

MINERAL COUNTY PLANNING COMMISSION
SUBDIVISION ORDINANCE

REGULATING THE ESTABLISHMENT OF THE
SUBDIVISION OF LAND
IN MINERAL COUNTY, WEST VIRGINIA

Adopted: May 7, 1991

Effective Date: June 1, 1991

Amended: January 14, 1992,
February 9, 1993,
May 4, 1994,
November 14, 1994,
September 18, 2001

ARTICLE 1. SHORT TITLES

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

ARTICLE 2. AUTHORITY AND PURPOSE

Section 2.0 General Authority

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

Section 2.1 Purpose

This Ordinance is adopted for the following purposes:

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

ARTICLE 3. SUBDIVISIONS: DEFINITION AND EXEMPTIONS

Section 3.0 Definition of Subdivision

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

Section 3.1 Installment Sales Contracts for Land

- a. An installment sales contract is a written agreement for the sale of land, with payment to be made in installments over a period of time, and with title to the

land not to pass until the final payment has been made or as otherwise stipulated in the said contract.

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

Section 3.2 Exemptions

The following shall be exempt from the provisions of this Ordinance:

- a. The first two (2) parcels of less than ten (10) acres subdivided from a piece of land during any ten (10) year period, provided said parcels adjoin an existing road maintained by a government. (Any further subdivision of the remainder comes under the provisions of this Ordinance.)
- b. The formation of parcels of land which are ten (10) acres or larger in size, provided no such parcel is further subdivided to parcels of less than ten (10) acres within ten (10) years.
- c. The formation of parcels of any size provided such lot is transferred by deed to a parent, child, grandparent, grandchild, or a stepchild of the landowner. The deed shall identify the relationship between grantor and grantee. The grantee may receive only one such exempt lot within the county, and any such exempt lot, which is resold by a parent, or a child within four (4) years from the date the deed to the lot is recorded shall constitute a subdivision and shall comply with the provisions of this Ordinance.
- d. Division of land among heirs or by court order of partition.
- e. Transfer of parcels of land to achieve boundary line settlement.
- f. The formation of cemetery lots.
- g. Subdivisions or individual lots of which plats or deeds were recorded with the Clerk of the County Commission prior to the effective date of this Ordinance provided such plats or deeds are of sufficient survey accuracy to permit the clear conveyance of lots by direct or deed reference without modification or addition.
- h. When two or more contiguous parcels of land are merged for the sole purpose of enlarging an existing lot, tract, or parcel, and the grantee agrees to merge the

parcel being acquired with a parcel he presently owns, the parcel merged will not be counted as an out-sale against the grantor, provided the following conditions are met:

- (1) The remaining portion of the parent tract does not violate any existing Mineral County land use ordinance.
- (2) The following merger statement must appear on the plat representing the addition: “The property hereon described shall be merged into one property with the adjoining _____ acre parcel which is recorded in Deed Book _____ at Page _____, for the exclusive purpose of increasing the area of said parcel.

“The merged properties shall not be used or sold individually unless the prevailing county laws are complied with.”

- i. The formation of a utility parcel, which is a parcel of land subdivided from a larger tract and conveyed to a governmental entity or a public utility, and where the only purpose of such parcel is to provide a public service. A West Virginia Department of Highways entrance permit and a West Virginia Department of Health approved sewage disposal permit, where applicable, will be required, and there will be no fee under this Ordinance where such a parcel is conveyed to a governmental entity.

All divisions of real estate that fall under the aforesaid exemptions shall be stamped as exempt by the county planner.

Section 3.3 Exemption Procedure

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

- a. Application for exemption from the subdivision regulations will be made in the Office of the County Planner with a copy of the Mineral County Health Department septic permit and a copy of the West Virginia Highway entrance permit being attached; (applications having incorrect or incomplete information will not be processed.) The permits provided for in this paragraph are not required and are waived for the Exemptions set forth in Paragraph (b), (d), (e), and (h) of Section 3.2 hereof.
- b. The Mineral County Planner shall make every effort to see that the research and investigation process will take not more than four working days;

- c. Upon completion of investigation, a fee will be charged for exempt lots, according to a schedule of fees approved by the County Commission and available in the Mineral County Planning Office.

Section 3.4 Minor Subdivisions

The minor subdivision process is established to allow subdivisions, which are small and would have little impact on the county to be processed in a minimum amount of time for subdivisions approved by the planning commission and/or its staff.

Type A Minor Subdivision

The formation of one lot subdivided from a large tract or parcel, which may be served by an existing road and right-of-way. The following conditions must be met:

- a. Lot is intended for a single-family residence.
- b. DOH permit for entrance onto public road.
- c. Health Department approved permits for sewage disposal system and water service by public service or well.
- d. Erosion and sediment control measures during and after construction, if applicable.
- e. Lot cannot be further subdivided.

Type B Minor Subdivision

The formation of two to five lots subdivided from a larger tract or parcel, as recorded June 1, 1991, including the remainder or residue. The following conditions must be met:

- a. Lots are intended for single-family residences.
- b. DOH permits for entrance onto public road.
- c. Health Department approved permits for sewage disposal system and water service by public service or well.
- d. Erosion and sediment control measures during and after construction.
- e. Storm water management plan (see Section 12.2d).
- f. Lots cannot be further subdivided.
- g. Availability of 30 ft. right-of-way to serve access road and all utilities.

- h. All roads must meet DOH requirements for light duty road specifications (see Article 12 – Standards for Roads). Road grades shall not exceed 15%.
- i. Road surfaces must be 16 feet wide and accessible in all weather to normal vehicular traffic including fire trucks and school buses.

Property Owners Association

The planning commission may require the formation of a property owners association to assume the responsibility of providing for the maintenance of roads and culverts as well as other common interests of the minor subdivision. Provisions for a property owners association, if required, shall be provided in the form of deed covenants to the property owner.

Section 3.5 Type A Minor Subdivision Procedure

An application for this type of minor subdivision will be made in the Office of the Planning Commission. A copy of the Department of Highways entrance permit and a copy of the Health Department approved sewage disposal permit must be attached. All fees will be submitted with the application.

Plat Requirements

A plat prepared by a licensed land surveyor or professional engineer shall be filed with the application. The plat shall be drawn in ink or by plotter on 8-1/2" x 14" durable paper. Scale of the plat shall be 50 feet or less to an inch for lots smaller than two (2) acres and 100 feet or less to an inch for lots larger than two (2) acres. The following information shall be noted on the plat:

- a. The bearings and distances of the boundary lines and all existing easements and rights-of-way serving the lot.
- b. Total area within the lot.
- c. North arrow, scale, date of survey, name, and seal of surveyor or engineer.
- d. The names of adjoining property owners including tax parcel information.
- e. Any areas delineated by The Corps of Engineers or the Federal Emergency Management Agency as flood hazard areas, including 100-year floodplains.
- f. An area measuring four (4) square inches near the bottom right of the plat for planning commission approval.

- g. Each subdivision of this type shall contain the following statement on the plat:
"This subdivision has been approved as a Type A Minor Subdivision by the Mineral County Planning Commission."

Additional Material

The planning director may require additional material, if necessary, to complete the review of an application for this type of minor subdivision. Storm water management plans are waived for Type A Minor Subdivisions.

Review and Approval

The planning staff shall review the application, plat, and all accompanying material for technical compliance within seven (7) working days. If all requirements are satisfactory and all fees have been submitted, the planning director shall approve the plat by applying a stamp with:

- (1) The title "Approved Type A Minor Subdivision"
- (2) The date of issuance; and
- (3) The signature of the director of the Mineral County Planning Commission.

The plat will bear the seal of the planning commission as well.

Appeals

Plats not approved by the planning director for any reason shall be subject to an appeal review before the planning commission at the next scheduled meeting, if requested in writing, by the applicant.

Section 3.6 Type B Minor Subdivision Procedure

Pre-Application Conference

The staff of the planning commission welcomes an opportunity to meet with the prospective subdivider to discuss requirements of the ordinance. The subdivider should bring a rough sketch of the proposal and be able to discuss such subjects as soil types, source of water, method of sewage disposal, size and number of lots, location of roads, and existing and proposed drainage of surface water.

Application

An application for this type of minor subdivision will be made in the Office of the Planning Commission. Copies of Health Department approved sewage disposal permits for each lot and a Department of Highways entrance permit issued for the subdivision shall be attached to the application. Minor subdivisions which are not provided public water services are required to have Health Department approved well permits for each lot. All applicable fees must be submitted with the application.

Preliminary Plat Requirements

A plat prepared by a licensed land surveyor or professional engineer shall be filed with the application. The plat shall be drawn on durable paper, in ink or by plotter, measuring 36" x 24". Scale shall be 50 feet or less to an inch for lots less than two (2) acres and 100 feet or less to an inch for lots larger than two (2) acres. When more than one sheet is required, an index sheet of the same size will be provided. The plat shall be labeled "Type B Minor Subdivision Preliminary Plat".

The preliminary plat shall contain the following information:

- a. The bearings and distances of the boundary lines and all existing easements, railroad, and utility rights-of-way.
- b. Total area within lots; total area within roads; total area within the subdivision.
- c. North arrow, scale, date of survey, and seal of the licensed land surveyor or professional engineer.
- d. The names of adjoining property owners, including tax parcel information.
- e. Existing topography with five foot contours for lots averaging less than ½ acre, or subdivisions with central or public sewage, and 20 foot contours for all other subdivisions, if required by the planning director.
- f. Locations, widths, and names of all streets and roads.
- g. Location of well and septic sites on each lot not being served by public water or sewage.
- h. Any areas delineated by the Corps of Engineers or the Federal Emergency Management Agency as flood hazard areas including 100-year floodplains.
- i. A plan profile of each street and road, if required by the planning director.
- j. Typical cross section of culverts; typical cross section showing proposed road construction.
- k. Name and address of the subdivider; name of the minor subdivision.

Additional Material

- a. A proposed plan for control of erosion and sediment during and after road construction shall be submitted with the preliminary plat.

- b. Storm water management plan, if applicable, shall be submitted with the preliminary plat.

Preliminary Plat Review and Approval

The planning director shall review the minor subdivision preliminary plat and required material for compliance with this ordinance. If all requirements are satisfactory, the planning director shall approve the preliminary plat by affixing the seal of the planning commission. Road construction may begin after approval.

Inspections

Please refer to Section 10.5 of this ordinance.

Final Plat

Upon completion of all construction and at least seven (7) days prior to final plat review by the planning commission, the subdivider shall submit a final plat. The plat shall be drawn on Mylar, with two paper copies, having a 36" x 24" format. Scale shall be 50 feet or less to an inch for lots less than two (2) acres and 100 feet or less to an inch for lots larger than two (2) acres. All final plats shall adhere to the plat requirements listed in the "Rules and Regulations for the Practice of Land Surveying in WV", State Board of Examiners of Land Surveyors, Chapter 30-12A, Series 1 as amended or corresponding parts of any such regulations adopted in the future.

The final plat shall show:

- a. A location vicinity map showing the relative location of the development. The scale shall be 1,000 feet to an inch.
- b. Subdivision name; total area of each lot; total area of roads; total area of subdivision.
- c. The bearings and distances of all boundary lines and all easements, railroad and utility rights-of-way.
- d. Lots numbered in numerical order or lettered in alphabetical order.
- e. Any areas delineated by the Corps of Engineers or Federal Emergency Management Agency as flood hazard areas, including 100-year floodplains.
- f. All building setback lines established by deed restrictions.
- g. Locations of well and septic sites on each lot not being served by public water and sewage.

- h. North arrow, scale, date of survey and seal of licensed land surveyor or professional engineer.
- i. Each subdivision of this type shall contain the following statement: "This subdivision has been approved as a Type B Minor Subdivision by the Mineral County Planning Commission".
- j. A four square inch area near the bottom right side of the plat shall be reserved for planning commission approval.

Final Plat Review

The final plat of the proposed minor subdivision will be reviewed by the planning commission. The purpose of the final plat review is to determine if the development work has been properly done, that adequate provisions have been made to ensure completion of remaining development, and that there is no reason to delay the sale of lots.

If all material is technically satisfactory and all conditions have been met, final approval will be granted by the planning commission and a permit issued.

Approval and Permit

Approval of the subdivision shall be evidenced by a stamp. This stamp, applied by the planning commission, shall contain (1) the title "Permit to Establish a Subdivision in Mineral County, WV"; (2) date of issuance; and (3) the signature of the President of the Mineral County Planning Commission shall also be placed on the final plat.

ARTICLE 4. MAJOR SUBDIVISION PROCEDURE

Section 4.0 General

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

The steps by which a subdivider shall obtain planning commission approval for a subdivision are as follows:

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

Section 4.1 Pre-Application Conference

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

Section 4.2 Application

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

- a. The name, address, and telephone number of the subdivider;
- b. The name of the proposed subdivision;
- c. The type of subdivision selected; (Note: the type of subdivision selected is entirely up to the subdivider.)
- d. The name of any attorney, licensed land surveyor, or professional engineer to be involved in the subdivision;
- e. Total area of the subdivision.

Section 4.3 Accompanying Material

Accompanying the application form shall be the following:

- a. A Preliminary Plat as described in Article 13 of this Ordinance;
- b. A letter from the owner, if different from the subdivider, authorizing the subdivider to act as their agent with full authority;
- c. Written provision for the property owners association to eventually take over responsibility for the maintenance and operation of community facilities, especially roads, within the subdivision. The planning commission can provide suggested forms for these provisions;

- d. A proposed plan for control of erosion and sediment during and after road construction. The plan will be prepared in accordance with standards and specifications of the West Virginia Erosion and Sediment Control Manual; however, the planning commission may implement specific guidelines to be used.

Section 4.4 Preliminary Plat Conference

The staff examines the application and the accompanying material and consults with the subdivider about any apparent deficiencies.

The staff then selects a date for a hearing on the application, to be held at a meeting of the planning commission, and publishes a public notice of this hearing for thirty (30) days immediately prior thereto in some newspaper of general circulation in Mineral County. This notice shall describe the proposed subdivision in a way adequate to identify its location to the public, shall describe the purpose of the hearing, and shall invite the public to participate in the hearing at place and time set forth in the notice.

A sign furnished by the subdivider and approved by the planning commission, noting the date, time, and location of the Preliminary Plat Public Hearing to establish a subdivision will be placed upon the parcel or tract of land to be subdivided by the subdivider at least 30 days prior to the public hearing. The sign shall be placed near the entrance to the subdivision, facing the public road.

The subdivision Preliminary Plat Public Hearing and Evaluation will not be scheduled and advertised until all required materials, documents, etc. are filed with the planning commission.

Section 4.5 Preliminary Plat Public Hearing and Evaluation

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

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

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

If the decision of the planning commission is to disapprove an application, the subdivider shall be provided in writing within ten (10) days of such decision, a written notice of decision, which lists the reasons for the decision.

No construction of roads or utilities shall begin before Preliminary Plat approval.

Section 4.6 Final Material

At least fourteen (14) days prior to the Final Plat Review, the subdivider shall provide to the planning commission:

- a. A final plat;
- b. Organizational papers for a property owners association, as more fully described in Article 10 of this Ordinance;
- c. A copy of a Mineral County Health Department Septic Permit for each proposed lot in the subdivision. This permit shall guarantee one suitable area to establish a residence and well and septic system area of a minimum of 10,000 sq. ft. (100' x 100' or 80' x 125') the location of which is to be shown on the final plat within the boundaries of the lot. The size of the septic system shall meet the standards determined by the county health department. Health department permits issued of this nature will be valid for one year, as long as the specific locations do not change. If lot owners wish to build in a location other than that specified, they shall reapply for a new permit;
- d. If an alternate septic system is required for a lot or lots within a given subdivision, this shall be so stated and shown on the final plat;
- e. A certification prepared by a licensed land surveyor or professional engineer certifying that roads are built to not exceed the maximum grade required in regard to each classifications of subdivision;
- f. Copies of existing and proposed deed restrictions or protective covenants.

Section 4.7 Final Plat Review

The approval or disapproval of the development was determined at the Preliminary Plat Public Hearing and Evaluation. The purpose of the Final Plat Review is to determine if the development work has been properly done, that adequate provisions have been made to ensure completion of remaining development work, and that there is no reason to delay the sale of lots.

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

Section 4.8 Approval and Permit

Approval of a subdivision shall be evidenced by a permit in the form of a rubber stamp. This rubber stamp, to be applied by the planning commission, shall contain (1) the title, Permit to Establish a Subdivision in Mineral County, West Virginia; (2) the date of issuance; and (3) the signature of the president, of the Mineral County Planning Commission. This stamp shall be placed on the final plat of the subdivision.

Section 4.9 Performance Security

Notwithstanding the foregoing provisions of this Article 4, if all development work is not completed, the subdivider may submit with the material required by Section 4.6 a request for final plat approval on the condition of the subdivider depositing with the planning commission a cash in escrow deposit or an irrevocable letter of credit of a bank doing business in the State of West Virginia (hereinafter referred to as a "Bond") as a contingent source of funds for the payment of completion of all development work.

If the planning commission agrees to a bond, it shall be in such form as prescribed by the commission and in an amount determined by the commission to be no less than the estimated cost for completing all development work. The commission may require of the subdivider an advance payment to the commission of any engineering expenses the commission may incur in determining such estimated cost.

A bond may be accepted for a period not in excess of twelve (12) months, conditioned upon the subdivider completing all development work not less than two (2) months prior to the expiration of the bond, and a bond may, upon request of the subdivider, be extended by the commission for an additional period of up to twelve (12) months.

If final plat approval occurs by this Section for a subdivision providing central water and/or sewage systems, the subdivider shall advise, in writing, each intended purchaser of a lot therein as to the then, or reasonably expected date of, availability of such central system or systems, and that a building permit will not be issued by the Planning Commission of Mineral County until such system or systems are functional.

ARTICLE 5. ENFORCEMENT OF THIS ORDINANCE

Section 5.0 Violation

- a. It shall be unlawful for the owner or any other person, firm, or corporation owning or controlling any land subject to the provisions of this Ordinance in the unincorporated territory of Mineral County to sell, lease, transfer, or agree to sell, any lot, tract, or parcel of land within a subdivision or land development unit, until the final plats of such subdivision or land development unit shall (1) have been prepared and signed by and sealed by a professional engineer or land surveyor duly and currently licensed by the State of WV; (2) submitted to and

approved in writing thereon and sealed by the Mineral County Planning Commission; and (3) recorded in the Office of the Clerk of the County Court of Mineral County.

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

Section 5.1 Penalty

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

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

ARTICLE 6. WAIVERS

Section 6.0 General

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

The application for a waiver shall be submitted to the commission, along with a fee of \$50.00, and the applicant shall provide the commission with such other information as is requested of him.

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

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

ARTICLE 7. TIME LIMITS

Section 7.0 General

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

Section 7.1 Planning Commission Time Limits

If the planning commission fails to hold a public hearing or take other action resulting in approval or disapproval of preliminary plat within sixty (60) days following the submission of said plat and all required supporting material and payment of required fees, then the preliminary plat shall be considered to be approved.

If the planning commission fails to take action resulting in approval or disapproval of a final plat within sixty (60) days following the submission of said plat and all required supporting materials (the supporting materials must include a statement that all proposed improvements, such as streets and sewers, have been completed), and payment of required fees, then the final plat shall be considered to be approved and a permit shall be issued and said plat stamped as approved.

The above deadlines shall not apply if the planning commission has notified the subdivider in writing of specific items, which must be submitted or completed before further action, will be taken.

Section 7.2 Subdivider Time Limits

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

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

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

ARTICLE 8. APPEALS

Section 8.0 General

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

ARTICLE 9. FORMS AND FEES

Section 9.0 General

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

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

The base fee is payable upon submission of the application and is non-refundable. If the subdivider wishes to submit the subdivision in sections, either for preliminary or final approval, the base fee shall be applicable for each section. Preliminary plat approval is not official until the per lot fee is paid.

ARTICLE 10. GENERAL PROVISIONS

Section 10.0 Independent Review of Subdivision Sections

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

Section 10.1 Private Contracts

Unless specified otherwise, approval of a subdivision by the planning commission bears no relation to any private easement, covenant, agreement, restriction, or condition accompanying

said subdivision, nor is the responsibility of enforcing such private easement, covenants, agreement, restriction, or condition assumed by the county commission or the planning commission.

Section 10.2 Sources of Information

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

Section 10.3 Access to Public Roads

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

Section 10.4 Flood-Prone Area

If a subdivision lot(s) lies within a flood-prone area designated on the current official maps prepared by the Federal Emergency Management Agency (Flood Insurance Rate Map of Mineral County), it is the duty of the subdivider to examine said maps. The subdivider shall provide each prospective purchaser of such a lot, before any commitment to purchase is made, a written statement as follows:

ALL OR SOME of this real estate lies within an officially designated flood zone.
The legal ramifications of this are significant and use of this land may be limited.
Details may be obtained from the Mineral County Planning Commission.

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

Section 10.5 Inspections

All subdivisions reviewed under this Ordinance are subject to announced and unannounced inspections, from the time of original application until the final permit has been issued and all work is satisfactorily completed, by any person acting on behalf of the planning commission. Such inspections may be for the purpose of, reviewing compliance with this

Ordinance, determining the progress of construction, examining the construction of parks, roads, or drainage, water and sewage systems, and for other reasonable purposes.

Section 10.6 Erosion Control

Subdividers must submit an erosion control plan prepared in accordance with standards and specifications of the Erosion and Sediment Control Handbook of West Virginia.

Section 10.7 Property Owners Association

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

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

Section 10.8 Utility and/or Cable TV Rights-Of-Way

Adequately wide utility and cable TV rights-of-way must be provided for each lot in the subdivision. It shall be the responsibility of the subdivider to serve legal access to the proposed subdivision for utility and cable TV rights-of-way easements.

Section 10.9 Property Owners Association to Provide Trash Collection

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

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

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

Section 10.10 Severability

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

ARTICLE 11. TYPES OF SUBDIVISION: STANDARDS

Section 11.0 Types of Subdivisions

Every major subdivision established in Mineral County after the enactment of this Ordinance shall be classified by the subdivider (pursuant to Section 4.2) in one of the following six types:

- a. High Density Residential
- b. Class I – Residential
- c. Class II – Residential
- d. Trailer Parks or Mobile Home Parks (Manufactured Home Parks)
- e. Industrial Parks
- f. Combination (Planned Unit Development)

Section 11.1 High Density Residential

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

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

The following standards shall apply to subdivisions in this category:

1. Lot Size: Minimum lot size will be 3,500 square feet, excluding roads and utilities and cable TV rights-of-way.
2. Roads: All roads must provide all weather access by school buses, fire trucks, service trucks, and passenger cars. Main roads are limited to ten percent maximum grade and must have a paved road surface 20 feet wide exclusive of parking areas. Side roads are limited to 12 percent maximum grade and must have a paved road surface 18 feet wide exclusive of parking areas.
3. Water and Sewage: Central water and sewage systems are required.

4. A minimum of two off-street parking spaces must be provided for each family unit. Screening is required around sewage lagoons and trash bins. No building shall be closer than 20 feet to front or rear property line nor 10' to a side property line.

Section 11.2 Class I – Residential

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

The following standards shall apply to subdivisions in this category:

1. **Lot Size:** Minimum lot size will be ½ acre excluding roads, utilities and cable TV rights-of-way. All lots that will be serviced by a well or septic tank (with approval of WV Department of Health) are required to show location of well, septic tank, and buildings to be serviced by these on the plat. In addition, these locations must be referenced in a deed covenant.
2. All roads must be accessible year-round by school buses, fire trucks, service trucks, and passenger cars. Main roads are limited to 12 percent maximum grade and must have a paved road surface at least 18 feet wide. Side roads are limited to a maximum grade of 15 percent and must have a road surface at least 16 feet wide. They shall be constructed as heavy duty at minimum.
3. **Water and Sewage:** The planning commission encourages central or public service systems, but individual wells and septic tanks are acceptable.
4. No building shall be closer than 20 feet to any property line.

Section 11.3 Class II – Residential

The following standards shall apply to subdivisions in this category:

1. **Lot Size:** Minimum lot size is two (2) acres unless common ground is provided. Lots smaller than two (2) acres shall be permitted in cluster type development. A cluster development is one in which small size lots are grouped together and each is adjacent to common ground owned by the property owners association. The total area of the subdivision (lots and common ground) must equal to at least two (2) acres for each dwelling unit. Individual wells and sewage systems cannot be located on common ground.
2. **Roads:** All roads must be accessible by fire trucks and passenger cars under normal weather conditions. Main roads are limited to a maximum grade of 12 percent and must have a road surface at least 18 feet wide. Main roads must meet

heavy-duty road standards; however, they may be gravel surface. Side roads are limited to a maximum grade of 15 percent and must have a road surface at least 16 feet wide. Side roads must meet light duty road standards.

3. Water and Sewage: Individual wells and septic tanks are acceptable with health department approval, unless prior approval for an alternate system is obtained from the county health department.
4. No building shall be closer than 20 feet to any property line.

Section 11.4 Trailer Parks or Mobile Home Parks (Manufactured Home Park)

A mobile home park is any site, area, tract or parcel of land, upon which two or more mobile homes used or occupied for dwelling purposes are parked either free of charge or for monetary consideration and shall include any roadway, building, structure, installation, enclosure or vehicle used or intended for use as a part of the facilities of said mobile home park.

1. Lot Size: The minimum lot size must be 3,500 square feet.
2. Roads: All roads must be accessible to school buses, fire trucks, and service vehicles. All roads will have a maximum grade of 12 percent with a road surface width of 18 feet. Road construction will be a minimum heavy duty.
3. Water and Sewage: All systems will be approved central or public service systems, unless prior approval for alternate system is obtained from the county health department.
4. Special Provisions: At least two parking spaces shall be provided for each lot. They may be either on the lot or along the road shoulder, provided that this does not reduce access by vehicles (see Section 12.3).
5. No permanent building being occupied as a dwelling or residence may be placed on any lot in a trailer park or mobile home park.
6. Screening is required for all sewage lagoons and central garbage bins.

Section 11.5 Industrial Parks

The following standards shall apply to subdivisions in this category:

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

Section 11.6 Combination (Planned Unit Development)

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

For subdivisions of this type, the subdivider must:

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

ARTICLE 12. GENERAL STANDARDS FOR ROADS

Section 12.0 Road Design

All roads within a subdivision must meet the following standards:

- a. Road design shall be in accordance with American Association of State Highway and Transportation Officials (AASHTO) “A Policy on Geometric Design of Highways and Streets” unless further restricted by this Ordinance.
- b. If a subdivision abuts a heavily traveled State road, the number of subdivision roads feeding into the State road should be kept to an absolute minimum. Individual lots, to the fullest extent possible should have access to subdivision roads rather than direct access to State roads; however, a highway entrance permit shall be obtained from the West Virginia Highway Department.
- c. Subdivision roads should be designed to minimize through traffic; however, care must be exercised so that no parcel of land is left land locked.
- d. Subdivision roads serving ten or fewer lots are termed “side roads”;
- e. Subdivision roads serving more than ten lots are termed “main roads”;
- f. Dead-end roads shall terminate in turn-arounds with:
 1. A right-of-way diameter of 100 feet;

A finished road diameter of 80 feet;
A fillet radius on the finished road of 30 feet.

The centers of turn-rounds may be landscaped with suitable vegetation; or

2. A “T” dead end, with the lengths of the crossroads to be 40 feet in length, and the fillet radii to be 30 feet.
- g. Subdivision roads shall be constructed with a minimum fillet curve radius of 30 feet at intersections;
 - h. Signs will be posted at all entrances of the subdivision, giving the name of said subdivision, size, and composition of which must be approved by the planning commission.
 - i. All streets, roads, lanes, etc. will be identified with signs designating the name of said street, road, lane, etc.;
 - j.
 1. High Density Residential and Class I Residential – Shall have a minimum of a 50-foot wide road right-of-way within the subdivision; however, if required for construction purposes, a construction easement of sufficient width shall be provided.
 2. Class II Residential – Shall have a minimum of 40-foot wide road right-of-way for main roads and 30-foot wide road right-of-way for side road within the subdivision. However, if required for construction purposes, a construction easement of sufficient width shall be provided.
 - k. All roads shall be designed to prevent washout erosion.
 - l. All roads shall not have grades greater than eight (8) percent, leaving an intersection for a distance of 100 feet.
 - m. Main roads shall have minimum horizontal radii of 150 feet and a minimum stopping site distance of 150 feet. Side roads shall have minimum horizontal radii of 75 feet and a minimum stopping site distance of 100 feet. If deemed necessary by the planning commission, these minimums shall be increased as necessary for safety reasons.

Section 12.1 Specifications for Heavy and Light Duty Roads

Construction of roads and streets shall be in accordance with the West Virginia Department of Transportation Highway Division Specifications for Roads and Bridges unless further restricted by this Ordinance.

Heavy Duty: Heavy-duty roads shall be paved with a gravel base constructed on a well-compacted subgrade free of organic matter and having desirable engineering characteristics for subgrade use. Compacting shall be performed by using a suitable roller to get optimum compaction. All fills shall be constructed in compacted six to eight inch layers. If the material at the location of the proposed road is not acceptable for subgrade use, acceptable material shall be brought from another source. Gravel shall be a well-graded, crushed stone aggregate such as ¾-inch crusher run, which shall be placed and rolled in a moist condition so that fines remain mixed with the more coarse material. The gravel surface shall be smooth, uniform, and tightly packed. Limestone “dust” may be required to achieve a satisfactory road surface. The planning commission may approve the use of appropriate gravel or other related material instead of crushed stone.

Asphaltic concrete heavy-duty road shall have 6" crushed stone base and 2" of asphaltic concrete.

Double surface treatment “Tar & Chips”, heavy-duty road, shall have 6" crushed stone base covered with double surface treatment to WV State Road specifications.

Light Duty Road: Light duty roads shall have the subgrade prepared same as heavy-duty roads and paved with 2" thickness of stone.

Section 12.2 Structural Design and Drainage

A. Earthwork

1. All cuts and fills shall have side slopes that are stable for the soil or soil material involved.
2. Side slopes of earth fills shall be no steeper than 2 to 1. Rock fills will be no steeper than 1.5 to 1.0.
3. Cut slopes shall be no steeper than 2.0 to 1.0 or if in hard shale may be 1.5 to 1.0 or if in rock may be 1.0 to 1.0.
4. The subgrade of a heavy-duty road shall have a minimum of ¼ inch per foot cross slope. The subgrade of a light duty road shall have a minimum of ½ inch per foot cross slope.

B. Drainage

1. Side ditches will be installed on all sections of roads where surface drainage impinges on or may cause damage to the roadbed. Ditches will be required in all poorly drained soils.
 - a. Side ditches will have minimum side slopes of 2 to 1 except the hillside may be 1.5 to 1.0 to conform to slope of cut.

- b. Elevation of bottom of side ditches shall be at least 1.0 foot below that of the finished road surface.
 - c. Side ditches will be designed to handle the runoff from a 1-year frequency storm as determined from WV Erosion and Sediment Control Manual.
 - d. Ditch capacity will be determined (where possible) by Manning's Formula or applicable drawings in WV Erosion and Sediment Control Manual. The ditches will be lined, paved, or other mechanical measures installed to prevent undue erosion as follows:
 - (1) Zero to three percent slopes; seeded and mulched
 - (2) Greater than three percent but less than nine percent will be jute netting
 - (3) Or three percent or greater shall be riprapped
2. Culverts will be installed under the road in all major drainage ways unless a bridge is more economical or where two or more drainage ways may be brought together in one culvert. The number of road culverts and the spacing required will be determined by the formula 1000 feet multiplied by percent of grade of the road.
- a. Culverts must have a capacity to carry the runoff from a one-year frequency storm drain as determined from WV Erosion & Sediment Control Manual.
 - b. Culverts in all major drainage ways shall be sized to carry the peak runoff resulting from a 25-year frequency storm occurring over the entire contributing watershed.
 - c. A headwall or drop inlet will be installed. Headwalls will extend at least 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, hand placed rock riprap, or a standard end section may be used.
 - d. The minimum diameter of the culvert pipe shall be 15 inches. All pipe must meet WV Department of Highways specifications.
 - e. Culverts shall be installed at a minimum of 12 inches below the subgrade of the road. Culverts shall be installed with grade equal to fall of existing ground but not less than 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.

3. Roadbed drainage shall be provided at all seep areas and high water table areas. The depth, spacing, outlets, and size of roadbed drains shall be such as to keep the water table at least 24 inches below the surface. Closed drains shall be designed and installed in accordance with West Virginia standards for subsurface drain where applicable.
4. Bridges will be installed on the larger drainage ways where culverts are not deemed economical or practical. A bridge is usually required when an opening width of 20 or more feet is necessary.
 - a. The type of bridge (timber, steel, or concrete) will conform to the surroundings, landscape, etc.)
 - b. Bridge capacity shall be designed for at least an H-20 live load (20 tons) in accordance with approved engineering procedures. Standard designs will be used where possible. Structures shall be designed in accordance with West Virginia Department of Highway Standards.
 - c. The bridge opening will be designed with a capacity that will carry at least a 25-year frequency for a heavy-duty road and a five-year frequency storm for a light duty road as determined by WV Erosion & Sediment Control Manual.

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

D. Storm Water Management

No person shall develop any land for residential, commercial, industrial, or institutional uses without providing adequate storm water management measures that control and manage runoff from such developments, except as provided within this section.

1. Exemptions

The following development activities are exempt from the storm water management requirements:

- a. Agricultural land management activities;
- b. Additions or modifications to existing single family detached residential structures;

- c. Developments that do not disturb over 5,000 square feet of land area;
- d. Residential developments consisting of single-family houses, each on a lot or two (2) acres or greater.

2. Waivers

The county planner may recommend the planning commission grant a waiver of the storm water management requirements for individual developments provided that a written request containing descriptions, drawings, and any other information that is necessary to evaluate the proposed development is submitted in accordance with the provisions of this section if there are subsequent additions, extensions, or modifications to a development receiving a waiver. Eligibility for a waiver shall be determined if the applicant can conclusively demonstrate that:

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

3. Variances

The county planner may recommend the planning commission grant a written variance from any requirement of the storm water management requirement if there are exceptional circumstances applicable to the site such that strict adherence to the provisions of these regulations will result in an unnecessary hardship and not fulfill the intent of these requirements. The subdivider shall submit a written request to the planning commission stating the specific variances sought and reason for the request. The planning commission shall not grant a variance unless and until specific justifying reasons are provided by the subdivider.

4. Storm Water Management Plans

a. Review and Approval of Storm Water Management Plans

The storm water management plan shall contain supporting computations, drawings, and sufficient information describing the manner, locations, and type of measures in which storm water runoff will be managed from the

entire development. The county planner shall review all plans and make a recommendation to the planning commission for action on the plan. Reasons for the recommendation shall be submitted in writing. The approved plan shall serve as the basis for all subsequent construction. Any deviations from the plan must be approved in writing.

b. Contents of the Storm Water Management Plan

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

1. Site Characteristics:
 - (a) Topographic information.
 - (b) A description of all watercourses, impoundments, etc. on or adjacent to the site or into which storm water flows.
 - (c) Soils investigation including borings if applicable and/or available and infiltration tests if required by the county planner.
 - (d) Delineation of the 100-year floodplain if applicable.
2. Computations:
 - (a) Hydrology; hydraulics; and storm water management structures.

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

- A. Storm Water Management Plans:
 1. Vicinity map.
 2. Drainage area map showing:
 - (a) Existing and proposed contours.

-
- (b) Location of buildings and other structures.
 - (c) Impervious areas.
 - (d) Storm drainage facilities.
 - (e) Watershed boundaries (including extent of any offsite watersheds flowing through the developed area).
 - (f) Drainage areas.
 - (g) Storm water flow paths broken into separate area for type of flow i.e. sheet, shallow concentrate, channel flow, etc.
 3. Location of Bench Marks used for design.
 4. Structural details for all components of the proposed drainage systems and storm water management facilities.
 5. Location of existing and proposed easements and/or rights-of-way.
 6. Construction specifications.
 - B. Other information as may be required.
5. Storm Water Management Criteria
- A. Minimum Control Requirement
 1. It shall be required that all developments provide management measures necessary to maintain the post-development peak discharges for a 24-hour, two (2) year frequency storm event at a level that is equal to or less than the respective, 24-hour, two (2) year pre-development peak discharge rates, through storm water management practices that control the volume, timing, and rate of flows.
 - B. Specific Design Criteria
 1. Infiltration systems shall be designed in accordance with accepted standard engineering practices and published design criteria and shall meet the following requirements:
 - (a) Infiltration systems greater than three (3) feet deep shall be located at least ten (10) feet from basement wall;

- (b) Infiltration systems designed to handle runoff from commercial or industrial impervious parking areas shall be a minimum of 100 feet from any water supply well and shall have proof of a minimum of five (5) feet of soil over any bedrock from the bottom elevation of the infiltration structures;
 - (c) Infiltration systems may not receive runoff until the entire contributory drainage area to the infiltration system is stabilized or the system protected by a satisfactory sediment control practice; and
 - (d) The storm water management facility design shall provide an overflow system with measures to provide a non-erosive velocity of flow along its length and at the outfall.
- C. Retention and detention ponds shall be designed and constructed in accordance with the criteria of the U.S. Department of Agriculture, Soil Conservation Service or as published in the "Storm Water Management Pond Design Manual" as published by Maryland Association of Soil Conservation Districts and shall include the following items:
- (1) Velocity dissipation devices shall be placed at the outfall of all retention or detention structures and along the length of any outfall channel as necessary to provide a non-erosive velocity of flow from the structure to a watercourse.
 - (2) If determined to be necessary to the county planner, the subdivider shall submit to the county planner an analysis to the impact of storm water flows downstream in the watershed. The analysis shall include hydrologic and hydraulic calculations necessary to determine the impact of hydrograph timing modifications of the proposed development upon a dam, highway, structure, or natural point of stream flow restriction, established with the concurrence of the county planner downstream to a tributary of the following size:
 - (a) The first downstream tributary whose drainage area equals or exceeds the contributing area to the pond; or
 - (b) The first downstream tributary whose peak discharge exceeds the largest designed release rate of the pond.
 - (3) The designed release rate of the structure shall be modified if any increase in flooding or stream channel erosion would result at the downstream point.

- D. The pre-development peak discharge rate shall be computed assuming that all land uses in the site to be developed are in good hydrologic condition and shall be based on the average use of the land in question for the five (5) years preceding the proposed change in the utilization of said land.
- E. Where a storm water management plan involved direction of some or all runoff of the site, it shall be the responsibility of the subdivider to obtain from adjacent property interests concerning flowage of water. Approval of storm water management plan does not create or affect any such rights nor does it relieve the developer from any liability incurred due to flooding.
- F. The basic design criteria, methodologies, and construction specifications shall be those of the Soil Conservation Service and Maryland Water Resources Administration (or equal) generally found in the most current edition of the following publications or subsequent revisions:
 - 1. "Urban Hydrology for Small Watersheds", Technical Release No. 55, June 1986. Second Edition.
 - 2. "Storm Water Management Pond Design Manual", Maryland Association of Soil Conservation Districts, November 1978.
 - 3. "Soil Conservation Service Engineering Field Manual", latest edition.
 - 4. "Soil Conservation Service Standards and Specifications for Ponds", Specification No. 378, July 1981.
 - 5. "Maryland Standards and Specifications for Storm Water Management Infiltration Practices", February 1984.
- 6. Inspection
 - A. Construction of all storm water management facilities shall be subject to inspection by the county planner or Soil Conservation Service.
 - B. The county planner shall be responsible for keeping a record of any inspections made on storm water management facilities. Any deficiencies noted will be forwarded to the owner in writing for correction.
 - C. If directed by the planning commission, either by virtue of the nature of the storm water system or by a subdivider's lack of

performance in accordance with the plans, may require the subdivider to hire a certified engineer to provide inspection on the project and provide a report to the planning commission. The report shall contain the subdivider's engineer's certification of compliance as well as any "as built" plans, supplementary inspection reports, and laboratory or field-testing results.

7. Maintenance

- A. Prior to granting final approval to a project the planning commission shall require the owner to enter into an "Inspection and Maintenance Agreement of Private Storm Water Management Facilities".
- B. The county planner may from time to time make maintenance inspections of storm water management structures. The county planner may also be directed by the planning commission to inspect Storm Water Management structures when complaints are received. Records of such inspections will be kept in the planning commission office and any deficiencies shall be sent to the owner for correction.
- C. If the owner shall assign his rights of ownership of a storm water management structure to another person or entity, notice of such change of ownership must be made to the planning commission in writing within ten (10) days of such assignment.

INSPECTION & MAINTENANCE AGREEMENT
OF
PRIVATE STORM WATER MANAGEMENT FACILITIES

THIS AGREEMENT, made this ____ day of _____, 20____, by and between _____, hereinafter referred to as the "OWNER(S)" of the following property: _____ and the Mineral County Planning Commission, hereinafter referred to as the "Commission".

WITNESSETH:

I (we), the OWNER(S), with full authority to execute deeds, mortgages, other covenants, all rights, title, and interests in the property described above, do hereby covenant with the Commission and agree as follows:

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

5. The OWNER(S) shall indemnify and save the Commission harmless from any and all claims for damages to persons or property arising from the construction, maintenance, and use of the facility.
6. The Agreement and covenants contained herein shall apply to and bind the OWNER(S) and the OWNER(S) heirs, executors, successors, and assigns, and shall bind all present and subsequent owners of the property served by the facility.
7. The COMMISSION shall record this AGREEMENT in the land records of the COUNTY.

IN WITNESS WHEREOF, the OWNER(S) and the COMMISSION execute this AGREEMENT as of this ____ day of _____, 20__.

ATTEST:

FOR THE OWNER(S):

ATTEST:

FOR THE COMMISSION:

STATE OF WEST VIRGINIA,

COUNTY OF _____

I hereby certify that on this ____ day of _____, 20__, before the subscriber, a Notary Public of the State of West Virginia, and for the County of _____ aforesaid, personally appeared _____ and did acknowledge the foregoing instrument to be their Act.

In testimony whereof, I have affixed my official seal.

MY COMMISSION EXPIRES:

NOTARY PUBLIC

SECTION 12.3 Definitions of Accessibility

Accessibility – Vehicles

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

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

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

Normal passenger vehicles (excluding those of very low ground clearance) will be able to operate without chains, using tires appropriate for the season.

Accessibility – Weather

All Weather – Accessible in all seasons using equipment (tires and/or chains) appropriate for travel on West Virginia primary roads. Roads may be assumed to be plowed and cindered only if the developer provides for such maintenance.

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

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

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

ARTICLE 13. PLAT REQUIREMENTS

Section 13.0 Sketch Plat (Optional)

If the subdivider elects to prepare a rough sketch plat for a pre-application conference with the planning commission staff, it should include:

- a. A vicinity location map, indicating the general location in Mineral County where the subdivision is to be established;

- b. The proposed layout of streets, lots and other improvements in relation to existing features;
- c. Existing and proposed drainage of surface water, including drainage devices;
- d. Plans for use of remaining lands;
- e. Contour lines.

Section 13.1 Preliminary Plat

- a. General

The preliminary plat shall be submitted on durable paper and shall be clear and legible. The scale shall be fifty (50) feet or less to the inch for lots averaging less than two (2) acres, and 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. The preliminary plat shall be labeled "Preliminary Plat" in large letters.

- b. Required Information. The preliminary plat shall contain the following information:
 - 1. An insert vicinity map showing the location of the property, drawn to an appropriate scale, generally between 1,000 – 5,000 feet to the inch. The vicinity map should show the location of the proposed development in relation to state roads, geographical features, and other lands held by the applicant in the area;
 - 2. The names of all adjoining property owners and the type of land use existing on all adjoining properties;
 - 3. The proposed name of the subdivision as approved by the Mineral County Planning Commission;
 - 4. The name and address of the owners of the land being developed;
 - 5. North arrow, scale, and date;
 - 6. Show total area of the subdivision; show total area within roads;

7. A proposed re-plat of an existing subdivision shall include the name of the existing subdivision and the place where it is recorded in the Deed Books or Map Books;
8. The bearings and distances of the boundary lines, and all existing easements, railroad, and utility rights-of-way;
9. All existing pertinent features, within 100 feet of the subdivision, either natural or manmade 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 (5) foot contour intervals for lots averaging less than one-half (1/2) acre each, or for any subdivision with proposed central sewer systems, and 20 foot contours for all other subdivisions;
11. Locations, widths, and names of all existing streets or alleys within 100 feet of the proposed subdivision. Recorded but on improved streets should be shown with dotted lines;
12. Any areas specifically delineated by the United States Corp of Engineers or the Federal Emergency Management Agency, as floodplain 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 system 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 Mineral County Planning Commission. A plan-profile design of each street or road if required by the county planner 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 system designs shall be submitted. Elevations for the existing centerlines shall not be interpolated from 20-foot interval contour 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 county planner prior to final inspection;
15. Proposed sewer and water supply. Any design or plans submitted to the West Virginia Department of Health shall be included;

16. Any earthwork other than for streets or roads shall be shown on the preliminary plat as proposed contours.

Section 13.2 Final Plat

- a. General
 1. Six (6) clear and legible prints and one Mylar original for recording in the Office of the Clerk of the Mineral 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 (2) 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 WV", State Board of Examiners of Land Surveyors, Chapter 30-12A, Series 1, (1969) as amended, or corresponding parts of any such regulations adopted in the future;
 3. Contour lines need not be shown on a final plat.
- b. Required Information. The final plat shall show:
 1. The location of the proposed development by inserting on the plat a location vicinity map at a scale of 1,000 feet or more to the inch, indicating the location of the property with respect to surrounding property and roads;
 2. Subdivision name: Total area within subdivision; Total area within roads;
 3. The name and address of the owner of the land and the name and address of the subdivider, if other than the owner;
 4. If the final plat under review is a re-plat of a subdivision on record, there shall be shown the following statement on the final plat with the applicable entries made thereon:

This is a re-plat of _____

(Name of Subdivision)
 recorded on _____, in Deed Book #
 (Date of Recording)

_____, Page # _____, owned by _____
 (Owner)
 at time of recording.

 Signature of Present Owner

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

5. In the case of a re-plat of a subdivision of record, the planning commission may require that dotted or dashed lines be used to show features or locations to be abandoned and solid lines to show the currently proposed features or locations.
6. The exact layout for the subdivision, including:
 - (a) Street and alley lines; their names, bearings, and angles of intersections and widths, including widths along the line of any obliquely intersecting street;
 - (b) The date for all curves shall be shown in detail at the curve or in a curve data table;
 - (c) All easements or rights-of-way, when provided for or owned by public utilities, with the limitation of the easement right definitely stated on the plat.
7. Bearings and distances of floodplain areas on each lot where applicable;
8. Lots numbered in numerical order, and blocks lettered in alphabetical order or numbered in numerical order throughout the entire subdivision;
9. Area of each lot. If applicable, approximate area of floodplain easement of each lot shall be calculated and shown separately;
10. All building setback lines, and any other setback lines or street lines established by public authority, and those stipulated in deed restrictions;

11. Accurate cut lines of any areas to be reserved or dedicated for common use by the residents of the subdivision or land development unit, or for the general public use with the purposes indicated thereon;
12. Space for subdivision approval permit;
13. Each subdivision final plat approved as one of the following types of subdivisions shall contain the statement listed for the type of subdivision:

High Density Residential - "This subdivision has been approved by the Mineral County Planning Commission as a High Density Residential Subdivision."

Class I Residential - "This subdivision has been approved by the Mineral County Planning Commission as a Class I Residential Subdivision."

Class II Residential - "This subdivision has been approved by the Mineral County Planning Commission as a Class II Residential Subdivision. Some of the roads may not be designed and constructed for year-round access."

Trailer or Mobile Home Park - "This subdivision has been approved by the Mineral County Planning Commission as a Trailer or Mobile Home Park Subdivision." (Manufactured Home Park)
14. An owner certification indicating that the plat is in conformance to any covenants and restrictions affecting the property and that all rights-of-way and easements affecting the property have been shown;
15. Location of proposed building site and proposed well and septic system reserve area shall be indicated on the Final Plat.

ARTICLE 14. FEE SCHEDULE

Exempt Plat Fee.....	\$ 25.00 Application Plus: \$ 25.00 Per Parcel
Exemption H/Merger Fee*.....	\$ 25.00
Major Subdivision Preliminary Plat..... (Per Section or Phase Submitted)	\$300.00 Plus \$ 50.00 Per Lot
Type A Minor Subdivision Plat	\$ 50.00
Type B Minor Subdivision Preliminary Plat.....	\$100.00 Plus \$ 25.00 Per Lot
Preliminary Plat Engineer Review Fee.....	\$ 45.00 Per Lot
Corrected Plat.....	\$ 25.00
Inspection Fee/Visit After Second Inspection.....	\$ 50.00 Per Visit
Subdivision Regulations.....	\$ 20.00
Public Hearing Fee.....	\$ 25.00
Cemetery/Utility Lots.....	\$ 0.00
Application For Waiver.....	\$ 50.00

*

The fee for exemption (h) pertaining to mergers be amended to a \$25.00 application fee due to the fact that a new parcel is not being made and there is no requirement for a DOH entrance permit or Health Department sewage disposal permit.

ADDENDUM TO
THE MINERAL COUNTY SUBDIVISION REGULATIONS
AMENDMENTS ADOPTED JANUARY 24, 1992

PAGE 2

An amendment to Article 3, Section 3.2, Paragraph (b) of the Mineral County Subdivision Regulations to change the current language to read as follows:

The formation of parcels of land which are ten (10) acres or larger in size, provided no such parcel is further subdivided to parcels of less than ten (10) acres within ten (10) years.

PAGE 3

An amendment to Article 3, Section 3.3, Paragraph (a) of the Mineral County Subdivision Regulations to add the following sentence to end of Paragraph (a).

The permits provided for in this paragraph are not required and are waived for the Exemption set forth in paragraph (b), (d), (e), and (h) of Section 3.2 hereof.

PAGE 14

An amendment to Article 6, Section 6.0 of the Mineral County Subdivision Regulations to change the language of the second paragraph entirely to read as follows:

The application for a waiver shall be submitted to the Commission, along with a fee of \$50.00, and the applicant shall provide the Commission with such other information as is requested of him.

PAGE 20

An amendment to Article 11, Section 11.2, Paragraph (2) of the Mineral County Subdivision Regulations to add missing road specifications after the first sentence of Paragraph (2), so as to read as follows:

Roads: All roads must be accessible year-round by school buses, fire trucks, service trucks, and passenger cars. Main roads are limited to 12 percent maximum grade and must have a paved road surface at least 18 feet wide. Side roads are limited to a maximum grade of 15 percent and must have a road surface at least 16 feet wide. They shall be constructed as heavy duty at minimum.

ADDENDUM TO
THE MINERAL COUNTY SUBDIVISION REGULATIONS
AMENDMENT ADOPTED NOVEMBER 2, 1994

PAGE 3

An amendment to Article 3, Section 3.2, by the addition of Paragraph (i) of the Mineral County Subdivision Regulations in regard to utility lots to read as follows:

The formation of a utility parcel, which is a parcel of land subdivided from a larger tract and conveyed to governmental entity or a public utility, and where the only purpose of such parcel is to provide a public service. A West Virginia Department of Highways entrance permit and a West Virginia Department of Health approved sewage disposal permit, where applicable, will be required, and there will be no fee under this Ordinance where such a parcel is conveyed to a governmental entity.

ADDENDUM TO
THE MINERAL COUNTY SUBDIVISION REGULATIONS
AMENDMENT ADOPTED SEPTEMBER 18, 2001

PAGE 41

An amendment to Article 14, Section 3.2 of the Mineral County Subdivision Regulations to change the fee schedule for Exemption (h) to read as follows:

That the fee for exemption (h) pertaining to mergers be amended to a \$25.00 application fee due to the fact that a new parcel is not being made and there is no requirement for a DOH entrance permit or Health Department sewage disposal permit.