commission must set a date, time and place for a public hearing and a meeting to follow the public hearing to vote on the application. The public hearing must be held within forty-five (45) days of the meeting at which the application is determined to be complete, and the Planning Commission must notify the applicant of the public hearing and meeting in writing unless notice is waived in writing by the applicant. The Planning Commission must publish a public notice of the public hearing and meeting in a local newspaper of general circulation in the area at least twenty-one days (21) prior to the public hearing and the developer must post, at least twenty-one days (21) prior to the public hearing and thereafter maintain, notice by means of a public hearing sign complying with requirements set forth in this Ordinance on the development site clearly visible to the general public.
- ii. At a meeting at the conclusion of the public hearing or, in the Planning Commission's discretion, a meeting held within fourteen (14) days after the public hearing, the Planning Commission shall vote to approve, deny or hold the application.
- iii. If the Planning Commission determines by vote that additional information is necessary to determine whether to approve or deny the application, the application may be held for up to forty-five (45) days for such additional information.

- iv. The Planning Commission shall approve the application if the Planning Commission determines by vote that the application is complete and meets the requirements of this Ordinance. Each application shall demonstrate compliance with all of the standards set forth in this Ordinance specific to the applicable category of subdivision/development, as well as all applicable general standards in this Ordinance.
- v. If the Planning Commission approves the application, then the Planning Commission shall place upon the subdivision or land development plan and plat the Planning Commission's stamp and the date of approval.
- vi. If the Planning Commission approves the application with conditions, then the Planning Commission shall provide the conditions in writing to the applicant and attach the same to the plan and plat.
- vii. If the Planning Commission denies the application, then the Planning Commission shall notify the applicant in writing by mail of the reasons for the denial, postmarked at most ten (10) days from the date of the meeting when the denial occurred. The applicant may request, one time, a reconsideration of the decision of the Planning Commission, which request for reconsideration must be in writing and received by the Planning Commission no later than ten (10) days after the decision of the Planning Commission is received by the applicant.

Section 7.4 Industrial Scale Solar Energy Facilities

Section 7.4.1 Application Process for Industrial Scale Solar Energy Project

Initial Application

Industrial scale solar projects will occur after a thorough plan review is completed by the Planning Commission. All information listed below shall be required prior to submission for County approval for Industrial Scale Solar Energy projects. The review by the Planning Commission shall determine if the proposed project with the general or approximate location, character and extent are substantially in accord with the Comprehensive Plan. A Pre-Proposal Conference is recommended for all solar projects but not required. An Industrial Scale, Solar Energy Facility application shall include the following:

- a. Submit a drawing depicting the location of the proposed project and delineate the distance of the panels from the external property lines.
- b. Submit a brief description of the timeline of the lease or operating plan, and an overview of the plan for removal of the solar energy facility. The decommissioning plan and bond shall be in accordance with the West Virginia Department of Environmental Protection (WVDEP), pursuant to WV State Code §22-32-1, et. sec. or its successor. Should the Planning Commission agree the project is substantially in accord with the Comprehensive Plan and this Ordinance, the applicant shall proceed with an Application with a Concept Plan, pursuant to the criteria listed below and subject to Provisions of Section 7.3.

Concept Plan

Process for Industrial Scale Solar Energy Facilities

A Concept Plan is required. Concept Plan shall include the following criteria:

- a. Property or Properties Location using most recent plat(s);
- b. Access Points;
- c. Anticipated location of all proposed components of the Solar Energy Facility. Each

proposed solar panel is not required to be shown on the Concept Plan, if compliance with setbacks can be established by what is depicted on the Concept Plan, Landscaping, Buffering, Ground Cover Plan, and Fencing.

d. If the project is to be completed in phases, the Concept Plan shall reflect the phasing of the project.

e. Proposed limits of clearing and grading and preliminary location of stormwater management facilities. The provisions of the Storm Water Management Ordinance apply to the extent they do exceed the requirements included in the WV DEP Storm Water NPDES requirements.

f. Existing 100-year floodplain boundary, limits of potential wetlands, location of woodlands and wildlife corridors, sources of drinking water, areas of native vegetation and areas under existing cultivation.

g. Existing soils information as provided by the USDA Soil Conservation Service online Web Soil Survey.

h. A fiscal impact analysis, prepared by a qualified third-party, that analyzes any expected positive or negative impact on the County's tax revenues, the estimated costs to the County associated with the facility in the form of additional services, and information on any other economic benefits or burdens from the facility.

i. Decommissioning Outline

j. A narrative outlining the decommissioning of the Solar Energy Facility shall be included with the Concept Plan. This narrative shall include a description of the timeline of the lease or operating plan, and a general plan for removal of the Solar Energy Facility.

k. The company shall provide to the Planning Commission proof of application for a decommissioning plan and bond when such application is filed with the WVDEP as required by WV State Code §22-32-1, et. sec. or its successor.

l. Hampshire County Planning Office staff shall be notified by certified mail at least 120 days in advance of the intended decommissioning of the Solar Energy Facility. Staff will place the notice on the next regularly scheduled Planning Commission meeting.

m. Failure of the Lessee or Property Owner to meet and/or comply with the decommissioning plan as approved by the WVDEP may result in legal action pursuant to this Ordinance and/or any applicable State Law.

Section 7.4.2 Setbacks, Landscaping, and Buffer Standards for a Solar Energy Facility

Multiple adjacent properties under the same ownership or lease by the same company shall be considered one property for the purpose of these regulations. Internal boundary lines on adjacent properties under the same ownership or lease by the same company are not subject to the setbacks or buffer requirements provided below.

Minimum Required Setbacks

a. Solar Panels. Front, Side, and Rear Setbacks shall be 500 feet from all external/perimeter

property lines and from the edge of the State/Federal ROW or Easement of any State/Federal Road.

b. The above referenced setback may be decreased to 250 feet provided it includes a six-foot-high opaque buffer within the setback area comprised of two rows of evergreen trees that are six feet tall at the time of planting or a solid fence. Alternatively, a 250-foot-wide strip of existing, mature woodlands may be allowed in lieu of a planted buffer or fence if documentation is submitted documenting how the existing mature woodlands comply with the required buffer standard. Solar panels and accessory components may be located on a common side or rear lot line of contiguous property owned by the same entity.

c. Accessory components, excluding solar panels, underground utilities and access roads shall have front, side, and rear setbacks of 250 feet from all external/perimeter property lines and from the edge of the State/Federal ROW or Easement of any State/Federal Road.

d. Drinking water supplies. Setback from rivers and streams that provide drinking water to any county entity; to include towns or subdivisions, shall be 500 feet from the stream or river.

Landscaping and Buffer Standards

a. Buffer Standard – Buffers shall be required to visually block the view of the solar facilities from a public road, occupied residence, Historic Resource, Institution for Human Care and/or Church or place of worship located on the same elevation as the solar facilities and within the Buffer limits. Buffers are not meant to block the view of the solar facilities from elevated positions or mountain sides.

b. Buffers are a six-foot-high opaque buffer within the setback area comprised of two rows of evergreen trees that are six feet tall at the time of planting or a solid fence or a 250-foot-wide strip of existing, mature woodlands may be allowed in lieu of a planted buffer or fence if documentation is submitted documenting how the existing mature woodlands-comply with the required buffer standard.

c. The buffer screen may be either vegetative or opaque fencing and may be placed anywhere within the buffer area. No Solar Energy Facility structures, materials, or vehicular parking shall be permitted within the side and rear yard buffers. However, the landowner may use the setback area for any agricultural or other legal use as long as the minimum buffer screen standard of two rows of trees or opaque fencing is maintained. Existing, natural vegetation may be used in lieu of a planted buffer if documentation is submitted to the Planning Commission verifying how the existing natural vegetation complies with the required buffer standard. Solar panels and accessory components may be located on a common side or rear lot line of contiguous property owned by the same entity. Existing, natural vegetation may be used in lieu of a planted buffer if documentation is submitted to the Planning Commission verifying how the existing natural vegetation complies with the required buffer standard. Solar panels and accessory components may be located on a common side or rear lot line of contiguous property owned by the same entity.

Section 7.4.3 Security and Access

a. A security fence with secured gates shall be erected around the operating areas of the Solar Energy Facility with a minimum height of six feet and a maximum height of ten feet. Arrangements shall be made with the appropriate Fire Department for Access.

b. Access to the facility shall be provided to the closest Fire Department and a plan developed with the Fire Department to extinguish a live current fire within the fenced compound of the solar facilities. A copy of the draft plan shall be submitted with the application with a final plan required prior to final Commission approval. Because of the dangers associated with live electrical fires,

access may be limited to Fire Department personnel only with solar operators in attendance. Fire Chiefs shall cooperate with the Solar entity in the development of the plan. The Planning Commission Staff shall review and approve the final plan within 30 days of the submission.

Section 7.4.4 Concept Plan Written Approval

Concept Plan Written approval from the Planning Commission President or Planning Office staff, based on an approved Concept Plan and payment of the appropriate Planning Office building permit fees, is required. Final plans and permits for construction may now proceed.

Section 7.4.5 Final Plan Written Approval

Final Plan written approval is required before starting any construction of Solar Energy Facilities. Final Approval is contingent on the submission of final Plans and compliance with all required State Regulations and approvals, including those from the WV Public Service Commission (excluding the interconnection agreement or similar agreement with the applicable public utility), WVDEP NPDES Permits and Decommissioning Bonds and a Review Letter from the State Fire Marshal Office (The Fire Marshal does not issue an approval letter until after construction final inspection). The Planning Commission Staff shall provide final written approval upon submission of the final approved permits.

Section 7.4.6 General Requirements

- a. Design, construction, and installation of the Solar Energy Facility shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM) or other similar certifying organizations and shall comply with the West Virginia Fire and Building Codes, including compliance with the County Building Code.
- b. Prior to commencing the transmission of electricity, the Solar Energy Facility shall provide documentation evidencing an interconnection agreement or similar agreement with the applicable public utility or approved entity in accordance with applicable law.
- c. Generation of electrical power shall be limited to photovoltaic panels, provided that any on-site buildings may utilize integrated photovoltaic building materials.
- d. Solvents necessary for the cleaning of the Solar Panels shall be biodegradable.
- e. Internal wiring, excluding that which is on or between the Solar Arrays, connected to substations or between Solar Panels, shall be located underground, except where necessary to mitigate impact to environmental and/or terrain features.
- f. Onsite lighting shall be the minimum necessary for security and onsite management and maintenance. Photovoltaic Panels shall use antireflective glass that is designed to absorb rather than reflect light.
- g. Ground Cover comprised of natural vegetation is required. Ground cover that uses native or naturalized perennial vegetation and that provides foraging habitat that is beneficial for songbirds, gamebirds, and pollinators is required.
- h. Collocation of other agricultural activities such as small market hand-picked crops, grazing, and apiary activities are permitted and encouraged.
- i. No advertising signage is permitted on the Solar Energy Facility other than an identifying sign at the entrance of the Facility that shall be approved by the Planning Commission.

j. A Solar Energy Facility is not deemed abandoned until it is decommissioned. The operator or landowner must begin substantial work, as defined in the decommissioning outline and plan, within 30 days of decommissioning. Failure to comply may result in civil and possibly criminal penalties as defined in Section 8.3 of this ordinance.

k. Damaged or unusable panels shall be repaired, replaced, or removed within 60 days of discovery of damage; provided, however, longer periods may be approved by the County Planning Commission due to extenuating circumstances.

Section 7.5 Security for Improvements

Prior to the recording of any major subdivision or land development plat and prior to the commencement of any improvements in relation to any development of land, the applicant shall furnish a bond or letter of credit as required by the Planning Commission as a condition to approval of the plat to cover the estimated construction cost (as determined by the County Commission based upon the input, analysis, and report of an independent engineering firm selected by the Planning Commission and paid by the applicant) of water and sanitary sewer infrastructure and any other improvements (such as, by way of example and not limitation, streets and roads, sidewalks, curbing, and storm water controls) required for the subject development by the terms of this Ordinance or by conditions attached to approval of a plat. Such bonds or letters of credit shall: (a) be forfeitable or payable to the County Commission; (b) have adequate surety and be satisfactory to the County Commission; (c) specify the time for completion of the improvements; and (d) specify the date and/or condition for when the bond or letter of credit will be released. Money from any such bond or letter of credit shall be used by the County Commission only for the completion of the required improvements in the event they are not completed as contemplated in the approved plan and plat.

Section 7.6 Recording a Major Subdivision or Land Development Plat

After approval of a major subdivision or land development plat by the Hampshire County Planning Commission, and after any conditions for such approval have been met, the subdivision or land development plat shall be recorded by the applicant/developer in the Office of the Clerk of the Hampshire County Commission within thirty (30) business days. The subdivision or development of land shall not be commenced until the approved plat is recorded in said office.

Section 7.7 Applicant's Election as to Process

An applicant for approval of a major subdivision or land development may elect, by appropriately indicating on the applicant's initial application, either to: (i) seek final plat approval in the initial application and forgo the preliminary step of preliminary plat approval; or (ii) initially seek approval of the preliminary plat and, after such approval has been obtained, later seek separate approval of the final plat.

a. Final Plat Approval as Initial Step: If the applicant elects to seek final plat approval in the initial application, then the final plat submitted shall satisfy all the requirements for a final plat set forth above, as well as all the requirements for a preliminary plat set forth above that will provide information not otherwise required by the final plat requirements. Any ambiguity or inconsistency between the requirements will be resolved so as to provide the most complete information to the Planning Commission. All the foregoing provisions of this Article 7 shall apply to the application for approval of said Final Plat.

b. Preliminary Plat Approval and Final Plat Approval as Separate Steps: If the applicant elects to first seek approval of a preliminary plat and later seek approval of a final plat, then the provisions of this Article 7 shall apply to the two (2) processes as follow:

1. Section 7.1 shall apply to both the application for approval of the preliminary plat and the

application for approval of the final plat. The Planning Commission may develop applications forms specific to each process and, in such case, the appropriate form shall be submitted.

2. Section 7.2 shall apply to both the application for approval of the preliminary plat and the application for approval of the final plat. In the case of the application for approval of the final plat, the review for completeness shall include a determination whether the final plat conforms substantially to the preliminary plat previously approved by the Planning Commission. If the Planning Commission determines by vote that the final plat does conform substantially to the approved preliminary plat and that the application otherwise contains all required content, the application for approval of the final plat shall be approved without further public hearing or action of the Planning Commission, which approval may be with conditions if so, determined by vote of the Planning Commission. If the Planning Commission determines by vote that the final plat fails to conform substantially to the approved preliminary plat, the application shall be deemed an application for approval of a revised preliminary plat that must be reconsidered for approval by the Planning Commission after an additional public hearing.
3. Subsections 7.3(a), 7.3(b), 7.3(c), and 7.3(d) shall apply only to the application for approval of the preliminary plat. Subsections 7.3(e), 7.3(f), and 7.3(g) shall apply to both the application for approval of the preliminary plat and the application for approval of the final plat, except that the stamp placed upon a preliminary plat under Subsection 7.3(e) shall clearly and legibly specify that only the preliminary plat is approved and that it may not be filed with the County Clerk.
4. Section 7.5 shall apply to both the application for approval of the preliminary plat and the application for approval of the final plat.
5. Section 7.6 shall apply only to the application for approval of the final plat.

c. Vested Property Rights: Vested property rights arise upon approval of a preliminary plat and upon approval of a final plat. An approved preliminary plat shall become null and void and of no effect if an application for approval of the final plat is not submitted within five (5) years of approval of the preliminary plat; *provided that*, the Planning Commission may extend such period upon written request.

- i. Effect of Preliminary Plat Approval:** Notwithstanding the provisions of Article 4 regarding Plat Approval Requirements, approval of a preliminary plat shall entitle the applicant to make site improvements, including clearing, grading for lots and roads, and installation of utilities and storm water management facilities, if and only if: (i) such improvements substantially conform with the approved preliminary plat; and (ii) the applicant has furnished security for the improvements as required under Section 7.5.
- ii. Phased Final Plat Approval:** An applicant may apply for final plat approval in phases by submission, from time to time, of multiple applications, each of which pertain to only a portion of the land subject to an approved preliminary plat.

Section 7.8 Waivers

Waivers from the minimum standards in this Subdivision and Land Development Ordinance (“Subdivision Ordinance”) may be granted by the Planning Commission only when the Planning Commission finds that granting a waiver will be consistent with all of the following criteria: (1) that the design of the project will provide public benefit in the form of reduction in County maintenance costs, greater open space, parkland or benefits of a similar nature; (2) that the waiver, if granted, will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents; (3) that the waiver, if granted, will be in keeping with the intent and purpose of this Subdivision Ordinance; (4) that the waiver, if granted, will result in a project of better quality and/or character; and (5) that the waiver complies with the intent and purpose of the County’s Comprehensive Plan. Process and procedural waivers shall be reviewed and found consistent with the above criteria prior to approval.

A. Applicant. An application for a waiver may be made by anyone with a financial interest in a property. The owner is responsible for providing all information and justification for the waiver request.

B. Application. An application for a waiver shall be filed with the Planning Commission. An application for the waiver shall be submitted, along with the required fee, on the appropriate form. The form can be picked up from the Hampshire County Planning Office during normal business hours. In addition to that basic information, the following information shall be submitted to support the application:

1. Plat or plan of the property depicting parcel information, proposed layout, and, where applicable, all proposed modifications.
2. A description of the physical features of the property, total acreage, present use, the use of the property at the time of the adoption of this Subdivision Ordinance, and any known prior uses.
3. A description of the specific portions of this Subdivision Ordinance for which relief is being sought.
4. A narrative describing how the proposed waiver will improve the public benefits.
5. An accurate list of all properties and owners’ addresses adjoining the subject property; and
6. A narrative description of how this proposed waiver will not adversely affect the properties adjoining the subject property.
7. A narrative description of how this proposed waiver complies with the intent and purpose of the County’s Comprehensive Plan.

C. Public Notice. The applicant shall post the property thirty (30) days prior to the scheduled Public Hearing. The adjoining property owners shall be notified by the Planning Commission staff via mailed letter thirty (30) days prior to the scheduled Public Hearing.

D. Public Hearing. On the date of the scheduled Public Hearing, the Planning Commission shall conduct a public hearing to receive public comments, concerns, and inputs on the proposed waiver to this Subdivision Ordinance. The scope of this public hearing shall be limited to whether the application meets the criteria to modify the requirements of this Subdivision Ordinance and may be approved with conditions.

E. Action. The Planning Commission shall make a decision within 30 days of the public hearing date.

F. Conditions of Approval. In granting a waiver, the Planning Commission may prescribe any conditions and safeguards that it finds are appropriate and in conformity with this Subdivision Ordinance.

G. All waivers and/or conditions of approval associated with the waiver shall be documented on all subsequent plats or plans.

Article 8. Enforcement

Section 8.1 By Planning Commission

The Hampshire County Planning Commission, through its designated staff members, has the authority to enforce this Ordinance and the conditions attached to final plat approval. The Planning Commission and its designated enforcement official may enforce this Ordinance and such conditions: (a) first, by ordering in writing the remedy of any nonconformance; and (b) failing correction of the nonconformance in the time specified in the order, by a legal action in the Circuit Court of Hampshire County seeking injunctive relief to either restrain a violation of this Ordinance or a condition for plat approval or compel a person or entity to remove any structure erected in violation of this Ordinance or a condition for plat approval. If the Planning Commission prevails in any such action, the landowner shall bear the costs of the action. Failure to satisfy all conditions attached to a final plat, including without limitation the failure to complete required improvements, shall constitute cause to deny any use, occupancy, or building permits required for the development.

Section 8.2 By County Commission

Additionally, the Hampshire County Commission may: (a) enforce the penalty specified below for failure to comply with the provisions of this Ordinance; (b) declare any buildings erected, raised, or converted in violation of this Ordinance, or land or premises used in violation of this Ordinance, a common nuisance for the maintenance of which common nuisance the owner of the building, land, or premises shall be liable; or (c) with respect to incomplete required improvements, collect under a bond, letter of credit, or other security and utilize the proceeds to complete the improvements.

Section 8.3 Penalty

Any person or entity who violates any provision of this Ordinance shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) for each and every offense. Each day of continuing violation after notification shall constitute a separate offense under this provision.

Article 9. General Standards for Roads

Road requirements will be as follows:

Section 9.1 Future Adoption

All roads shall be constructed to allow for the future adoption into the West Virginia Department of Highways without further upgrades.

Section 9.2 Types of Roads

- i. Collector Roads:** These roads shall be designed to service forty (40) or more lots. Except as specified in the following chart, the road's surface shall be twenty-four (24) feet in width, plus a two-foot shoulder on each side and grade cannot exceed ten (10) percent. A fifty-foot right-of-way is required.
- ii. Local Roads:** These roads serve between ten (10) and thirty-four (39) lots. Except as specified in the following chart, the road surface shall be twenty-two (22) feet in width, plus a one (1) foot shoulder on each side, and grade cannot exceed ten (10) percent. A forty (40) foot right-of-way is required.
- iii. Side Roads:** These roads are designed to service fewer than ten (10) lots. Except as specified

in the following chart, the width of road surface shall be twenty (20) feet, plus a one (1) foot shoulder on each side, and grade cannot exceed twelve (12) percent. A thirty (30) foot right-of-way is required.

Road Class	Collector (40 or more RDU or lots)	Local (10 to 39 RDU or lots)	Side (fewer than 10 RDU or lots)
	2 feet of shoulder required per side	1 foot of shoulder required per side	1 foot of shoulder required per side
	50 ft right-of-way required	40 ft right-of way required	30 ft right-of-way required
Subdivision Class			
High Density	24 ft wide / 10% grade max	22 ft wide / 10% grade max	20 ft wide / 12% grade max
Class I	24 ft wide / 10% grade max	22 ft wide / 10% grade max	20 ft wide / 12% grade max
Class II	24 ft wide / 10% grade max	22 ft wide / 10% grade max	20 ft wide / 12% grade max
Class III	20 ft wide / 12% grade max	20 ft wide / 12% grade max	20 ft wide / 12% grade max
Trailer or Mobile Home Park	24 ft wide / 10% grade max	22 ft wide / 10% grade max	20 ft wide / 12% grade max
Industrial	24 ft wide / 10% grade max	24 ft wide / 10% grade max	24 ft wide / 10% grade max
Combination (PUD)	24 ft wide / 10% grade max	22 ft wide / 10% grade max	20 ft wide / 12% grade max
RV Park or Campground	24 ft wide / 10% grade max	22 ft wide / 10% grade max	20 ft wide / 12% grade max

For purposes of this Article, "RDU" means Residential Dwelling Units.

Section 9.3 Road Surface

Roads having a gravel surface shall have two compacted layers of three (3) inches of gravel totaling six (6) inches in all. Dirty crusher run may be used to obtain adequate compaction if desired.

Roads having asphalt shall be constructed having a base of three (3) inches with an inch and one-half inch (1 ½) wear coat, totaling four and a half (4 ½) inches. Materials shall meet the requirements outlaid in WVDOH Division 400 and 500. Quality control, placement, compaction, etc. shall be in compliance with WVDOH Section 401.

Section 9.4 Dead-Ends

Road dead-ends shall terminate in a turn-a-round with:

- i. A right-of-way diameter of one hundred thirty (130) feet;
- ii. A finished road diameter of one hundred twenty (120) feet; and
- iii. A fillet radius on the finished road of thirty (30) feet.

Section 9.5 Other Road Requirements

- i. All roads shall be designed for year-round use.
- ii. Subdivision roads shall be constructed with a minimum fillet curve radius of thirty (30) feet at intersections.
- iii. All roads shall be designed to prevent wash-out erosion.
- iv. All roads shall not have grades greater than three (3) percent in the first fifty (50) feet leaving an intersection and eight (8) percent in the next fifty (50) feet, for a total distance of one hundred (100) feet.
- v. Grades shall not be less than point five (0.5) percent in order to prevent pooling of water in traveled way.
- vi. Turns in roads shall maintain the minimum width for that classification of road.
- vii. All roads shall have brushy vegetation removed for a distance measured horizontally of fifteen (15) feet, to improve sight distance as well as allowing snow melt in minimal time. Ornamental shrubs shall be permitted as long as impedance of sight distance does not occur.
- viii. Collector and local roads shall have minimum horizontal radii of one hundred fifty (150) feet and a minimum stopping site distance of one hundred fifty (150) feet. Side roads shall have minimum horizontal radii of seventy-five (75) feet and a minimum stopping site distance of one hundred (100) feet. If deemed necessary by the Planning Commission, these minimums shall be increased as necessary for safety reasons.
- ix. 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 this Ordinance for a minimum distance of Fifty (50) feet from the DOH maintained road.
- x. Roads shall have certified compaction tests on the fill and cut slope as well as the road bed. This will be performed in intervals of every two (2) feet vertically until finished grade is achieved. The final road bed will be tested. Tests results will be compared to WVDOH standards with the results submitted to the Planning Office. The compaction test will be performed by a certified independent firm and paid for by the developer.
 1. Note: Six (6) inch lifts should be standard for placement of fill. Compaction should be performed by compacting to ninety-five (95%) percent of maximum dry density or maximum density at moisture content within three (3%) percent of the optimum as determined by ASTM D698.
- xi. Fill is required to be free of clay, debris, and waste, vegetative or other deleterious matter. Material that is larger than six (6) inches in any dimension cannot be used.
- xii. Filter fabric shall be used for the separation of the aggregate base course and road sub-grade. Fabrics approved by the WVDOH shall be used and installed per manufacturer's recommendations. A variance of this requirement may be granted if the county's engineering firm determines the filter fabric is not required. The developer must pay the firm's fee for this review.
- xiii. In cases where the quality of the subdivision roads exceeds the West Virginia Department of highways-maintained road then the developer shall be required to upgrade the WVDOH road to state specifications for a distance of five hundred (500) feet in each direction from the

development/subdivision entrance. The upgraded state road shall be paved or, in case of a dirt road, tar and chipped.

xiv. In areas where drop off occurs in excess of twenty-five (25) feet along a road in sections with a turn radius and for one hundred (100) feet in both directions then some type of protection shall be required for traffic safety. Guardrails of some type, barricades, or walls are acceptable, other structures meeting safety requirements will also be allowed.

Article 10. Structural Design and Drainage

Section 10.1 Earthwork

- i. All cuts and fills shall have side slopes that are stable for the soil or soil material involved.
- ii. In no event shall side slopes of earth fills be steeper than three (3) to one (1).
- iii. In no event shall cut slopes be steeper than three (3) to one (1) in materials other than rock, or one (1) to one (1) in rock.
- iv. The sub-grade of a Collector and Local roads shall have a minimum of one quarter (1/4) inch per foot cross slope. The sub-grade of a Side roads shall have a minimum of one half (1/2) inch per foot cross slope

Section 10.2 Drainage

- i. 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.
 1. Side ditches will be trapezoidal with minimum side slopes of two (2) to one (1) except the hillside may be one and one half (1.5) to one (1.0) to conform to slope of cut.
 2. The elevation of bottom of ditch shall be at least one (1.0) foot below that of the finished road surface.
 3. Side ditches will be designated to handle the runoff from a 1-year frequency storm as determined from WV Erosion and Sediment Control Manual.
 4. 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:
 - A. Zero (0) to three (3) percent slopes will be seeded and mulched and/or hydro-seeded;
 - B. Slopes greater than three (3) percent but less than nine (9) percent will be lined with jute netting; and
 - C. Slopes of nine (9) percent or greater shall be rip-rapped.
- ii. 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 one thousand (1000) feet divided by percent of grade of the road.
 1. Culverts must have a capacity to carry the runoff from a 1-year frequency storm drain as determined from WV Erosion & Sediment Control Manual.

2. 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.
 3. A headwall or drop inlet will be installed. Headwalls will extend at least two (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. Outlets shall be constructed in a manner to prevent erosion and sufficient for the hydrologic conditions.
 4. The minimum diameter of the culvert pipe shall be fifteen (15) inches. The following kinds of pipe are acceptable: steel, corrugated metal, HDTP or concrete. All pipes must meet standard commercial specifications. All corrugated metal pipes (CMP) shall be a minimum sixteen (16) gauge steel.
 5. Culverts shall be installed at a depth of one and one half (1 1/2) times the diameter of pipe or a minimum of twelve (12) inches below the sub-grade of the road. Culverts shall be installed with grade equal to fall of existing ground but not less than one (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. Compaction tests may be required at culvert locations.
- iii.** 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 twenty-four (24) inches below the surface. Closed drains shall be designed and installed in accordance with the West Virginia Standards for Subsurface Drainage where applicable.
- iv.** 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 twenty (20) or more feet is necessary.
1. The type of bridge (timber, steel, or concrete) will conform to the surroundings, landscape, etc.
 2. Bridge capacity shall be designed for at least an H - 20 live load (twenty (20) tons) in accordance with approved engineering procedures. Standard designs will be used where possible.
 3. The bridge opening will be designed with a capacity that will carry at least a 50-year frequency for a Heavy Duty Road and a 20-year frequency storm for a Light Duty Road as determined by WV Erosion & Sediment Control Manual.

Section 10.3 Diversions

The Planning Commission has the right but not the responsibility to require a drainage easement if engineering determines an increase in storm water runoff post-construction.

Article 11. Sanitary Sewage and Potable Water

Section 11.1 Compliance with Laws

Working in conjunction with the Hampshire County Health Department, County Public Service Districts, Municipalities, Hampshire County Planning Office, West Virginia Public Service Commission, West Virginia Department of Health, West Virginia Department of Environmental Protection, and West Virginia Department of Natural Resources, all water lines or other potable water distribution facilities and wastewater treatment facilities or infrastructure must comply with and be in accordance with all federal, state, and local laws/regulations that administer and /or regulate the part of the county the development is in or effects. The entity with the highest standards will be adhered to. All infrastructures will be designed to achieve a twenty-year life span. Wastewater treatment plants will be constructed to the Public Service Districts standards. If the Public Service District does not have a qualified operator on the particular plant, then the developer must pay to have an individual employed by the PSD trained.

Section 11.2 Septic Reserve Area

Properties served by individual sewage disposal systems shall be required to have a ten thousand (10,000) square foot septic reserve area shown on the final plat and approved by the Hampshire County Health Department.

Article 12. Sign Requirements

Section 12.1 Public Hearing Sign

A sign advertising the public hearing for a major subdivision or land development shall be erected at least twenty-one days prior to the hearing. Sign shall be at least four feet by four feet (4' x 4') and with the words "Public Hearing Notice" in four (4) inch tall lettering at the top, and all other lettering shall be at least two (2) inches tall. Lettering shall be clearly legible and if homemade a stencil shall be used so letters are evenly spaced and painted in a neat and attractive manner. Information required on the sign shall be development name, developer's name, size of lots, public hearing notification, public hearing time and place, and number of lots. The sign must also state the plats are available in the Planning Office for review. The sign shall be located at the proposed entrance area of the subdivision or land development.

Section 12.2 Final Development Sign

A sign shall be erected at all entrances to a major subdivision development before release of final bond. The sign shall be attractive in nature and display the name of the development. The sign is also required to state the type of development; residential, recreational, planned community, or industrial. The sign shall be constructed to withstand the elements without deterioration and easily maintainable. The sign shall be easily recognizable, and it shall be displayed in a manner so that passersby can view the sign from either direction of travel. The sign size shall be at least four feet by eight feet and aesthetically pleasing. Signs must not deteriorate site distance of the West Virginia Division of Highways road or obscure site distance for people entering upon the state-maintained road from the development. The sign should also reflect the personality of the development and of Hampshire County. Signs shall be perpetually maintained and cared for by the homeowner's association, inspections will be performed by the Planning Office for compliance. A DOH permit is required for the sign. All roads' signs compliant with 911 addressing shall be erected by the developer prior to bond release.

Article 13. Fire Protection

Fire Protection System

Reserved for future use.

Section 13.1 Other Requirements

- i. If ponds are used for fire protection they shall be lined.
- ii. Structures shall comply with NFPA 1142 and other West Virginia State Fire Codes, and in conformity with the local fire departments requirements.
- iii. Fire Hydrant colors shall comply with NFPA standards.

Article 14. Recreation

Reserved for future use.

Article 15. Special Flood Hazard Areas

The Hampshire County Floodplain Ordinance shall be adhered to in the development of real estate. This includes Section 5.4, "Site Plan Criteria", which states:

The owner or developer of any proposed subdivision, Manufactured Home Park, subdivision or other development shall submit a site plan to the Floodplain Administrator which includes the following information:

- A. *Names of engineer, surveyor, or other qualified person responsible for providing the information required in this section.*
- B. *A map showing the location of the proposed subdivision and/or development with respect to the county's floodplain areas, proposed lots and sites, fills, flood or erosion protective facilities and areas subject to special deed restriction. In addition, it is required that all subdivision proposals and other proposed new development with property located in a FEMA designated Special Flood hazard Area greater than fifty (50) lots or five (5) acres whichever is lesser, shall include base flood elevation data. The applicant shall have the Base Flood Elevation(s) certified by a registered professional engineer based on hydrologic and hydraulic studies which include a floodway analysis.*
- C. *Where the subdivision and/or development lies partially or completely in the floodplain areas, the plan map shall include detailed information giving the location and elevation of proposed roads, public utilities and building sites. All such maps shall also show contours at intervals of two (2) or five (5) feet depending upon the slope of the land and identify accurately the boundaries of the floodplain areas.*

Areas of development located within the Special Flood Hazard Areas shall be conveyed with deeds denoting they are located in such an area. Subdivision lots shall be designed in a manner so that where possible a portion of the lot will be located outside the Special Flood Hazard Area. The area outside the SFHA shall also have an acceptable building location. Along with Base Flood Data provided on the final plat the lots are required to have flood monuments delineating the SFHA on each lot. A benchmark shall be provided for the subdivision for further reference and elevation certificate documentation.

Article 16. Best Management Practices

Where a property being developed has Best Management Practices in place, those practices must be maintained unless they pertain solely for agriculture uses and those endeavors will cease (fencing along waterways to restrict access to livestock being an example). When possible, implementation of additional Best Management Practices in new developments may be required (by way of example and not limitation, green space and riparian buffers along waterways). This allows for Hampshire County to comply with the Chesapeake Bay Initiative. Technical support for this can be referenced in the United States Department of Agriculture (USDA), Natural Resource Conservation Service (NRCS) Technical Guide. The West Virginia Conservation Agency, West Virginia Department of Agriculture and the West Virginia Department of Environmental Protection may be additional sources of reference. The West Virginia Erosion and Sediment Control Handbook for Developing Areas is also a beneficial reference.

Article 17. Lot Requirements

Reserved for future use.

Article 18. Utilities

All subdivisions/developments shall grant rights-of-way to local utilities. The developer shall consider these rights-of-ways when planning the development. Future utilities that may affect the development must also be considered. In all cases utilities shall be designed so as to not infringe upon the floodplain, unless absolutely necessary to provide service. All services shall be installed to each lot and shall be provided underground. Bond release will not be granted until right-of-way agreements with all utility entities are filed with the Planning Commission Office and recorded in the Hampshire County Clerk's Office.

Article 19. Traffic Impact

Reserved for future use.

Article 20. Storm Water Management

All storm water structures shall comply with the Hampshire County Storm Water Management Ordinance.

Article 21. Standards for Accessibility

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 one hundred (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 22. Plat Requirements for Major Subdivisions and Land Developments

Section 22.1 Sketch Plat (Optional)

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

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

The purpose of a sketch plat is only to facilitate a productive pre-application conference and permit the Planning Commission Staff to offer comments and suggestions and raise potential concerns regarding a proposed project. No public hearing will be held with respect to a sketch plat and no vested property rights whatsoever shall arise as a result of or in connection with review of a sketch plat or a pre-application conference.

Section 22.2 Preliminary Plat for Major Subdivisions and Land Developments

- i. **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.
- ii. **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 one thousand (1,000) five thousand (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. Total area of the subdivision and 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 (20) contours for all other subdivisions;
11. Locations, widths, and names of all existing streets or alleys within one hundred (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 twenty (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; and
17. Sediment and erosion control plan including details and information as described in The Hampshire County Stormwater Management Ordinance.

Section 22.3 Final Plat for Major Subdivisions and Land Developments

i. 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.

4. A Final Plat shall be presented in digital format.

ii. 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 one thousand (1000) feet or more to the inch, indicating the location of the property with respect to surrounding property and roads;

2. Subdivision Name;

3. Total area within the subdivision and total area within roads;

4. The name and address of the owner of the land and the name and address of the developer, if other than the owner;

5. 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;

6. 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;
7. 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; and
 - 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;
8. Bearings and distances of flood plain areas on each lot where applicable;
9. Lots numbered in numerical order, and blocks lettered in alphabetical order throughout the entire subdivision;
10. Area of each lot. If applicable, approximate area of flood plain easement of each lot shall be calculated and shown separately;
11. All setback building lines, and any other setback lines or street lines established by public authority, and those stipulated in deed restrictions;
12. 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;
13. Space for subdivision approval permit;
14. Each subdivision final plat approved as one of the following types of subdivisions shall contain the statement listed for the type of subdivision:
 - A. **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."
 - B. **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."
 - C. **Class II – Residential:** "This subdivision has been approved by the Hampshire County Planning Commission as a Class II - Residential subdivision."
 - D. **Class III – Residential:** "This subdivision has been approved by the Hampshire County Planning Commission as a Class III – Residential Subdivision."
 - E. **Manufactured Home 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."

F. Commercial/Industrial/Manufacturing: “This subdivision has been approved by the Hampshire County Planning Commission as a Commercial/Industrial/Manufacturing Park and roads are constructed for year round traffic by all types of vehicles.”

G. Combination (Planned Unit Development): “This subdivision has been approved by the Hampshire County Planning Commission as a Combination (Planned Unit Development) and contains all elements of the individual sections or phases.”

H. Recreational Vehicle Parks or Campgrounds: “This subdivision has been passed by the Hampshire County Planning Commission as a Recreational Vehicle Parks or Campgrounds.”

15. 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;

16. Location of proposed building site and proposed well and septic system reserve area shall be indicated on the Final Plat; and

17. A side bar provided for the signature or stamp for approval by the West Virginia Department of Highways, the Hampshire County Health Department, the Hampshire County Addressing Agent, and the Hampshire County Planning Commission.

Article 23. Fee Schedule

Hampshire County Planning Office will accept plats and fees; this does not guarantee approval for the proposed project. Fees are non-refundable.

Base Fee for Each Section \$*
 Per Lot Fee \$*
 *Refer to fee schedules below

FEE SCHEDULE FOR MINOR SUBDIVISIONS/LAND DEVELOPMENTS

Creation of New Lots If under Section 5.1(a).	\$1000.00 per lot
Transfer to Relative If under Section 5.1(b).	\$300.00 per lot
Division among devisees/heirs If under Section 5.1(c).	\$1000.00 per lot
Court-ordered Partition If under Section 5.1(d).	\$1000.00 per lot
Lots created to achieve boundary line adjustments, or for the formation of a cemetery lot If under Section 5.1(e) or (f).	\$25.00 per plat
Rights-of-way If under Section 5.1(g)	\$50.00 per plat
Existing lots/resurvey If under Section 5.1(h)	\$25.00 per lot
Mergers If under Section 5.1(i).	\$25.00 per plat
Utility Lots If under Section 5.1(j).	\$500.00 per plat

SUBDIVISION AND MISCELLANEOUS FEES

Copies 8 ½ X 11 and 8 ½ X 14	\$0.25 per page
11 X 17	\$0.75 per page
Large Copies	\$2.00 per page
Subdivision Regulations	\$50.00
Public Hearing Fee	\$100.00
Major Subdivision Pre liminary Plat (per section or phase submitted)	\$500 + \$1000/lot
Salvage Yards (includes landfills)	\$25 + site plan review

Re-issue of Plat or Plat Correction	10% of previous fee, not less than \$25
Inspection Fee/Visit after Second Inspection for failed inspection.	\$200.00/visit
Recreational Vehicle Parks or Campgrounds	\$75.00 + \$25/lot or camp

This Ordinance known as the Hampshire County Subdivision and Land Development Ordinance is hereby approved and adopted this date, October 8th, 2024 by the Hampshire County Commission.

Signed



David Cannon, President



Brian Eglinger



Robert Q. Hott



Attest:

Eric Strite, Clerk of the Hampshire County Commission.