

Article 1. Short Title

[Retained exactly as in the original ordinance.]

Article 2. Authority and Purpose

Section 2.1 Authority

[Retained exactly as in the original ordinance.]

Section 2.2 Purpose

[Retained exactly as in the original ordinance.]

Article 3. Definitions

Wherever used in this Ordinance, the following words and phrases shall have the meanings indicated below. Words not defined here shall be given their usual meaning unless context indicates otherwise.

Aggrieved or aggrieved person: Means a person who:

- a. Is denied by the planning commission, in whole or in part, the relief sought in any application; or
- 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:

a. "Agriculture" means 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" means 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: means 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: means 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: means 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.

Emergency Response Exaction Fees for Wind and Solar Facilities: See Article 6, Section 6.12.

Historic Resource: means any property listed on or eligible for the National Register of Historic Places or designated by the County Commission on the Hampshire County Historic Landmarks Register.

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 any facility that generates electricity from sunlight using photovoltaic technology and has a production capacity of 100 kilowatts or greater, and whose energy is primarily sold into the electric power grid, wholesale or otherwise. 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. It shall not include solar energy facilities whose energy is consumed primarily on site or by adjacent consumers for local agricultural, residential, or commercial operations.

Industrial Scale Wind Energy Facilities: means a wind energy facility on one or more contiguous Parcels that has a production capacity of 1 electric megawatt or greater and whose energy is primarily sold into the electric power grid, wholesale or otherwise. On-site components of the Industrial Scale Wind Energy Facility may include wind turbines, and other accessory components including, without limitation, Essential Utility Equipment, transformers, inverters, cabling, electrical lines, substations, storage buildings, and other improvements necessary to support generation, collection, storage, and transmission of electrical power. It shall not include those wind energy facilities whose energy is consumed on site or by adjacent consumers for the purpose of local agricultural, residential, or commercial operations.

Institution for Human Care: means any licensed hospital, nursing facility, or assisted living facility recognized by the State of WV

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.

Parcel: means a lot or tract of land, whether or not including improvements, with fixed or defined legal boundaries that is described or depicted on the maps maintained in the office of the Assessor of Hampshire County, West Virginia, whether or not for assessment or taxation.

Parent Tract: means 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 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, but shall not include Industrial Scale Wind Energy Facilities or Industrial Scale Solar Energy Facilities as defined herein.

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

Article 4. General Provisions

Section 4.1 Jurisdiction

[Retained exactly as in the original ordinance.]

Section 4.2 Administration / Legislative Findings

- a. Administration. The Hampshire County Planning Commission shall administer this Ordinance. The Planning Commission may delegate to its staff administrative duties, authority to make certain administrative approvals, and the responsibility to make recommendations to the Planning Commission.
- b. Findings. The County Commission finds that industrial-scale wind and solar facilities, while advancing energy production, present unique local impacts on public safety, traffic, fire response, environmental resources, scenic and historic viewsheds, quiet enjoyment of property, and property values. The regulations herein are adopted to protect the health, safety, and welfare of County residents, consistent with the County's Comprehensive Plan and statutory authority.

Section 4.3 Plat Approval Requirement

[Retained exactly as in the original ordinance.]

Section 4.4 Effect of Non-Approved Plans and Plats

[Retained exactly as in the original ordinance.]

Section 4.5 Vested Property Right

[Retained exactly as in the original ordinance.]

Section 4.6 Amendment of Approved Plans and Plats

[Retained exactly as in the original ordinance.]

Section 4.7 Improvement Location Permit Process

The construction, erection, installation, placement, rehabilitation, or renovation of any structure, or the development of any land, in Hampshire County is prohibited and shall not be commenced unless and until an improvement location permit is obtained from the Hampshire County Planning Office. An improvement location permit will be issued by the Planning Office or its staff following receipt in the Planning Office of: (a) a completed application for such permit, in the form prescribed by the Planning Office; (b) a final plat for the subject subdivision or land development, stamped as approved by the Planning Commission; and (c) any bond or letter of credit required pursuant to Section 7.5 hereof.

Section 4.8 Deadlines

[Retained exactly as in the original ordinance.]

Section 4.9 Exclusions

[Retained exactly as in the original ordinance.]

Section 4.10 Waivers and Modifications Where the Planning Commission finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations, or that the purposes of these regulations may be served to a greater extent by an alternative proposal, the Commission may approve waivers or modifications to specific requirements of this Ordinance. Any request for a waiver must be submitted in writing by the applicant, stating the specific section to be waived and the reasons. The Planning Commission shall not grant a waiver unless:

- i. The waiver is consistent with the general intent of the Ordinance and the County's Comprehensive Plan;
- ii. The waiver, if granted, will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or the general public; and
 1. The conditions upon which the request is based are unique to the property and not applicable generally to other properties (i.e., due to special topographic or other physical conditions peculiar to the site) and a literal enforcement of the provision would result in undue hardship (not merely the absence of a special privilege or financial hardship); and

2. 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;
- a. No variance or reduction of the minimum setbacks for Industrial Scale Solar Energy Facilities or Industrial Scale Wind Energy Facilities shall be granted by the Planning Commission except by operation or authority of this Ordinance, as amended from time to time, or where required to avoid an unconstitutional taking of property rights by which relief shall be granted by the Planning Commission to avoid such a taking after a duly noticed public hearing upon written findings of fact. In the case of an Industrial Wind Energy Facility, the Planning Commission may approve one or more waivers or reductions of the minimum setback required in Section 6.11(d)(1) of this Ordinance in each case upon the applicant's submission of an application as set for in this section along with the written agreement of the owner of any adjoining parcel consenting to the waiver or reduction. In the event that a waiver or reduction of the minimum setbacks is granted in accordance with this section, the adjoining landowners shall file a document to be approved by the Planning Commission in the Clerk of the County Commission of Hampshire County, West Virginia advising that such waiver or reduction of the minimum setbacks has been approved.
 - b. Applicant. An application for a waiver may be made by anyone with an ownership or development interest in a parcel. The applicant is responsible for providing all information and justification for the waiver request.
 - c. 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:
 - i. Plat or plan of the property depicting parcel information, proposed layout, and, where applicable, all proposed modifications.
 - ii. 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.
 - iii. A description of the specific portions of this Subdivision Ordinance for which relief is being sought.
 - iv. A narrative describing how the proposed waiver will improve the public benefits.
 - v. An accurate list of all properties and owners' addresses adjoining the subject property; and
 - vi. A narrative description of how this proposed waiver will not adversely affect the properties adjoining the subject property- with accompanying signatures of adjacent property owners or notarized signed narratives detailing why such owner signatures were not able to be obtained.
 - vii. A narrative description of how this proposed waiver complies with the intent and purpose of the County's Comprehensive Plan, as updated.

- d. 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.
- e. 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.
- f. Action. The Commission shall make findings on compliance with each of the waiver requirements, along with all other applicable requirements of this Ordinance on the record before granting any waiver; decisions on the waiver shall be made by the Planning Commission within 30 days of the public hearing date.
- g. Waivers shall not be granted to permit an action that conflicts with or violates an explicit requirement of state law.
- h. 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.
- i. All waivers and/or conditions of approval associated with the waiver shall be documented on all subsequent plats or plans.

Section 4.11 Appeal Process

An appeal may be made by an aggrieved person from any decision or ruling of the Planning Commission by petition for writ of certiorari presented to the Circuit Court for Hampshire County pursuant to the provisions of Chapter 8A, Article 9 of the West Virginia Code. Said appeal must be filed within thirty (30) days after the date of the decision or ruling challenged. The petition must set forth that the decision or ruling of the Planning Commission is illegal in whole or in part, and specify the grounds of the alleged illegality.

Section 4.12 Cooperation and Coordination with Other Agencies

[Retained exactly as in the original ordinance.]

Section 4.13 Interpretation

[Retained exactly as in the original ordinance.]

Section 4.14 Severability and County Liability

[Retained exactly as in the original ordinance.]

Article 5. Minor Subdivisions and Land Developments

[Retained exactly as in the original ordinance.]

Section 5.1 Types of Minor Subdivisions and Land Developments

[Retained exactly as in the original ordinance, including items (i) through (xi).]

Section 5.2 Approval Process for Minor Subdivisions and Land Developments

[Retained exactly as in the original ordinance.]

Article 6. Major Subdivisions and Land Developments

[Retained exactly as in the original ordinance.]

Section 6.1 Types 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 in one of the following nine (9) categories of subdivision/development:

1. High Density Housing
2. Class I – Residential
3. Class II – Residential
4. Class III – Low Density Residential
5. Manufactured Home or Mobile Home Parks
6. Commercial/Industrial/Manufacturing Parks
7. Combination (Planned Unit Development)
8. Recreational Vehicle Parks or Campgrounds
9. Industrial Scale Solar Energy Facilities
10. Industrial Scale Wind Energy Facilities

Section 6.2 High Density Housing Standards

[Retained exactly as in the original ordinance.]

Section 6.3 Class I – Residential Standards

[Retained exactly as in the original ordinance.]

Section 6.4 Class II – Residential Standards

[Retained exactly as in the original ordinance.]

Section 6.5 Class III – Low Density Residential Standards

[Retained exactly as in the original ordinance.]

Section 6.6 Manufactured Home or Mobile Home Parks Standards

[Retained exactly as in the original ordinance.]

Section 6.7 Commercial/Industrial/Manufacturing Parks Standards

[Retained exactly as in the original ordinance.]

Section 6.8 Combination (Planned Unit Development) Standards

[Retained exactly as in the original ordinance.]

Section 6.9 Recreational Vehicle Parks or Campgrounds Standards

[Retained exactly as in the original ordinance, including 6.9A for Primitive Camping, Small Gatherings, and Mass Gatherings.]

Section 6.10 Industrial Scale Solar Energy Facilities

(a) Applicability and Definition

This section applies to Industrial Scale Solar Energy Facilities as defined in Article 3.

(b) Initial Application additional components

An Industrial Scale Solar Energy Facility application shall include a Concept Plan comprised of:

- i. Property or Properties Location using most recent plat(s);
- ii. Access Points;
- iii. Anticipated location of all proposed components of the Industrial Scale 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.
- iv. If the project is to be completed in phases, the Concept Plan shall reflect the phasing of the project.
- v. 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 West Virginia Department of Environmental Protection (“WV DEP”) and Storm Water National Pollutant Discharge Elimination System (“NPDES”) requirements.
- vi. 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.
- vii. Existing soils information as provided by the USDA Soil Conservation Service online Web Soil Survey.
- viii. A fiscal impact analysis, prepared by a qualified third-party, that analyzes any expected impact on the County's tax revenues, the estimated costs to the County associated with the facility in the form of additional services not otherwise addressed in Section 6.12 of this Ordinance, and information on any other economic benefits or burdens from the

facility.

- ix. Decommissioning Outline - A narrative outlining the decommissioning of the Industrial Scale Solar Energy Facility that conforms with the rules and standards of the WV Public Service Commission (“WV PSC”) 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 Industrial Scale Solar Energy Facility.
- x. Glare Hazard Analysis. Applicants shall provide a glare hazard analysis for nearby roads, aviation paths, and heliports. Mitigation measures such as anti-reflective coatings or layout adjustments shall be incorporated as conditions of approval
- xi. Hampshire County Planning Office staff shall be notified by certified mail at least 120 days in advance of the intended decommissioning of the Industrial Scale Solar Energy Facility. Staff will place the notice on the next regularly scheduled Planning Commission meeting.
- xii. 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.

(c) General Requirements

- i. Design, construction, and installation of the Industrial Scale 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.
- ii. Prior to energization, the applicant shall submit executed interconnection agreement(s) (or FERC/PJM approval, as applicable) and certify compliance with PSC/FERC interconnection rules.
- iii. Generation of electrical power shall be limited to photovoltaic panels, provided that any on-site buildings may utilize integrated photovoltaic building materials.
- iv. Solvents necessary for the cleaning of the Solar Panels shall be biodegradable.
- v. 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.
- vi. 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.

- vii. 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.
- viii. Stormwater Supremacy. The project must comply with all requirements of the County Stormwater Management Ordinance in addition to WVDEP NPDES stormwater requirements. Where standards differ, the more protective standard applies, unless expressly preempted by state or federal law.
- ix. No advertising signage is permitted on the Industrial Scale Solar Energy Facility other than an identifying sign at the entrance of the Facility that shall be approved by the Planning Commission.
- x. 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 this ordinance.
- xi. Damaged or unusable panels shall be repaired, replaced, or removed within 60 days of discovery. Extensions may be granted for documented force majeure. Unsafe equipment must be rendered safe or isolated immediately pending full repair.
- xii. No single Industrial Scale Solar Energy Facility may be greater than 500 acres in total size as measured from the outer boundary of any development associated with the facility. For the 500-acre maximum, acreage includes arrays, internal roads, substations, and fenced compounds. Setbacks and buffers are excluded. A GIS exhibit demonstrating the acreage tally shall be required.
- xiii. No Industrial Scale Solar Energy Facility may be permitted on any tract or parcel adjacent to an existing or permitted Industrial Scale Solar Energy Facility; no properties merged with a tract on which an existing or permitted Industrial Scale Solar Energy Facility may be used for the expansion of any component of an Industrial Scale Solar Energy Facility for a period of ten years from the date of merger.
- xiv. Security and Access - A security fence with secured gates shall be erected around the operating areas of the Industrial Scale 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.
- xv. Fire Response Plan - 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

- xvi. Approved Industrial Scale Solar Facilities shall submit annual compliance statements for the first three years after commencing operation, and every three to five years thereafter. Statements shall confirm continued compliance with stormwater requirements, vegetation maintenance, emergency response planning, and decommissioning bond status, or document material changes in operations.

(d) Minimum Required Setback

A setback of 500 feet is required between the outer boundary of any solar array (including associated security fencing or equipment) and all external property lines of the parcel(s) on which the facility is located. This 500-foot setback shall be measured from the nearest edge of the solar array or any security fence/equipment to the adjoining property line, edge of the State/Federal ROW or Easement of any State/Federal Road, any designated wetland, and any rivers and streams that provide drinking water to any public water utility, as recognized by the WV PSC. Setbacks are measured from the outermost extent of the facility at maximum operating position—i.e., the furthest panel edge at full tracker rotation—to the nearest property line, public right-of-way, or protected receptor.

(e) Visual Screening

- i. Within the 500-foot setback area, buffers shall be required to visually block the view of the Industrial Scale Solar Energy Facility from a public road, occupied residence, Historic Resource, Institution for Human Care and/or Church or place of worship located on the same elevation (+/- 30 ft.) as the Industrial Scale Solar Energy Facility and within the Buffer limits.
- ii. At its sole discretion, on a case-by-case basis, by majority vote, the Planning Commission may permit gaps in visually blocking buffer measures or other deviation from Subsection 6.10(c)(i) above; provided that such deviation or gap be based upon a characteristic of the property or topography that would render strict compliance with this subsection infeasible; only visual buffer deviations are eligible for discretionary approval, not setbacks.
- iii. If a developer or applicant wishes to request such permitted deviation as described in Subsection 6.10(c)(ii), such application must be made in writing to the Planning Commission with all evidence supporting the request; the Planning Commission shall notify the applicant within 15 days of submission if additional information is required; the Planning Commission shall make a determination on the completed request within 45 days of receipt of all required information or the request shall be deemed approved as requested.

Section 6.11 Industrial Scale Wind Energy Facilities

(a) Applicability and Definition

This section applies to Industrial Scale Wind Energy Facilities as defined in Article 3.

(b) Initial Application additional components

An Industrial Scale Wind Energy Facility application shall include a Concept Plan comprised of:

- i. Property or Properties Location using most recent plat(s);
- ii. Access Points;
- iii. Anticipated location of all proposed components of the Wind Energy Facility.
- iv. If the project is to be completed in phases, the Concept Plan shall reflect the phasing of the project.
- v. 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 West Virginia Department of Environmental Protection (“WV DEP”) and Storm Water National Pollutant Discharge Elimination System (“NPDES”) requirements.
- vi. 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.
- vii. Existing soils information as provided by the USDA Soil Conservation Service online Web Soil Survey.
- viii. Federal Aviation Administration (“FAA”) “no hazard” determinations and certifications that project will comply with FAA lighting and marking requirements.
- ix. A fiscal impact analysis, prepared by a qualified third-party, that analyzes any expected impact on the County's tax revenues, the estimated costs to the County associated with the facility in the form of additional services not otherwise addressed in Section 6.12 of this Ordinance, and information on any other economic benefits or burdens from the facility.
- x. Decommissioning Outline - A narrative outlining the decommissioning of the Industrial Scale Wind Energy Facility that conforms with the rules and standards of the WV Public Service Commission (“WV PSC”) 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 Industrial Scale Wind Energy Facility.
- xi. Hampshire County Planning Office staff shall be notified by certified mail at least 120 days in advance of the intended decommissioning of the Wind Energy Facility. Staff will place the notice on the next regularly scheduled Planning Commission meeting.

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

(c) General Requirements

- i. Design, construction, and installation of the Industrial Scale Wind 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.
- ii. Prior to energization, the applicant shall submit executed interconnection agreement(s) (or FERC/PJM approval, as applicable) and certify compliance with PJM/FERC interconnection rules.
- iii. Onsite lighting shall be the minimum necessary for security and onsite management and maintenance or as required to comply with applicable law such as FAA requirements.
- iv. Ground Cover comprised of natural species is preferred in accordance with typical WV DEP and NPDES permit seed mix requirements.
- v. No signage is permitted on the Wind Energy Facility other than an identifying sign at the entrance of the Facility that shall be approved by the Planning Commission.
- vi. 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 this ordinance.
- vii. Damaged/unusable blades or hubs must be repaired/replaced as soon as reasonably practicable, with force-majeure extensions; unsafe equipment must be immediately secured.
- viii. No single Industrial Scale Wind Energy Facility may be greater than 500 acres in total size in Hampshire County, as measured by the limits of disturbance of final constructed areas according the WV DEP NPDES Permit. For purposes of this Section 6.11(c)(viii), the 500-acre maximum acreage includes structures, internal roads, and substations and the limits or areas of disturbance exclude minimum setbacks and buffers. A GIS exhibit demonstrating the acreage tally shall be submitted with the application.

- ix. No Industrial Scale Wind Energy Facility be permitted on any tract or parcel adjacent to an existing or permitted Industrial Scale Wind Energy Facility; no properties merged with a tract on which an existing or permitted industrial scale wind facility may be used for the expansion of any component of an industrial scale wind facility for a period of ten years from the date of merger.
- x. Fire Response Plan - Access to the facility shall be provided to the closest Fire Department and an Emergency Response Plan shall be developed with the Fire Department to extinguish a fire within the fenced compound of an Industrial Scale Wind Energy Facility. A copy of the draft plan shall be submitted with the application with a final plan required prior to final Commission approval. Fire Chiefs shall cooperate with the applying entity in the development of the plan. The Planning Commission Staff shall review and approve the final plan within 30 days of the submission
- xi. Approved Industrial Scale Wind Facilities shall submit annual compliance statements for the first three years after commencing operation, and every three to five years thereafter. Statements shall include evidence of approved permits as available, and confirm continued compliance with emergency response planning, and decommissioning bond status, or document material changes in operations.

(d) Minimum Required Setback

For the siting and construction of an Industrial Scale Wind Facility, no turbine base of any wind turbine may be located within the following minimum setbacks. Compliance with this subsection requires meeting each of the following three (3) minimum setback standards, which are separate and independently enforceable:

1. A minimum setback of a distance of the greater of (x) 2,000 feet and (y) five (5) times the designed hub height of the wind turbine for each wind turbine shall be maintained from the nearest boundary of each adjoining parcel. For purposes of this Section 6.11(d)(1), the minimum setback shall be measured horizontally from the nearest point of each turbine base to the nearest boundary of each adjoining parcel; and
2. A minimum setback of a distance of one and a half (1.5) times the designed tip height of each wind turbine shall be maintained from the nearest boundary of each public road. For purposes of this Section 6.11(d)(2), each minimum setback shall be measured horizontally from the nearest point of the turbine base to the nearest boundary of the right of way of any state or federal road.

Other than for wind turbines in Sections 6.11(d)(1) and (2), no minimum setback shall be required for the siting and construction of any component of an Industrial Wind Energy Facility, including, without limitation, Essential Utility Equipment, transformers, inverters, cabling, electrical lines, substations, and storage buildings.

Section 6.12 Emergency Response Exaction Fees for Wind and Solar Facilities

(a) Purpose and Applicability

In addition to other applicable fees, Industrial Scale Wind Energy Facilities and Industrial Scale Solar Energy Facilities shall be subject to an emergency response impact assessment and corresponding exaction fees to offset potential costs to local emergency services. A separate proportionality analysis establishing justification for current minimum fee amounts was conducted in development of this Section 6.12.

(b) Emergency Response Impact Study

As part of the development approval process, the applicant must fund and submit a third-party Emergency Response Impact Study performed by a qualified firm with expertise in emergency services impact analysis.

- i. The firm shall be selected by the Planning Commission from a list of three (3) qualified firms proposed by the applicant to ensure impartiality.
- ii. The study shall evaluate potential impacts on local fire protection, ambulance/EMS, rescue services, and other public safety considerations (including specialized equipment or training required to respond to incidents at the facility).
- iii. The study shall recommend mitigation strategies and estimate the increased costs or resource needs for local emergency agencies attributable to the facility.

(c) Establishment of Exaction Fees

Based on the Emergency Response Impact Study, the County shall adopt an emergency response plan and establish a one-time emergency response exaction fee for the project. At a minimum, these fees shall be:

- i. No less than \$3,500 per megawatt (MW) of nameplate capacity for each Industrial Wind Energy Facility; and
- ii. No less than \$2,500 per megawatt (MW) of nameplate capacity for each Industrial Solar Energy Facility..

If the study indicates higher emergency-service preparation costs, the fee may be increased proportionately.

(d) Payment and Use of Fees

The exaction fees must be paid upon issuance of a building permit for the facility by Hampshire County to the applicant or the owner, as the case may be. These fees shall be deposited in a special revenue fund managed by the County Commission for disbursement to local emergency response organizations (fire departments, EMS, etc.) consistent with the needs identified and applicable sections of the WV State Code. The County Commission may require a memorandum of understanding with relevant emergency agencies to ensure proper use of the funds.

(e) Periodic Review (If Required)

The County Commission may review the actual emergency-service costs after the facility becomes operational for the prior year, attributable to emergency services to the facility. If costs are substantially higher than anticipated, the County may negotiate additional contributions or require updates to the emergency response plan. Conversely, if the developer provides in-kind support (such as on-site fire suppression equipment or training), the County Commission shall apply that toward the total exaction amount, but the minimum one-time emergency response exaction fees listed in Section 6.12(c) shall still be collected in all cases.

Article 7. Procedure for Major Subdivisions and Land Developments

Review and approval of major subdivisions and land developments shall be conducted in all respects in accordance with the requirements of Chapter 8A, Article 5 of the West Virginia Code, as amended.

Section 7.1 Application for Approval of a Major Subdivision or Land Development

- a) An applicant for approval of a major subdivision or land development plan and plat shall submit to the Planning Commission an application, which shall consist of:
 - i. a written application in the format developed and approved by the Planning Commission, completed and signed by the applicant;
 - ii. letter of zoning and land use compliance from the Hampshire County Planning office confirming that the planned project is in compliance with the active applicable Hampshire County Zoning and Land use ordinances, regulations, moratoriums and orders;
 - iii. a copy of the proposed subdivision or land development plan and plat compliant with the requirements of Article 22 hereof and including everything required by this Ordinance;
 - iv. the appropriate fees specified in Article 23 hereof for the subject subdivision or land development,
 - v. all applicable documents, plans, studies, and fees specified in Article 6 hereof;

- b) Final local approval and operation are contingent upon obtaining all required state and federal approvals, including PSC siting certificates (if applicable), WVDEP permits, FAA determinations, and DOH permits.

- c) All approvals must be consistent with the County Comprehensive Plan in accordance with WV Code §8A-5-5.

- d) Approval of the plan and plat by the Health Department, the Public Service District, the 911 office, the applicable electric utility, and the West Virginia Department of Highways shall also accompany the application.

Section 7.2 Determination of Complete Application

[Retained exactly as in the original ordinance.]

Section 7.3 Approval of Major Subdivision or Land Development Plans and Plats

[Retained exactly as in the original ordinance.]

Section 7.4 [Removed/Reserved]

(This section formerly addressed solar energy facilities. It is now superseded by Section 6.10.)

Section 7.5 Security for Improvements

[Retained exactly as in the original ordinance.]

Section 7.6 Recording a Major Subdivision or Land Development Plat

[Retained exactly as in the original ordinance.]

Section 7.7 Applicant's Election as to Process

[Retained exactly as in the original ordinance.]

[Former Section 7.8 Waivers – Removed]

All waiver/variance provisions are now consolidated under Article 4, Section 4.10.

Article 8. Enforcement

[Retained exactly as in the original ordinance.]

Article 9. General Standards for Roads

[Retained exactly as in the original ordinance.]

Article 10. Structural Design and Drainage

[Retained exactly as in the original ordinance.]

Article 11. Sanitary Sewage and Potable Water

[Retained exactly as in the original ordinance.]

Article 12. Sign Requirements

[Retained exactly as in the original ordinance.]

Article 13. Fire Protection

[Retained exactly as in the original ordinance.]

Article 14. Recreation

[Retained exactly as in the original ordinance.]

Article 15. Special Flood Hazard Areas

[Retained exactly as in the original ordinance.]

Article 16. Best Management Practices

[Retained exactly as in the original ordinance.]

Article 17. Lot Requirements

[Retained exactly as in the original ordinance.]

Article 18. Utilities

[Retained exactly as in the original ordinance.]

Article 19. Traffic Impact

[Retained exactly as in the original ordinance.]

Article 20. Storm Water Management

[Retained exactly as in the original ordinance.]

Article 21. Standards for Accessibility

[Retained exactly as in the original ordinance.]

Article 22. Plat Requirements

[Retained exactly as in the original ordinance, noting that final plats for approved Wind and Solar shall be noted as such.]

Article 23. Fee Schedule

Hampshire County Planning Office will accept plats and fees; this does not guarantee approval for the proposed project. Fees are non-refundable.

FEE SCHEDULE FOR MINOR SUBDIVISIONS/LAND DEVELOPMENTS

Creation of New Lots If under Section 5. I.	\$ 300.00 per lot
Transfer to Relative If under Section 5. I (b).	\$ 300.00 per lot
Division among devisees/heirs If under Section 5. I (c).	\$ 300.00 per lot
Court-ordered Partition If under Section 5. I (d).	\$ 300.00 per lot
Lots created to achieve boundary line adjustments, or for the formation of a cemetery lot If under Section 5. I (e) or (f).	\$ 25.00 per plat
Rights-of-way If under Section 5. I (g)	\$ 25.00 per plat
Existing lots/resurvey If under Section 5. I (h)	\$ 25.00 per lot
Mergers If under Section 5. I (i).	\$ 25.00 per plat
Utility Lots If under Section 5. I (j).	\$ 300.00 per plat

SUBDIVISION AND MISCELLANEOUS FEES

Subdivision Regulations	\$ 25.00
Public Hearing Fee	\$ 25.00
Major Subdivision Preliminary Plat (per section or phase submitted)	\$ 300 + \$ 300 per lot
Salvage Yards (includes landfills)	\$ 25.00
Inspection Fee/Visit after Second Inspection for failed inspection.	\$ 300.00 per visit
Recreational Vehicle Parks or Campgrounds	\$ 300.00 + \$ 25.00 per lot

[END OF ORDINANCE TEXT]