MORGAN COUNTY,
WEST VIRGINIA

As Amended
1995, 2001,
2003, 2006,
2008 & 2013

AN ORDINANCE REGULATING THE ESTABLISHMENT OF REAL ESTATE SUBDIVISIONS

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Morgan County Subdivision Ordinance

As amended December 22, 1995,
December 28, 2001, November 7, 2003
July 21, 2006 , October 17, 2008, November 21, 2008
And December 19, 2013

ARTICLE 1: SHORT TITLE

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

ARTICLE 2: AUTHORITY AND PURPOSE

Section 2.0 General Authority

This ordinance is adopted by the authority of West Virginia Code 8A-1-1 to 8A-11-2 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 the citizens of Morgan County;

b. To assist orderly and efficient land development;

c. To coordinate existing streets, roads, and utilities with new streets, roads and utilities;

d. To insure 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.

Section 2.2 Application

This Ordinance applies to all subdivision of land within Morgan County.

ARTICLE 3: SUBDIVSIONS: DEFINITIONS AND EXEMPTIONS

Section 3.0 Definitions of Subdivision

For the purposes of this Ordinance, a subdivision shall be any piece 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.

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 Morgan County, and shall be recorded in the Office of the County Clerk within twenty-one days from the date that it has been signed by all parties. Responsibility for recording shall be that of the vendor.

Section 3.2 Exemptions

a. The following shall be exempt from the provisions of this ordinance:

1. As of November 7, 2003, no more than 4 parcels divided from a piece of land shall be eligible to apply for exemption from the Subdivision ordinance provided none of the land involved has ever previously been exempted and that an access right of way width of 40 feet be included. Any further subdivision of exempt parcels or any subdivision of the remainder comes under the provisions of this ordinance. All exempt parcels shall meet well setback limits and septic area requirements.

2. The formation of up to 4 parcels of land which are twenty acres or larger in size to include an access right of way width of forty feet. Any further subdivision of exempt parcels or any subdivision of the remainder comes under the provisions of this ordinance. All exempt parcels shall meet well setback limits and septic area requirements.

3. Family Transfers and Division Among Heirs
The formation of parcels of any size provided such lot is conveyed 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 conveyed by the grantee within four years from the date the deed to the lot is recorded shall constitute a subdivision and shall comply with the provisions of this Ordinance in effect at the time of conveyance. Formation of parcels to be conveyed as a gift to a parent, child, grandparent, grandchild, or a stepchild of the landowner may be conveyed with or without obtaining a well or septic permit at the time of creation, provided that:
    a. The size of the parcel created, and its remainder, conforms to the minimum lot size specified in the version of the Subdivision Ordinance in effect at the time of their creation; and
    b. The following statement shall be clearly placed on the plat and in the deed: "This lot does not have an approved water and

sewer permit and there is no guarantee that water and sewer permits will be approved."; and

c. If the lot or portion thereof is conveyed, the conveyance shall constitute creation of a non-exempt subdivision and all applicable conditions of the Subdivision Ordinance in effect at the time of the conveyance shall apply.

4. Division of real estate by court order of partition.

5. Transfer of parcels of land to achieve boundary line settlement.

6. The formation of cemetery lots.

7. When two or more contiguous parcels of land are merged for the sole purpose of enlarging an existing lot, tract, or parcel; the grantee agrees to merge the parcel being acquired with a parcel he presently owns. The parcel merged shall not be counted as an out-sale against the grantor, provided the following conditions are met;

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 property shall not be subdivided unless the prevailing county subdivision regulations are complied with.

b. The subdivision of real estate by public or private auction shall constitute a subdivision under this Ordinance and the provisions of the ordinance shall apply. It shall be the responsibility of the seller to meet the requirements of this ordinance prior to offering lots for auction.

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 outsales 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 Morgan County Planning Commission as a subdivision, or stamped by the County Planner as exempt from the Ordinance. The following exemption procedure shall be used:

a. Application for exemption from the Subdivision Regulations shall be made in the office of the County Planner; (applications having incorrect or incomplete information shall not be processed);

b. All well and septic area requirements in the ordinance shall be met. Well locations and septic reserve areas shall be shown on the plat. Written approval from the WV Health Department for well and septic areas as well as from WV Department of Highways entrance permits, if applicable, shall accompany the applications. Exempt lots and their remainder shall meet lot size requirements as defined in the Ordinance;

c. The Morgan County Planner shall make every effort to see that the research and investigation process shall be completed in a timely fashion not to exceed five (5) working days;

d. Upon completion of investigation, a fee shall be charged for exempt lots, according to a schedule of fees approved by the County Commission and available in the Morgan County Planning Office.

ARTICLE 4: PROCEDURE

Section 4.0 General

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

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

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

Section 4.1 Pre-Application Conference

It is the applicant's responsibility to provide copies to the Morgan County Planning Office of applications submitted to any West Virginia State Agencies (e.g. West Virginia Department of Health and Human Resources, West Virginia Department of Environmental Protection, West Virginia Division of Highways) when filing applications to obtain any state permits for test wells, public water systems, public sewage systems, entrance permits or stormwater permits for any proposed development that would be required to comply with these regulations.

Section 4.2 Phased Preliminary Plat Submittal and Review

A Phased Preliminary Plat submittal is required as described in Article 13 of this Ordinance.

Upon submittal of the Phased Preliminary Plat, staff will schedule a public hearing on the Plat, normally to be held at a regular meeting of the Planning Commission and shall publish a public notice of this hearing once a week for two consecutive weeks 21 days prior to thereto in a local newspaper of general circulation in Morgan County. The notice shall describe the project being proposed, developer information, date, place and time of hearing and a vicinity map depicting location of proposal. Developer shall post a two-foot by two-foot sign at the site of the proposed development and placed in a location easily visible to the public. The sign shall describe the proposed Phased Preliminary Plat, owner information and date, place and time of public hearing. The sign shall be posted 21 days prior to the hearing.

Section 4.3 Application

The developer shall fill out and sign an Application For a Permit to Establish a Real Estate Subdivision in Morgan County, West Virginia. This application shall be on a printed form provided by the Planning Commission, and shall elicit from the developer such information regarding the proposed subdivision as may be reasonable.

a. The name, address, & telephone number of the developer;

b. The name of the proposed subdivision;

c. The type of subdivision selected; (Note: The type of subdivision selected is entirely up to the developer)

d. The name of any attorney, professional surveyor, or professional engineer licensed by the State of West Virginia to be involved in the subdivision;

e. Total area of the subdivision.

f. A letter of transmittal setting forth the purpose of the application, the materials being submitted for review, and the number of copies being submitted shall accompany the application.

Section 4.4 Accompanying Material

Accompanying the application form shall be the following:

a. Phased Preliminary Plat approval if applicable;

b. A Preliminary Plat as described in Article 13 of this Ordinance;

c. A letter from the owner, if different from the developer, authorizing the developer to act as his agent with full authority;

d. Copies of existing and proposed deed restrictions or protective covenants;

e. Written provisions for the property owners association to eventually take over responsibility for the maintenance and operation of community facilities, especially roads, within the subdivision. The Planning Commission can provide suggested forms for these provisions;

f. Profiles of the center lines of each road within the subdivision, and typical cross sections;

g. Septic system permits for all lots unless the subdivision is to be serviced by central system. All lots shall contain a minimum on-site disposal septic area of 10,000 square feet, which shall be set aside for the installation of septic system-soil absorption systems. Each area shall have a minimum width of 80 feet, and no development or structures shall be permitted on this on-site disposal area other than the septic system-soil absorption systems. Area consisting of land sloping in excess of 25%, land in an existing or proposed public road, or land within a 25 year flood plain shall not be utilized in establishing this minimum area.

h. If an application for a waiver of the central sewer/water requirements of the West Virginia Department of Health has been made, include copies of all data furnished to the State;

i. A proposed plan for control of erosion and sediment during and after construction. A plan shall be prepared and approved in accordance with standards and specifications of the Eastern Panhandle Soil Conservation District and in accordance with all requirements of the Morgan County Stormwater Management Plan.

j. State road entrance permits as applicable.

j. A copy of the Morgan County Plan Review Checklist, which may be amended from time to time, with each item on the list being initialed as being completed or not applicable. The checklist shall be signed by the Professional Surveyor or Engineer in responsible charge of the project.

Section 4.5 Preliminary Plat Conference

The staff and the County Engineer shall examine the application and the accompanying material and consult with the developer about any apparent deficiencies. All plans submitted to the Planning Office must be stamped as "Received" before those plans are distributed to the County Engineer and the Soil Conservation District office for review. All review costs shall be at the expense of the Developer/Applicant/Owner. Initial plan reviews shall be completed within 30 days from the date all required materials are received by the County. Subsequent reviews shall be completed within 14 days from the date all required materials are received by the County.

The staff shall assign a date for a hearing on the application normally to be held at a regular meeting of the Planning Commission, and shall publish a public notice of this hearing for two consecutive weeks 21 days prior thereto in a local newspaper of general circulation in Morgan County. This notice shall describe the proposed subdivision in a way adequate to identify it to the public, shall describe the purpose of the hearing, and shall invite the public to participate in the hearing. When advertising the Preliminary Plat Public Hearing in the paper, the developer's name and the principal owner of the subdivision shall be listed. At least 21 days prior to the public hearing, the applicant is responsible for posting a two-foot by two-foot sign containing a legible description of the proposed subdivision and listing the owner, the developer and the date of the public hearing. The sign shall be placed at the site of the proposed development in a location visible to the public.

The subdivision Preliminary Plat Public Hearing & Evaluation shall not be scheduled and advertised until all material is submitted.

Section 4.6 Preliminary Plat Public Hearing Evaluation

The developer and any representative or witnesses on his behalf, may speak at this hearing regarding the application. So may members of the public. 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 of standards set forth in this Ordinance;

b. That the proposed subdivision shall not adversely affect the health and safety of the general

public;

c. That the proposed subdivision design shall tend to favor the efficient and economic utilization and conservation of water, drainage, sanitary, and transportation facilities and resources.

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 shall, in accordance with the present and future needs and resources, best promote the health, safety, order, convenience, and general welfare of the inhabitants, as well as efficiency and economy in the process of development.

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

With a quorum present, the Planning Commission shall then vote with the majority of members present being required for any action.

It is recommended that no construction of roads, etc., commence before the hearing.

Section 4.7 Final Material

At least 30 days prior to the Final Plat Public Hearing, the developer shall provide to the Planning Commission:

a. A Final Plat containing all of the required elements listed in Article 13: Plat Requirements, Section 13.2 Final Plat;

b. Executed and recorded organizational papers for a property owners association, as more fully described in Article 10 of this Ordinance;

c. Evidence of financial guarantees, if required, as set forth in Article 14 of this Ordinance;

d. Copy of access permit from the Department of Highways;

e. A copy of Morgan County Health Department septic and well permits for each proposed lot in the subdivision. These permits shall define a suitable area to establish a residence, well and septic system within the boundaries of the lot. The size of the septic system shall meet the standards determined by the County Health Department. If the lot owner wishes to relocate the septic system in a location other than that specified, he must receive written permission from the Morgan County Health Department. Also provide verification that permitted and approved well and septic locations are permanently marked and are consistent with the well and septic permits from the Morgan County Health Department.

f. Verification from the West Virginia Professional Surveyor of Record that all property corners have been set.

g. As-built profiles for all subdivision roads.

Section 4.8 Final Plat Public Hearing

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

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

A public notice of Final Plat Public Hearing shall be published once, in a local newspaper of general circulation in Morgan County, by the Planning Commission staff, 21 days prior to the Final Plat Public Hearing.

Section 4.9 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 Real Estate Subdivision in Morgan County, West Virginia; (2) the date of issuance; and (3) the signature of the President of the Morgan County Planning Commission. This stamp shall be placed on the final plat of the subdivision.

ARTICLE 5: ENFORCEMENT OF THIS ORDINANCE

Section 5.0 Violation

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 Morgan County to finalize the sale, lease or transfer any lot, tract, or parcel of land within a subdivision or land development unit, unless the final plats of such subdivision or land development unit shall (1) have been prepared and signed by and sealed by a professional land surveyor duly and currently licensed by the State of West Virginia; (2) submitted to and approved in writing thereon and sealed by the Morgan County Planning Commission; and (3) recorded in the Office of the Clerk of the County Court of Morgan County. If any of the aforementioned parties should enter into a contractual agreement prior to final plat approval by the Morgan County Planning Commission any agreement to sell, lease or transfer any lot, tract, or parcel of land, said agreement shall contain language stating that completion of the transaction is contingent upon final plat approval by the Morgan County Planning Commission.

Section 5.1 Penalty

In accordance with West Virginia Code 8A-10-2; any person who violates any provision of this Ordinance is 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).

In addition to the penalties above, the Morgan County Planning Commission, through its President or other officer, or any designated enforcement official, is authorized to seek an

injunction in the Circuit Court of Morgan County as stated in West Virginia Code 8A-10-3, to enjoin a person or legal entity from violating the provisions of this Ordinance.

Section 5.2 Model Homes

Model or demonstration homes may be built for display and sales purposes prior to final plat approval. However such home and its lot may not be sold, leased or transferred until the final plat is approved and recorded.

ARTICLE 6: WAIVERS

Section 6.0 General

The Planning Commission shall have the right to waive any provision of this Ordinance when evidence is presented showing that such a waiver shall not affect the implementation of the intent 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, if possible, shall be submitted with the application for the proposed subdivision and notice shall be included in the advertisement for the Preliminary Plat Public Hearing & Evaluation. If the waiver is requested between hearings, notice of the request shall be included in the advertisement for the Final Plat Public Hearing.

Where the Planning Commission finds that extraordinary 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 waiver shall not have the effect of nullifying the intent and purpose of the goals and policies of the Morgan County Comprehensive Plan or of these regulations. The Planning Commission shall determine extraordinary hardship only if it finds the following facts in regard to the proposed subdivision or land development unit:

a. That the land is of such shape or size, or is affected by such topographical conditions, or is subject to such title limitations of record that it is impossible or impractical for the subdivider to comply with all of the regulations of this Ordinance;

b. That the granting of the waiver shall not be detrimental to the public welfare or injurious to other property in the vicinity of the subject property.

A complete description of all waivers approved by the Planning Commission must be listed on the Final Plat.

ARTICLE 7: TIME LIMITS

Section 7.0 General

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

Section 7.1 Planning Commission Time Limits

If the Planning Commission fails to hold a public hearing or take other action resulting in

approval or disapproval of a Phased Preliminary Plat or Preliminary Plat, whichever the case may be, within ninety (90) days following the date of submission of said plat and all required supporting material and payment of required fees, then the Phased Preliminary Plat or 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 developer in writing of specific items which must be submitted or completed before further action shall be taken.

Section 7.2 Developer Time Limits

If the Planning Commission decides that the developer has not submitted all required data in proper form and cannot proceed with the approval process, it may request this additional material from the developer. If the developer fails to respond within thirty (30) days, then the application for the Preliminary Plat Public Hearing and Permit or the Phased Preliminary Plat and Approval shall be considered to be withdrawn.

Phased Preliminary Plat

Phased Preliminary Plat approval shall be valid for a five year period with the option to renew every five years, not to exceed 15 years from the time of approval. Developer shall have two years (24 months) from the date of Phased Preliminary Plat Approval to submit the Preliminary Plat drawings for the first phase of development. Subsequent phases must have Preliminary Plat drawings submitted within five years from the date of submission for the previous phase. If a period of two years lapses without submission of Preliminary Plat drawings for the first phase of construction or a period of five years lapses between subsequent phases, the Phased Preliminary Plat will no longer be considered valid.

Preliminary Plat

The developer shall have three years (36 months) from the time of approval of the Preliminary Plat to complete all work and submit a Final Plat. The application for the Permit to Establish a Real Estate Subdivision shall be considered withdrawn and the entire process (including submission of the Preliminary Plat) must be repeated if the developer fails to meet the specified time of completion.

The developer may request an extension of up to one year. This extension shall not be considered until 30 months after the initial approval of the Preliminary Plat and shall be approved based on good cause. This extension shall begin on the three year anniversary of the date of the approval of the Preliminary Plat. If the project is not at least 30% started, as determined by the County Engineer, at the beginning of the extension period, the developer shall comply with the subdivision regulations in effect at the start of the extension period. A maximum

of two extension requests are permitted.

If the developer has an approved Phased Preliminary Plat for their project, the Planning Commission may negotiate Preliminary Plat approval extensions upon request.

Section 7.3 Waiver of Time Limits

Any of the above time periods binding upon either the Planning Commission or the developer may be waived by mutual consent for good cause shown.

ARTICLE 8: APPEALS

Section 8.0 General

If the Morgan County Planning Commission denies an application, the Planning Commission shall notify the applicant in writing of the reasons for denial. 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 days after the decision of the Planning Commission is received by the applicant. Said decision shall be served upon the applicant via certified mail, restricted delivery, return receipt requested.

Any final decision made by the Morgan County Planning Commission pursuant to this Ordinance may be appealed to the Morgan County Circuit Court as stated in West Virginia Code 8A-9-1 through 8A-9-7 (Article 9, Appeal Process).

ARTICLE 9: FORMS AND FEES

Section 9.0 General

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

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

The base fee is payable upon submission of the application and is non-refundable. If the developer 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. (See Appendix I)

ARTICLE 10: GENERAL PROVISIONS

Section 10.0 Deed Covenants

As a condition for issuance of a permit, the Planning Commission shall require a developer to impose on each lot within the subdivision by deed, such restrictive covenants as are reasonably

calculated to protect both lot owners and the owners of adjoining property from economic loss resulting from the use of land within the subdivision, or to protect public health and safety. Covenants shall provide for their enforcement through legal action by any person adversely affected by a violation thereof, or by the subdivision's property owners association. Restrictive covenants may be required to be either permanent or revocable by vote of the persons affected.

Section 10.1 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 10.2 Private Contracts

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

Section 10.3 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 10.4 Access to Public Highways

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

Section 10.5 Flood Prone Areas

Applicant proposing subdivisions which have land within the 100-year flood plain shall be required to demonstrate conclusively that the building footprint will be located outside the 100-year flood plain. It also shall be demonstrated that primary access, to include all right of way widths, to proposed subdivision is above or outside the 100-year flood plain. Any crossings shall be configured to be the least distance over the flood plain and with the least impact to the flood plain.

The placement of wells and septic systems within flood prone areas is strongly discouraged by the Planning Commission.

For lots of record all improvements within the 100-year flood plain shall be in accordance with the Morgan County Flood Plain Area and Improvement Location ordinance. Any fill within the 100-year flood plain is conditioned on the applicant obtaining Conditional Letter of Map Revision (CLOMR) and Letter of Map Revision (LOMR) per FEMA requirements.

If a subdivision lot lies within a flood-prone area designated on those official maps prepared by the U.S. Federal Emergency Management Agency (FEMA), copies of which are available in the Planning Commission office and which it is the duty of the developer to examine, the developer 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 Morgan County Planning Commission."

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

Section 10.6 Inspections

All subdivisions reviewed under this Ordinance are subject to announced or 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 determining project feasibility, 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 10.7 As-Built Road Profiles

a. The developer shall submit as-built profiles of constructed roads as provided herein. The profiles shall be based on actual field surveys performed by or under the supervision of a professional engineer or professional surveyor registered in West Virginia. The profiles shall be made at the center line of each road with elevations obtained at each 100 foot station. The as-built profiles shall be submitted on a copy of the profiles from the approved plans, and the elevations at each 100 foot station shall be shown in such a way as to be readily distinguishable from the original grades and the proposed grades.

b. After completion of an acceptable Grading and Drainage Inspection, an as-built profile shall be made on the subgrade (the surface of the roadway after completion of grading) and before the placement of any roadway surface material (approved shale, crushed stone, bituminous base course, etc.) and shall be submitted to the Planning Office.

c. After completion of an acceptable final inspection, an as-built profile shall be made on the finished roadway and submitted with the final plat.

d. Final plat approval may be denied if the difference between the subgrade profile elevation

and the finished roadway profile elevation at any station is less than the required thickness of roadway surface material called for on the approved plans.

Section 10.8 Erosion Control

Developers or subdividers shall submit an erosion control plan unless no roads are to be constructed. The plan shall be in accordance with standards and specifications of the Eastern Panhandle Soil Conservation District. The County Engineer shall conduct quarterly inspections of compliance with the sediment and erosion control plan. The cost of these inspections shall be paid by the developer. The Planning Commission shall forward copies of the quarterly erosion and sediment control inspection reports to the developer.

Section 10.9 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 covenants for the lots within the subdivision, to regulate activities 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.

This association shall be established by the developer and its organizational papers must be submitted with the application for a permit. If the association is to be incorporated, tentative articles of incorporation and by-laws must also be submitted. A certificate of Incorporation issued by the West Virginia Secretary of State and recorded with the Clerk of the Morgan County Commission must be submitted before a permit shall be issued. Organizational papers of whatever kind must give the association power to impose mandatory fees upon its members, enforceable by civil lawsuits and real estate liens, to finance the accomplishment of the association's purpose. Membership in the association shall be made mandatory by means of deed covenants, for each lot in a subdivision.

Section 10.10 Central Sewer Facilities

a. Developers proposing a subdivision utilizing a central sewer collection and treatment facility shall submit plans and specifications for review and approval by the Health Department, the Planning Office, the State Department of Environmental Protection and the Warm Springs Public Service District (WSPSD). These approvals shall be obtained prior to the preliminary plat hearing.

b. Prior to commencing construction of waste water facilities, the developer and the WSPSD shall enter into an agreement which shall contain the following items:

   Facility ownership by a private entity:

   1. The permanent owner of the new waste water facility shall be identified.

   2. A plan for the operation of the facility shall be attached to the agreement.

   3. The owner shall make available all facility and operational records to the WSPSD for review.

Facility to be transferred to public ownership by mutual consent:

1. The developer shall provide a one year warranty on materials, equipment and workmanship effective from the date of the letter of compliance.

2. Rights-of-way, deeds and titles of all associated machinery shall be transferred to the WSPSD.

c. The developer shall notify the County Planner and the WSPSD at least one week prior to the beginning of construction of the facility.

d. The WSPSD shall issue a letter of compliance upon the satisfactory completion of the facility. The letter of compliance shall address the terms of the agreement and the submission of as-built drawings. The letter of compliance shall be required prior to final plat approval.

e. Fees prior to preliminary plat hearing: The application fee for a preliminary plat filing shall be increased to pay for an engineering review of the proposed sewer facility plans and specifications. The sewer facility review fees shall be determined by the Planning Commission and listed in the Fee Schedule appended to this ordinance. The developer shall pay the review fee.

f. Fees following preliminary plat approval: The developer shall pay to the county a fee for construction inspection of the proposed sewer facility. The fee shall be established by the Planning Commission and listed in the Fee Schedule appended to this ordinance. These fees shall be paid within five (5) days following preliminary plat approval. The County shall hire a competent and qualified firm or individual to provide inspection services during construction to insure compliance with approved plans and specifications. The developer shall pay the construction inspection fee.

Section 10.11 Proffers

Proffers - A written offer by a landowner whereby the landowner offers to satisfy certain reasonable conditions as a requirement of the Final Plat Approval for a development project.

For purposes of this section, a condition contained in a voluntary proffer is considered reasonable if the development project results in the need for the conditions; the conditions have a reasonable relation to the development project and all conditions are in conformity with the comprehensive plan. All proffers accepted must be in conformance with West Virginia State Code Sections 7-20-3 and 8A-6-2.

Section 10.12 Utility Rights-of-Way

Adequate utility rights-of-way must be provided. In no case shall the width of roads plus utilities be less than 40 feet.

Section 10.13 Amendments

All amendments to the Ordinance shall be adopted by the Morgan County Commission according to the procedures set forth in Sections 8A-4-3 through 8A-4-6 of the West Virginia

Code.

Section 10.14 Severability

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

Section 10.15 Riparian Buffer

Developers are encouraged to protect the riparian buffer within 50 feet of the stream bank and preserve it in a natural state with minimal disturbance. The streams to be protected are those referred to on USGS topographic maps as "blue line" streams.

ARTICLE 11: TYPES OF SUBDIVISION STANDARDS

Section 11.0 Types of Subdivision

Every subdivision established in Morgan County after the enactment of this Ordinance shall be classified by the developer (pursuant to Section 4.2) as one of the following five types:

a. High Density Housing
b. Single Family Housing
c. Mobile Home Parks
d. Industrial Parks
e. Combination (Planned Unit Development)
f. Minor Subdivision
g. Cluster Development

Section 11.1 High Density Housing

High Density Housing subdivisions are expected to have most of the facilities commonly found in towns. Wells for central water systems must meet 100' setback from perimeter property lines. Fire hydrants must be provided in accordance with State Fire Marshal Regulations. 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, condominia, or mixtures thereof may be included in such subdivisions.

The following standards shall apply to subdivisions in this category:

1. Lot Size: 5,445 square feet minimum for single family detached dwellings; 2,200 square feet minimum quadruplex dwellings; 3,000 square feet minimum for duplex units; 1,600 square feet minimum for townhouse dwellings; 8,000 square feet minimum for multi-family structure. The maximum number of lots shall not exceed 12 lots of any type per acre. In all

cases, lot area shall be adequate to address parking, landscaping, and other requirements in the subdivision ordinance.

2. Roads: All roads must provide all weather access by a Standard AASHTO WB-50 design vehicle. Class I roads are required and limited to 8 percent maximum grade and must have a paved road surface 20 feet wide plus two foot shoulders or curb and guttering on each side, exclusive of parking areas.

3. Water and Sewage: Central or public water and sewage systems are required.

4. Parking: A minimum of two parking spaces must be provided for each family unit.

5. Screening: Screening is required around sewage lagoons and trash bins.

6. Building Lines:

Single family detached dwellings and multi-family:
Front yard setback from property line – 20 feet minimum
Rear yard setback from property line – 20 feet minimum
Side yard setback from property line – 10 feet minimum
Single family attached dwellings (duplex and townhouse)
Front yard setback – 40 feet minimum from centerline of travelway, which does not include parking. 45 feet minimum from the centerline of travelway, which does include parking.
Rear yard setback from property line – 20 feet minimum
Side yard setback – no requirement for interior lot width.
Single family attached dwellings (quadruplex)
Front yard setback from property line – 20 feet minimum
Rear yard setback – no requirement for lots with a common wall.
Side yard setback from property line – 10 feet

7. Closed system storm drainage shall be required with high-density development and designed according to the latest edition of the West Virginia Department of Highways Roadway Design Division Drainage Manual. Open drainage systems shall be permitted upon recommendation from the County Engineer.

8. A minimum of 10,000 square feet of common green space/open space shall be provided with developments of 10 dwelling units or greater. An additional 500 square feet open space shall be provided for each dwelling unit over 10.

Section 11.2 Single Family Housing

This type of subdivision provides facilities commonly associated with suburban communities. All roads must be adequate for all weather operation of a standard AASHTO WB-50 design vehicle with regard to geometric layout and must be designed so that they could be taken over by the Department of Highways without further upgrading.

Closed section storm drain systems with curb and gutter are preferred. The closed storm drainage system shall be designed according to the latest edition of the West Virginia

Department of Highways Roadway Design Division Drainage Manual. The maximum road grade shall be twelve (12) percent.

The following standards shall apply to subdivisions in this category:

1. Lot Size:

   a. Minimum lot size shall be ¼ acre excluding roads and utilities rights-of-way, provided the lots are served by public or central water and sewer systems.

   b. Minimum lot size shall be one (1) acre for lots served by well and central or public sewer systems or lots served by central or public water and septic systems.

   c. Minimum lot size shall be 2 acres for lots served by well and septic system.

   Well sites shall be located at least fifty feet (50') from the property lines with 150' minimum lot width at building line excluding any panhandle areas. The 50' feet well setback requirement shall not apply for interior lot lines for one acre lots served by central or public sewer systems. In addition, these locations must be referenced in a deed covenant.

2. Roads: All roads must be accessible year-round by AASHTO standard design vehicles. Class I roads are limited to 12 percent maximum grade and must have a road surface at least 18 feet wide, plus two foot wide shoulders on each side. Class II roads are limited to a maximum grade of 12 percent and a maximum grade of 14 percent on short distances not to exceed 100 feet in length with maximum of two sections per ¼ mile. Road surface must be at least 18 feet wide, plus two-foot wide shoulders on each side. All roads shall be able to support SU design vehicle pavement loading.

3. Water and Sewage: The Planning Commission encourages central or public service systems, but wells and septic systems are acceptable with approval of the Morgan County Health Department, the Warm Springs Public Service District (WSPSD) and in accordance with all requirements of the ordinance.

4. Central sewer systems must have a mechanical treatment plant with approved methods of discharge of liquid effluent and the disposal of sludge. Multiple or clustered septic systems and drain fields are not acceptable as a central sewer system. Central water systems must have a water treatment plant with appropriate storage and distribution systems. Required approvals must be obtained from West Virginia Department of Health and WSPSD.

Section 11.3 Mobile Home Parks

Any designated tract of land on which more than one mobile home is situated shall constitute a mobile home park unless all property and mobile homes are owned and occupied by a parent, child, grandparent, grandchild, or a stepchild of the landowner with no more than two mobile homes per acre. Mobile home parks shall comply with the following standards:

The following standards shall apply to subdivisions in this category:

1. Lot Size: The minimum lot size shall be 4,000 square feet if the mobile home park is served by a central or public sewer system and a central or public water system. Otherwise the lot sizes applicable to single family dwellings shall apply.

2. Roads: All roads must be accessible year-round by a WB-50 standard AASHTO design vehicle. All roads shall be Class I and are limited to 10 percent maximum grade and must have a road surface at least 20 feet wide, plus two-foot wide shoulders on each side. All roads shall be able to support SU Design Vehicle pavement loading.

3. Water and Sewage: All systems shall be approved central or public service systems.

4. Parking: 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). Parking along roads shall be outside of required shoulder width and on a mud-free surface.

5. Buffer zones are required.

6. Screening is required for all sewage lagoons and central garbage bins.

7. A minimum of 10,000 square feet of common green space/open space shall be provided with developments of 10 dwelling units or greater. An additional 500 square feet of open space shall be provided for each dwelling unit over 10.

Section 11.4 Industrial Parks

The following standards shall apply to subdivisions in this category:

1. Roads: All roads must have a road surface at least 20 feet wide plus two-foot shoulders or curb and guttering on each side. Class I roads are required and limited to 8 percent maximum grade. All roads must be constructed to be capable of supporting AASHTO WB-50 design vehicles.

2. Special Provisions: Adequate buffer zones and fencing are required.

Section 11.5 Combination (Planned Unit Development)

The Planning Commission recognizes that a single subdivision may combine several different types of land use as previously described. Such a subdivision is sometimes referred to as a Planned Unit Development or P.U.D. For subdivisions of this type, the developer 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, which shall be built to Class I Standards, and facilities connecting one type of land use with another, so that there is a harmonious blend between the various areas.

4. Meet the requirements for each land use proposed.

Section 11.6 Minor Subdivision

a. General
A minor subdivision, for the purposes of this Ordinance , shall be a subdivision that does not:

1. Create more than a total of four (4) lots, including the remainder;
2. Create any new public roads, streets, easements, or water mains or sewers.

b. Approval procedure.

1. The following are not required for a minor subdivision:

i. Phased Preliminary Plat
ii. Sketch plat
iii. Preliminary plat
iv. Soils report
v. Sediment and erosion control plan.

2. The following are required for a minor subdivision:

i. A pre-application conference
ii. A final plat showing existing topography at 20 foot contour intervals
iii. A public hearing
iv. Well permits, septic permits (if applicable), and highway entrance permits for all lots
v. Compliance with all other provisions of the Subdivision Regulations, including minimum lot size (this applies to the remainder also);
vi. Indication of existing and proposed overall drainage patterns of the site and a typical drainage pattern for the house construction.

3. The Planning Commission shall take action on the final plat submission.

Section 11.7 Cluster Development

Purpose: Cluster development is intended to be an alternative type of development, which provides for an overall reduction in minimum lot size for individual lots while maintaining the maximum gross density that would be allowed through normal subdivision regulations. This land development technique involves siting clusters of home sites on smaller lots than those permitted under conventional development regulations with the remaining "saved" land

being retained as common open space. The permanent, common open space, legally dedicated through subdivision plat recordation and deed restriction, can be used for natural conservation and/or recreational facilities for community benefit. Cluster development is encouraged to utilize design elements such as Traditional Neighborhood Design, which allow for the incorporation of neighborhood-oriented retail and other appropriate commercial types of development as part of the overall plan.

The following standards shall apply to subdivisions in this category:

Housing	Housing (Lot) Dimensions	Housing Setbacks (ft.)		
Type	Minimum Area (sq. ft.)	Front	Rear	Side
Single Family	5,000	15	20	8
Duplex	3,000	15	20	8
Quadruplex	1,600	15	20	8
Townhouse	1,600	15	20	8
Multi-family	8,000	15	20	8

Notes:

1. Subject to approval by the Morgan County Planning Commission, the rear yard setback may be reduced to 4' for units with rear garage access, provided the alley has a ROW of 20 feet.
2. The maximum allowable units per townhouse structure shall be limited to 8.
3. For any multi-family structure greater than 35' in height setbacks may be required to be increased 1' for each 1' of height up to the 50' total maximum height permitted subject to Planning Commission determination of compatibility during Phased Preliminary Plat and/or Preliminary Plat approval.
4. All townhouse and similar type dwelling unit design must have minimum 18' structure width.

Commercial: Commercial development may be included as part of the overall development plan by incorporating local business and retail uses that are typically accessible to the traditional needs of the immediate surrounding neighborhood. All commercial development components shall be subject to review by the Planning Commission.

Maximum Number Of Lots: The maximum number of lots per acre shall be no greater than eight (8). This shall represent a minimum mixture of housing types compatible with the surrounding area as determined by the Planning Commission. Such mixtures shall ensure that no more than 40% of any one (1) type of housing is provided within the overall development plan, and a minimum of 60% of such housing be for sale units. In addition, there shall be a minimum mixture of at least two (2) types of units, as defined in the housing type table of this section, provided for in each cluster.

In all cases, lot area shall be adequate to address parking, landscaping, and

other requirements in the subdivision ordinance.

Area: The recommended minimum total acreage for cluster development shall be no less than 30 acres.

Parking: There shall be 2 spaces for parking provided for each residential unit, with a maximum of 25% allowable to be counted as on street parking for townhouse and multi-family units. Parking for townhouse and multi-family housing components within the overall development shall not have shared drives; be lumped into large parking lot areas; or, take up significant front and rear yard space subject to determination and approval by the Planning Commission.

Parking shall be provided for commercial development consistent with existing regulations.

Open Space: A minimum of 10,000 square feet of contiguous accessible and usable open space shall be provided for every 10 dwelling units of development. This space shall not include required drainage areas or other required areas, and shall include specifications from the developer on what public recreational amenities will be provided as part of the overall development plan.

The Planning Commission will provide the opportunity for developers to present as part of the overall plan lands in lieu of required open space that may better serve other public services necessary to serve the surrounding neighborhood.

Water & Sewage: Central or public water and sewage systems are required for all types of housing and commercial development. This system shall include fire hydrants in accordance with the State Fire Marshall Regulations.

Screening: Screening is required around sewage lagoons, trash bins, stormwater management areas and other appropriate locations as determined by the Planning Commission. In addition, there shall be provided adequate common area between townhouse and multi-family structures for ingress and egress purposes

SWM Drainage: Closed system storm drainage shall be required and designed according to the latest edition of the West Virginia Department of Highways Roadway Design Division Drainage Manual. Open drainage systems shall be permitted upon recommendation from the County Engineer.

Max. Road Slope: Class I roads are required and limited to 10 percent maximum grade. Where Class II roads are permitted they are limited to 12 percent slope. However, roads exceeding 12 percent slope may be considered by the Planning Commission provided the applicant can demonstrate that the steeper grade is justified due to circumstances beyond their control such as steep existing terrains requiring excessive depletion of green space to meet

the 12 percent maximum. In no instance shall the maximum road slope exceed 14 percent. Slopes exceeding 12 percent shall only be considered for roads that do not provide access to and from a commercial component within the development. Roads must be designed so that they can be taken over by the Department of Highways without further upgrading.

Road Width: All roads must provide all weather access by a Standard AASHTO WB-50 design vehicle with regard to geometric layout and must be designed so that they could be taken over by the Department of Highways without further upgrading. All roads must have a minimum paved road surface as follows:

- One-way road width, no parking, open or closed – 18' curb to curb or no shoulders
- One-way road width, parked one side, with curb – 20' curb to curb
- One-way road width, parked one side with shoulders, or two-way road with no parking/houses with shoulders 18' plus 2-two foot shoulders – 22' total width
- Two lanes, parking one side with curb and gutter – 27' curb to curb
- Two lanes, parking one side with open section 24' plus 2- two foot shoulders – 28' total width
- Alley – 15' paved surface for one-way and 18' paved surface for two-way with all alleys providing 20' ROW
- Cul-de-sac length, minimum of 300' and maximum of 600' with no greater than 12 dwelling units have direct access thereto

ARTICLE 12: GENERAL STANDARDS FOR ROADS

Section 12.0 Road Design

All roads within a subdivision must meet the following standards:

a. Subdivisions containing 75 dwelling units or more shall require a minimum of two means of ingress and egress. In lieu of two separate entrances, a boulevard style road where either side could be used to provide ingress and egress to the development in the event of an emergency. The boulevard road shall be extended to a point where there are fewer than 75 dwelling units accessing the road. If a subdivision abuts a heavily traveled 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 the subdivision roads rather than direct access to the state road.

b. Subdivision roads should be designed to minimize through traffic;

c. Subdivision roads serving 11 or more lots are termed "Class I" roads;

d. Subdivision roads serving 10 or fewer lots are termed "Class II" roads;

e. Dead end roads shall terminate in turn-arounds with:

1. A right-of-way diameter of 100 feet;
   A finished road diameter of 80 feet;
   A fillet radius on the finished road of 30 feet.

   The centers of turn-arounds may be landscaped with suitable vegetation that does not impede sight distance; or

2. A "T" dead end, with the lengths of the finished crossroads to be 40 feet in length as measured from the centerline of the perpendicular roadway, and the fillet radii to be 30 feet.

f. Subdivision roads shall be constructed with a minimum fillet curve radius of 20 feet at intersections with a minimum 60 degree angle at roadways between intersections;

g. Signs shall be posted at all entrances of the subdivision, giving the name of said subdivision;

h. All streets, roads, lanes, etc., shall be identified with signs designating the name of said street, road, lane etc. Appropriate traffic signs shall be provided on all roads of the subdivision.

i. All roads shall have a right-of-way at least 40 feet wide which may also be used for placement of utilities at their discretion.

j. All roads shall be designed to prevent wash-out and erosion;

k. All roads shall not have grades greater than 8 percent leaving an intersection for a distance of 100 feet from the center of the intersection.

l. Class I roads shall have minimum horizontal radii of 200 feet and a minimum stopping sight distance of 200 feet. Class II roads shall have minimum horizontal radii of 100 feet and a minimum stopping sight distance of 150 feet. If deemed necessary by the Planning Commission, these minimums shall be increased as necessary for safety reasons.

m. A common driveway serving two lots must be built by the developer. Such driveways shall require a sediment and erosion control plan. A common driveway is defined as one vehicular roadway serving two lots within a subdivision where the roadway lies within the boundaries of one or both lots. Vehicular access to more than two lots must be provided by side roads or main roads of the subdivision. All plans with common driveways shall have a common drive use and maintenance agreement.

n. Side slopes shall be 2:1 maximum without geotechnical engineers report.

o. When fill is greater than 10 vertical feet and the slope is greater than 4:1 along a road, guard rail is required to be installed according to Department of Highways specifications or alternatively, a Post and Wire System constructed to the GL3 diagram using 5 ½" square or round wood post, or equivalent. (See Appendix II for GL3 diagram.)

p. In the event of a split roadway, a two-foot shoulder is required on either side of each traveled way.

q. The Planning Commission shall consider a road in its entirety without giving any consideration to the concept that it changes from a main road to a side road where it serves the last ten lots.

r. Road Vertical Alignments shall be designed for a 30 MPH design speed with a Kmin for SAG curves of 40 and a Kmin for Crest curves of 30. Define K as rate of change of curve as defined by AASHTO.

s. Unless a design guideline is specifically set forth herein, AASHTO design requirements for rural local roads will govern.

t. One-way roads shall have a minimum width of 12 feet with two-foot shoulders.

Section 12.1 Specifications for Roads

Roads shall be a gravel road constructed on a well-compacted subgrade free of organic matter and having desirable engineering characteristics for subgrade use.

Roadbed (subgrade) Preparation: Subgrade shall be proofrolled and if material/subgrade is not acceptable at the location of the proposed road, acceptable material shall be placed and compacted for subgrade. Compaction standards shall be pursuant to West Virginia Department of Highways standards for compaction.

Roadway Material: 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 course material. Gravel roads shall measure 6 inches thick as a minimum after rolling. 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.

Asphalt Roads: Asphalt roads shall conform to the specifications required by the West Virginia Department of Highways for public roads for those roads anticipated to be taken over and maintained by the state system.

Section 12.2 Drainage

1. All roads shall be built so as to provide positive drainage from any point on the road or on the cuts and fills for the road.

2. For all roads, drainage structures shall be sized to carry the peak runoff resulting from a 25-year frequency storm occurring over the entire contributing watershed.

3. Stormwater drainage resulting from a subdivision shall not be discharged onto adjoining properties at rates that the existing downstream drainage structures cannot adequately accommodate;

4. All subdivision roads shall be sloped laterally or sloped from a centerline crown at a ratio of ¼ inch vertical to 1 foot horizontal;

5. All subdivision roads and ditches shall have a minimum grade of 1 percent. Exceptions can be considered for low points of roads at vertical curves;

6. a. Culverts shall have a minimum diameter of 15 inches.

   b. Culverts shall pass under subdivision roads at a minimum cover depth of 12 inches or greater as measured from subgrade to the culvert crown pursuant to manufacturers specifications.

   c. Culvert length must be 30 feet minimum at road intersections and driveway entrances.

   d. Culvert cross sections should extend from drainage way to drainage way or to outlet channel.

   e. A minimum of one (1) foot of freeboard from the design water surface elevation (WSE) to the edge of road elevation shall be required.

7. Drainage plans shall be shown on the plan sheet showing existing contours.

Section 12.3 Definitions of Accessibility

Accessibility – Vehicles

AASHTO (American Association of State Highway and Transportation Officials) designations for design vehicles are as follows:

P – Passenger Vehicle
S-Bus 36 – School Bus
SU – Single Unit Truck/Service Truck
WB-50 – Fire Truck

School buses (S-Bus 36) shall 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, unless at a T-turn around or cul-de-sac.

Fire trucks (WB-50) shall be able to travel to any point on a road without backing up, even if all parking spaces are occupied, and can complete a turn-around without having to back up more than 100 feet.

Service trucks (SU) shall be able to perform their functions in all seasons without stopping the flow of traffic.

Normal passenger vehicles (P) shall 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

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

A vicinity location map, indicating the general location in Morgan County where the subdivision is to be established;

The proposed layout of streets, lots, and other improvements in relation to existing features;

Existing and proposed drainage of surface water, including drainage devices;

Plans for use of remaining lands;

Contour lines are required at a minimum of 20-foot intervals as shown on the USGA mapping. Contour lines at 2-foot intervals are preferred.

Section 13.1 Phased Preliminary Plat

a. General

A Phased Preliminary Plat is required for all multi-phased (more than one preliminary plat submittal) subdivisions. The intent of obtaining Phased Preliminary Plat approval is to identify the type of land use, number of proposed lots, area of planned open space and type of water and sewer service.

b. Definition

Phased Preliminary Plat - A land development plan indicating the proposed layout of the subdivision or site and showing proposed number of lots, type of development, area of proposed open space, type of water and sewer service and showing the general layout for the roads. Floodplain limits and any other significant features associated with the project must be shown on plat. The Phased Preliminary Plat shall be consistent with the Sketch Plan and approval of the Phased Preliminary Plat must be received prior to Preliminary Plat Submittal.

c. Phased Preliminary Plat Review

The Phased Preliminary Plat is intended to provide detailed information sufficient for a review

by the County Engineer and Planning Commission. As indicated in Article 4 Section 4.2, a Public Hearing will be held by the Planning Commission to review and approve the Phased Preliminary Plat. Approval for construction will be determined by the Planning Commission at the Preliminary Plat submission stage as defined elsewhere in this ordinance. The County Engineer shall review the Plan to assess its accuracy and conformance with applicable ordinances.

d. Phased Preliminary Plat Data Requirements

The developer shall prepare and submit 3 copies of the proposed Phased Preliminary Plat to the Planning Commission. The Plat shall be drawn at a scale no smaller than 1" = 100' and may be one (1) or more sheets as necessary. The Phased Preliminary Plat shall conform in general to the approved Sketch Plan, if required, and shall include the following information:

A. Drafting Standards

(1) Dimensions shall be in feet and decimal parts thereof.
(2) Each sheet shall be numbered and shall show its relationship to the total number of sheets.
(3) The Plan shall contain adequate legend so as to clearly indicate which features are existing and which are proposed.
(4) The boundary line of the subdivision shall be shown as a solid heavy line. If the overall plan is to be developed in phases, the Phased Preliminary Plat must indicate and identify through some sequential method each phase as proposed.
(5) Text size of at least one eighth of an inch (1/8") high.

B. Existing Information

(1) Vicinity map drawn to a scale of not less than One (1) inch to One Thousand (1,000) feet showing the approximate relationship of the Phased Preliminary Plat to its general surroundings and showing the following details:

(a) Existing or mapped streets within one thousand (1,000) feet of the subdivision;

(2) Identifying Information

(a) Name of subdivision; the name shall not duplicate, be the same spelling or alike in pronunciation to any other recorded subdivision.
(b) Location by District, Tax Map and Parcel number.
(c) Names and addresses of the developer, and owner(s) if other than the developer.
(d) Date of drawing, north point and scale.

(3) Existing Conditions

(a) A boundary survey or survey of record of the property to be subdivided, and all remaining lands, including deed/map book and page reference, locating and identifying adjacent or abutting streets (existing or platted), subdivisions, unsubdivided parcels, easements, water areas, and the like, and all visible monuments, showing all courses, distances, and area, and tie-ins to all adjacent street intersections. At a minimum, show the entire parent tract or original parcel on an index map.

(b) Location, width and names of all existing or prior platted streets or other public streets, railroad and utility rights-of-way, parks and other public open spaces, existing water courses and mapped floodplains and any jurisdictional lines within or adjoining the tract.

C. Proposed Layout

(1) General Layout and Phasing

(a) The land use plan identifying the type, location, quantity, design and density of specific sections and the project in total.

(b) A plan for phasing the construction of the project, showing construction of the project, showing geographic coverage of future plats and their approximate sequence of submission.

(c) Any additional information that the Commission may deem necessary.

(2) If applicable, include the number and types of units proposed, for multi-family dwellings, shopping centers, churches, industry or other non-public uses exclusive of single-family and two-family dwellings.

(3) Location and minimum dimension of all parcels proposed to be dedicated or reserved for school sites, parks, open space used by occupants of the subdivision and for other public uses.

e. Phased Preliminary Plat Approval

Subsequent to the Public hearing the Planning Commission shall review the Phased Preliminary Plat and the findings and recommendations and any other reports pertaining to the Plat, and shall approve, approve with conditions, or disapprove the Development Phased Preliminary Plat.

A. If the Planning Commission grants the conditional approval of the Phased Preliminary Plat, the conditions and reasons thereof shall be stated in writing.

B. If the Planning Commission disapproves of the Phased Preliminary Plat, the reasons for disapproval shall be stated in writing and reference shall be made to the specific sections of this Ordinance.

C. If the Planning Commission approves the Phased Preliminary Plat, approval of the Plat shall be noted by the President of the Commission signing three (3) copies of said Plan. One (1) copy is to be returned to the applicant, one copy to remain on file at the Planning Commission Office and one copy to the County Engineer. Approval of a Phased Preliminary Plat shall in no way constitute approval of the Preliminary or Final Plat.

D. Approval of the Phased Preliminary Plat by the Commission does not constitute permission to begin any development activities. Appropriate permits must be obtained from applicable County departments and other state and federal agencies before construction may commence.

E. The developer shall comply with subdivision regulations in effect at the time of submission for preliminary plat approval. The type of land use, number of proposed lots, area of planned open space and type of water and sewer service shall be consistent with the Phased Preliminary Plat.

f. Changes to the Phased Preliminary Plat Submittal

Any significant change to the approved Phased Preliminary Plat must be reviewed by the Planning Commission to determine if the change is significant enough to warrant a Public Hearing prior to consideration of the changes. If a Public Hearing is found to be warranted, the procedure shall be in accordance with Article 4.0, Section 4.2 of this Ordinance.

g. Withdrawal of Phased Preliminary Plat

A Phased Preliminary Plat, upon written request of the applicant, shall be withdrawn from consideration by the Planning Commission.

Section 13.2 Preliminary Plat

a. General

The preliminary plat shall be prepared by a qualified professional surveyor or professional engineer licensed by the State of West Virginia. 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 unless a waiver for good cause shown is granted.

The size of the 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.

The developer shall provide three extra copies of the approved Preliminary Plat, and

certify that one each has been sent to the telephone company, the electric utility company and the Morgan County Health Department.

The County Planner is authorized to approve minor plan changes. Minor plan changes are those which, in the opinion of the County Engineer, are technical in nature, do not change or significantly impact the project concept, and do not require judgment which is the prerogative of the Planning Commission. Major plan changes require a formal review by the County Engineer and subsequent approval by the Planning Commission.

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

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;

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; and contain a statement that the plat complies with all restrictive covenants for the existing subdivision.

8. The bearings and distances of the boundary lines, and all existing easements, railroad and utility rights-of-way.

9. All existing pertinent features, either natural or man-made, that may influence the design of the subdivision, such as watercourses, tree groves, potential wetlands, rock outcrops, outstanding topographic features, utility lines, existing buildings, historic areas, and drainage structures.

10. Existing topography, with two-foot contour intervals for all lots when the total difference in elevation across the subdivision is less than 50 feet, five-foot contours up to 100 feet, and 20 foot contours over 100 feet.

11. Location, widths, and names of all existing streets or alleys within 100 feet of the proposed subdivision. Recorded but unimproved streets should be shown with dashed lines.

12. Any areas specifically delineated by the United States Corp of Engineers, the United States Geological Survey or the Federal Emergency Management Agency as a 100-year flood plain area, shall be shown.

13. The layout of all proposed and existing lots, with approximate dimensions and area, and showing setback lines.

14. Proposed locations, widths and names of streets and alleys. A plan-profile design of each street shall be submitted at the same or larger scale as the plat, with existing and proposed centerline grades shown at fifty-foot (50') intervals. If applicable, existing and proposed sewer, water, and storm drainage systems design shall be submitted. Elevations for the existing centerlines shall not be interpolated from 20-foot contour-interval maps. A typical cross section of each type of street shall be included. A cross section shall be provided at each culvert. All plan and profile work to be based on topographic mapping for the site at 2-foot contour intervals.

15. Stormwater management provisions/sediment erosion control plan in accordance with the requirements of the Morgan County Stormwater Management Plan.

16. Proposed sewer and water supply. Any design or plans submitted to the West Virginia Department of Health shall be included. Designs submitted must show location of well, septic system and building sites to be serviced.

17. All proposed grading shall be shown on the preliminary plat as proposed contours, showing proposed structure location and proposed grading to accommodate structure footprint.

18. Two elevation benchmarks per project shall be shown.

Section 13.3 Final Plat

a. General

Three clear and legible prints of the final plat shall be submitted.

1. The scale shall be fifty (50) feet or less to the inch.

   The size of the 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 and the latest revision date of each sheet.

   The final plat shall be labeled "Final Plat" in large letters.

2. All final plats shall be prepared by a West Virginia licensed professional surveyor or professional engineer and 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 30-13A, Series I, (1969) as amended, or corresponding parts of any such regulations adopted in the future.

3. In addition to the paper copies, if requested, developers and consultants must provide an electronic copy of the final plat on a medium and in a format prescribed by the Planning Commission.

b. Required information: The Final Plat Shall Show:

1. The location of the proposed development by inserting on the plat a location vicinity map at a scale of 1000 feet to 5000 feet to the inch indicating the location of the property with respect to surrounding property and roads;

2. Subdivision name;

3. The name and address of the owner of the land and the name and address of the subdivider/developer, if other than the owner;

4. If the final plat under review is a re-plat of a subdivision of 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 _____,
(name)
at time of recording.

_____
Signature of Present Owner

If the subdivision is recorded in other Morgan County records, such record and date of the 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 location to be abandoned and solid lines to show the currently proposed features or locations;

6. The exact layout of the subdivision, including;

(a) Street and alley lines; their names, bearings, angles, of intersections and widths, including widths along the line of any obliquely intersecting street; basis for bearings for all property lines shall be shown whether magnetic or astronomic; if magnetic, declination shall be shown.

(b) The data for all curves shall be shown in detail at the curve or in a curve data table.

(c) All easements or rights-of-way shall;

- be described by bearings and distances with ties to property corners;

- have the source (deed book reference and holder) of easements or rights-of-way shown if existing.

(d) Proposed house location

7. Bearings and distances of flood plain areas on each lot where applicable; the elevation of the 100 year flood plain at each lot with benchmarks.

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, area of flood plain of each lot shall be calculated and shown separately;

10. Front setback building lines, and any other setback lines or street lines established by public authority, and those stipulated in the deed restrictions;

11. Accurate outlines of any areas to be reserved or dedicated for common use by the residents of the subdivision or land development unit, or for the general public use with the purposed indicated thereon;

12. Space for subdivision approval permit

13. Each subdivision final plat approved as one of the following types of subdivision shall contain the statement listed for that type of subdivision.

High Density Housing. "This subdivision has been approved by the Morgan County Planning Commission as a High Density Housing subdivision. The roads are considered adequately designed and constructed for year-round access by standard AASHTO design vehicle designation."

Single Family Housing. "This subdivision has been approved by the Morgan County Planning Commission as a Single Family Housing subdivision. The roads are considered adequately designed and constructed for year-round access by standard AASHTO design vehicle designation."

Mobile Home Parks. "This has been approved by the Morgan County Planning Commission as a Mobile Home Park subdivision. The roads are considered adequately designed and constructed for year-round access by standard AASHTO design vehicle designations. This Mobile Home Park shall only be sold as a whole and not as individual subdivision lots."

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 building site and the permitted and approved well and septic area shall be indicated on the final plat. Location of the approved 10,000 square foot septic system area and well site for each lot shall be indicated with location ties to property corners shown so that the boundaries of the 10,000 square foot area and well site can be re-established by future survey. The rectangle shown on the plat designating the space

reserved for septic system and drain field shall contain the words "Septic Reserve Area."

16. The location and method of on-site stump disposal pits, waste areas and borrow areas shall be shown. The developer shall certify that off-site disposal of stumps has been done in a lawful manner.

17. If a subdivision lot lies within a flood prone area, the following statement shall be shown on the Final Plat:

"ALL OR PART of this real estate, as delineated on this plat, is within the 100 year flood plain. The legal ramifications of this are significant and use of this land may be limited. Details may be obtained from the Morgan County Planning Commission"

18. A complete listing of all waivers of the Morgan County Subdivision Regulations that were approved by the Planning Commission.

ARTICLE 14: FINANCIAL GUARANTEES

Section 14.0 General

If the sediment and erosion control measures of a subdivision cannot be completed prior to final plat approval the Planning Commission shall require, as a condition for a permit, that the developer provide a financial guarantee that the work shall be completed by a certain date.

This is a financial guarantee shall be the developer placing in escrow with the Planning Commission a sum of money sufficient to do the work.

Section 14.1 Specifics

A financial guarantee must meet the following requirements:

Sediment and erosion control measures must be completed within a period of time established on an ad-hoc basis by the Planning Commission;

The amount of the Irrevocable Letter of Credit or Bond must be 115 percent of the amount calculated by the Applicant's Engineer to be the cost of completing the improvements. Applicant will submit a cost estimate certified by a West Virginia Professional Engineer to be reviewed and approved by the County Engineer.

When all required improvements have been installed, the developer shall notify the Planning Commission in writing of said installation and request the release of escrow funds. The Commission, or its qualified and authorized agent, shall inspect the aforesaid improvements. The Commission or its agent shall prepare a report in writing indicating either approval, partial approval, or rejection and giving the reasons in the case of partial approval or rejection. Said report shall also indicate the cost of the improvements for which approval is withheld.

Section 14.2 Default

If the required improvements are not installed in a manner conforming to this ordinance within the time specified, a default may be declared by the Planning Commission. No default shall be declared without the developer being given thirty (30) days written notice of an intent to declare a default and an opportunity to appear at a Default Hearing before the Planning Commission to show cause why a default should not be declared;

After a default has been declared, the developer shall be liable to the Planning Commission for the rest of the required improvements not installed. The Planning Commission shall take the necessary steps to collect the money due from the escrow account.

After a default has been declared, the Planning Commission shall contract to have the work completed utilizing the escrow funds. All such improvements must meet the technical standards set forth elsewhere in this ordinance.

ARTICLE 15: ENACTMENT

Enacted and ordained this **8th** day of **September, 1983**, effective September 8, 1983, and; As Amended December 22, 1995; December 28, 2001; November 7, 2003, July 21, 2006, October 17, 2008, November 21, 2008 and December 19, 2013.

MORGAN COUNTY COMMISSION
BY:

ABSENT - RLF
Bradley J. Close, President

Stacy A. Dugan
Stacy A. Dugan

RLF
Robert L. Ford

12.19.13
Date

APPENDIX I

Fee Schedules

Subdivision Fees:

Minor Subdivision: (4 lots or less)	$250.00 application fee $ 75.00 per lot $ 50.00 advertising fee Engineering fees to be billed separately to developer.

* ** *

Preliminary Plat: (5 thru 10 lots)	$500.00 application fee $ 75.00 per lot $100.00 advertising fee Engineering fees to be billed separately to developer.
Final Plat: (5 thru 10 lots)	$250.00 application fee $ 50.00 advertising fee Engineering fees to be billed separately to developer.

* ** *

Preliminary Plat: (11 or more lots)	$500.00 application fee $100.00 per lot $100.00 advertising fee Engineering fees to be billed separately to developer.
Final Plat: (11 or more lots)	$250.00 application fee $ 50.00 advertising fee Engineering fees to be billed separately to developer.

* ** *

Fee Schedule For Exemption Of Lots

Exemptions:

Exempt lots:	$60.00 per lot
Mergers/boundary adjustment:	$60.00 per lot
Family transfers:	$25.00 per lot
Resurveys/Right-of-Ways	$25.00 per survey

* ** *

Fee Schedule For Sewer Facility Engineering Review

$300.00 plus $10.00 per lot.

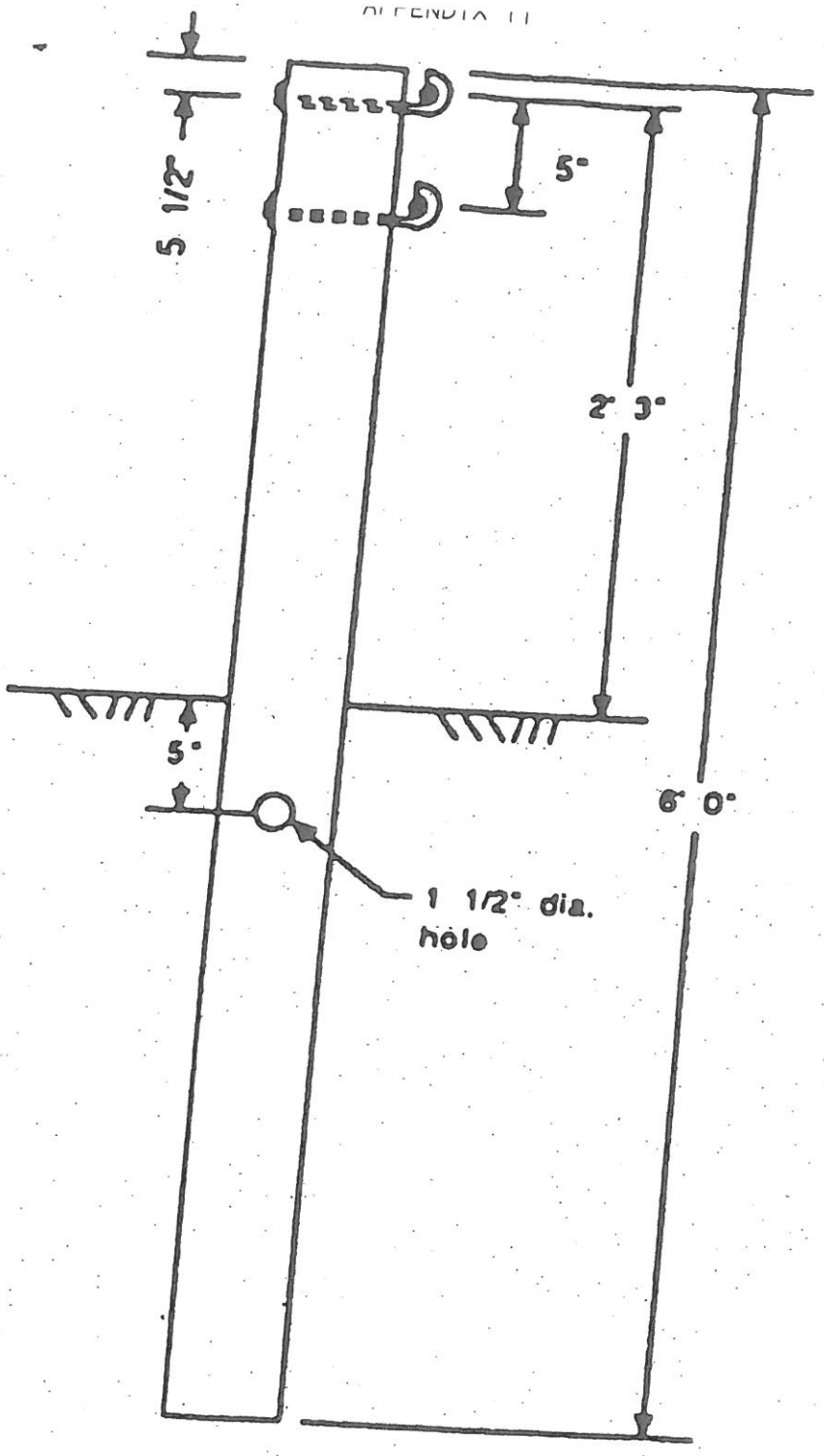
Fee Schedule For Sewer System Construction Inspection

The table below shall be used as a guide to determine the "not to exceed" amount for resident construction inspection of central sewer systems. For costs between the figures shown in the table, the fee shall be interpolated to the nearest one-tenth of one percent.

Inspection Fee Table

Construction Cost	Inspection Percent
Under 100,000	8.0
200,000	7.6
300,000	7.3
400,000	6.9
500,000	6.6
600,000	6.4
700,000	6.1
800,000	5.9
900,000	5.6
1,000,000	5.4
2,000,000	4.0
3,000,000	3.2
4,000,000	2.4
5,000,000 and over	2.0

The percents listed above are not intended to be the exact amount of inspection costs for each project, but are established to determine a budget amount for inspection. Unspent inspection fees shall be returned to the developer.



GL3 System

5 1/2-in. diameter wood

16 ft

two, 3/4-in. dia cables

27 in.

7 ft

Morgan County
Stormwater Management Plan

a) **Title, Authority and Purpose**

a) This article shall be known and may be cited as the Morgan County Stormwater Management Ordinance.

2. **Authority and Purpose**

a) This ordinance is adopted by the authority of the West Virginia Code 8A-1-1 to 8A-11-2 seq.

b) This ordinance is adopted for the following purposes:

i) To protect and provide for the public health, safety and general welfare of the citizens of Morgan County.

ii) To mitigate the impact of increased stormwater runoff due to change in land use; and thereby

iii) To safeguard lives and property from loss by flood and erosion

3. **Applicability, Definitions, Exemptions, Waivers, and Variances**

a) Any activity which is subject to the Morgan County Subdivision Ordinance, as amended, or the Morgan County Commercial and Industrial Improvement Location Permit Ordinance, as amended, shall provide adequate Stormwater Management measures that control and manage stormwater runoff from such development/improvements, except as provided herein.

b) Definitions: Commission: As used herein Commission shall mean the Morgan County Planning Commission and its staff or designated representatives or agents. Impervious: as used herein shall include all areas that produce 100 percent run-off. Impervious as used herein shall also include gravel roadways, driveways, parking lots, sidewalks, patios, etc.

c) Exemptions: The following activities are exempt from the requirement to provide Stormwater Management measures:

i) Agricultural land management activities;

ii) A single family detached residential structure; and

iii) Activities that do not result in an increase in impervious land use area greater than 5,000 square feet and land disturbance greater than 1 acre.

d) Waivers: The Commission may grant a waiver of the Stormwater Management requirements for individual developments provided that a written request is submitted by the applicant containing descriptions, drawings, and any other information that is necessary to evaluate the proposed development. If there are subsequent additions, extensions, or modifications to a development receiving a waiver, a separate written waiver request shall be required in accordance with the provisions of this section. A development shall be considered for a waiver if the applicant can conclusively demonstrate that the waiver is the minimum necessary to provide relief that, the applicant is not requesting a waiver based on cost considerations and that:

i) The proposed development will not generate more than a 10 percent increase in the 2-year 24-hour post-development peak discharge rate over the 2-year 24-hour pre-development peak discharge rate; and that the development will not cause an adverse impact on the receiving wetland, wetcourse, or waterbody; and that the development will not worsen existing offsite stormwater problems, increase flooding or ponding on offsite properties or roadways, cause erosive conditions due to increased peak flows or volumes, or increase 100 year floodplain levels; or

ii) The 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; or

iii) The proposed development has implemented runoff and nutrient reduction practices for the first one inch (1") of rainfall consistent with better site design and Best Management Practices in accordance with the West Virginia Stormwater Management and Design Guidance Manual; that existing offsite stormwater problems will not worsen; increase flooding or ponding on off-site properties or roadways will not occur; any increase of peak flow or volume from the site will not occur; the amount of stormwater generated has been minimized to the greatest extent practical; increased 100-year floodplain levels will not occur; and infiltration of runoff throughout the proposed development has been provided where feasible.

e) Variances: the Commission may grant a written variance from Stormwater Management requirements if there are exceptional circumstance applicable to the site such that strict adherence to the provisions of these regulations will not fulfill the intent of these requirements. The applicant shall submit a written request to the Commission stating the specific variances sought, reasons for the request and supporting technical documentation in accordance with Section 6 of this ordinance, as applicable.

4. Stormwater Management Minimum Control Requirements

a) Stormwater management facilities shall control post-development runoff for the 24-hour, 2-year and 10-year frequency storms to a level equal to or less than the pre-development levels for the 24-hour, 2-year and 10-year frequency storms, respectively, and shall pass the 24-hour 100-year frequency storm without damage to the facilities. Both the volume

and rate of runoff shall be controlled.

5. Specific Design Criteria

a) Infiltration measures, where feasible, shall be preferred to detention or retention systems. Where infiltration measures are not feasible the Commission may require that supporting documentation so demonstrating be submitted.

b) Infiltration measures shall be designed in accordance with accepted engineering practices and published design criteria; and shall meet the following requirements:

i) The requirements for demonstrating that infiltration measures are feasible, or are not feasible, shall be the same as those required by the West Virginia Department of Health for demonstrating that a site is suitable for the use of an individual on-site septic drainfield, except that:

a) Infiltration (perc) tests shall be made at the elevation or depth of the proposed bottom of the stormwater management facility;

b) The number of tests shall be sufficient to show the suitability of soil over the entire area of the proposed facility;

c) Where more than one facility is proposed for a site, tests demonstrating the feasibility of each facility shall be provided;

d) Tests shall be made by a certified septic installer or other qualified professional; and

e) The minimum acceptable rate of infiltration shall be one-half inch (1/2") per hour.

ii) Infiltration Measures shall be:

a) Constructed with the bottoms at least three (3) feet above seasonal high water table; and

b) Located at least 25 feet and downslope from all buildings on permanent foundation.

iii) Infiltration measures designed to accept runoff from commercial or industrial impervious parking areas shall:

a) Be a minimum of 100 feet from any water supply well;

b) Include an oil/water separator; and

c) Provide pretreatment for 25% of the design volume through the use of grass filter strips or other acceptable measure.

iv. The facility design shall include an overflow system designed to provide a non-erosive velocity of flow along its length and at the outfall.

v. Infiltration measures shall not receive runoff until the entire contributory drainage area to the infiltration system is stabilized or the system is protected by satisfactory sediment control measures.

vi. Sediment which has accumulated in the measure during construction shall be removed and the bottom scarified before final seeding and mulching; and

vii. Post-construction infiltration tests showing that the facilities will function as intended shall be made by a certified septic installer or other qualified professional and the results submitted to the Commission in writing.

c) Retention and detention ponds shall be designed and constructed in accordance with the criteria of the US Department of Agriculture, Natural Resource Conservation Service and shall include the following:

i) 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.

ii) Stormwater management design shall include an analysis of the impacts of stormwater flow downstream in the watershed. The analysis shall include hydrologic and hydraulic calculations necessary to determine the impact of the proposed development upon a dam, highway, structure or natural point of streamflow restriction 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.

iii) The design release rate of the structure shall be modified if any increase in flooding or stream channel erosion would result at the downstream point.

d) For the determination of pre-development peak discharge, all land uses shall be considered to be meadow in good condition; and land use 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 stormwater management system involves redirection of some or all runoff from a site, it shall be the responsibility of the developer to obtain permission from property owners impacted by such redirection. Approval of a Stormwater 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 and analysis criteria, methodologies and construction specifications shall be those of the Natural Resource (Soil) Conservation Service (or equal) found in the most current edition of the following publications:

i) "Urban Hydrology for Small Watersheds", Technical Release No. 55;

ii) "Natural Resource Conservation Service Engineering Field Handbook";

iii) "Natural Resource Conservation Service Field Office Technical guide Standard 378"; and

iv) West Virginia Stormwater Management and Design Guidance Manual

g) The methodology used to determine rainfall runoff shall be Technical Release 20 or Technical Release 55 (TR-20 or TR-55).

6. Stormwater Management Plan

a) Review and Approval of Stormwater Management Plan

The Stormwater Management Plan and Design Report shall contain supporting computations, drawings and sufficient information describing the manner, location and type of measures by which stormwater runoff from the entire development will be managed. The Commission shall review all plans and supporting information. 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 and Design Report

The developer is responsible for submitting a Stormwater Management Plan and Design Report which meets the requirements contained herein. The plan and report shall be prepared by a qualified professional engineer, registered in the state of West Virginia, and 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 Stormwater Management Plan or request for a waiver shall be as follows:

i. Design Report

a) USGS topographic map showing the project site;
b) Soils map showing the project site;
c) Test results showing the feasibility or lack thereof of infiltration measures; and
d) Narrative describing:

(1) The existing condition and character of the site;
(2) The nature and extent of the proposed development;
(3) The measures proposed for stormwater management;
(4) A summary of pre- and post-development runoff for the 2-, 10-, and 100-year frequency storms;
(5) The impact of the proposed development downstream from the site; and

(6) Organization of data and computations in the remainder of the report.

e) Computations, including:

(1) Pre-and post-development hydrology computations including curve number weighting, time of concentration and travel time, and subarea, combination and routing hydrographs for the 2-, 10-, and 100-year storms; and

(2) Hydraulic computations including structure sizing and performance for the 2-, 10-, and 100-year storms, resistance to overturning and flotation, and location and sizing of anti-seep collars, as applicable.

f) Pre- and post-development drainage maps showing existing and proposed contours, as applicable, at a scale no less than 1" = 100' at 2-foot contour intervals. Off-site drainage area mapping should be no less than 1" = 200', with the exception that the U.S.G.S. maps may be used if off-site topography is not reasonably available to the applicant, and including as applicable:

(1) Extent of soils of each classification;
(2) Extent of land use of each classification;
(3) Drainage subareas labeled to correspond with computations;
(4) Flowpaths showing each segment with length, type of flow and slope; and
(5) Location of drainage structures and stormwater management facilities.
(6) Topography shall be shown to at least 100 feet past the drainage divide to allow review of the drainage areas shown and used in the Stormwater Management Report.

ii) Stormwater Management Plans shall include in addition to information required by the Subdivision Ordinance and/or the Commercial and Industrial Improvement Location Permit Ordinance:

a) Dimensions sufficient to show location, size, depth and volume of each stormwater management facility and structure;

b) Details and specifications for each structure including (but not limited to) culverts, orifices, risers, inlet boxes, weirs, trash racks, spillways, riprap lining and anti-seep collars;

c) Location of existing and proposed easements and/or rights-of-way required for stormwater management facilities; and

d) Other information as may be required for specific site conditions and developments.

7. Construction, As-Built Plans and Final Approval

a) The developer shall install and/or construct all required stormwater management facilities.

b) As-built plans showing the completed location, size, volume and structure components

shall be submitted to and approved by the Commission prior to the final approval of a subdivision or the issuance of an occupancy permit for a commercial or industrial development.

c) As-built plans shall be based on actual field measurements and shall be prepared by a registered professional surveyor or engineer licensed in West Virginia.

8. Inspections

a) Construction of all stormwater management facilities shall be subject to inspection by the Commission or Natural Resource Conservation Service.

b) The Commission shall be responsible for keeping a record of any inspections made on stormwater management facilities. Any deficiencies noted will be forwarded to the owner in writing for correction.

c) The Commission, either by virtue of the nature of the stormwater system or by the developer's lack of performance in accordance with the plans, may require the developer to hire a West Virginia licensed professional engineer to inspect the project and provide a report to the Commission. The report shall contain the developer's engineer's certification of compliance as well as any "as-built" plans, supplementary inspection reports and laboratory or field testing results.

9. Maintenance

a) Prior to granting final approval to a project, the Commission shall require the owner to enter into an "Inspection and Maintenance Agreement of Private Stormwater Management Facilities" attached hereto.

b) The Commission may from time to time make maintenance inspections on stormwater management facilities. Records of such inspections shall be kept in the Planning Commission Office and notice of any deficiencies shall be sent to the owner for correction.

c) If the owner assigns his rights of ownership of a stormwater management system to another person or entity, notice of such change of ownership must be made to the Commission in writing within 10 days of such assignment.

10. Pre-Design Staff Advisory Meeting

a) For projects requiring stormwater management, a pre-design advisory meeting is required with County Staff to discuss County requirements, alternative concepts for meeting the requirements for stormwater management, the opportunities for introducing water quality Best Management Practices and other issues the County or applicant wishes to discuss. The applicant is encouraged, but not required, to provide background information related to the site such as an existing conditions plan with contours, soils information, wetlands and floodplain boundaries, existing storm drain systems, existing ground cover characteristics, location of existing streams and other relevant information that may enhance and streamline the discussion.

INSPECTION AND MAINTENANCE AGREEMENT OF PRIVATE STORMWATER MANAGEMENT FACILITIES

THIS AGREEMENT, made this _____ day of _____, 20____,

by and between _____

herinafter referred to as the "OWNER(S)" of the following property:

_____

_____

_____

and the Morgan County Planning commission, hereinafter referred to as the "Commission".

WITNESSETH:

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

1. The OWNER(S) shall provide for the maintenance of the stormwater 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 or contractor the right of entry at reasonable times and in a reasonable manner for the purpose of inspecting, operating, installing, constructing, reconstructing, maintaining or repairing the facility.

4. Should the OWNER(S) fail to maintain the facility or correct any defects within a reasonable period of time (30 days maximum) after proper written notice by the Commission, the Commission is authorized to perform the necessary maintenance or repairs and may assess the OWNER(S) served by the facility for the cost of the work, applicable penalties, legal fees and court costs, if any. Said assessment shall be a lien against all properties served by the facility and may be placed on the property tax bill of said property and collected as ordinary taxes by the Commission. The OWNER(S) shall maintain perpetual access from public rights-of-way to the facility for the Commission or its agent or 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 executed this AGREEMENT as of this _____ day of _____, 20____

ATTEST: FOR THE OWNER(S)

_____ _____

_____ _____

ATTEST: FOR THE COMMISSION

_____ _____

_____ _____

_____ _____

STATE OF _____

COUNTY OF _____, TO WIT:

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

In testimony whereof,
I have affixed by official seal,

_____ My Commission Expires: _____

NOTARY PUBLIC

SEAL: