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**1400.00 GENERAL PROVISIONS**

These regulations shall hereafter be known, cited and referred to as the Subdivision Regulations of the Putnam County Planning Commission.

**1400.01 POLICY**

- I. **Declaration of Policy.** It is hereby declared to be the policy of the County to consider the subdivision of land and the subsequent development of the subdivided plat as subject to the control of the County pursuant to the provision of the W. Va. Code, Chapter 8A for the orderly, planned, efficient, and economical development of the County.
- II. **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 such as schools, parks, recreation facilities, transportation facilities, and improvements.
- III. **Resources.** Subdivision of land and subsequent development of the subdivision plat shall not destroy nor adversely affect the natural or manmade resources of the County such as watercourses, floodplains, historic or archeological sites or districts.

**1400.02 PURPOSES**

These regulations are adopted for the following purposes:

To protect and provide for the public health, safety and general welfare of the County. To guide the future growth and development of the County.

To protect the character and the social and economic stability of all parts of the County and to encourage the orderly and beneficial development of all parts of the County.

To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation, and other public requirements and facilities.

To establish reasonable standards of design and procedures for subdivisions and resubdivisions, in

order to further the orderly layout and use of land; and to insure proper legal descriptions and monumenting of subdivided land.

#### 1400.03 AUTHORITY

- I. **Statement of Authority.** By authority of the Planning Commission of the County of Putnam (hereinafter referred to as "Planning Commission") adopted pursuant to the powers and jurisdictions vested through Chapter 8A in the WV Code and other applicable laws, statutes, ordinances, and regulations of the State of West Virginia, the Planning Commission does hereby exercise the power and authority to review, approve, and disapprove plats for subdivision land within the boundary of the County which show lots, blocks, or sites with or without new streets or highways. Unless otherwise requested by a municipality, all land within the corporate limits of a municipality is exempt from these regulations.
- II. **Approval of Recorded Land.** By the same authority, the Planning Commission does hereby exercise the power and authority to pass and approve the development of subdivision plats of land already recorded in the office of the County Clerk if such plats are entirely or partially undeveloped.
- III. **Undeveloped Plats.** The plat shall be considered to be entirely or partially undeveloped if:
  1. said plat has been recorded with the County Clerk's office without prior approval by the Planning Commission, or
  2. a plat that has been approved by the Planning Commission on which no building permit and/or actual development has taken place after three years from approval.

#### 1400.04 JURISDICTION

- I. **Description of Jurisdiction.** These subdivision regulations shall apply to all subdivision of land, as defined herein, located within the boundaries of the County, except for that land which lies in a municipality. A municipality may adopt these subdivision regulations.
- II. **Prerequisite of Subdivisions.** No land shall be subdivided within the boundary of the County until:
  1. the subdivider or his agent shall submit a conceptual plat of the parcel to the Planning Commission;
  2. said subdivider obtains approval of the plat itself by the Planning Commission; and
  3. the approved plat is filed with the County Clerk.
- III. **Issuance of Permit.** No improvement location permit shall be issued for any parcel or plat of land which was created by subdivision after the effective date of, and not in conformity with, the provisions of these subdivision regulations, and no excavation of land or construction of any public or private improvements shall take place or be commenced except in conformity with the regulations.

#### 1400.05 ENACTMENT

In order that land may be subdivided in accordance with these purposes and policy, these subdivision regulations are hereby adopted.

#### 1400.06 INTERPRETATION, CONFLICT, AND SEPARABILITY

- I. **Interpretation.** In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.
- II. **Conflict with Public and Private Provisions.** The regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provisions of law.

Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirements of these regulations, or the determinations of the Commission or the County in approving a subdivision or in enforcing these regulations, and such private provisions are not inconsistent with these regulations or determinations thereunder, then such private provisions shall be operative and supplemental to these regulations and determinations made thereunder.

- III. **Separability.** If any part of provisions of these Regulations or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdictions, such judgement shall be confirmed in its operation to the part, provision, or application directly involved in all controversy in which such judgement shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The Planning Commission hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application.

#### **1400.07 SAVING PROVISION**

These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the county under any section or provisions existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the county except as shall be expressly provided for in these regulations.

#### **1400.08 RESERVATIONS AND APPEALS**

Upon adoption of these regulations according to law, the Development Guidelines of Putnam County adopted July 1, 1985, as amended, are hereby repealed.

Upon adoption of these regulations according to law, should there exist a varying degree of regulatory authority within more than one regulatory ordinance, the strictest regulatory ordinance shall apply.

#### **1400.09 AMENDMENTS**

For the purpose of providing the public health, safety, and general welfare, the Planning Commission may from time to time amend the provision imposed by these subdivision regulations. Public hearings on all proposed significant amendments shall be held by the Commission in manner prescribed by law.

All amendments to this Ordinance shall be adopted by the County Commission according to the procedures set forth in Section 8A-4-5 of the West Virginia Code.

#### **1400.10 CONDITIONS**

Regulation of the subdivision of land and the attachment of reasonable conditions to land subdivision is an exercise of valid police power delegated by the state to this county. The developer has the duty of compliance with reasonable conditions laid down by the Planning Commission for design, dedication, improvement, and restrictive use of the land so as to conform to the physical and economical development of the County and to the safety and general welfare of the future plot owners in the subdivision and of the county at large.

**1400.11 FUTURE RESUBDIVISION**

Whenever a parcel of land is subdivided and the subdivision plat shows one or more lots containing more than one acre of land and there are indications that such lots will eventually be resubdivided into small building sites, the Planning Commission may require that such parcel of land allow for the future opening of streets and the ultimate extension of adjacent roads. Easements providing for the future opening and extension of such roads may be made a requirement of the plat.

**1400.12 VACATION OF PLATS**

Any plat or any part of any plat may be vacated by the owner of the premises, at any time before the sale of any lots therein, by a written instrument, to which a copy of such plat shall be attached, declaring the same to be vacated.

Such an instrument shall be approved by the Planning Commission in like manner as plats of subdivision. The Planning Commission may reject any such instrument which abridges or destroys any public rights in any of its public uses, improvements, roads, or alleys.

Such an instrument shall be executed, acknowledged or approved, and recorded or filed, in like manner as plats of subdivisions; and being duly recorded or filed shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys, and public grounds, and all dedications laid out or described in such plat. When lots have been sold, the plat may be vacated in the manner herein provided by all the owners of lots in such plat joining in the execution of such waiting.

**1400.13 WAIVERS OR VARIANCES**

- I. **General.** Where the Planning Commission finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve waivers or variances to these subdivision regulations so that substantial justice may be done and the public interest secured, provided that such variance shall not have the effect of nullifying the intent and purpose of these regulations; and further provided the Planning Commission shall not approve waivers or variances unless it shall make written findings based upon the evidence presented to it that all of the following conditions are met:
1. The granting of the waiver or variance will not be detrimental to the public safety, health, or welfare or injurious to other property.
  2. The conditions upon which the request for a waiver or variance are based arise from special conditions or attributes which pertain to the property for which a waiver or variance is sought and which were not created by the person seeking the waiver or variance.
  3. The waiver or variance would eliminate an unnecessary hardship, as distinguished from a mere inconvenience, and would allow the intent of the subdivision regulations to be observed and substantial justice done.
  4. The waiver or variance will not in any manner vary the provisions of any other regulations, ordinances or plans adopted by the County.
  5. In approving waivers or variances, the Planning Commission may require such conditions as will, in its judgement, secure substantially the objectives of the standards or requirements of these regulations.
  6. A petition for any such waiver or variance shall be submitted in writing by the subdivider. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

A waiver or variance request must be submitted in writing a minimum of twenty-one days prior to the regularly scheduled Planning Commission meeting. The applicant shall be advised in writing of the date, time and place of the public hearing.

The Planning Commission will give an opportunity to any interested persons to examine or comment upon the waiver or variance request. Upon receipt of the request, the Planning Officer shall submit a notice for publication in one newspaper of general circulation to be published at least fifteen days prior to the meeting giving the date, time and place of the public hearing. A notice shall be sent to all property owners immediately adjacent, extending one hundred feet (100') from the property 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, a notice shall be sent to the president of that subdivision's homeowners association. Copies of the plat and construction plans shall be maintained and filed for public review prior to the meeting.

#### **1400.14 APPEAL OF AN ADMINISTRATIVE DECISION BY PLANNING OFFICER**

An appeal taken from any order, requirement, decision or determination made by the Planning Officer charged with the enforcement of this ordinance shall be filed with the Commission on forms prescribed by the Office of Planning and Infrastructure. The appeal shall specify the reasons for the appeal and shall be made within thirty (30) calendar days of the original action in question.

The Planning Commission will give an opportunity to any interested persons to examine or comment upon the appeal request. Upon receipt of the request, the Planning Officer shall submit a notice for publication in one newspaper of general circulation to be published at least thirty (30) days prior to the meeting. At the same time the notice is submitted for newspaper publication, a notice shall be sent to all property owners immediately adjacent, extending one hundred feet (100') from the property or that directly opposite thereto, extending one hundred feet (100') from the road frontage of such opposite property owners, as of record in the Putnam County Assessor's office. If that list of property owners includes a lot within a subdivision, a notice shall be sent to the president for that subdivision's homeowners association. Copies of the plat and construction plans shall be maintained and filed for public review prior to the meeting.

The Commission shall hold a duly scheduled public hearing on the appeal. The petitioner shall be advised in writing of the date, time, and place of the public hearing.

If the Commission decides to uphold the administrative decision, the administrative decision stands and the petitioner is denied. The petitioner is formally notified by mail by the Office of Planning and Infrastructure of the right to appeal the decision to Putnam County Circuit Court within thirty (30) days of the date of the decision.

If the Commission reverses or modifies the administrative decision, the appeal stands as approved by the Commission. The petitioner is formally notified in writing by the Office of Planning and Infrastructure.

#### **1400.15 APPEAL OF A DECISION OF THE PLANNING COMMISSION**

Appeals regarding any decision made by the Planning Commission in the administration of this Ordinance shall be by certiorari procedure as set forth in Section 8A-9 of the West Virginia Code.

Any person or persons jointly or severally aggrieved by any decision or order of the Planning Commission may present to the Circuit Court of Putnam County a petition duly verified, setting forth that such decision or order is illegal in whole or in part, and specifying the grounds of the alleged illegality. The petition shall be presented to the Court within thirty (30) days after the date of the Commission's decision.

**1400.16 ENFORCEMENT, VIOLATIONS, AND PENALTIES**

- I. **General.** It shall be the duty of the Office of the Planning Commission to enforce these regulations and to bring to the attention of the Prosecuting Attorney any violations or lack of compliance herewith.
1. No owner, or agent of the owner, of any parcel of land located in a proposed subdivision shall transfer or sell any such parcel before a plat of such subdivision has been approved by the Planning Commission, in accordance with the provisions of these regulations, and filed with the County Clerk.
  2. The subdivision of any lot of any parcel of land, by the use of metes and bounds description for the purpose of sale, transfer, or lease with the intent of evading these regulations, shall not be permitted. All such described subdivisions shall be subject to all of the requirements contained in these regulations.
  3. No owner, or agent of the owner, of any parcel of land proposed to be divided shall enter an installment land sale contract or any other document for the future conveyance of a subdivision of any lot or any parcel of land until a plat meeting all requirements of the subdivision regulations is approved by the Planning Commission and attached to said contract or document and recorded in the County Clerk's office.
  4. No improvement location 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 these regulations.
- II. **Administration and Enforcement.** Administration and enforcement of this Ordinance shall be the responsibility of the Putnam County Planning Commission or its designated agent.

When it appears to the Planning Commission that a violation of this Ordinance has occurred, the Planning Commission shall attempt to notify the responsible person by means of a written violation notice. The violation notice shall specify the nature of the violation and shall request that the violation be terminated within ten (10) days from the date appearing on the notice. Failure to terminate the violation within the requested time shall be cause for the Planning Commission to:

1. Seek an injunction in the Circuit Court of Putnam County to restrain the responsible person from continuing the violation cited or seek an injunction requiring removal of structures or land uses from the property involved; or
  2. File a complaint in the Circuit Court of Putnam County.
- III. **Violation.** It shall be unlawful for any person, whether as owners, lessee, principal, agent, employee or otherwise, to violate or permit to be violated, any provision of this Ordinance. Appropriate actions and proceedings may be taken by law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation, to prevent illegal occupancy of a building, structure or premises, and these remedies shall be in addition to the penalties described above.
- IV. **Penalty.** Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) per day.

**1400.17 EFFECTIVE DATE OF ORDINANCE**

This subdivision ordinance shall take effect at the time of the Putnam County Commission adoption of these Subdivision Regulations of the Putnam County Planning Commission.