

ARTICLE 100**SUBDIVISION APPLICATION PROCEDURE AND APPROVAL PROCESS**

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100.00 SUBDIVISION APPLICATION PROCEDURE AND APPROVAL PROCESS**100.01 GENERAL PROCEDURE****I. Application**

1. A plat of a subdivision of land shall meet the requirements of the Putnam County Subdivision Regulations and shall be approved by the Planning Commission and filed with the County Clerk prior to the transfer or sale of any such parcel. The use of metes and bounds description for the division of property for the purpose of sale, transfer, or lease shall not be permitted.
2. An installment land sale contract for the subdivision of any lot or any parcel of land or any other document required for a future conveyance of real estate shall be recorded in the Office of the County Clerk and a plat meeting all requirements of the subdivision regulations and approved by the Planning Commission shall be attached to said document.

II. Classification of Subdivision. Whenever any subdivision of land is proposed, before any contract is made for the sale of any part thereof, the subdividing owner, or his authorized agent, shall apply for and secure approval of such proposed subdivision in accordance with the following procedures:

1. **Administrative Subdivision**
 - a. Application Completed
 - b. Planning Officer Review and Action
2. **Major Subdivision**
 - a. Application Completed
 - b. Conceptual Plat Review by Planning Commission staff
 - c. Major Subdivision Plat Review and Action by Planning Commission with Public Hearing
 - d. Final Subdivision Plat Approval by President of Planning Commission
3. **Exempt Subdivision**
 - a. Application Completed
 - b. Planning Officer Review and Action

III. Classification Variation. The Planning Commission may classify an Administrative Subdivision as a Major Subdivision if they feel the impact of the proposed subdivision requires a public hearing to determine the terms of approval of the subdivision. The Planning Commission may classify a Major Subdivision as an Administrative Subdivision if they find the impact of the proposed subdivision to be minimal. If classified an Administrative Subdivision, the subdivision shall meet the following conditions, if applicable:

1. majority of improvements shall have been installed;

2. WV Department of Highways shall not classify as a subdivision;
3. lots shall conform to existing restrictive covenants;
4. restrictive covenants shall not allow future subdivision of property;
5. applicant shall not own contiguous property;
6. public sewer service shall be available or the Putnam County Health Department shall approve an individual sewage disposal system on each lot and delineation of the reserve areas shall be made on the plat, or if sufficient information is not available for the Health Department to determine whether the lot is suitable for an individual sewage disposal system, the owner may allow a development condition to be placed on the approved plat that states, "The Putnam County Health Department has not determined if the parcel [identify parcel] is suitable for an individual sewage disposal system. A structure requiring individual sewage disposal for sewer service may not be constructed until the individual sewage disposal system is approved by the Health Department or until public sewer service is available."
7. water service shall be available; and
8. lots shall be located at a permanent dead-end, with no extension of improvements possible.

100.02 EXEMPT SUBDIVISION

- I. **Definition.** An exempt subdivision, for the purposes of these regulations, shall be defined as that subdivision of land which involves transfer of property rights between family members and is a subdivision of land in which there is the division of an existing lot into not more than three lots fronting on an existing street, not involving any new street or road or the extension of public facilities or the creation of any public improvements, not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with these regulations.
- II. **Eligibility.** Exempt subdivision shall involve the division of a continuous tract of real estate 1) between or to the following named members of the family of the grantor: father, mother, son, daughter, stepson, stepdaughter, grandson or granddaughter, brother or sister or 2) as a result of inheritance or court action.
- III. **Condition.** Provided however, that if any lot is reconveyed within two years of the date of the original conveyance, then that conveyance will be deemed to have been made directly to such ultimate owner and not to a member of the grantor's original family. In such cases, the requirements of this ordinance shall be in effect.
- IV. **Application Procedure and Requirements.** The applicant shall file an application for approval of an exempt plat and a minimum of three copies of the subdivision plat. Applicant is exempt from subdivision fees. The application and plat shall include:
 1. All items enumerated on the Exempt Subdivision Checklist (See Appendix A)
 2. Minimum Design Standards in Tables I, II, and III for right-of-way width, lot area, and lot frontage.
 3. Receive endorsement of Health Authorities. The exempt subdivision plat shall be properly endorsed by the Health Department, Public Service District, water companies, or municipal water and sewer boards with respect to all sewer and water facilities and same shall comply with all rules, regulations, and requirements of municipal, county, state, and federal authorities. The Health Department may require delineation on plat of reserve area for individual sewage disposal systems.

If sufficient information is not available for the Health Department to determine whether the lot is suitable for an individual sewage disposal system, the applicant may allow a development condition to be placed on the approved plat that states, "The Putnam

County Health Department has not determined if the _____ parcel [identify parcel] is suitable for an individual sewage disposal system. A structure requiring individual sewage disposal for sewer service may not be constructed until the individual sewage disposal system is approved by the Health Department or until public sewer service is available.”

- V. **Approval.** The Planning Officer shall review and may approve all exempt subdivisions.
- VI. **Appeal.** The applicant may appeal the Planning Officer’s action by submitting the application to the Planning Commission as a major subdivision.

100.03 ADMINISTRATIVE SUBDIVISION

- I. **Definition.** An administrative subdivision, for the purposes of this ordinance, shall be defined as that subdivision of land in which there is the division of an existing lot into not more than three lots fronting on an existing street, not involving any new street or road or the extension of public facilities, or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property and not in conflict with these regulations.
- II. **Application Procedure and Requirements.** The applicant shall file an application for approval of an administrative plat and a minimum of three copies of the subdivision plat. The application and plat shall include:
 1. All items enumerated on the Administrative Subdivision Checklist (See Appendix B)
 2. Administrative Subdivision fee
 3. Minimum Design Standards in Tables I, II, and III for right-of-way width, lot area and lot frontage.
 4. Endorsement of Health Authorities. The administrative subdivision plat shall be properly endorsed by the Health Department, Public Service District, water company, or municipal water and sewer boards with respect to all sewer and water facilities and same shall comply with all rules, regulations, and requirements of municipal, county, state, and federal authorities. The Health Department may require delineation on plat of reserve area for individual sewage disposal systems.

If sufficient information is not available for the Health Department to determine whether the lot is suitable for an individual sewage disposal system, the applicant may allow a development condition to be placed on the approved plat that states, “The Putnam County Health Department has not determined if the _____ parcel [identify parcel] is suitable for an individual sewage disposal system. A structure requiring individual sewage disposal for sewer service may not be constructed until the individual sewage disposal system is approved by the Health Department or until public sewer service is available.”

- III. **Approval.** The Planning Officer shall review and may approve all administrative subdivisions. After Planning Officer approves an administrative subdivision, it shall be reported at the Planning Commission's next meeting.
- IV. **Appeal.** The applicant may appeal the Planning Officer's action by submitting the application to the Planning Commission as a major subdivision.

100.04 MAJOR SUBDIVISION

- I. **Definition.** A major subdivision, for the purposes of these regulations, shall be defined as all subdivision not classified as administrative subdivision, including but not limited to subdivision of four (4) or more lots, or any size subdivision requiring any new street or extension of the location of government facilities or the creation of any public improvements.
- II. **Conceptual Plat (Required)**
 1. **Discussion of Requirements.** Before preparing the sketch for a subdivision, the applicant is obligated to discuss with the office of the Planning Commission the

procedure for adoption of a subdivision plat and the requirements as to general layout of streets and for reservations of land, street improvements, drainage, sewerage, fire protection, and similar matters, as well as the availability of existing services.

The Planning Officer shall also advise the applicant, where appropriate, to discuss the proposed subdivision with those officials who must eventually approve these aspects of the subdivision plat coming within their jurisdiction. It is the intent of this Section that said discussion is necessary and desirable to advise the applicant of all requirements so that future problems and questions can be reduced. Other offices that may need to be involved include: County Health Department, State Health Department, local public service districts, Post Office, utility companies, Soil Conservation Service, Department of Environmental Protection, emergency services, Corps of Engineers, sewer board, and Division of Highways.

2. **Conceptual Plat Procedures and Requirements.** Prior to subdividing land, an owner of the land, or his representative, shall file an application for approval of a conceptual plat. The application shall:
 - a. Be made on application forms available at the Office of the Planning Commission and be presented to the office.
 - b. Include all contiguous holdings of the owner including land in the "same ownership" as defined herein, with an indication of the portion which is proposed to be subdivided.
 - c. Be accompanied by a minimum of three (3) copies of the conceptual plat as described in these regulations and complying in all aspects with these regulations.
 - d. The application shall include an address and telephone number of an agent who shall be authorized to receive all notices required by these regulations.
3. **Classification.** Within forty-five (45) days after receiving application for conceptual plat approval, tentative classification of the conceptual plat shall be made at this time by the Planning Officer, as to whether the subdivision is a major or administrative subdivision as defined in these regulations. The applicant may appeal the Planning Officer's classification by submitting a written request for reclassification to the Planning Commission. Subsequent to classification of the subdivision, the Planning Officer shall place the matter on the next available regular meeting agenda of the Commission for Planning Commission acceptance and classification of the application. Such acceptance or refusal to accept shall be made by the Planning Commission within forty-five (45) days after application has been presented to Commission. Subsequent to such action by the Planning Commission, the applicant may proceed directly with the filing of an application for review of a major subdivision plat, as provided in these regulations, before filing for final subdivision plat approval.
4. **Study of Conceptual Plat.** The Developer shall transmit the conceptual plat for review to appropriate officials or agencies in the County, adjoining counties or municipalities, school and special districts, and other official bodies as the Planning Officer deems necessary or as mandated by law, including any review required by metropolitan, regional, or state bodies under applicable state or federal law. The Planning Officer shall request that all officials and agencies, to whom a request for review has been made, submit their report to the Planning Commission within twenty (20) days after receipt of the request. The Planning Officer will consider all the reports submitted by the officials and agencies concerning the conceptual plat. The Planning Officer shall study the conceptual plat, taking into consideration the requirements of the Subdivision Regulations and the best use of the land being subdivided. Particular attention will be given to the arrangement, location, and width of streets, their relation to the topography of the land, sewage disposal, drainage, lot sizes and arrangement, the further development of adjoining lands as yet unsubdivided, the right-of-way width and pavement width of the

existing access road to the proposed subdivision, and the requirements of the Planning Commission.

5. **Field Trip.** The Planning Commission or Planning Officer may schedule a field trip to the site of the proposed subdivision, accompanied by the applicant or his representative. In order to facilitate field inspection and review of the site of the proposed subdivision, temporary staking along the center line of all proposed roads in the subdivision may be required in time for such field trip, or if impractical, the Planning Commission shall permit a suitable alternative procedure.
6. **Acceptance of Conceptual Plat.** After reviewing and discussing the conceptual plat and other reports, as submitted by invited agencies and officials, the Planning Officer will advise the applicant of the specific changes or additions, if any, it may require in the layout, and the character and extent of required improvements and reservations which it will require as a prerequisite to the approval of the subdivision plat. The Planning Officer may require additional changes as a result of further study of the subdivision in final form. Said acceptance shall constitute authorization to prepare and submit a major subdivision plat.

III. Major Subdivision Plat

1. **Application Procedure and Requirements.** Based upon the acceptance of the Planning Commission staff of the conceptual plat, the applicant should file an application for approval of a major subdivision plat. The application shall:
 - a. Be made on an application form available at the Office of the Planning Commission and be presented to that office.
 - b. Include all contiguous holdings of the owner including land in the "same ownership" as defined herein, with an indication of the portion which is proposed to be subdivided.
 - c. Include all land which the applicant proposes to subdivide and all land immediately adjacent extending one hundred (100) feet therefrom, or of that directly opposite thereto, extending one hundred (100) feet from the road frontage of such opposite land, with the names of the owners as shown in the Assessor's files. This information may be shown on a separate current Tax Map reproduction from the Assessor's Office showing the subdivision superimposed thereon.
 - d. Be accompanied by a list of owners of property immediately adjacent extending 100' therefrom or directly opposite thereto extending 100' from the road frontage of such opposite property owner as shown on the latest tax records in the County Assessor's office. If the list includes a lot within a major subdivision, the applicant must submit the name and address of the president of that subdivision's homeowners association.
 - e. Be accompanied by the number of stamped No. 10 envelopes equal to the number of property owners and homeowners associations within 100' of the proposed subdivision.
 - f. Include all items enumerated in Appendix C Major Subdivision Plat Checklist in this ordinance.
 - g. Be accompanied by a minimum of seven (7) copies of the major subdivision plat as described in Appendix C in this ordinance.
 - h. Be accompanied by a minimum of three (3) copies of construction plans as described in Appendix C in this ordinance.
 - i. Be accompanied by major subdivision fee

- j. Comply in all respects with the conceptual plat as accepted.
- k. Include three (3) copies of a stormwater analysis that bears the name, address, signature and seal of an engineer.
- l. Include a minimum of three (3) copies of a drainage plan, that bears the name, address, signature, and seal of an engineer, and includes all information listed in Section 300.04 Storm Water Management and Erosion Control Plan.
- m. Include three (3) copies of drainage calculations that bear the name, address, signature and seal of an engineer, for all culverts, swales, and stormwater drains.
- n. If applicable, include three (3) copies of the design of the stormwater management facility and drainage calculations that bear the name, address, signature and seal of an engineer and that meet the requirements of Article 300 Drainage and Storm Sewers in these Subdivision Regulations.
- o. Include a minimum of two (2) copies of the sediment control plan (SCP) that has been filed with the State of West Virginia.
- p. Include copy of approved NPDES Permit, if applicable.
- q. Include copy of soil map and, if requested by the Planning Commission staff, a soil analysis from the Soil Conservation Service or qualified soil scientist.
- r. Include copy of approved Division of Highways Encroachment Permit.
- s. If applicable, include a copy of the Traffic Impact Study approved by the WV Division of Highways.
- t. If applicable, include copy of approved Department of Natural Resources Stream Crossing Permit, US Army Corps of Engineers Permit, and other required municipal, county, state, and federal permits.
- u. Receive endorsement of Health Authorities. The major subdivision plat shall be properly endorsed by the Health Department, Public Service District, water company, and/or municipal water and sewer boards with respect to all sewer and water facilities and that same comply with all rules, regulations, and requirements of state, and national municipal, county, state, and federal authorities.

One copy of the approved water and sewer plans shall be submitted. If the property is not served by public sewer service, approval by the Putnam County Health Department shall be required stating each lot is suitable for an individual sewage disposal system and stating any conditions for that approval.

- v. Include copy of Declaration of Restrictive Covenants, which shall include:
 - (1) creation of Homeowner Association, which includes when the Homeowner Association shall become a governing body and how it will be governed;
 - (2) establishment of fee structure, which shall include special assessments for capital improvements;
 - (3) enforcement of fee structure;
 - (4) litigation authority;

- (5) ability of Developer and Homeowner Association to change Declaration of Restrictive Covenants;
- (6) requirement that Declaration of Restrictive Covenants shall not expire as long as the Homeowners Association is responsible to maintain common improvements and common areas;
- (7) ability of Homeowner Association to maintain existing roads, drainage structures, all other common improvements, and common areas;
- (8) stipulation of when roads, drainage structures, all other common improvements, and common areas become Homeowner Association responsibility;
- (9) stipulation of utility easements;
- (10) stipulation of yard setbacks;
- (11) severability; and
- (12) stipulation of drainage easements and conditions, which shall include the following:
 - a) Drainage of each lot shall conform to the general drainage plan for the subdivision.
 - b) Roof drains shall be discharged directly on the lawn and shall not be discharged into the storm drain system or into the street.
 - c) All swales, ditches, culverts, and other instruments of drainage shall remain open and clear of debris at all times.
 - d) The area around/along an open stream channel shall be maintained with landscaped banks and an adequate width reserved for discharge of the base flood. (if applicable);
- (13) if a stormwater management facility is constructed in the subdivision, stipulation of when the Homeowners Association will be responsible for the maintenance of said facility.

The Declaration shall be reviewed by the Planning Officer for compliance with the above requirements.

The approved Declaration of Restrictive Covenants shall be filed with the County Clerk's office prior to final plat approval of a lot. A copy of the recorded Declaration shall be submitted to the Planning Commission.

- w. Be presented to the Planning Commission a minimum of forty-five days prior to a regular meeting of the Commission.

2. **Notice of Public Hearing.** The Planning Commission will give an opportunity to any interested persons to examine or comment upon the plat and construction plans. Upon receipt of formal application and all accompanying material, the Planning Officer shall schedule a public hearing. The Planning Commission will submit a notice for publication in one (1) newspaper of general circulation to be published at least twenty-one (21) days prior to the public hearing giving the date, time and place of the public hearing; will send a written notice to the applicant; will send notices to all property owners immediately adjacent, extending one hundred feet (100') from the subdivision or that directly opposite thereto, extending one hundred feet (100') from the road frontage of such opposite

property owners; if that list of property owners includes a lot within a subdivision, will send a notice to the president for that subdivision’s homeowners association; and will maintain file copies of the plat and construction plans for public review prior to the hearing. The Planning Commission may recess and schedule a continuance of the hearing if all required information is not available at the time of public hearing.

3. **Major Subdivision Approval.** After the Planning Commission has reviewed the major subdivision plat and construction plans, any County recommendations or requirements, testimony, and exhibits submitted at the public hearing, the applicant shall be advised of any required changes and/or additions. The Planning Commission shall approve, conditionally approve, or disapprove the major subdivision plat within forty-five (45) days after the date of closing the Planning Commission public hearing. One (1) copy of the proposed major subdivision plat and drainage plan shall be returned to the developer with the date of approval, conditional approval, or disapproval and the reasons therefor accompanying the plat.

The first phase of construction of the subdivision shall be implementation of the sediment control plan. If a stormwater management facility is required, the second phase of construction of the subdivision shall be the construction of said facility.

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.

4. **Public Improvements.** The Planning Commission may require that all public improvements be installed and dedicated prior to the signing of the final subdivision plat by the President of the Planning Commission. If the Planning Commission shall not require that all public improvements be installed and dedicated prior to signing of the final subdivision plat by the President of the Planning Commission, the amount of the escrow or bond shall be established by the Planning Commission, which bond shall be submitted by the applicant at the time of application for final subdivision plat approval. The Planning Commission shall require the applicant to indicate on the plat all roads and public improvements, all special districts for water, fire, and utility improvements which shall be required to be established or extended, any other special requirements deemed necessary by the Planning Commission.

5. **Effective Period of Preliminary Approval.** Major subdivision approval is granted for a specified period of time depending on the number of lots to be developed, as shown below:

Total Number of Lots in Subdivision	Effective Period of Preliminary Plat Approval
1-50	5 years
51-100	6 years
101-500	8 years

If all capital improvements are not complete at the end of the specified period, an extension of time may be granted by the Planning Commission. The developer shall formally apply to the Planning Commission, in writing, requesting a time extension and the reasons for the extension. When considering an extension, the Planning Commission shall consider the following criteria:

- a) Has the developer diligently pursued the completion of the capital improvements on the land granted preliminary approval?

- b) Has the developer completed at least 75 percent of the capital improvements on the land granted preliminary approval?

The burden of proofing these criteria shall rest with the developer.

The Planning Commission may grant a time extension of up to one year. A developer may request a maximum of two (2) one-year extensions; however, only one extension may be granted at a time.

If an extension of time is not granted, preliminary approval shall be null and void, and the developer shall be required to resubmit a new plat for preliminary approval subject to all subdivision regulations and fees in effect at that time.

All residential subdivisions which have received major subdivision approval by the Planning Commission prior to the effective date of these revisions shall be entitled to request an extension of time from the Planning Commission.

6. **Minor Changes to Approved Major Subdivision Plat.** Minor boundary changes that do not affect improvements or conditions of approval may be approved by the Planning Officer.

IV. **Final Subdivision Plat**

1. **Application Procedure and Requirements.** Following the approval of the major subdivision plat and all conditions of final plat approval being met, the applicant shall file with the Planning Commission an application for final approval of a subdivision plat. The application shall:
- a. Be made on forms available at the Planning Commission office, together with the specified fee.
 - b. Include the entire subdivision, or section thereof, which derives access from an existing highway.
 - c. Comply in all respects with the major subdivision plat as approved.
 - d. Include all items enumerated in Appendix D Major Subdivision Final Plat Checklist.
 - e. Unless all improvements are installed or in place, the application shall be accompanied by the escrow deposit certification or performance bond, if required, in a form satisfactory to the Planning Commission and in an amount established by the Planning Commission and shall include a provision that the principal of the escrow deposit or bond shall comply with all the terms of the resolution of final subdivision plat approval as determined by the Planning Commission and shall include, but not be limited to the performance of all required subdivision and off-site improvements, and all improvements and land included in the final subdivision plat. Said escrow account or performance bond shall be sufficient to cover the cost of installation of all improvements not in place on the date of approval of the Final Subdivision Plat.
2. **Submission and Review.** Seven copies of the subdivision plat on paper and as many copies as the developer wishes to receive endorsement shall be submitted to the Planning Commission President for final review. No final approval shall be endorsed on the plat until a review has indicated that all requirements of the resolution have been met and fees have been paid.
3. **Vested Rights.** No vested rights shall accrue to any plat by reason of major subdivision approval or final approval until the actual signing of the plat by the President of the Planning Commission. All requirements, conditions, or regulations adopted by the

Planning Commission applicable to the subdivision or on all subdivisions generally shall be deemed a condition for any subdivision prior to the time of the signing of the final plat by the President of the Planning Commission. Where the Planning Commission has required the installation of improvements prior to signing of the final plat, the Planning Commission shall not unreasonably modify the conditions set forth in the final approval.

100.05 SIGNING AND RECORDING OF SUBDIVISION PLAT

- I. **Signing of Final Plat.** When an escrow deposit or bond is required, the President of the Planning Commission shall endorse approval on the final plat after the escrow deposit or bond has been approved by the Planning Commission attorney, and all the conditions of the resolution pertaining to the plat have been satisfied.

When installation of improvements is required, the President of the Planning Commission shall endorse approval on the final plat after all conditions of the resolution have been satisfied and all improvements satisfactorily completed. There shall be written evidence that the required public facilities have been installed in a manner satisfactory to the Planning Commission.

- II. **Recording of Final Plat Documents.** The President of the Planning Commission will sign the originals of the final subdivision plat.

It shall be the responsibility of the Applicant to file said plat and all other documents with the County Clerk's Office within ninety (90) days of the date of signature.

- III. **Sectionalizing Major Subdivision Plats.** Prior to granting final approval of a major subdivision plat, the Planning Commission may permit the plat to be divided into two or more sections and may impose such conditions upon the filing of the sections as it may deem necessary to assure the orderly development of the subdivision. A major subdivision may not be approved one lot at a time. The Planning Commission may require that the performance bond be in such amount as is commensurate with the section or sections of the plat to be filed and may defer the remaining required escrow deposit or performance bond principal amount until the remaining sections of the plat are offered for filing.

100.06 ASSURANCE FOR COMPLETION AND MAINTENANCE OF IMPROVEMENTS

- I. **Completion of Improvements.** Before the plat is signed by the President of the Planning Commission, all applicants shall be required to complete, in accordance with the Planning Commission's decision, all street, sanitary, and other improvements including lot improvements on the individual lots of the subdivision as required in these regulations, specified in the final subdivision plat, and approved by the Planning Commission.

1. **Acceptance of Escrow Funds.** The Planning Commission may accept a cash escrow deposit in an amount to be determined by the Planning Commission for the cost of construction, installation, and dedication of the uncompleted portion of the required improvements.
2. **Procedures on Escrow Fund.** All required improvements for which escrow monies have been accepted by the Planning Commission shall be installed by the developer within an agreed upon time period from the date of deposit. In the event that the improvements have not been properly installed at the end of the time period, the Planning Commission shall give two (2) weeks written notice to the developer requiring the installation of same, and in the event that same are not installed properly in the discretion of the Planning Commission, the Planning Commission may proceed to contract out the work for the installation of the necessary improvements in a sum not to exceed the amount of the escrow deposit. The applicant shall obtain and file with the Planning Commission a notarized statement from the purchaser or purchasers of the premises authorizing the Planning Commission to install the improvements at the end of the time period in the event that the same have not been duly installed by the developer.

3. **Performance Bond**

- a. The Planning Commission, in its discretion, may waive the requirement that the applicant complete all public improvements prior to the signing of the final subdivision plat, and that, as an alternative, the applicant post a bond at the time of application for final subdivision approval in an amount estimated by the Planning Commission as sufficient to secure to the Planning Commission the satisfactory construction, installation, and dedication of the uncompleted portion of required improvements.
- b. Such performance bond shall comply with all statutory requirements and shall be satisfactory to the county attorney as to form, sufficiency, and manner of execution as set forth in these regulations. The period within which required improvements must be completed shall be specified by the Planning Commission in the resolution approving the final subdivision plat and shall be incorporated in the bond and shall not in any event exceed two (2) years from date of final approval.

Such bond shall be approved by the Planning Commission as to the amount and surety and conditions satisfactory to the governing body. The Planning Commission may, upon proof of difficulty, recommend to the governing body extension of the completion date set forth in such bond for a maximum period of one (1) additional year. The Planning Commission may at any time during the period of such bond accept a substitution of principal or sureties on the bond upon recommendation of the Planning Commission.

4. **Temporary Improvement.** The applicant shall build and pay for all costs of temporary improvements required by the Planning Commission and shall maintain same for the period specified by the Planning Commission. Prior to construction of any temporary facility or improvement, the developer shall file with the county a separate suitable escrow deposit or bond for temporary facilities, which escrow deposit or bond shall insure that the temporary facilities will be properly constructed, maintained, and removed.
5. **Costs of Improvements.** All required public improvements shall be made by the applicant, at his expense, without reimbursement by the county or any improvement district therein. Required public improvements shall include but may not be limited to streets, drainage facilities, utilities, open space and common areas, and parking areas.
6. **Governmental Units.** Governmental units to which these bonds and contract provisions apply may file in lieu of said contract or bond a certified resolution or ordinance from officers or agencies authorized to act in their behalf, agreeing to comply with the provisions of this Article.
7. **Failure to Complete Improvement.** For subdivisions for which no escrow deposit or performance bond has been posted, if the improvements are not completed within the period specified by the Planning Commission in the resolution approving the plat, the approval shall be deemed to have expired.

In those cases where an escrow deposit or performance bond has been posted and required improvements have not been installed within the terms of such performance bond, the Planning Commission may thereupon declare the escrow deposit or bond to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the escrow deposit or bond is declared to be in default and contract with another developer or contractor to install the required improvements.

8. **Inspection and Fees.** The Planning Commission shall provide for inspection of required improvements during construction and insure their satisfactory completion. Prior to major subdivision review, the applicant shall pay to the county fees as required by this ordinance, and the subdivision plat shall not be signed by the President of the Planning Commission unless such fees have been paid at the time of application. These fees shall

be due and payable upon demand of the Planning Commission, and no building permit shall be issued until all fees are paid. If the Planning Commission finds upon inspection that any of the required improvements have not been constructed in accordance with the Planning Commission's construction standards and specifications, the applicant shall be responsible for completing the improvements. Wherever the cost of improvements is covered by an escrow deposit or performance bond, the applicant and the bonding company shall be severally and jointly liable for completing the improvements according to specifications.

9. **Release or Reduction of Performance Bond.** The Planning Commission will not accept required improvements, nor release nor reduce a performance bond, until the Planning Commission has certified that all required improvements have been satisfactorily completed and until the applicant's engineer or surveyor has certified to the Planning Commission, through submission of detailed "as-built" survey plat of the subdivision, indicating location, dimensions, materials, and other information required by the Planning Commission, that the layout of the line and grade of all public improvements is in accordance with construction plans for the subdivision.

An Escrow Deposit or Performance Bond shall be reduced upon actual dedication of public improvements and then only to the ratio that the public improvement dedicated bears to the total public improvements for the plat. In no event shall be the escrow deposit or performance bond so reduced below twenty-five per cent (25%) of the principal amount.

10. **Maintenance of Improvements.** The applicant shall be required to maintain all improvements to the individual subdivided lots until such time as the Homeowner's Association accepts responsibility for the subdivision.
11. **Deferral or Waiver of Required Improvements.** The Planning Commission may defer or waive at the time of final approval, subject to appropriate conditions, the provision of any or all such improvements as, in its judgment, are not requisite in the interests of the public health, safety, and general welfare, or which are inappropriate because of inadequacy or lack of connecting facilities.
12. **Issuance of Building Permits.** A building permit may be issued prior to the completion of the improvements and dedication of same to the local government, as required in the Planning Commission's final approval of the subdivision plat.

The extent of street improvement shall be adequate for vehicular access by the prospective occupant and by police and fire equipment, prior to the issuance of the building permit.

100.07 CONFORMITY WITH EXISTING STATUTES

- I. **Consumer Protection Legislation and Conflicts of Interest Statutes.** No building permit shall be granted or issued if a developer or his authorized agent shall have violated any federal, state, or local law pertaining to consumer protection of real estate land sales, promotion, or practices, or any applicable conflicts-of-interest legislation with respect to the lot or parcel of land which is the subject of the permit or certificate, until so ordered by a court of competent jurisdiction.

With respect to said lot or parcel of land, in the event a building permit has been granted or issued, it shall be subject to revocation by the Planning Commission until so ordered otherwise by a court of competent jurisdiction, provided that in no event shall the rights of intervening innocent third parties be prejudiced by any such revocation.

- II. **Federal and State Legislation.** No subdivision shall be approved by the Planning Commission which would require or cause the filling of a wetland or modification of a watercourse unless a 404 Permit has been granted by the United States Army Corps of Engineers for such action.

Any violation of a federal, state, or local consumer protection law (including but not limited to:

Postal Reorganization Act of 1970; the Federal Trade Commission Act of 1970; Interstate Land Sales Full Disclosure Act; the Truth in Lending Act; the Uniform Commercial Credit Code; appropriate and applicable state laws, or conflicts of interest statute, law, or ordinance shall be deemed a violation of these regulations and subject to all of the penalties and proceedings as set forth herein.

III. **Improvement Location Permit Ordinance.** An improvement location permit shall be required, issued, and maintained only for structures and developments:

1. that have an approved public or private sewage disposal system;
2. that minimize the change in the rate of erosion and the amount of sediment movement throughout the life of the development;
3. that minimize the increase in water runoff rate and adequately drain the site to a drainage facility or watercourse;
4. that do not have an adverse effect on downstream properties; and
5. that within Planning Commission approved subdivisions, conditions of the subdivision approval are being met.

100.08 SALE OF PROPERTY

The developer or owner of a subdivision which has received approval of the Major Subdivision Plat may sell one (1) lot before the final plat is approved to assist in the financing of improvements. The lot must derive access from existing streets or roads or must derive access from streets which the Planning Commission shall determine are consistent with the final approval of the subdivision. If neither of these conditions can be met, the nearest property corner of the lot must be within the first five hundred feet (500') of the subdivision entrance for the platted section or be within five hundred feet (500') of a street that the Planning Commission shall determine is consistent with the final approval of the subdivision.

100.09 IDENTIFICATION OF SUBDIVISION

Prior to approval of the final plat, the developer shall cause to be located on the subdivision site a sign, clearly visible from abutting streets and highways. Said sign shall contain the name of subdivision and be located within an easement or common area.

