

**PROPOSED
AMENDMENTS TO THE
HAMPSHIRE COUNTY
SUBDIVISION AND
LAND DEVELOPMENT
ORDINANCE**

22 August 2024

Summary of Changes:

1. Update page numbers on Page 1 (Table of Contents)
2. Update/add Definitions on Page 2 – 4 (Article 3)
3. Update/add Categories of Major Subdivisions and Land Developments on Page 12 (Article 6, Section 6.1)
4. Update/add Paragraph 4, under Procedures to apply for a Primitive Camping, Small gathering, or Mass Gathering Permit on Page 17 (Article 6, Section 6.9A)
5. Update/add/renumber Sections 7.4 through 7.8 on Page 19 – 26 (Article 7)
6. Add Section 7.4, Industrial Scale Solar Energy Facilities on Page 19 (Article 7, Section 7.4)
7. Add Section 7.4.1, Application Process or Industrial Scale Solar Energy Project on Page 19 – 21 (Article 7, Section 7.4.1)
8. Add Section 7.4.2, Setbacks, Landscaping, and Buffer Standards for a Solar Energy Facility on Page 21 (Article 7, Section 7.4.2)
9. Add Section 7.4.3, Security and Access on Page 21 - 22 (Article 7, Section 7.4.3)
10. Add Section 7.4.4, Written Approval on Page 22 (Article 7, Section 7.4.4)
11. Add Section 7.4.5, Final Plan Written Approval on Page 22 (Article 7, Section 7.4.5)
12. Add Section 7.4.6, General Requirements on Page 22 – 23 (Article 7, Section 7.4.6)
13. Renumber Section 7.5, Security for Improvements on Page 23 (Article 7, Section 7.5)
14. Renumber Section 7.6, Recording a Major Subdivision or Land Development Plat on Page 23 (Article 7, Section 7.6)
15. Renumber Section 7.7, Applicant's Election as to Process on Page 23 (Article 7, Section 7.7)
16. Renumber Section 7.7, Subsection b., iv. And v. and Subsection c., (i) on Page 24 (Article 7, Section 7.7)
17. Add Section 7.8, Waivers on Pages 25 - 26

Any and all changes are subject to continuing legal and engineering review.

Changes are highlighted in **YELLOW**.

Table of Contents:

Article 1.	Short Title	Page 2
Article 2.	Authority and Purpose	Page 2
Article 3	Definitions	Page 2
Article 4	General Provisions	Page 5
Article 5	Minor Subdivisions	Page 8
Section 5.2	Approval Process for Minor Subdivisions	Page 10
Article 6	Major Subdivisions	Page 12
Section 6.1	Types of Major Subdivisions	Page 12
Section 6.2	High Density Housing	Page 12
Section 6.3	Class I – Residential	Page 13
Section 6.4	Class II – Residential	Page 14
Section 6.5	Low Density Class III – Residential	Page 14
Section 6.6	Manufactured Home or Mobile Home Parks	Page 15
Section 6.7	Commercial/Industrial/Manufacturing Parks	Page 15
Section 6.8	Combination (Planned Unit Development)	Page 16
Section 6.9	Recreational Vehicle Parks or Campgrounds	Page 16
Article 7	Procedure for Major Subdivisions	Page 18
Section 7.4	Industrial Scale Solar Energy Facilities	Page 19
Section 7.8	Waivers	Page 25
Article 8	Enforcement	Page 27
Article 9	General Standards for Roads	Page 27
Article 10	Structural Design and Drainage	Page 30
Article 11	Sanitary Sewage and Potable Water	Page 32
Article 12	Sign Requirements	Page 32
Article 13	Fire Protection	Page 33
Article 14	Recreation	Page 33
Article 15	Special Flood Hazard Areas	Page 33
Article 16	Best Management Practices	Page 34
Article 17	Lot Requirements	Page 34
Article 18	Utilities	Page 34
Article 19	Traffic Impact	Page 34
Article 20	Storm Water Management	Page 34
Article 21	Standards for Accessibility	Page 34
Article 22	Plat Requirements	Page 35
Section 22.1	Sketch Plat	Page 35
Section 22.2	Preliminary Plat	Page 35
Section 22.3	Final Plat	Page 37
Article 23	Fee Schedule	Page 40

Article 3. Definitions

Aggrieved or aggrieved person; means a person who:

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

Agriculture: is defined as:

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

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

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

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

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

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

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

Industrial Scale Solar Energy Facilities: means a facility that generates electricity from sunlight by utilization of photovoltaic (PV) technology and distributes the generated electrical power. On-site components of the facility may include solar panels and other accessory components including, without limitation, Essential Utility Equipment, transformers, inverters, cabling, electrical lines, substations, and other improvements necessary to support generation, collection, storage, and transmission of electrical

power. An Industrial Scale Solar Energy Facility shall not exceed five hundred (500) acres. Industrial scale solar energy facility is defined as greater than 100 KW. This does not include solar facilities powering poultry or other agricultural farm facilities which may reverse meter into the electrical grid excess electricity.

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

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

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

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

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

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

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

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

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

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

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

Article 6 Major Subdivisions and Land Developments

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

Section 6.1 Categories of Major Subdivisions and Land Developments

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

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

6.9A Primitive Camping, Small Gatherings, and Mass Gatherings

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

Section 7.4 Industrial Scale Solar Energy Facilities

Section 7.4.1 Application Process for Industrial Scale Solar Energy Project

Initial Application

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

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

Concept Plan

Process for Industrial Scale Solar Energy Facilities

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

- a.** Property or Properties Location using most recent plat(s);
- b.** Access Points;
- c.** Anticipated location of all proposed components of the Solar Energy Facility. Each proposed solar panel is not required to be shown on the Concept Plan, if compliance with setbacks can be established by what is depicted on the Concept Plan, Landscaping, Buffering, Ground Cover Plan, and Fencing.
- d.** If the project is to be completed in phases, the Concept Plan shall reflect the phasing of the project.
- e.** Proposed limits of clearing and grading and preliminary location of stormwater management facilities. The provisions of the Storm Water Management Ordinance apply to the extent they do exceed the requirements included in the WV DEP Storm Water NPDES requirements.
- f.** Existing 100-year floodplain boundary, limits of potential wetlands, location of woodlands and wildlife corridors, sources of drinking water, areas of native vegetation and areas under existing cultivation.
- g.** Existing soils information as provided by the USDA Soil Conservation Service online Web Soil Survey.
- h.** A fiscal impact analysis, prepared by a qualified third-party, that analyzes any expected positive or negative impact on the County's tax revenues, the estimated costs to the County associated with the facility in the form of additional services, and information on any other economic benefits or burdens from the facility.
- i.** Decommissioning Outline

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

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

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

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

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

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

Minimum Required Setbacks

a. Solar Panels. Front, Side, and Rear Setbacks shall be 500 feet from all external/perimeter property lines and from the edge of the State/Federal ROW or Easement of any State/Federal Road.

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

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

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

Landscaping and Buffer Standards

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

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

c. The buffer screen may be either vegetative or opaque fencing and may be placed anywhere within the buffer area. No Solar Energy Facility structures, materials, or vehicular parking shall be permitted within the side and rear yard buffers. However, the landowner may use the setback area for any agricultural

or other legal use as long as the minimum buffer screen standard of two rows of trees or opaque fencing is maintained. Existing, natural vegetation may be used in lieu of a planted buffer if documentation is submitted to the Planning Commission verifying how the existing natural vegetation complies with the required buffer standard. Solar panels and accessory components may be located on a common side or rear lot line of contiguous property owned by the same entity. Existing, natural vegetation may be used in lieu of a planted buffer if documentation is submitted to the Planning Commission verifying how the existing natural vegetation complies with the required buffer standard. Solar panels and accessory components may be located on a common side or rear lot line of contiguous property owned by the same entity.

Section 7.4.3 Security and Access

- a. A security fence with secured gates shall be erected around the operating areas of the Solar Energy Facility with a minimum height of six feet and a maximum height of ten feet. Arrangements shall be made with the appropriate Fire Department for Access.
- b. Access to the facility shall be provided to the closest Fire Department and a plan developed with the Fire Department to extinguish a live current fire within the fenced compound of the solar facilities. A copy of the draft plan shall be submitted with the application with a final plan required prior to final Commission approval. Because of the dangers associated with live electrical fires, access may be limited to Fire Department personnel only with solar operators in attendance. Fire Chiefs shall cooperate with the Solar entity in the development of the plan. The Planning Commission Staff shall review and approve the final plan within 30 days of the submission.

Section 7.4.4 Concept Plan Written Approval

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

Section 7.4.5 Final Plan Written Approval

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

Section 7.4.6 General Requirements

- a. Design, construction, and installation of the Solar Energy Facility shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM) or other similar certifying organizations and shall comply with the West Virginia Fire and Building Codes, including compliance with the County Building Code.
- b. Prior to commencing the transmission of electricity, the Solar Energy Facility shall provide documentation evidencing an interconnection agreement or similar agreement with the applicable public utility or approved entity in accordance with applicable law.
- c. Generation of electrical power shall be limited to photovoltaic panels, provided that any on-site buildings may utilize integrated photovoltaic building materials.
- d. Solvents necessary for the cleaning of the Solar Panels shall be biodegradable.

e. Internal wiring, excluding that which is on or between the Solar Arrays, connected to substations or between Solar Panels, shall be located underground, except where necessary to mitigate impact to environmental and/or terrain features.

f. Onsite lighting shall be the minimum necessary for security and onsite management and maintenance. Photovoltaic Panels shall use antireflective glass that is designed to absorb rather than reflect light.

g. Ground Cover comprised of natural vegetation is required. Ground cover that uses native or naturalized perennial vegetation and that provides foraging habitat that is beneficial for songbirds, gamebirds, and pollinators is required.

h. Collocation of other agricultural activities such as small market hand-picked crops, grazing, and apiary activities are permitted and encouraged.

i. No advertising signage is permitted on the Solar Energy Facility other than an identifying sign at the entrance of the Facility that shall be approved by the Planning Commission.

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

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

Section 7.5 Security for Improvements

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

Section 7.6 Recording a Major Subdivision or Land Development Plat

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

Section 7.7 Applicant's Election as to Process

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

such approval has been obtained, later seek separate approval of the final plat.

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

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

2. Section 7.1 shall apply to both the application for approval of the preliminary plat and the application for approval of the final plat. The Planning Commission may develop applications forms specific to each process and, in such case, the appropriate form shall be submitted.
3. Section 7.2 shall apply to both the application for approval of the preliminary plat and the application for approval of the final plat. In the case of the application for approval of the final plat, the review for completeness shall include a determination whether the final plat conforms substantially to the preliminary plat previously approved by the Planning Commission. If the Planning Commission determines by vote that the final plat does conform substantially to the approved preliminary plat and that the application otherwise contains all required content, the application for approval of the final plat shall be approved without further public hearing or action of the Planning Commission, which approval may be with conditions if so determined by vote of the Planning Commission. If the Planning Commission determines by vote that the final plat fails to conform substantially to the approved preliminary plat, the application shall be deemed an application for approval of a revised preliminary plat that must be reconsidered for approval by the Planning Commission after an additional public hearing.
4. Subsections 7.3(a), 7.3(b), 7.3(c), and 7.3(d) shall apply only to the application for approval of the preliminary plat. Subsections 7.3(e), 7.3(f), and 7.3(g) shall apply to both the application for approval of the preliminary plat and the application for approval of the final plat, except that the stamp placed upon a preliminary plat under Subsection 7.3(e) shall clearly and legibly specify that only the preliminary plat is approved and the it may not be filed with the County Clerk.
5. **Section 7.5** shall apply to both the application for approval of the preliminary plat and the application for approval of the final plat.
6. **Section 7.6** shall apply only to the application for approval of the final plat.

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

i. Effect of Preliminary Plat Approval: Notwithstanding the provisions of Article 4 regarding Plat Approval Requirements, approval of a preliminary plat shall entitle the applicant to make site improvements, including clearing, grading for lots and roads, and installation of utilities and storm water management facilities, if and only if: (i) such improvements substantially conform with the approved preliminary plat; and (ii) the applicant has furnished security for the improvements as required under **Section 7.5**.

ii. Phased Final Plat Approval: An applicant may apply for final plat approval in phases by submission, from time to time, of multiple applications, each of which pertain to only a portion of the

land subject to an approved preliminary plat.

Section 7.8 Waivers

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

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

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

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

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

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

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

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

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