

Chapter 70 SUBDIVISIONS ^[1]

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Sec. 70-1. Purpose.

This chapter is enacted to provide assurances that building sites be suitable for their intended uses, that new streets and roads are constructed in accordance with minimum standards and are coordinated with existing public streets, and that public utilities will be installed with sufficient size and proper location to handle anticipated growth.

(Ord. No. 000-4, art. I, 3-2000)

Sec. 70-2. Authority and jurisdiction.

The provisions of this chapter shall extend to all portions of the incorporated areas of the town.

(Ord. No. 000-4, art. II, 3-2000)

Sec. 70-3. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Access road means the major traffic routes used to provide access from existing public streets or roads to the subdivision. They shall have a minimum right-of-way of not less than 40 feet in width and shall have a stone base and asphalt surface of not less than 16 feet in width.

Alley means a minor right-of-way providing secondary vehicular access to the side or rear of two or more properties and having a right-of-way of not less than 15 feet in width.

Applicant means any individual, firm, associate, syndicate, trust, copartnership, corporation of any other legal entity commencing proceedings under these regulations to effect a subdivision of land hereunder for himself, themselves or for another.

Base, asphalt, means the layer of asphalt material as more thoroughly described in the specifications of the state department of highways and when installed as part of an asphalt surface under these regulations shall not be less than two inches in thickness and a base type 1.

Base, stone, means the layer of stone aggregate material that is in immediate contact with the natural soil and that is to proceed any initial application of asphalt or tar and chip surface and shall be installed in compacted depth of not less than six inches, eight inches or more for heavily traveled streets (those with a lot of truck or heavy equipment on them).

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Lot means a parcel or portion of land in a subdivision or plat of land, separated from other parcels or portions by description as on a subdivision plat or record of survey map or be metes and bounds, for the purpose of sale, or lease or separate use.

Planning commission means the planning commission of the town, which shall have the responsibility to review a subdivision application for compliance with all the provisions of this chapter.

Plat means the map-document that shows proposed lot lines, streets, etc., of a subdivision.

Recordation means the recordation of an approved subdivision plat into the records of the clerk of county commissioners.

Street means the traffic routes within subdivision providing primary access to lots. They shall have a right-of-way of not less than 40 feet in width and a surface of stone base and asphalt or stone base and tar and chip surface of not less than 18 feet in width.

Subdivision means the division of a lot or parcel of land into two or more parts for the purpose of sale or lease or separate use.

Tar and chip surface means the layer of asphalt emulsion and stone that may be used as a surface treatment on streets. The application shall be in conformance with the specifications of the West Virginia Department of Highways Type C — Double Surface Treatment.

Waiver. A waiver may be granted by the town council and/or planning commission.

Wearing course (asphalt) means the layer of asphalt as more thoroughly described in the specifications of the state department of highways and when installed as part of an asphalt surface under these regulations shall not be less than one inch in thickness.

Zoning ordinance means an approved and adopted zoning ordinance for the town.

(Ord. No. 000-4, art. III, 3-2000)

Sec. 70-4. Standards.

(a) *Right-of-way.* The following table shall describe the minimum standards for roadways:

Alley:		
	Total width	15 feet
	Paved width	N/A
	Base, stone	N/A
	Base, asphalt	N/A
	Wearing course	N/A
	Shoulder treatment	N/A
Street:		
	Total width	40 feet
	Paved width	18 feet
	Base, stone	18 feet by 6 inches
	Base, asphalt	2 inches*
	Wearing course	1 inch*

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	Shoulder treatment	2 feet each side
Access road:		
	Total width	40 feet
	Paved width	16 feet
	Base, stone	16 feet by 6 inches
	Base, asphalt	2 inches*
	Wearing course	1 inch*
	Shoulder treatment	2 feet each side

*May be replaced with tar and chip upon approval of the town council after all documentation has been reviewed and accepted by town's engineer, or qualified agent.

- (b) *Water and sewer service.* All proposed water and sewer installations must be installed according to the minimum standards attached to the ordinance from which this chapter is derived, and by reference made a part of this chapter by reference. The town will allow the extension of water and sewer systems to any subdivision if the capacity of the sewer and water systems allow, and if the subdivider or developer complies with the public service commission's regulations, state and county board of health regulations, and all ordinances of the town. The town will require the contractor who performs this work to guarantee the work for a reasonable length of time, post bond and have any and all of the work inspected by the town.
- (c) *Sidewalks.*
- (1) For subdivisions that propose four lots or less per acre, sidewalks are optional. However, for subdivisions proposing more than four lots per acre, sidewalks must be installed by the developer and be at least 36 inches in width.
 - (2) New residential or commercial construction of sidewalks and curbs abutting the entirety of the lot adjacent to any town street upon which the construction shall take place, and the construction of said sidewalks and curbs, shall be done at the expense of the lot owner, developer or contractor, or all of them, and same shall be done in accordance with the specifications provided by the town relative to the construction of said sidewalks and curbs.
 - (3) The construction of sidewalks and curbs required in this chapter shall be completed within six months from the date of beginning the new residential or commercial construction hereinbefore referred to.
- (d) *Fire protection.* Fire hydrants shall be installed of sufficient size as may be deemed necessary by the town in cooperation with the Berkeley Springs Volunteer Fire Company. All hydrants shall have American Standard Threads to be compatible with the fire company and all hydrants shall be installed with a valve between the hydrant and the main line. These shall be installed at the time water lines are installed and the cost included in the extensions of water mains.
- (e) *Lighting.* If street lamps are to be installed, they shall have underground service connections.
- (f) *Stormwater management and erosion control.* The developer shall install such drainageways, culverts, detention ponds, etc., as may be necessary to channel stormwater in a new subdivision so as to protect future lot owners and owners of adjacent lots or lots downstream. Assistance in designing capable systems may be obtained from the Eastern Panhandle Soil Conservation Service, and must be approved by the council. The developer

shall install such silt fences, temporary ponds, etc., that may be necessary to control all soil erosion during construction. Installation shall conform to the erosion control methods as approved by the Eastern Panhandle Soil Conservation Service.

- (g) *Construction techniques.* All construction techniques used by a developer shall conform to that set by the state department of highways, state health department and the town. Use of unapproved techniques, substandard or improper techniques by a developer or his agents will result in the town delaying or disapproving of town maintenance of the subdivision.
- (h) *Lot sizes.* All proposed lot sizes and dimensions must conform to the provisions of this chapter.

(Ord. No. 000-4, art. IV, 3-2000)

Sec. 70-5. Application and approval.

- (a) *Size differences.* Any division of land, even one parcel into two, must apply for and receive approval to subdivide. However, if the subdivision is small in scale, such as one lot into two, and requires no new public utilities or roads, a waiver may be granted. If a subdivision is less than five acres, requires no new water or sewer lines and no new access roads, streets or alleys, and only minimal stormwater management or soil erosion control, then with the submission of the required plats and written information and a fee as established from time to time by the town, approval may be granted. If a subdivision is greater than five acres or requires new water and sewer lines or new access roads, streets or alleys or extensive stormwater management or soil erosion control, then with the submission of the required plats and written information and a fee as established from time to time by the town, approval may be granted.
- (b) *Application requirements.* All applications must include the following:
 - (1) *Plats.* Four copies of plats are required. Plats must be carefully drawn to scale on paper of not less than 20 inches by 30 inches, in ink. The plats must show the outside property lines of the subdivision, complete with all metes and bounds. The plats must show all proposed lot lines with metes and bounds. The plats must show the placement of all access roads, streets and alleys including total right-of-way and paved widths. The plats must show existing or proposed drainageways, culverts, etc., for stormwater management and any soil erosion control structures necessary. These must be by a licensed surveyor or engineer.
 - (2) *Written information.* The written information shall be on 8½-inch by 11-inch paper, typed. Four copies are required. It shall contain the name of the person or corporation owning the land to be subdivided with current addresses and telephone numbers. It shall contain a brief narrative of the proposed subdivision containing proposed land uses, improvements, lot sizes, etc. It shall detail the types of materials to be used in underground utilities, streets, stormwater management and soil erosion control measures. In addition, any other information required by the town shall be submitted in a timely manner.
 - (3) *Approval process.* Upon submission of the required plats and written information, the town will respond to the application with two scheduled council meetings, unless good cause is shown. One copy of the plat and written information shall be given to the town planning commission. The commission shall review the proposal for conformance with this chapter. All subdivision request must receive the approval of the town planning commission. If the commission finds the proposal (or parts of the proposal) does not comply with this chapter, the developer must either revise his plans or obtain variance approval from the town council. One copy of the plan and written information shall be used by the town council, together with the town superintendent, and the state and county boards of health to review and approve the proposal for water and sewer service installation, access roads, streets and alley constructions, sidewalks, stormwater management and soil erosion control. The council has the right to request assistance

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from any applicable state and federal agencies. All subdivision request must receive the approval of the town council. Both the planning commission and the council may inspect the site to confirm data or require the developer to meet with them. The town shall approve or disapprove the application within 45 days from submission depending upon the application's conformance with applicable rules, regulations, etc.

- (4) *Waiver.* If a subdivision is sufficiently small and requires no new water or sewer service or no new streets and will cause no or little stormwater or soil erosion problems, the town council and the planning commission may grant a waiver, jointly. A waiver may be granted based upon the submission of a single plat and written information. A waiver can only be granted upon the approval of the planning commission and confirmed by the town council.
- (5) *Recordation.* The developer must record an approved subdivision of any size or complexity within ten business days of the approval. The recorded plat may not vary from the approved plat. Recordation shall be in the records of the clerk of the county commission.

(Ord. No. 000-4, art. V, 3-2000)

Sec. 70-6. Town responsibilities.

- (a) The town accepts no responsibility to extend water or sewer or streets to a proposed subdivision, except as may be required by the state public service commission. All connections to existing town water and sewer lines shall be performed if there is adequate capacity in the municipal systems.
- (b) The town will accept responsibility and begin maintenance of water and sewer lines according to the public service commission's regulations and all governing ordinances of the town pertaining to the utilities, stormwater lines, access roads, streets, and alleys within a subdivision only after the following:
 - (1) The developer has submitted appropriate applications and related fees prior to construction and said applications have been approved.
 - (2) The developer has obtained a list and has followed all specifications pertaining to materials and equipment for utilities as required by the town utility systems, has obtained all necessary rights-of-way and/or easements and all contingencies have been inspected and approved as 100 percent completed construction on utilities, roads, etc.

(Ord. No. 000-4, art. VI, 3-2000)

Sec. 70-7. Enforcement.

- (a) *Inspection.* The town reserves the right to inspect the site before approval to verify data. The town additionally reserves the right to inspect any and all construction to verify conformance with all standards and specifications.
- (b) *Penalties.* Violations of any part of this chapter may result in the town seeking an injunction to stop the completion of the subdivision, including a \$100.00 fine for each day a violation exists.

(Ord. No. 000-4, art. VII, 3-2000)

Sec. 70-8. Amendments.

This chapter can be changed from time to time by the town council upon documentation and suggestions by the town's engineer, or qualified town agent, to keep pace with future demands and changes.

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(Ord. No. 000-4, art. VIII, 3-2000)

FOOTNOTE(S):

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State Law reference— Subdivision and land development, W. Va. Code, § 8A-4-1 et seq.;
jurisdiction of planning commission, W. Va. Code, § 8A-5-1.