

GREENBRIER COUNTY SUBDIVISION ORDINANCE

December 30, 2008

## GREENBRIER COUNTY SUBDIVISION ORDINANCE

### ARTICLE 1. AUTHORITY AND PURPOSE

#### Section 1.1 General Authority

This ordinance is adopted in accordance with West Virginia Code §§ 8A-1-1 et. seq. and as amended.

#### Section 1.2 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 Greenbrier 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; and
- G. To protect prospective purchasers of land in subdivisions.

#### Section 1.3. Appeal Process

- A. In accordance with § 8A-5-10 of the West Virginia Code, an appeal may be made by an aggrieved person from any decision or ruling of the Planning Commission to:
  1. The circuit court, in accordance with chapter 8A, article 9 of the West Virginia Code; or
  2. A board of subdivision and land development appeals, if the Greenbrier County Commission has established a board of subdivision and land development appeals by ordinance.
- B. Within thirty days after the date of denial, the petition, specifying the grounds of the appeal in writing, must be filed with:
  1. The circuit court, in accordance with chapter 8A, article 9 of the West Virginia Code; or
  2. A board of subdivision and land development appeals, if the Greenbrier County Commission has established a board of subdivision and land development appeals by ordinance.

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Section 1.4 Severability. If any part or provision of this ordinance or the application of this ordinance to any person or circumstance is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall be rendered and it shall not affect or impair the validity of the remainder of this ordinance or the application of it to other persons or circumstances.

### **ARTICLE 2. SUBDIVISION APPLICATION PROCEDURE**

#### Section 2.1. Approval Required

- A. As provided in West Virginia Code §8A-5-11, land may be subdivided only in accordance with the provisions of this ordinance. In particular, land may not be subdivided unless a final plat of the subdivision has been approved in accordance with the provisions of this ordinance and recorded in the Greenbrier County Clerk's Office.
- B. The Greenbrier County Clerk shall not record a plat of any subdivision within the County's jurisdiction unless the plat has been approved in accordance with the provisions of this ordinance or has been designated as exempt by the Greenbrier County Planning Commission.
- C. Every plat submitted for recordation by the Greenbrier County Clerk shall bear the signature of a professional surveyor, and the seal of the Greenbrier County Planning Commission.
- D. If the Planning Commission determines that an application is incomplete and the applicant fails to respond within (30) days, the application will be deemed to have been withdrawn.
- E. The developer has the duty of compliance with any conditions imposed upon the subdivision by the Planning Commission pursuant to its approval.
- F. **Land sold at auction is subject to the provisions of this ordinance.**
- G. Exemption. The following shall be exempt from the provisions of this ordinance:
  - 1. The formation of tracts of any size provided such tract is transferred by deed to a parent, child, grandparent, grandchild, or a stepchild of the landowner. The deed shall identify the relationship between the grantor and grantee. Any such exempt tract which is resold by the grantee within five years from the date the deed to the exempt tract is recorded shall constitute a subdivision and shall comply with the provisions of this ordinance.
  - 2. The division of real estate among heirs or by court order of partition.
  - 3. The transfer of tracts of land to achieve boundary line settlement.

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4. The formation of cemetery lots.
  5. When two or more contiguous tracts of land are merged for the sole purpose of enlarging an existing lot, parcel, or tract, the grantee agrees to merge the tract being acquired with a tract he presently owns. The tract merged shall not be counted as an out-sale against the grantor, provided the following conditions are met: (i). 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 tract which is recorded in Deed Book \_\_\_\_\_ at Page \_\_\_\_\_, for the exclusive purpose of increasing the area of said tract.”, and (ii). The merged property shall not be subdivided unless the prevailing county subdivision regulations are complied with.
  6. Subdivision of land for purely agricultural or conservation purposes, including any subdivision made for the purpose of effecting a grant of conservation easement to the Greenbrier County Farmland Protection Board; and subdivision to create public parks and trails.
  7. Division of land resulting in tracts, all of which are 50 acres or more in size shall be exempt from this ordinance.
  8. Division of land where one party is a government entity.
- G. Exemption Procedure. Application for exemption from the subdivision ordinance shall be made in the office of the Greenbrier County Planning Commission
- H. Request for amendment to an approved plat may be made on forms provided by the Planning Commission.

### Section 2.2. Minor Subdivision Application.

- A. An application for approval of a subdivision or land development plan and plat shall be considered a minor subdivision if it meets the following requirements:
1. No more than a total of four lots are created out of one tract existing on or before the enactment of the initial October 2006 ordinance, regardless of whether the lots are created at one time or over an extended period of time, and regardless of any change in ownership.
  2. Will not require the development of new or the extension of existing off-tract infrastructure; and
  3. The creation of which is not for the purpose of avoiding the requirements of a major subdivision under this ordinance.

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- B. The minor subdivision review process is also applicable to minor boundary adjustments.
- C. The applicant for minor subdivision plat approval shall submit a sketch plat to the planning commission office for a determination of whether the approval process authorized by this section can be and should be utilized. The planning commission staff may require the applicant to submit whatever information is necessary to make this determination, including, but not limited to, a copy of the tax map showing the land being subdivided and all lots previously subdivided from that tract of land within the previous five years. If the applicant is dividing the tract into less than 4 tracts, the sketch plat shall show which tracts may be further divided while remaining under the 4 division limit for a Minor Subdivision. This right to further division under the Minor Subdivision class shall be indicated on the deed to the tract with that right.
- D. Meeting with Applicant. Within seven business days after the submission of the subdivision or land development plat, the applicant and the staff of the planning commission shall meet to discuss the proposed subdivision and the criteria used to classify the proposal as minor.
- E. Site Inspection. The staff of the planning commission may make site inspection of the proposed subdivision.
- F. Notification of Classification. Within ten business days after the submission of the subdivision plat, the staff of the planning commission shall notify the applicant in writing whether the proposed subdivision has been classified a minor subdivision.
- G. Procedure for Approval. Within ten business days after a plat has been classified as minor subdivision, the planning commission shall approve or deny the plat. If the plat is approved, the planning commission shall affix its seal thereto. If the plat is approved with conditions, the planning commission shall state the conditions in writing.
- H. Recording of Minor Subdivision Plat. After approval of a minor subdivision by the planning commission and before the subdivision is commenced, the subdivision plat shall be recorded by the applicant in the office of the Clerk of the Greenbrier County Commission.
- I. Application Fees. Application fees shall be paid upon submission of a signed application for subdivision plat approval, and any such application shall be deemed incomplete until such fees have been submitted as payable to the Greenbrier County Commission. Fees for minor subdivision shall be \$250 per application.

### Section 2.3. Major Subdivision

- A. Application for Major Subdivision Approval. Applications for subdivision plat approval that do not meet the requirements for minor subdivision review shall be subject to major subdivision review procedures.

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- B. Preliminary Meeting. Prior to the preparation of a sketch plat, the applicant shall request in writing a meeting with the planning commission staff to discuss the procedure for application for a major subdivision plat approval, and the requirements as to the layout of streets, the reservation of land, street improvements, drainage, sewerage, performance guarantees, and similar matters.
- C. Sketch Plat Approval Required. After meeting with the planning commission staff, an applicant for major subdivision plat approval shall file an application for approval of a sketch plat. The application shall:
1. Be made on forms available at the office of the Planning Commission;
  2. Identify all owners of land contiguous to the proposed subdivision.
- D. Application for Major Subdivision Plat Approval. In addition to the items enumerated in Appendix A of this Ordinance, the application for major subdivision plat approval shall include a demonstration of the following:
1. Date and summary of the preliminary meeting with the planning commission staff;
  2. Certification of approval of the sketch plat by the planning commission staff;
  3. That the subdivision conforms to the Greenbrier County Comprehensive Plan;
  4. A method of payment to cover the cost of the water and sewer service infrastructure;
  5. Coordination with the existing development of land, including, but not limited to, facilities and streets;
  6. That the distribution of population and traffic are in a manner tending to create conditions favorable to health, safety, convenience and the harmonious development of the county;
  7. The allocation of areas for different uses, including, but not limited to, streets, parks, schools, public and private buildings, utilities, business and industry;
  8. Established water and sewer utilities;
  9. That setback and size measures were used;
  10. The standards used for designating land which is subject to flooding or

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subsidence, details for making it safe, or information showing that such land will be set aside for use which will not endanger life or property and will not further aggravate or increase the existing menace;

11. The control measures for drainage, erosion and sediment;
  12. The coordination of streets, sidewalks and pedestrian pathways in and bordering the subdivision;
  13. The design, construction and improvement measures to be used for the streets, sidewalks, easements, rights-of-way, drainage, utilities, walkways, curbs, gutters, lighting, fire hydrants, water and wastewater facilities, and other improvements installed, including the width, grade and location for the purpose of accommodating prospective traffic, customers and facilitating fire protection.
  14. The plat shall include a GPS reference point.
- E. Determination of Completeness. In accordance with W.Va. Code § 8A-5-8(a), upon written request of the applicant for a determination, the planning commission must determine by vote at the next regular meeting or at a special meeting, whether or not the application is complete based upon a finding that the application meets the requirements set forth in this ordinance.
- F. Public Hearing. At a meeting where the application is determined to be complete, the planning commission must set a date, time and place for a public hearing and a meeting to follow the public hearing to vote on the application. The public hearing must be held within forty-five days, and the planning commission must notify the applicant of the public hearing and meeting in writing unless notice is waived in writing by the applicant. The planning commission must publish a public notice of the public hearing and meeting in a local newspaper of general circulation in the area at least twenty-one days prior to the public hearing. (W.Va. Code §8A-5-8(c)). The planning commission shall vote to approve, deny or hold the application at the meeting following the public hearing or at a meeting held within fourteen days after the public hearing.
- G. Action to Hold Application. The planning commission may vote to hold an application up to forty-five days for additional information necessary to make a determination of Approval, Conditional Approval, or Denial.
- H. Application Approval. The planning commission shall approve the application after the planning commission determines that an application is complete and meets the requirements of this subdivision ordinance. If the planning commission approves the application, then the planning commission shall affix its seal on the subdivision plat.
- I. Conditional Approval. If the planning commission approves the application with conditions,

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then the planning commission must specify those conditions.

- J. Denial in Writing. If the planning commission denies the application, then the planning commission shall notify the applicant in writing of the reasons for the 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.
- K. Application Fees. Application fees shall be paid upon submission of a signed application for subdivision plat approval, and any such application shall be deemed incomplete until such fees have been submitted as payable to the Greenbrier County Commission. Fees for major subdivision shall be \$100 per dwelling unit.
- L. Variance Procedure. Where the planning commission finds that extraordinary hardships or practical difficulties may result from strict compliance with this ordinance and/or the purposes of this ordinance may be served to a greater extent by an alternative proposal, it may approve variances, exceptions, and waiver of conditions to this subdivision ordinance so that substantial justice may be done and the public interest secured, provided that the variance, exception, or waiver of conditions shall not have the effect of nullifying the intent or purpose of this ordinance; and further provided the planning commission shall not approve variances, exceptions, and waiver of conditions unless it makes findings based upon the evidence presented to it in each specific case that the granting of the variance, exception, or waiver of conditions will not be detrimental to the public safety, health, or welfare or injurious to other property.
- M. Conditions. In approving variances, exceptions, or waivers of conditions, the planning commission may require such conditions as will, in its judgment, secure substantially the purposes of this ordinance.
- N. Approval of a subdivision by the Greenbrier County Planning commission under the provisions of this ordinance shall expire and be considered null and void wherein substantial construction is not commenced within twelve (12) months of the approval. A plat of a subdivision filed with the County Clerk for recordation prior to the expiration shall remain valid; however, no building permits may be issued for construction in a subdivision of which approval has expired under the provisions of this section.

### **ARTICLE 3. ENFORCEMENT OF THIS ORDINANCE**

#### **Section 3.1. Violation**

- A. It shall be unlawful for the owner or any other person, firm, or corporation owning or controlling any land subject to the provisions of this Ordinance in Greenbrier County to sell,

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lease, or transfer, or agree to sell, any lot, parcel, or tract 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 engineer or professional surveyor duly and currently licensed by the State of West Virginia; (2) submitted to and approved in writing thereon and sealed by the Greenbrier County Planning Commission; and (3) recorded in the Office of the Clerk of the Greenbrier County Commission.

- B. It shall be unlawful to receive or record in the Office of the Clerk of Greenbrier County any subdivision plat unless the plat shall bear thereon the seal of the Greenbrier County Planning Commission.
- C. It shall be unlawful for any person or corporation or other entity to describe a lot or tract of real estate in the instrument of transfer or other legal document used in the process of selling or transferring, without complying with the requirements of this ordinance.
- D. No building permit shall be issued for the construction of any building or structure located on a lot or plat subdivided or sold in violation of the provisions of this ordinance nor shall the county have any obligation to extend utility services to any tract created in violation of this ordinance.
- E. It shall be unlawful to construct permanent infrastructure without final plat approval by the Planning Commission.

### Section 3.2. Penalty

- A. Any person, corporation, or other legal entity who violates any provision of this Ordinance shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than Fifty (\$50.00) nor more than Three Hundred Dollars (\$300.00) for each and every offense. Each day of continuing violation after notification shall constitute a separate offense under this section.
- B. In addition to the penalties above, the Greenbrier County Planning Commission, through its President or other officer, is authorized to seek a temporary restraining order or a permanent injunction or both in the Circuit Court of Greenbrier County to restrain a person or legal entity from violating the provisions of this Ordinance.

## **ARTICLE 4. GENERAL PROVISIONS**

Section 4.1. Characteristics of Land. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace, and land shall not be subdivided until available public facilities and improvements exist and proper provision has been made for drainage, water, sewerage, and capital improvements

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such as parks, recreation facilities, and transportation facilities.

Section 4.2. Restrictions to Subdivision of Land in Floodplain Areas. Subdivision of land in the floodplain area shall conform with the Greenbrier County Floodplain Ordinance.

Section 4.3. Proposed Subdivision Name. The subdivision name shall be subject to approval by the Greenbrier County Planning Commission and shall not closely approximate any other subdivision name in the County.

Section 4.4. Homeowners 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.

The association shall be established by the applicant and its organizational papers shall be submitted with the application for plat approval. 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 Greenbrier County Commission must be submitted before a plat may be approved. Organizational papers of whatever kind shall 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 purposes. Membership in the association shall be made mandatory by means of deed covenants for each lot in the subdivision.

Section 4.5 Deed Covenants. As a condition for approval of the subdivision plat, the Planning Commission shall require the imposition 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 homeowners association. Restrictive covenants may be required to be either permanent or revocable by a vote of the persons affected.

Section 4.6. Soil Preservation and Final Grading. No residential unit in a subdivision approved pursuant to this ordinance shall be occupied until final grading on that lot has been completed in accordance with the approved final subdivision plat.

Section 4.7. Lot Drainage. Lots shall be laid out so as to provide adequate drainage away from all buildings, and individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Changes to existing grade shall be designed so as to avoid concentration of storm drainage water from each lot to adjacent lots.

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Section 4.8. Setback Requirements. The following minimums shall be observed in all subdivisions:

- A. Single Family Dwellings:
  - Front yard setback: 35 feet
  - Side yard setback: 15 feet
  - Rear Yard setback: 30 feetAnd the combined setback shall be no less than 60 feet.
  
- B. Buildings accessory to any residential unit:
  - Front yard setback: 35 feet
  - Side yard setback: 5 feet
  - Rear yard setback: 5 feet.

Section 4.9. Building Height Maximum

Maximum building height shall be 60 feet, measured from the lowest ground floor level.

### **ARTICLE 5. UTILITIES AND SAFETY**

Section 5.1. Utility Ownership and Easement Rights. In any case in which a developer installs or causes the installation of water, sewer, electric power, telephone, or cable facilities and intends that such facilities shall be owned, operated or maintained by a public utility or any entity other than the developer, the developer shall transfer to such utility or entity the necessary ownership or easement rights to enable the utility or entity to operate and maintain such facilities.

Section 5.2. Water Supply System Required. Every principal use and every lot within a subdivision shall be served by a water supply system that is adequate to accommodate the reasonable needs of such use or subdivision lot and that complies with all applicable health regulations. In the case where public water facilities are available or an agreement exists to make public water facilities available within five years from the date that plat approval is requested, then central water supply lines must be installed. If the water supply is a well, the applicant must demonstrate adequate supply and quality.

Section 5.3. Lighting Requirements. All lighting installed by the developer shall be designed to efficiently illuminate streets, sidewalks, and other common areas or facilities and shall minimize light pollution such as the illumination of the interior of any residence or the uplighting of the night sky.

Section 5.4. Fire Protection.

Fire hydrants connected to a public water supply system shall be installed in accordance with applicable codes and standards including those of the American Waterworks Association and the Public Service Commission of West Virginia. For subdivisions not served by a public water supply system, the developer shall provide a plan for water available for fire suppression. The Planning Commission may require additional water storage capacity upon a recommendation from the appropriate Fire Chief. The applicant shall indicate on its application the location and

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distance of the nearest fire station that would serve the proposed subdivision.

### Section 5.5 Sewerage Facilities

A. **General Requirements.** The applicant shall install sanitary sewer facilities in a manner prescribed by the local PSD or regional sewer system, as appropriate. All plans shall be designed and approved in accordance with the rules, regulations and standards of the Greenbrier County Health Department and the Local Sewer Authority. When public sanitary sewerage systems are not reasonably accessible, but will become available within three years, the applicant may choose one of the following alternatives:

1. Central sewerage system with the maintenance cost to be assessed against each property benefited. Where plans for future public sanitary sewerage systems exist, the applicant shall install sewer lines, laterals, and mains to be in permanent conformance with such plans and ready for connection to such public sewer mains; or
2. Individual disposal systems, provided the applicant shall install sanitary sewer lines, laterals, and mains from the street curb to a point in the subdivision boundary where a future connection with a public sewer main shall be made. Deed covenants shall provide that sewer lines shall be laid from the house to the street line, and a connection shall be available in the home to connect from the individual disposal system to the sewer system when the public sewers become available. Such sewer systems shall be capped until ready for use and shall conform to all plans for installation of the public sewer system, where such exist, and shall be ready for connection to such public sewer main.

Private Sewer Facilities. Developers proposing a subdivision utilizing a central sewer collection and treatment facility or individual disposal systems shall obtain approval by the County Health Department and submit such approval as a part of their subdivision application.

C. **Mandatory Connection to Public Sewer System.** If a public sanitary sewer is accessible, the owner of the property shall be required to connect to the sewer for the purpose of disposing of waste, and it shall be unlawful for any such owner or occupant to maintain upon any such property an individual sewage disposal system.

## **ARTICLE 6. STORMWATER FACILITIES**

**\*\*Section 6.1. Applicability of Site Runoff Storage Requirements.** The following developments shall comply with Article 7, section 7.4:

- A. Residential, non-residential or manufactured home subdivision constructed on a site more than one acre in size;
- B. Existing multi-family or non-residential land uses on a site one acre or more in size, on which new development after the effective date of this ordinance in the aggregate exceeds 25,000 square feet.

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Section 6.2. General Stormwater Management Requirements. No development shall:

- A. Result in any new or additional expense to any person other than the developer;
- B. Not increase the flood elevations or decrease flood conveyance capacity upstream or downstream of the area under the ownership or control of the developer;
- C. Degrade surface or sub-surface water quality;
- D. The development shall have an Overland Flow Path or a storm sewer pipe and inlet sized for the base flood, at the downstream limit of the property that will pass the base flood flow without increasing damage to structures or property.

Section 6.3. Site Runoff Requirements.

- A. The developer shall make adequate provisions for storm and floodwater runoff, including the installation of drainage improvements and dedicated drainage easements. Such easements shall be at least 15 feet in width. The planning commission has the authority to determine the adequacy of drainage improvements and easements. In addition, they may require that low-lying lands along watercourses subject to flooding or overflow during storm periods to be preserved and retained in their natural state as drainage ways.
- B. Storm water facilities shall be functional before building permits are issued for residential and non-residential purposes.
- C. Storm water facilities shall be required and designed so that runoff exits the site at a point where it exited prior to the subject development and in a manner such that flows will not increase flood damage to adjacent property.
- D. Storm water systems shall be sized to carry the base flood without causing additional damage.
- E. Design runoff rates shall be calculated using acceptable event hydrograph methods such as HEC-1 SCS, TR-20, HEC-HMS, TR-55 or Rational Methods.

Section 6.4. Site Runoff Detention Facilities.

Storage facilities design shall be with the following characteristics:

- A. The design for all stormwater detention facilities shall be in accordance with professionally accepted hydraulic engineering practices and meet all state and federal agencies erosion and sedimentation control standards and requirements.
- B. The facilities shall be located in perpetual, unobstructed public easements of appropriate

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width and shall be accessible and easily maintained.

- C. They shall be shown on the development plat.
- D. The developer must provide documentation that property owners will assume all liability for the maintenance and operation of the stormwater facilities.
- E. The facility shall provide 2 feet of freeboard for water surface depths.
- F. All design detention volume shall be provided above the seasonal high ground water table or invert elevation of the groundwater control system.
- G. Detention facilities shall facilitate sedimentation and catchment of floating material.
- H. Detention facilities shall minimize impacts of stormwater runoff on water quality by incorporating best management practices.
- I. Detention facilities shall maximize the distance between inlets and outlets, to the extent possible.
- J. Detention facilities shall be designed to provide an emergency spillway in the event that the existing pre-development peak runoff rate from the 100-year, 24 hour duration rainfall is exceeded assuming the primary restrictor is blocked and the design detention volume is not effective (basin filled).
- K. Detention facilities with single pipe outlets shall have a minimum inside diameter of 12 inches. If design release rates necessitate a smaller outlet, structures such as perforated risers, or flow control orifices shall be used. Outlets shall be designed for peak runoff rate using the 25-year, 24 hour duration rainfall.
- L. Appropriate treatment for ditch lines shall be applied as required by the West Virginia Department of Environmental Protection.

Section 6.5 Hydrology

The current Greenbrier County 24-hour precipitation figures for the various frequencies shall be used. 2008 figures are:

Frequencies (years)	1	2	5	10	25	50	100
Precipitation (inches)	2.40	2.77	3.56	4.10	4.75	5.25	5.68

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### Section 6.6. Stormwater Peak Flow Basis

Stormwater drainage and erosion controls shall be provided based on peak flows resulting from the year frequencies occurring over the contributing watersheds as noted:

- A. Erosion and Sediment Control - Use 10 year frequency and entire contributing watershed.
- B. Floodplains - Use 100 year frequency and the entire contributing watershed
- C. Storm Drain Pipes and Ditch lines - Use 10 year frequency and the entire contributing watershed.

Section 6.7. Filter Strip. A strip or area of vegetation for removing sediment, organic matter, and other pollutants from runoff and wastewater shall be used to control runoff or wastewater by filtration, deposition, infiltration, absorption and decomposition, thereby reducing flooding and protecting the environment. Filter strips shall be used when land is disturbed adjacent to ponds, streams, lakes and other waterways. Filter strips may also be required by the Planning Commission as part of a waste management system, or to reduce sediment entering waterways.

Section 6.8. Buffer Management Zones. Buffers between the stream and development minimize adverse impacts to streams and other waterways due to impervious areas, pollutant runoff from parking areas and roads. Damage to the ecological function of the waterway is reduced if buffer zones are maintained. A Buffer Zone Management system required by the planning commission shall be utilized as follows:

- A. Streamside Zone Requirements:
  - Width - Minimum 25 feet plus wetlands and/or Floodplain.
  - Vegetative Target - Undisturbed mature forest or vegetation.
  - Allowable Uses - Very Restricted to Flood Control, Utility easements.
- B. Middle Zone Requirements
  - Width - Minimum 25 feet plus Floodplain.
  - Vegetative Target - Managed forest or vegetation.
  - Allowable Uses - Restricted to Recreational Use, Stormwater Control.
- C. Outer Zone Requirements
  - Width - Minimum 25 foot setback from structures.
  - Vegetative Target - Forest/woodlands or turfgrass.
  - Allowable Uses - Unrestricted for Lawns, Stormwater Controls.

## **ARTICLE 7. COMPLETION OF IMPROVEMENTS; FINANCIAL GUARANTEES**

### Section 7.1. Security.

- A. As a condition of plat approval, the developer shall complete all proposed infrastructure

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improvements prior to the sale of any lot in the subdivision, or the developer may post a security in an amount sufficient to defray the costs of all construction or other improvements proposed to be performed by developer. The amount of the security shall be based on an estimate of costs provided by the subdivider and, at the discretion of the Planning Commission, reviewed by a licensed engineer. All costs of such review shall be paid by the applicant.

Section 7.2. Amount and Type of Financial Guarantee. If an escrow account or an irrevocable letter of credit is used, the amount of the security must be adequate to cover the cost of completing all improvements deemed to be the responsibility of the developer. The following are acceptable types of Guarantees:

- A. A certified check payable to the county or a savings account or certificate of deposit naming the county as owner;
- B. A performance bond payable to the county issued by a surety company approved by the Planning Commission
- C. An irrevocable letter of credit, establishing funding for the construction of the subdivision from which the county may draw if construction is inadequate as determined by the County Commission.
- D. An offer of conditional approval limiting the number of units built or lots sold until all required improvements have been constructed.
- E. Phasing development may be approved as an alternative to financial Guarantee. This phasing plan will allow limited development of tracts requiring less infrastructure development.

### **ARTICLE 8. GENERAL STANDARDS FOR ROADS**

#### Section 8.1 Road Design

These standards are intended to provide for serviceable, all weather roads within a subdivision. As an alternative to these design requirements, the American Association of State of Highway Transportation Officials (**AASHTO**) Guidelines for Geometric Design of Very **Low-Volume** Local Roads (VLVLR-1) may be used where appropriate as determined by the Planning Commission. If a subdivision abuts a state road, the number of subdivision roads feeding into the state road should be kept to an absolute minimum, with a maximum of one entrance per 800 feet of frontage. Individual lots, to the full extent possible, should have access to subdivision roads rather than direct access to the state road;

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- A. Subdivision roads should be designed to minimize through traffic;
- B. Subdivision roads serving 11 or more lots are termed “Class I” roads and shall have reserved a 6 foot right of way along one side for a sidewalk
- C. Subdivision roads serving 10 or fewer lots are termed “Class II” roads;
- D. 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; or
  - 2. A "T" dead end, with the lengths of the finished crossroads to be 40 feet in length, and the fillet radii to be 30 feet.

In either instance, a 15 foot right of way shall extend from the turn-around to the nearest subdivision road, property line or right of way of at least a 15 foot width leading to a road or property line.
- E. 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. Grade at intersections should not exceed three percent (3%) for a distance of one hundred (100) feet.
- F. Signs shall be posted at all entrances of the subdivision, giving the name of said subdivision;
- G. All roads shall have a right-of-way at least 50 feet wide which may also be used by utilities at their discretion.
- H. All roads shall be designed to prevent wash-out and erosion;
- I. Class I roads shall have a minimum horizontal radii of 150 feet and a minimum stopping site distance of 200 feet. Class II roads shall have minimum horizontal radii of 75 feet and a minimum stopping site distance of 100 feet. If deemed necessary by the Planning Commission, these minimums shall be increased as necessary for safety reasons.
- J. Side slopes shall be 2:1 maximum without geotechnical engineers report and specific recommendation allowing steeper slopes.
- K. In the event of a split roadway, a two foot shoulder is required on either side of each traveled way.

## GREENBRIER COUNTY SUBDIVISION ORDINANCE

- L. 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.

### Section 8.2 Specifications for Roads

- A. Roads shall be a gravel road constructed on a well-compacted subgrade, free of organic matter and having desirable engineering characteristics for subgrade use.
- B. If the material at the location of the proposed road is not acceptable for subgrade construction, acceptable material shall be brought from another source.
- C. Roadway material: Gravel shall be a well-graded, crushed stone aggregate such as West Virginia Department of Highways Class I or II, which shall be placed and rolled in a moist condition so that fines remain mixed with the more coarse material. Gravel roads shall measure a minimum of 6 inches thick after compaction, or 90% standard Density. The gravel surface shall be smooth, uniform and tightly packed. The Planning Commission may approve the use of appropriate gravel or other related material instead of crushed stone.
- D. 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.
- E. The approved width of any road surface for every road approved on the Final Plat of any subdivision shall be maintained after final plat approval. If a developer or a home owners association elects to pave a road after final plat approval, the approved road surface width shall not be diminished, unless the developer or home owner's association receives written permission from the Planning Commission to do otherwise.

### Section 8.3 Drainage

- A. 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;
- B. For Class I and Class II roads, drainage structures shall be sized to carry the peak runoff resulting from a 10-year frequency storm occurring over the entire contributing watershed.
- C. Storm water drainage resulting from a subdivision shall not be discharged onto adjoining properties at rates that the existing downstream drainage structures cannot adequately accommodate;
- D. All subdivision roads shall be sloped laterally or sloped from a centerline crown at a ratio of 1/4 inch vertical to 1 foot horizontal;
- E. All subdivision roads and ditches shall have a minimum grade of 0.5 percent;

## GREENBRIER COUNTY SUBDIVISION ORDINANCE

- F. Culverts shall have a minimum diameter of 15 inches.
- G. Culverts shall pass under subdivision roads at a minimum depth of 12 inches as measured from subgrade to the culvert crown.
- H. Culvert length must be 30 feet minimum at road intersections and driveway entrances.
- I. Culvert cross sections should extend from drainage way to drainage way or to outlet channel.
- J. Drainage plans shall be shown on the plat showing existing contours.

### Section 8.4 Accessibility

- A. School buses 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.
- B. Fire trucks shall be able to travel to any point on a road without backing up, even if all parking spaces are occupied, and can complete turn-around without having to back up more than 100 feet.
- C. Service trucks shall be able to perform their functions in all seasons without stopping the flow of traffic.
- D. Roads shall be 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 treated only if the developer provides for such maintenance.
- E. Parking spaces are not to include the area of road required to meet width or corner radius minimums.

Section 8.5 Street Names. All street names within the unincorporated areas of the county shall be made in accordance with 911 addressing conventions and be approved by the Greenbrier County Commission. Proposed streets, which are obviously a continuation of other existing and named streets, shall bear the names of the existing streets. In no case shall the names of proposed streets duplicate existing names, irrespective of the use of the suffix "street," "avenue," "boulevard," "driveway," "place," "lane" or "court." Street names shall be indicated on all plats of survey. Names of existing streets shall not be changed except by approval by the Greenbrier County Commission.

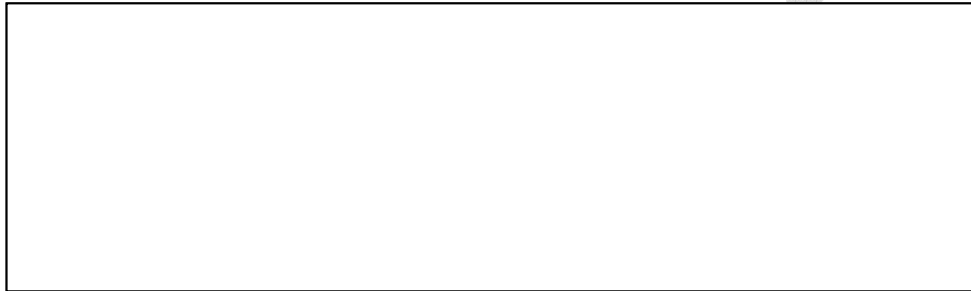
- A. Section 8.6 Street Signs. Approved street name signs shall be erected by the developer at the intersection of streets. Street name signs shall meet the standards as set forth in the West Virginia Division of Transportation, Division of Highways specifications as set forth in the

GREENBRIER COUNTY SUBDIVISION ORDINANCE

most recent edition of “Standards for the Design and Installation of Road Name Signing.”

**ARTICLE 9 RECREATIONAL FACILITIES AND OPEN SPACE REQUIREMENTS**

Section 9.1 Parks, Playgrounds, and Recreation Areas. Every subdivision containing at least fifteen (15) lots or dwelling units shall contain one or more active recreational facilities suitable to the type of subdivision. Each active recreational facility shall be of suitable size, dimension, topography, and general character and shall have adequate road access for its particular purpose. The area shall be shown and marked on the plat as to the type of active recreational facility. When active recreation facilities are required, the Planning Commission shall determine the number of acres to be reserved from the following table, which has been prepared on the basis of providing three (3) acres of recreation area for every one hundred (100) dwelling units. The developer shall dedicate such recreation areas to the local government or the areas shall be held by the homeowners association of the subdivision.



Section 9.2 Sites Suitable for Active Recreational Facilities. Land reserved for recreation purposes shall be of a character and location suitable for use as a playground, playfield, or other recreation purposes, and shall be relatively level and dry; shall not include land on which roads, utility easements or storm water facilities are located.

Section 9.3 Preservation of Open Space. The Planning Commission finds that when land is developed for residential purposes, the public health, safety, and welfare are best served when substantial portions of the tracts so developed remain as common open space. Every residential subdivision of hundred (100) or greater lots shall be subdivided so that for subdivisions with an average lot size of less than 80,000 square feet, at least fifteen (15) percent of the total area of the subdivision shall remain permanently as open space. Title to any land reserved for open space under this section shall be held by the Homeowners Association of the subdivision.

Section 9.4 Preservation of Natural Features and Amenities. Existing features that would add value to residential development or to Greenbrier County as a whole, such as trees, as herein defined, watercourses and falls, historic sites, and similar irreplaceable assets, shall be preserved in the design of the subdivision. No trees shall be removed from any subdivision nor any change of grade effected until approval of the plat has been granted.

## GREENBRIER COUNTY SUBDIVISION ORDINANCE

### ARTICLE 10. DEFINITIONS

**Active Recreational Facilities.** Areas within the subdivision improved by the developer and dedicated to use by residents or the public as recreational facilities, such as playing fields, community gardens, swimming pools, tennis courts, walking or biking trails, clubhouse, basketball courts, playgrounds and the like.

**Applicant.** Any individual or other legal entity, its successors or assigns, commencing proceedings under this ordinance to effect a subdivision for himself or for another. The developer shall be the owner of land proposed to be subdivided, or its representative who shall have express written authority to act on behalf of the owner.

**Central Sewerage System.** A community sewer system including collection and treatment facilities established by the developer to serve a new subdivision.

**Comprehensive Plan.** A plan for physical development, including land use, adopted by the Greenbrier County Commission, setting forth guidelines, goals and objectives for all activities that affect growth and development in Greenbrier County.

**Contiguous.** Lots, tracts, municipal boundaries or county boundaries that are next to, abutting and having a boundary, or portion thereof, that is coterminous. Streets, highways, roads or other traffic or utility easements, streams, rivers, and other natural topography are not to be used to determine lots, tracts, municipal boundaries or county boundaries as contiguous.

**Construction Plan.** The maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the Planning Commission as a condition of the approval of the plat.

**Developer.** Any individual or other legal entity, its successors or assigns, commencing proceedings under this ordinance to effect a subdivision for himself or for another. The developer shall be the owner of land proposed to be subdivided, or its representative who shall have express written authority to act on behalf of the owner.

**Dwelling Unit.** One or more rooms designed for living or sleeping purposes, and having at least one (1) kitchen and lawfully required sanitary facilities.

**Easement.** A right-of-way granted for the use of private land for a public or private purpose, within which the grantor shall not erect any permanent structure.

**Flood prone area.** Any land susceptible to repeated inundation by water from any source.

**Historic Site.** The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure whether standing, ruined or vanished, where the location itself possesses historical, cultural or archaeological value regardless of the value of any existing

## GREENBRIER COUNTY SUBDIVISION ORDINANCE

structure and designated as historic on national, state or local register.

**Improvement location permit.** A permit issued by the Greenbrier County Planning Commission in accordance with its subdivision and land development ordinance, for the construction, erection, installation, placement, rehabilitation or renovation of a structure or development of land, and for the purpose of regulating development within flood prone areas.

**Land development.** The development of one or more lots or tracts of land by any means and for any purpose, but does not include easements or rights-of-way.

**Local Sewer Authority.** The local Public Service District or other Regional Sewer System, as applicable.

**Lot.** A tract of land whose boundaries have been established by some legal instrument such as a recorded deed or recorded map and which is recognized as a separate legal entity for purposes of transfer of title.

**Open Space.** An area within the subdivision that is not devoted to use as a roadway, parking area or sidewalk, is not part of privately owned lot that is used or is intended for use for residential purposes.

**Plan.** A written description for the development of land.

**Plat.** A map of the land subject to subdivision.

**Setback.** The distance by which a building or structure must be separated from the lot line.

**Sketch plat.** A sketch preparatory to the final plat to enable the applicant to save time and expense in reaching general agreement with the Planning Commission as to the form of the plat and the objectives of these regulations.

**Subdivision.** The division of a lot or tract or parcel of land into two or more lots or tracts of land, or the recombination of existing lots, tracts, or parcels.

**Utility.** A public or private distribution service to the public that is regulated the public service commission.

**Zoning.** The division of the county into districts or zones which specify permitted and conditional uses and development standards of real property within the districts or zones.

**Zoning ordinance.** The Greenbrier County Zoning Ordinance of May 2003 Revised Edition and shall incorporate the Zoning Map from the 1999 Revised Edition, as well as any amendments made thereto.

GREENBRIER COUNTY SUBDIVISION ORDINANCE

Accepted: December 30, 2008

Greenbrier County Commission

By Lowell C. Rose

Name: Lowell C. Rose

Commissioner

Voting  In Favor  Against

By Betty D. Crookshanks

Name: Betty D. Crookshanks

Commissioner

Voting  In Favor  Against

By Bradley W. Tuckwiller

Name: Bradley W. Tuckwiller

Commissioner

Voting  In Favor  Against

## GREENBRIER COUNTY SUBDIVISION ORDINANCE

### APPENDIX A

#### INFORMATION REQUIRED WITH APPLICATIONS

- (1) The name, address and phone number of the applicant.
- (2) If the applicant is not the owner of the property in question, (a) the name, address and phone number of each of the owner(s), and (b) the legal relationship of the applicant to the owner that entitles the applicant to make application.
- (3) The date of the application.
- (4) Identification of the property in question by street address (if any) tax map reference, and digitized lot line coordinates;
- (5) The zoning district within which the property lies.
- (6) Proximity of nearest fire station that would serve the proposed subdivision.
- (7) Graphic Materials Required. The application shall contain plans that locate the development site and graphically demonstrate existing and proposed natural, man-made, and legal features on and near the site in question as enumerated below. The development site plans shall be drawn to scale, using such a scale that all features required to be shown on the plans are readily discernable.

**(a) Natural, man-made and legal features:**

- (i) Tree line of wooded areas;
- (ii) Streams, ponds, drainage ditches, swamps, boundaries of floodways and floodplains, sinkholes;
- (iii) Contour lines;
- (iv) Vehicle accommodation areas (including parking, loading, circulation areas, all designated by surface material and showing the layout of existing parking spaces and direction of travel lanes, aisles, or driveways;
- (v) Streets, private roads, sidewalks, and other walkways, all designated by surface material;
- (vi) Curbs and gutters, curb inlets and curb cuts, and drainage grates;
- (vii) Other storm water management facilities, including manholes, pipes, and drainage ditches;
- (viii) Utility lines, including water, sewer, electric power, telephone, gas, other communications cabling; fire hydrants; buildings, structures and signs; location of exterior light fixtures; location of dumpsters; zoning of the property, including zoning district lines where applicable; property lines (with dimensions identified); street right-of-way lines; utility or other easement lines;

## GREENBRIER COUNTY SUBDIVISION ORDINANCE

(b) **Proposed changes on existing features or new features.** Development site plans shall show proposed changes in existing natural features, existing man-made features, and existing legal features. Development site plans shall show proposed new legal features such as new property lines, street right-of-way lines and utility lines, as well as proposed man-made features including, but not limited to the following:

- (i) The number of square feet in every lot created by a new subdivision;
- (ii) Lot dimensions, including lot widths measured in accordance with this ordinance;
- (iii) Location and dimensions of all buildings and freestanding signs;
- (iv) Description and extent to which any watercourse or sinkhole will be altered or relocated as a result of the proposed development;
- (v) The location and dimensions of all recreational areas, with each area designated as to the type of use;
- (vi) Areas intended to remain as usable open space or designated buffer areas (the plans shall indicate whether such areas are intended to be offered for dedication to public use or shall remain privately owned);
- (vii) Streets, labeled by classification and street name, paving width, and whether the street shall remain private or is intended for dedication to public use;
- (viii) Curb and gutters, curb inlets and curb cuts, drainage grates;
- (ix) Other storm water or drainage facilities, including manholes, pipes, drainage ditches, retention ponds, etc;
- (x) Sidewalks and walkways, showing widths and surface material;
- (xi) Bridges;
- (xii) Outdoor illumination;
- (xiii) Underground utility lines;
- (xiv) Above ground utility lines;
- (xv) Fire hydrants;
- (xvi) Dumpsters;
- (xviii) Scale drawings of all signs;
- (xix) Vehicle accommodation areas;
- (xx) Proposed plantings or construction of other devices to provide screening and shading.

(c) **Other documents and written information.**

Certifications from the local PSD whether it does provide, or whether and when it plans to provide water and/or sewer service to the proposed subdivision. Notification of appropriate agencies that the proposed utility systems are or will be adequate to handle the proposed development, and that all necessary easements have been provided;

Legal documentation establishing homeowners associations or other legal entities responsible for control over required common areas and facilities;

Bonds, letters of credit, or other surety devices;

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Erosion and Sediment Control Plan for any soil disturbance area in accordance with the Best Management Practices outlined in the West Virginia Department of Transportation Division of Highways Erosion and Sediment Control Handbook;

Complete documentation justifying any requested deviation from specific requirements established by this chapter;

Time schedules for the completion of phases if staged development is planned;

Traffic study of the impact of the proposed subdivision on traffic safety and congestion including existing traffic counts on public roadways within the immediate impact area of the proposed subdivision, estimated vehicle trips generated by the proposed subdivision, and proposed upgrades to public roads to minimize any impact on public health and safety as a result of increased traffic on public roadways as a result of the proposed subdivision. Traffic count data must be no older than five years from the date of application.

Permits or evidence of application for all permits required to be obtained from the West Virginia Division of Environmental Protection as a result of the proposed subdivision; and

Results of percolation tests performed on subdivision lots.