

**Hardy County Planning Office**  
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**Procedures: Hardy County Subdivision Application**

**Minor Subdivision Application Process**

- 1) Applicant meets the Planning Office staff to discuss the proposed subdivision and the criteria used to classify the proposal as a minor subdivision.
- 2) As a prerequisite to application, as stated in WV Code 39-1-16, “In case a proposed subdivision of any lot or parcel of land is abutting the municipality, it shall be the duty of the owner, or owners, or his or their agent, to submit a plat or plan of such subdivision to the council or commissioners of such municipality, showing the street and alley connections that such subdivision makes with such municipality, and furnishing full information for the purpose of determining whether the proposed subdivision will impede or prevent the further development and extension of such municipality where such subdivision is situate.”
- 3) If deemed necessary, a Planning Office representative shall make a site inspection of the proposed minor subdivision.
- 4) The Planning Office reviews and notifies the applicant within ten (10) days of the application of the decision of the classification of the subdivision. Fees under Article 19 of this ordinance shall be paid in full before any approval or denial of minor subdivision status is determined and the deed or plat is stamped Approved.
- 5) Within ten (10) days of minor subdivision determination, the Planning Commission or County Planner will approve or disapprove of the minor subdivision application.
- 6) Applicant submits final plat to Planning Office.
- 7) All approved minor subdivisions will be stamped “APPROVED” by the County Planner.
- 8) If the application is denied, the applicant will be notified of the denial and their right to appeal the administrative decision with the Planning Commission within thirty (30) days of receipt of denial by the County Planner. If the Planning Commission upholds the administrative decision of denial, then the applicant will be notified in writing and their right to appeal with the Hardy County Circuit Court within thirty (30) days.

**NOTE: Any application that is denied status as a minor subdivision will automatically be classified as a major subdivision.**

### **Minor Subdivision Fee Schedule**

Application Fee	\$25.00 PLUS
Family Transfer	\$25.00 per lot
Plat/Deed for boundary line adjustment/settlement	\$25.00
Transfer for agricultural purposes	\$25.00
Merging of tracts to form one parcel	\$25.00
ROW Ingress and Egress	\$25.00
ROW Public Utilities	N/A
Final Plat, 1-3 parcels within a 5 year period	\$25.00 per lot
Plat correction	\$25.00
Inspection Fee (after 1st visit)	\$150.00

### **Exempt Subdivision Application Process**

1) Applications for exemption shall be available in the Office of the County Planner and after completion, shall be filed in the Office of the County Planner.

2) As a prerequisite to application, as stated in WV Code 39-1-16, "In case a proposed subdivision of any lot or parcel of land is abutting the municipality, it shall be the duty of the owner, or owners, or his or their agent, to submit a plat or plan of such subdivision to the council or commissioners of such municipality, showing the street and alley connections that such subdivision makes with such municipality, and furnishing full information for the purpose of determining whether the proposed subdivision will impede or prevent the further development and extension of such municipality where such subdivision is situate. Before any such subdivision is finally laid out, it shall have the approval of the council or commissioners of the municipality wherein the subdivision is situate, or upon which it abuts, and such approval and the date thereof shall be indicated on the plat or plan of such subdivision before the same is finally filed in the office of the clerk of the county court and the county assessor's office."

3) The following shall be exempt from the provisions of this Ordinance following application, fees paid, and approval or denial by the Planning Commission or County Planner of exempt status. However, the following listed below are not exempt from provisions of any other Hardy County ordinance.

The Following shall be deemed as exemptions under this ordinance:

- A. The formation of cemetery lots.
- B. Subdivision or individual lots of which plats or deeds were recorded with the Clerk of the Hardy County Commission prior to the effective date of this Ordinance, provided such plats or deeds are of sufficient survey accuracy to permit the clear conveyance of lots by direct or deed reference without modification or addition.
- C. Real estate transferred by a Trustee under a Deed of Trust when the debt secured by said Deed of Trust is delinquent. This exemption shall also be received by the beneficiary under such a Deed of Trust, if the beneficiary purchases the subject real estate at a

Trustee's sale. The exemption will not apply if the trustee subdivides the property prior to the sale.

- D. Conveyance to a governmental entity or to a non-profit or service organization or to a church to be used for church purposes. Living/ working quarters associated with religious enclaves, not in the same building as principal place as worship shall be considered a major subdivision under this ordinance and as such shall be subject to all applicable codes and ordinances.
- E. Division of real estate among heirs by court order or by volunteer, provided, Grantee must have a new deed drawn up as well as a plat prepared by a West Virginia licensed surveyor and must show the lot and right-of-way center line Must be described by use of a plat and metes and bounds description. Such lots must be provided with a right-of-way not less than a width to provide a road of twenty two (22) feet, providing an eighteen (18) foot travel-way with two (2) foot shoulders. All heir transfers shall contain a statement on the plat and deed as follows: "This property has been subdivided through the heir transfer and shall not be further subdivided or reconveyed unless complying with all applicable Hardy County Ordinances." Prior to recording of said deed and plats, the grantee must make application to the Planning Office for an Heirs exemption and pay all applicable fees. After approval, the plat and deed shall be stamped Exempt by the Planning Office.

4) A plat prepared by a licensed surveyor showing the subdivision said to be exempted shall accompany the application for exemption when filed.

5) Fees under Article 19 of this ordinance shall be paid in full before any approval or denial of exempt status is determined and the deed or plat is stamped exempt.

6) The Planning Commission or County Planner shall render a decision on said applications within ten (10) working days after same are filed. All approved subdivisions that fall under the aforesaid exemptions shall be stamped as "EXEMPT" by the County Planner.

**Exempt Subdivision Fee Schedule**

Formation of a cemetery	\$35.00
Deed of trust	\$35.00
Transfer to nonprofit or religious organization	\$35.00
Division among heirs	\$25.00+ \$25.00 per lot
Plat correction	\$35.00

**Major Subdivision Application Process**

**A. Informal Conference**

Prior to formal application, a developer shall request an informal meeting with the Planning Commission or County Planner for the purpose of the Commission or Planner giving guidance as to how to obtain approval for the subdivision under this Ordinance. The developer shall bring to this meeting a rough sketch plat of the subdivision and information regarding soil types,

percolation results, intended method of sewage disposal, approximate number and size of lots, approximate location and size of streets and approximate access roads, land to be held in common, provisions for utilities, existing and proposed drainage of surface water and proposed method of road maintenance.

## **B. Application**

After said informal meeting, the developer shall complete an application for a permit to establish a real estate subdivision in Hardy County, West Virginia. This application shall elicit, but not be limited to, the following information:

1. The name, address and telephone number of the developer, and prior development history.
2. The name of the proposed subdivision;
3. The name of each attorney, land surveyor or agent or professional engineer to be involved in the subdivision;
4. Total area of subdivision.

## **C. Filing of Application and Accompanied Material**

The application shall be filed in the Office of the County Planner and the following material must be filed with the application:

1. A sketch plat as described in Article 8 of this Ordinance;
2. As a prerequisite to application, as stated in WV Code 39-1-16, "In case a proposed subdivision of any lot or parcel of land is situate abutting a municipality, it shall be the duty of the owner, or owners, or his or their agent, to submit a plat or plan of such subdivision to the council or commissioners of such municipality, showing the street and alley connections that such subdivision makes with such municipality, and furnishing full information for the purpose of determining whether the proposed subdivision will impede or prevent the further development and extension of such municipality where such subdivision is situate. Before any such subdivision is finally laid out, it shall have the approval of the council or commissioners of the municipality wherein the subdivision is situate, or upon which it abuts, and such approval and the date thereof shall be indicated on the plat or plan of such subdivision before the same is finally filed in the office of the clerk of the county court and the county assessor's office."
2. A letter from the subdivision owner, if different from the developer, authorizing the developer to act as his agent with full authority;
3. Copies of existing and proposed deed restrictions or protective covenants (see Article 12, A);
4. Written provisions for the property owners association to eventually take over the responsibility for the maintenance and operation of community facilities, especially roads, within

the subdivision once seventy-five percent (75%) of the lots are sold. The developer is responsible to pay into the property owners association for unsold lots (see Article 13);

5. A proposed plan for control of erosion and sediment during and after construction based on West Virginia Department of Environmental Protection Standards.

6. The number of copies required of the above materials shall be determined by the County Planner or designated agent.

7. Existing and proposed profiles of the center lines of each road within the subdivision. Elevations shall be taken at 100 foot intervals of the proposed road.

8. The application shall include a list of the property owners' names and addresses located within 250 feet of the proposed subdivision as of record in the office of the Hardy County Assessor. The subject property, also, shall be included in the affected area. The applicant must also submit the tax map and parcel numbers for the list of properties along with a stamped and addressed envelope for each of the names and addresses of property owners in the affected area. If the list includes a lot within an adjacent subdivision, the applicant must submit the name of the president of the homeowners association along with a stamped and addressed envelope for that member. A legal notice shall be mailed to the affected property owners informing them of the upcoming public hearing for the proposed subdivision.

**Major Subdivision Fee Schedule**

Application Fee	\$25.00 <b>PLUS</b>
Public Hearing Fee, Variance	\$100.00
Public Hearing Fee, Planning Commission	\$100.00
Final Plat Fee	\$200.00 + \$50.00 per lot, per section or phase
Plat correction	\$50.00
Inspections (after 1 <sup>st</sup> visit)	\$150.00